

Cost: \$5.00

**UNLAWFUL DETAINER
ANSWER
PACKET**

Updated: October 5, 2020

FILING AN ANSWER TO A COMPLAINT

If you are filing an Answer to a Complaint in an Unlawful Detainer action, you MUST each file an Answer *separately*.

In order to provide you with a basic understanding of the proper procedure to file an Unlawful Detainer action, please read the steps outlined below:

- STEP 1 **FILING THE ANSWER:** After receipt of the Complaint (*The Complaint sets forth the statement of facts constituting the causes of action and contains a demand or statement of the relief sought by the Plaintiff*) and Summons (*The Summons is the instrument by which the Court acquires jurisdiction of the Defendant (tenant). It gives direction to the Defendant (tenant) that they must file with the Court a written response to the Complaint within 30 days*), you may file an ANSWER – Unlawful Detainer (attached). *The Answer is one means by which the Defendant (tenant) may respond to the Complaint. It is a formal written statement made by the Defendant (tenant) that sets forth the grounds for their defense, in other words, your response to the Complaint filed against you.* If the Complaint is against more than one tenant, each tenant must file their own answer. If you don't, a default judgment can be made against the tenants who don't file an Answer. Should you choose to file an Answer, it must be filed with the Court **within 5 DAYS** from the date of service. To calculate the five days, count Saturday and Sunday, but do not count Court holidays. If the last day to file is a Saturday or Sunday, you have until the end of the next business day. If you don't file your answer on time, you can: lose the case, be evicted, and have your salary, money, and property taken by the landlord without warning. You MUST file an Answer, even if you leave the property. A filing fee is required upon filing the Answer. The amount of the filing fee depends on the amount of the demand. Unlawful Detainer fees are listed on the Court Fee Schedule and can be requested from the Court Services Department.
- STEP 2: **SERVICE OF THE ANSWER:** Upon filing your Answer, you MUST have the Plaintiff (Landlord) served with a copy of your Answer *before* you file it with the Court. This means that someone, not you, gives a copy of the Answer and Proof of Service to the landlord or their lawyer. This can be done in person by anyone over the age of 18 and not a party to the action, or by certified mail. If done by certified mail, a receipt must be attached to the Proof of Service. After the Answer is received by the Plaintiff (Landlord), the person who served the Answer must fill out the Proof of Service by Mail or Proof of Personal Service (depending on how your Answer was served) and bring the original Proof of Service to the Court for filing. **THE COURT WILL NOT FILE YOUR ANSWER WITHOUT A SIGNED PROOF OF SERVICE FORM.**

STEP 3: AT ISSUE MEMORANDUM: If the Answer was filed timely and the case has not entered into default, the Plaintiff (Landlord) will file an At-Issue Memorandum with the Court. An At-Issue Memorandum is a document that places your case on the Court's calendar for hearing. You will be notified by the Court of the date, time and place of hearing.

(Updated 10/2020)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY STREET ADDRESS: 11 Court Street MAILING ADDRESS: PO Box 1258 CITY AND ZIP CODE: Weaverville, CA 96093 BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
ANSWER—UNLAWFUL DETAINER		CASE NUMBER:

1. Defendant (*each defendant for whom this answer is filed must be named and must sign this answer unless his or her attorney signs*):

answers the complaint as follows:

2. **Check ONLY ONE of the next two boxes:**

- a. Defendant generally denies each statement of the complaint and of the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101). (*Do not check this box if the complaint demands more than \$1,000.*)
- b. Defendant admits that all of the statements of the complaint and of the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are true EXCEPT:
- (1) Defendant claims the following statements of the complaint are false (*state paragraph numbers from the complaint or explain below or, if more room needed, on form MC-025*): Explanation is on MC-025, titled as Attachment 2b(1).
- (2) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (*state paragraph numbers from the complaint or explain below or, if more room needed, on form MC-025*):
 Explanation is on MC-025, titled as Attachment 2b(2).
- (3) Defendant claims the following statements on the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are false (*state paragraph numbers from form UD-101 or explain below or, if more room needed, on form MC-025*): Explanation is on MC-025, titled as Attachment 2b(3).
- (4) Defendant has no information or belief that the following statements on the *Mandatory Cover Sheet and Supplemental Allegations—Unlawful Detainer* (form UD-101) are true, so defendant denies them (*state paragraph numbers from form UD-101 or explain below or, if more room needed, on form MC-025*):
 Explanation is on MC-025, titled as Attachment 2b(4).

CASE NUMBER:

3. AFFIRMATIVE DEFENSES (**NOTE:** For each box checked, you must state brief facts to support it in item 3o (page 3) or, if more room needed, on form MC-025.)
- a. (Nonpayment of rent only) Plaintiff has breached the warranty to provide habitable premises.
- b. (Nonpayment of rent only) Defendant made needed repairs and properly deducted the cost from the rent, and plaintiff did not give proper credit.
- c. (Nonpayment of rent only) On (date): _____ before the notice to pay or quit expired, defendant offered the rent due but plaintiff would not accept it.
- d. Plaintiff waived, changed, or canceled the notice to quit.
- e. Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant.
- f. By serving defendant with the notice to quit or filing the complaint, plaintiff is arbitrarily discriminating against the defendant in violation of the Constitution or the laws of the United States or California.
- g. Plaintiff's demand for possession violates the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage):
(Also, briefly state in item 3o the facts showing violation of the ordinance.)
- h. Plaintiff's demand for possession is subject to the Tenant Protection Act, Civil Code section 1946.2 or 1947.12, and is not in compliance with the act. (Check all that apply and briefly state in item 3o the facts that support each.)
- (1) Plaintiff failed to state a just cause for termination of tenancy in the written notice to terminate.
- (2) Plaintiff failed to provide an opportunity to cure any alleged violations of terms and conditions of the lease (other than payment of rent) as required under Civ. Code, § 1946.2(c).
- (3) Plaintiff failed to comply with the relocation assistance requirements of Civ. Code, § 1946.2(d).
- (4) Plaintiff has raised the rent more than the amount allowed under Civ. Code, § 1946.12, and the only unpaid rent is the unauthorized amount.
- (5) Plaintiff violated the Tenant Protection Act in another manner that defeats the complaint.
- i. Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.
- j. Plaintiff seeks to evict defendant based on an act against defendant or a member of defendant's household that constitutes domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult. (This defense requires one of the following: (1) a temporary restraining order, protective order, or police report that is not more than 180 days old; OR (2) a signed statement from a qualified third party (e.g., a doctor, domestic violence or sexual assault counselor, human trafficking caseworker, or psychologist) concerning the injuries or abuse resulting from these acts.)
- k. Plaintiff seeks to evict defendant based on defendant or another person calling the police or emergency assistance (e.g., ambulance) by or on behalf of a victim of abuse, a victim of crime, or an individual in an emergency when defendant or the other person believed that assistance was necessary.
- l. Plaintiff's demand for possession is in retaliation for nonpayment of rent or other financial obligations due between March 1, 2020, and January 31, 2021, even though it is alleged to be based on other reasons. (Civ. Code, § 1942.5(d).)
- m. Plaintiff's demand for possession is based on nonpayment of rent or other financial obligations due between March 1, 2020, and January 31, 2021, and (check all that apply):
- (1) Plaintiff did not serve the required 15-day notice. (Code Civ. Proc., § 1179.03(b) or (c).)
- (2) Plaintiff did not provide an unsigned declaration of COVID-19-related financial distress with the 15-day notice. (Code Civ. Proc., § 1179.03(b) or (c).)
- (3) Plaintiff identified defendant as a "high-income tenant" in the 15-day notice, but plaintiff did not possess proof of income establishing that at the time the notice was served.

CASE NUMBER:

- m. (4) Defendant provided the following declaration to plaintiff (*check all that apply and describe when and how provided*):
- (a) Declaration of COVID-19–related financial distress (Code Civ. Proc., § 1179.03(b) or (c))
(*describe when and how delivered*):
- (b) Declaration under penalty of perjury for the Centers for Disease Control and Prevention's temporary halt in evictions to prevent further spread of COVID-19 (85 Federal Register at 55297)
(*describe when and how provided*):
- (5) Defendant is currently filing or has already filed a declaration of COVID-19-related financial distress with the court.
(Code Civ. Proc. § 1179.03(h).)
- (6) Plaintiff violated the federal CARES Act because the property is covered by that act and
- (a) The federally-backed mortgage on the property was in forbearance when plaintiff brought the action. (15 U.S.C. § 9057.)
- (b) The plaintiff did not give the required 30 days' notice. (15 U.S.C. § 9058(c).)
- (7) Plaintiff violated the COVID-19 Tenant Relief Act of 2020 (Code Civ. Proc., § 1179.01 et seq.) or a local COVID-19–related ordinance regarding evictions in some other way (*briefly state facts describing this in item o*).
- n. Other affirmative defenses are stated in item 3o.
- o. (*Provide facts for each item checked above, either below, or, if more room needed, on form MC-025*):
- Description of facts is on MC-025, titled as Attachment 3o.

4. OTHER STATEMENTS

- a. Defendant vacated the premises on (*date*):
- b. The fair rental value of the premises alleged in the complaint is excessive (*explain below or, if more room needed, on form MC-025*):

CASE NUMBER: _____

4. b. Explanation is on MC-025, titled as Attachment 4b.

c. Other (specify below or, if more room needed, on form MC-025 in attachment):
 Other statements are on MC-025, titled as Attachment 4c.

5. DEFENDANT REQUESTS

- a. that plaintiff take nothing requested in the complaint.
- b. costs incurred in this proceeding.
- c. reasonable attorney fees.
- d. that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.
- e. Other (specify below or on form MC-025):
 All other requests are stated on MC-025, titled as Attachment 5e.

6. Number of pages attached: _____

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)

7. (Must be completed in all cases.) An **unlawful detainer assistant** did not did for compensation give advice or assistance with this form. (If defendant has received **any** help or advice for pay from an unlawful detainer assistant, state):

- a. Assistant's Name: _____
- b. Telephone number: _____
- c. Street address, city, and zip code: _____
- d. County of registration: _____
- e. Registration number: _____
- f. Expiration date: _____

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless defendant's attorney signs.)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY STREET ADDRESS: 11 Court Street MAILING ADDRESS: PO Box 1258 CITY AND ZIP CODE: Weaverville, CA 96093 BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
COVER SHEET FOR DECLARATION OF COVID-19-RELATED FINANCIAL DISTRESS		CASE NUMBER:

Information for Defendant

A defendant tenant may use this form to file a declaration of COVID-19-related financial distress with the court if a plaintiff has filed an unlawful detainer action against the defendant and asserts that a defendant did not deliver a declaration within the required 15-day period after service of a notice demanding payment of rent or other financial obligations. (Code Civ. Proc., § 1179.03(h).)

For information about legal resources that may be available and to learn about other protections that may be available to you under federal or local law, go to lawhelpca.org or <https://landlordtenant.dre.ca.gov/>.

- The signed declaration (you may use form UD-104(A)) must be filed within 5 days after the summons and legal papers in the case are served on you, not counting Saturdays, Sundays, and other judicial holidays. This is the same time frame in which you must file an answer or other response to the complaint.
- If the declaration is filed within the time frame described above, the case against you may be dismissed. The court will set a hearing to determine if there was good cause for your not delivering the declaration to the plaintiff in the time required.
 - The court will provide a notice of the time and place of the hearing to all plaintiffs and defendants.
 - At the hearing, you may explain why you did not deliver this to the landlord in the time required.
 - If the court finds that your failure to provide the declaration was due to mistake, inadvertence, surprise, or excusable neglect, the court will dismiss the case against you.
- Written filings with the court must be provided in English. (Code Civ. Proc., §185 (a).)
 - If attaching a non-English-language declaration provided by the landlord, you should also attach an English-language version, either a copy that was given to you by the landlord or one from landlordtenant.dre.ca.gov/tenant/forms.html.
 - You can attach a translation of the declaration instead, if signed by the translator.

1. Defendant (name):

has attached a declaration of COVID-19-related financial distress to this form, signed by defendant.

2. Number of pages attached, including signed declaration (specify):

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT OR ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY STREET ADDRESS: 11 Court Street MAILING ADDRESS: PO Box 1258 CITY AND ZIP CODE: Weaverville, CA 96093 BRANCH NAME:		
PLAINTIFF: DEFENDANT:		
ATTACHMENT—DECLARATION OF COVID-19–RELATED FINANCIAL DISTRESS		CASE NUMBER:

Review the information on form UD-104 to learn more about when to file this form.

I am currently unable to pay my rent or other financial obligations under the lease in full because of one or more of the following:

1. Loss of income caused by the COVID-19 pandemic.
2. Increased out-of-pocket expenses directly related to performing essential work during the COVID-19 pandemic.
3. Increased expenses directly related to health impacts of the COVID-19 pandemic.
4. Childcare responsibilities or responsibilities to care for an elderly, disabled, or sick family member directly related to the COVID-19 pandemic that limit my ability to earn income.
5. Increased costs for childcare or attending to an elderly, disabled, or sick family member directly related to the COVID-19 pandemic.
6. Other circumstances related to the COVID-19 pandemic that have reduced my income or increased my expenses.

Any public assistance, including unemployment insurance, pandemic unemployment assistance, state disability insurance (SDI), or paid family leave, that I have received since the start of the COVID-19 pandemic does not fully make up for my loss of income and/or increased expenses.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name and state Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY STREET ADDRESS: 11 Court Street MAILING ADDRESS: PO Box 1258 CITY AND ZIP CODE: Weaverville, CA 96093 BRANCH NAME: _____	
PLAINTIFF: DEFENDANT:	
STIPULATION FOR ENTRY OF JUDGMENT (Unlawful Detainer)	CASE NUMBER: _____

1. IT IS STIPULATED by plaintiff (*name each*): _____ and
 defendant (*name each*): _____

2. Plaintiff Defendant (*specify name*): _____ is awarded
 - a. possession of the premises located at (*street address, apartment number, city, and county*): _____

 - b. cancellation of the rental agreement. forfeiture of the lease.
 - c. past due rent \$ _____
 - d. total holdover damages \$ _____
 - e. attorney fees \$ _____
 - f. costs \$ _____
 - g. deposit of \$ _____ See item 3.
 - h. other (*specify*): _____
 - i. Total \$ _____ to be paid by (*date*): _____ installment payments (see item 5)

3. Deposit. If not awarded under item 2g, then plaintiff must
 - a. return deposit of \$ _____ to defendant by (*date*): _____
 - b. give an itemized deposit statement to defendant within three weeks after defendant vacates the premises (Civ. Code, § 1950.5).
 - c. mail the deposit itemized statement to the defendant at (*mailing address*): _____

4. A writ of possession will issue immediately, but there will be no lockout before (*date*): _____

5. AGREEMENT FOR INSTALLMENT PAYMENTS
 - a. Defendant agrees to pay \$ _____ on the (*specify day*) _____ day of each month beginning on (*specify date*) _____ until paid in full.
 - b. If any payment is more than (*specify*) _____ days late, the entire amount in item 2i will become immediately due and payable plus interest at the legal rate.

6.
 - a. Judgment will be entered now.
 - b. Judgment will be entered only upon default of payment of the amount in item 2i or the payment arrangement in item 5a. The case is calendared for dismissal on (*date and time*) _____ in _____ department (*specify*) _____ unless plaintiff or defendant otherwise notifies the court.
 - c. Judgment will be entered as stated in *Judgment—Unlawful Detainer Attachment* (form UD-110S), which is attached.
 - d. Judgment will be entered as stated in item 7.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
--------------------------	--------------

7. Plaintiff and defendant further stipulate as follows (*specify*):

8. a. **The parties named in item 1 understand that they have the right to (1) have an attorney present and (2) receive notice of and have a court hearing about any default in the terms of this stipulation.**

b. Date: _____

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PLAINTIFF OR ATTORNEY)

Continued on *Attachment 8b* (form MC-025).

c. Date: _____

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

Continued on *Attachment 8c* (form MC-025).

9. IT IS SO ORDERED.

Date:

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX No. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY STREET ADDRESS: 11 Court Street MAILING ADDRESS: PO Box 1258 CITY AND ZIP CODE: Weaverville, CA 96093 BRANCH NAME: _____	
PLAINTIFF: DEFENDANT:	
<input type="checkbox"/> REQUEST <input type="checkbox"/> COUNTER-REQUEST TO SET CASE FOR TRIAL—UNLAWFUL DETAINER <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	CASE NUMBER: _____

1. **Plaintiff's request.** I represent to the court that all parties have been served with process and have appeared or have had a default or dismissal entered against them. I request that this case be set for trial.
2. **Trial preference.** The premises concerning this case are located at (*street address, apartment number, city, zip code, and county*):
 - a. To the best of my knowledge, the right to possession of the premises is still in issue. This case is entitled to legal preference under Code of Civil Procedure section 1179a.
 - b. To the best of my knowledge, the right to possession of the premises is no longer in issue. No defendant or other person is in possession of the premises.
3. **Jury or nonjury trial.** I request a jury trial a nonjury trial.
4. **Estimated length of trial.** I estimate that the trial will take (*check one*):
 - a. days (*specify number*): _____
 - b. hours (*specify if estimated trial is less than one day*): _____
5. **Trial date.** I am not available on the following dates (*specify dates and reasons for unavailability*): _____

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400–6415)

6. (*Complete in all cases.*) An unlawful detainer assistant did **not** did for compensation give advice or assistance with this form. (*If declarant has received any help or advice for pay from an unlawful detainer assistant, complete a–f.*)
 - a. Assistant's name: _____
 - c. Telephone no.: _____
 - b. Street address, city, and zip code: _____
 - d. County of registration: _____
 - e. Registration no.: _____
 - f. Expires on (*date*): _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)
-------------------------------	--	---

NOTICE

- An unlawful detainer case must be set for trial on a date not later than **20 days after the first request** to set the case for trial is made (Code Civ. Proc., § 1170.5(a)).
- If a jury is requested, \$150 must be deposited with the court 5 days before trial (Code Civ. Proc., § 631).
- Court reporter and interpreter services vary. Check with the court for availability of services and fees charged.
- If you cannot pay the court fees and costs, you may apply for a fee waiver. Ask the court clerk for a fee waiver form.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
--------------------------	--------------

PROOF OF SERVICE BY MAIL

Instructions: After having the parties served by mail with the Request/Counter-Request to Set Case for Trial—Unlawful Detainer, (form UD-150), have the person who mailed the form UD-150 complete this Proof of Service by Mail. An **unsigned** copy of the Proof of Service by Mail should be completed and served with form UD-150. Give the Request/Counter-Request to Set Case for Trial—Unlawful Detainer (form UD-150) and the completed Proof of Service by Mail to the clerk for filing. If you are representing yourself, someone else must mail these papers and sign the Proof of Service by Mail.

1. I am over the age of 18 and **not a party to this case**. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is (*specify*):

3. I served the *Request/Counter-Request to Set Case for Trial—Unlawful Detainer* (form UD-150) by enclosing a copy in an envelope addressed to each person whose name and address are shown below AND
 - a. **depositing** the sealed envelope in the United States mail on the date and at the place shown in item 3c with the postage fully prepaid.
 - b. **placing** the envelope for collection and mailing on the date and at the place shown in item 3c following ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 - c. (1) Date mailed:
 (2) Place mailed (*city and state*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF PERSON WHO MAILED FORM UD-150)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

	<u>Name</u>	<u>Address (number, street, city, and zip code)</u>
4.		
5.		
6.		
7.		
8.		
9.		

List of names and addresses continued on a separate attachment or form MC-025, titled Attachment to Proof of Service by Mail.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY STREET ADDRESS: 11 Court Street MAILING ADDRESS: PO Box 1258 CITY AND ZIP CODE: Weaverville, CA 96093 BRANCH NAME: _____	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
PROOF OF PERSONAL SERVICE—CIVIL	CASE NUMBER: _____

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and **not a party to this action**.
2. I served the following **documents** (specify):

The documents are listed in the *Attachment to Proof of Personal Service—Civil (Documents Served)* (form POS-020(D)).

3. I personally served the following **persons** at the address, date, and time stated:
 - a. Name:
 - b. Address:
 - c. Date:
 - d. Time:

The persons are listed in the *Attachment to Proof of Personal Service—Civil (Persons Served)* (form POS-020(P)).

4. I am
 - a. not a registered California process server.
 - b. a registered California process server.
 - c. an employee or independent contractor of a registered California process server.
 - d. exempt from registration under Business & Professions Code section 22350(b).

5. My name, address, telephone number, and, if applicable, county of registration and number are (specify):

6. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7. I am a California sheriff or marshal and certify that the foregoing is true and correct.

Date:

 (TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)

 (SIGNATURE OF PERSON WHO SERVED THE PAPERS)

INFORMATION SHEET FOR PROOF OF PERSONAL SERVICE—CIVIL

(This information sheet is not a part of the Proof of Service form and does not need to be copied, served, or filed.)

NOTE: This form should **not** be used for proof of service of a summons and complaint. For that purpose, use Proof of Service of Summons (form POS-010).

Use these instructions to complete the *Proof of Personal Service* (form POS-020).

A person at least 18 years of age or older must serve the documents. There are two main ways to serve documents: (1) by personal delivery and (2) by mail. Certain documents must be personally served. You must determine whether personal service is required for a document.

The person who personally served the documents must complete a proof of service form for the documents served. **You cannot serve documents if you are a party to the action.**

INSTRUCTIONS FOR THE PERSON WHO SERVED THE DOCUMENTS

The proof of service should be printed or typed. If you have Internet access, fillable versions of the form are available at www.courtinfo.ca.gov/forms.

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and phone number of the person for whom you served the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as on the documents that you served.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names as are listed on the documents that you served.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The number should be the same as the case number on the documents that you served.

Complete all applicable items on the form:

1. You are stating that you are over the age of 18 and that you are not a party to this action.
2. List the name of each document that you delivered to the person. If you need more space, check the box in item 2, complete the *Attachment to Proof of Personal Service—Civil (Documents Served)* (form POS-020(D)), and attach it to form POS-020.
3. Provide the name of each person served, the address where you served the documents, and the date and time of service. If you served more than one person, check the box in item 3, complete the *Attachment to Proof of Personal Service—Civil (Persons Served)* (form POS-020(P)), and attach it to form POS-020.
4. Check the box that applies to you. If you are a private person serving the documents for a party, check box "a."
5. Print your name, address, and telephone number. If applicable, include the county in which you are registered as a process server and your registration number.
6. You must check this box if you are not a California sheriff or marshal. You are stating under penalty of perjury that the information you have provided is true and correct.
7. Do not check this box unless you are a California sheriff or marshal.

At the bottom, fill in the date on which you signed the form, print your name, and sign the form at the arrow. By signing, you are stating under penalty of perjury that all the information that you have provided on form POS-020 is true and correct.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY STREET ADDRESS: 11 Court Street MAILING ADDRESS: PO Box 1258 CITY AND ZIP CODE: Weaverville, CA 96093 BRANCH NAME: _____	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL	CASE NUMBER: _____

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and **not a party to this action**. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:

3. On (date): _____ I mailed from (city and state): _____
 the following **documents** (specify):

The documents are listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)).

4. I served the documents by enclosing them in an envelope and (check one):
 - a. **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. **placing** the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
 - a. **Name** of person served:
 - b. **Address** of person served:

The name and address of each person to whom I mailed the documents is listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

 (SIGNATURE OF PERSON COMPLETING THIS FORM)

INFORMATION SHEET FOR PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL

(This information sheet is not part of the Proof of Service and does not need to be copied, served, or filed.)

NOTE: This form should **not** be used for proof of service of a summons and complaint. For that purpose, use Proof of Service of Summons (form POS-010).

Use these instructions to complete the Proof of Service by First-Class Mail—Civil (form POS-030).

A person over 18 years of age must serve the documents. There are two main ways to serve documents: (1) by personal delivery and (2) by mail. Certain documents must be personally served. You must determine whether personal service is required for a document. Use the *Proof of Personal Service—Civil* (form POS-020) if the documents were personally served.

The person who served the documents by mail must complete a proof of service form for the documents served. **You cannot serve documents if you are a party to the action.**

INSTRUCTIONS FOR THE PERSON WHO SERVED THE DOCUMENTS

The proof of service should be printed or typed. If you have Internet access, a fillable version of the Proof of Service form is available at www.courtinfo.ca.gov/forms.

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and telephone number of the person for whom you served the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as on the documents that you served.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names as are on the documents that you served.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Complete items 1–5 as follows:

1. You are stating that you are over the age of 18 and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. Provide the date and place of the mailing and list the name of each document that you mailed. If you need more space to list the documents, check the box in item 3, complete the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)), and attach it to form POS-030.
4. For item 4:

Check box a if you personally put the documents in the regular U.S. mail.
Check box b if you put the documents in the mail at your place of business.
5. Provide the name and address of each person to whom you mailed the documents. If you mailed the documents to more than one person, check the box in item 5, complete the *Attachment to Proof of Service by First-Class Mail—Civil (Persons Served)* (form POS-030(P)), and attach it to form POS-030.

At the bottom, fill in the date on which you signed the form, print your name, and sign the form. By signing, you are stating under penalty of perjury that all the information you have provided on form POS-030 is true and correct.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)	Telephone Number	FOR COURT USE ONLY
ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY <input type="checkbox"/> Limited Civil Case <input type="checkbox"/> PO BOX 1258, WEAVERVILLE, CA 96093		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
<p style="text-align: center;">NOTICE OF MOTION AND MOTION FOR ORDER</p> <input type="checkbox"/> SETTING ASIDE DEFAULT <input type="checkbox"/> VACATING DEFAULT JUDGMENT <input type="checkbox"/> STAYING EXECUTION OF JUDGMENT <input type="checkbox"/> EXPARTE		CASE NUMBER: HEARING DATE: _____ TIME: _____ COURTROOM: _____ COMPLAINT DATE: _____

MOTION FOR ORDER SETTING ASIDE DEFAULT/VACATING DEFAULT JUDGMENT

1. Defendant _____ does hereby move the court, pursuant to Section 473 of Code of Civil Procedure, for an order:
 - setting aside the default entered in this action on _____
 - vacating default judgment entered in this action on _____

2. Defendant further moves for an order permitting defendant to:
 - file an Answer, a true and correct copy of which is attached to this motion and incorporated by reference.
 - appear at a trial on the merits.

3. This motion is brought because default default judgment was/were taken against defendant:
 - Defendant was mistaken as to some material fact or law relating to defendant's duty to respond.
 - Through inadvertence and/or oversight defendant failed to timely respond.
 - Defendant was prevented from responding due to an unexpected condition or situation which arose, without any default or negligence on his /her part, and which ordinary care could not have prevented.
 - Other _____

4. Defendant possesses a meritorious defense against the unlawful detainer or other civil action.

Short Title:	Case Number:
--------------	--------------

MOTION FOR ORDER STAYING EXECUTION

5. Defendant, _____, respectfully applies under Section 918 of the Code of Civil Procedure, for an order from this court directed to the Sheriff of Ventura County, to plaintiff, and to any other persons acting on behalf of or together with plaintiff, staying execution of the judgment entered in this action on the grounds that:
- Defendant would suffer hardship if the judgment were to be executed at this time.
 - The judgment may be set aside or modified as requested in defendant's motion to vacate default judgment.
 - The judgment may be set aside or modified in accordance with defendant's motion for a new trial.
 - The judgment may be set aside or modified in accordance with defendant's motion for judgment notwithstanding the verdict.
 - The judgment may be set aside or modified in accordance with defendant's motion for relief from forfeiture and restoration of the tenancy under Section 1179 of the Code of Civil Procedure.
6. The motion filed above is filed with this application, and is now pending before this Court.

DECLARATION

7. I am the defendant in this action. I am asking the court to set aside default default judgment in this case.
8. I did not file a response to the summons and complaint appear at the trial in the case because I did not receive the summons and complaint until _____ .
- I was unable to come to the court because of the following medical emergency:
- _____
- _____
- Other:
- _____
- _____
- _____
- _____

9. I have the following defense to eviction civil complaint for amages
- _____
- _____
- _____
- _____
- _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

Signature of Defendant

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)	Telephone Number	FOR COURT USE ONLY
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TRINITY <input type="checkbox"/> Limited Civil Case <input type="checkbox"/> PO BOX 1258, WEAVERVILLE, CA 96093		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
<p style="text-align: center;">ORDER GRANTING MOTION TO</p> <input type="checkbox"/> SET ASIDE DEFAULT <input type="checkbox"/> VACATE DEFAULT JUDGMENT <input type="checkbox"/> STAY EXECUTION OF JUDGMENT		CASE NUMBER:

1. Defendant's motion in the above-entitled action came on for hearing before the court on _____
 - Plaintiff: Appeared in pro per No appearance
 - With counsel _____
 - Defendant: Appeared in pro per No appearance
 - With counsel _____

2. The court being fully advised of the arguments and having considered the evidence on file in this case, finds:
 - a. The judgment was entered against the defendant due to
 - Defendant was mistaken as to some material fact or law relating to defendant's duty to respond.
 - Through inadvertence and/or oversight, defendant failed to respond timely.
 - Defendant was prevented from responding due to an unexpected condition or situation which arose, without any default or negligence on his/her part, and which ordinary care could not have prevented.
 - Other: _____
 - b. Execution of the judgment should be stayed because:
 - execution at this time would cause defendant to suffer hardship.
 - the judgment has been set aside or modified in accordance with the defendant's motion to vacate default judgment.
 - the judgment has been set aside or modified in accordance with defendant's motion for a new trial.
 - the judgment has been set aside or modified in accordance with defendant's motion for judgment notwithstanding the verdict.
 - the judgment has been set aside or modified in accordance with defendant's motion for relief from forfeiture and restoration of the tenancy under section 1179 of the Code of Civil Procedure.

3. IT IS HEREBY ORDERED THAT:
 - the judgment heretofore entered in this action against defendant _____ is hereby vacated and set aside.
 - the writ of execution is hereby recalled and quashed.
 - the clerk shall immediately notify the Sheriff's office that the Writ of Execution in this matter is recalled and quashed.
 - the clerk shall set and notify the parties of a new trial date.

Date: _____

Judicial Officer

CASE NAME:	CASE NUMBER:
------------	--------------

6. b. **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and (*specify one*):
- (1) deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (2) placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):
- c. **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. (*A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.*)
- e. **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME OF DECLARANT)	▶	(SIGNATURE OF DECLARANT)
-----------------------------------	---	--------------------------

(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

DECLARATION OF MESSENGER

By personal service. I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and eight in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (*date*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(NAME OF DECLARANT)	▶	(SIGNATURE OF DECLARANT)
---------------------	---	--------------------------

INFORMATION SHEET FOR PROOF OF SERVICE—CIVIL

(This information sheet is not part of the official proof of service form and does not need to be copied, served, or filed.)

USE OF THIS FORM

This form is designed to be used to show proof of service of documents by (1) personal service, (2) mail, (3) overnight delivery, (4) messenger service, or (5) fax.

This proof of service form should **not** be used to show proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Also, this proof of service form should **not** be used to show proof of electronic service. For that purpose, use *Proof of Electronic Service* (form POS-050).

Certain documents must be personally served. For example, an order to show cause and temporary restraining order generally must be served by personal delivery. You must determine whether a document must be personally delivered or can be served by mail or another method.

GENERAL INSTRUCTIONS

A person must be over 18 years of age to serve the documents. The person who served the documents must complete the Proof of Service. **A party to the action cannot serve the documents.**

The Proof of Service should be typed or printed. If you have Internet access, a fillable version of this proof of service form is available at www.courts.ca.gov/forms.htm.

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and telephone number of the person for whom you served the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as the address on the documents that you served.

Third box, left side: Print the names of the plaintiff/petitioner and defendant/respondent in this box. Use the same names as are on the documents that you served.

Fourth box, left side: Check the method of service that was used. You should check only one method of service and should show proof of only one method on the form. If you served a party by several methods, use a separate form to show each method of service.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Third box, right side: State the judge and department assigned to the case, if known.

Complete items 1–6:

1. You are stating that you are over the age of 18.
2. Print your home or business address.
3. If service was by fax service, print the fax number from which service was made.
4. List each document that you served. If you need more space, check the box in item 4, complete the *Attachment to Proof of Service—Civil (Documents Served)* (form POS-040(D)), and attach it to form POS-040.
5. Provide the names, addresses, and other applicable information about the persons served. If more than one person was served, check the box on item 5, complete the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)), and attach it to form POS-040.
6. Check the box before the method of service that was used, and provide any additional information that is required. The law may require that documents be served in a particular manner (such as by personal delivery) for certain purposes. Service by fax generally requires the prior agreement of the parties.

You must sign and date the proof of service form. By signing, you are stating under penalty of perjury that the information that you have provided on form POS-040 is true and correct.