

This is a general guide through the  
**Evictions or  
 Unlawful Detainer Lawsuit**  
 process.

## Eviction or Unlawful Detainer Lawsuit

This brochure is only for the residential eviction process.

An eviction, also called an Unlawful Detainer Lawsuit, is a legal procedure the landlord uses to get back possession of rental property from the tenant. If a tenant does not voluntarily move out after the landlord has properly given the required notice to the tenant, the landlord can evict the tenant. In an unlawful detainer lawsuit, landlords must follow all California state laws and any applicable local laws.

### Is An Unlawful Detainer Lawsuit Right For Me?

An unlawful detainer lawsuit is for these cases:

- ◆ Landlord / Tenant relationship

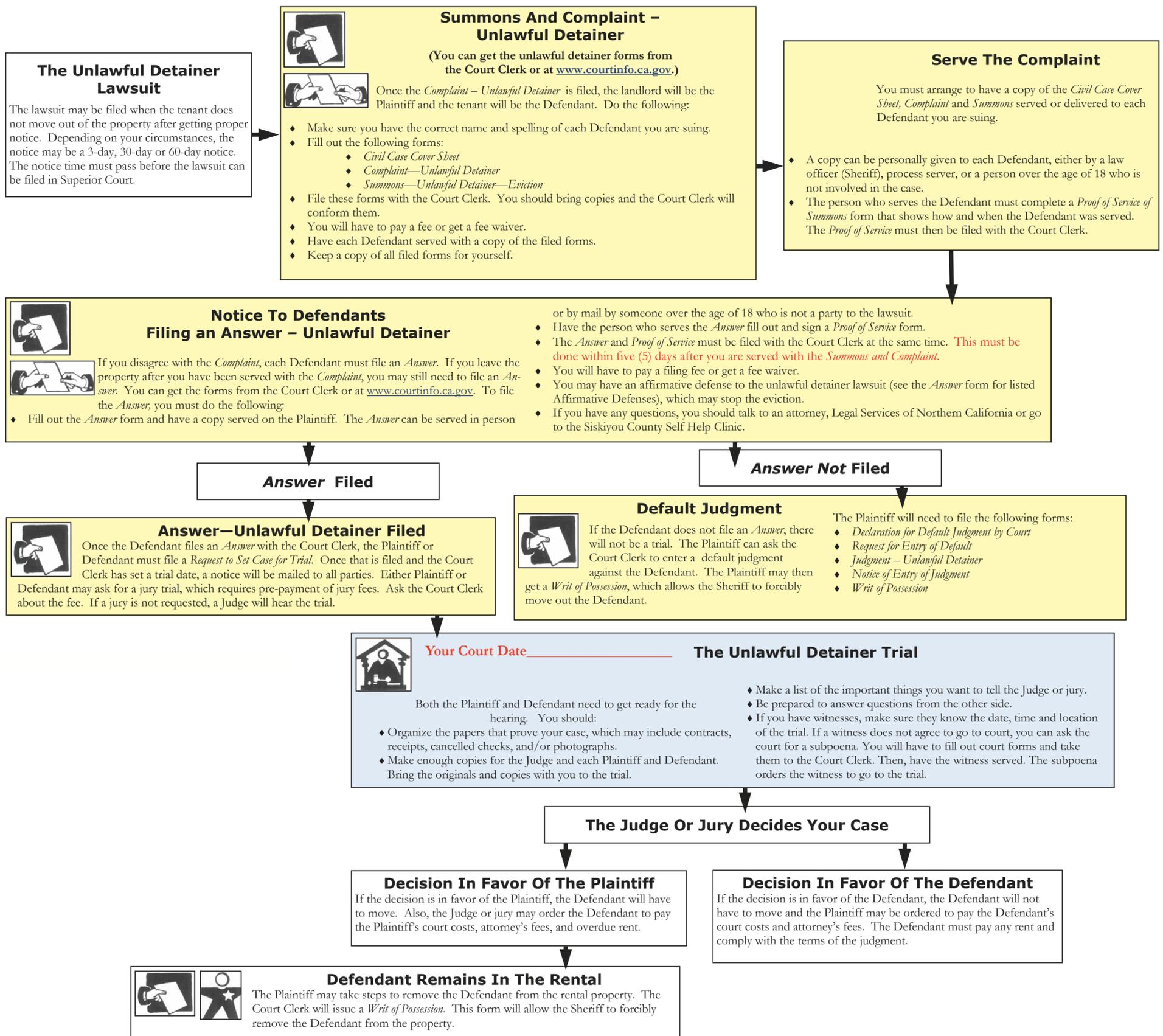
An unlawful detainer lawsuit is not for these cases:

- ◆ Complicated issues about ownership or fraud
- ◆ Buyer / Seller relationship
- ◆ Collection of rent owed after tenant has moved out

### For more information:

If you are unsure of the Landlord / Tenant relationship, or if you are a property manager, seek additional information or assistance.

- ◆ Attorney of your choosing
- ◆ [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)
- ◆ [www.LawHelpCA.org](http://www.LawHelpCA.org)



## Explanation of terms used in the **Unlawful Detainer Lawsuit** process

**Affirmative Defense:** A defense to the landlord's *Complaint*, available only under certain circumstances. An affirmative defense may stop the eviction even if the landlord's claims are true. Tenant (Defendant) claims the affirmative defense in the *Answer*. (Obtain an *Answer* form for details.)

**Answer – Unlawful Detainer:** The court document that is filed by *each* person being evicted or named in the *Complaint*. Two defendants may use the same *Answer* but both must sign the form and pay separate filing fees.

**Complaint – Unlawful Detainer:** The court document that is filed in Superior Court against each tenant who is being evicted.

**Conformed Copy:** A copy of the original document that has been file endorsed (stamped) by the Court Clerk.

**Default Judgment:** A judgment issued by the court, without a hearing, after the tenant has failed to file a response to the landlord's complaint.

**Defendant:** The Defendant is the person or business that the Plaintiff has sued.

**Eviction Notice:** A notice that the landlord serves on the tenant when the tenant has violated the lease or rental agreement or when the landlord is terminating the lease. The eviction notice usually tells the tenant to either leave the rental unit or pay past-due rent. The notice to a tenant must be served properly to be legally effective.

**Judge:** The Judge is the court officer who will be hearing and deciding your case. The term "Judge" may also refer to a judicial officer, commissioner or a temporary judge (judge pro tem).

**Judgment:** The decision of the Judge. Also called the "decision" or the "court order." It states the amount that the judgment debtor owes to the judgment creditor or the action to be taken. The judgment may also include other terms such as the date when payment must be made.

**Landlord:** A person or business that owns a rental unit and rents or leases the rental unit to another person, called a Tenant.

**Notice:** (See Eviction Notice)

**Party / Parties:** The person or business actually named in a court case is called a "party" to the case. This would include a Plaintiff or Defendant, Claimant or Cross-Claimant.

**Plaintiff:** The Plaintiff is the person who files the claim.

**Proof Of Service:** The *Proof of Service* is a form that shows when the other party was served the papers. The Proof of Service must be completed by the person serving court papers on a party, stating that service was properly made.

**Request To Set Case For Trial:** A court document that tells the parties in an unlawful detainer lawsuit that the case has been set for trial. This document also tells if a jury has been requested.

**Serve / Service:** The giving of formal notice to the Defendant that a claim has been filed against him/her. Some papers must be personally delivered and others may be served by placing them in the mail. The act of giving the papers to the other party is called "service" or "serving." This must be done by someone who is not a party to the case and who is at least 18 years of age.

**Subpoena:** An official order for a person to appear in court. The person may also be ordered to bring documents.

**Tenant:** A person who rents or leases a rental unit from a landlord. The tenant has the right of use and possession of the rental unit during the lease or rental period.

**Unlawful Detainer Lawsuit:** A legal procedure the landlord uses to get back possession of rental property from the tenant. This must be done before the landlord can evict the tenant.

**Writ Of Possession:** A document issued by the court after the landlord wins an unlawful detainer lawsuit. The *Writ Of Possession* is served on the tenant by the Sheriff. The *Writ* tells the tenant that he/she must leave the rental unit or the Sheriff will forcibly remove the tenant.