



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 22-133*

For business meeting on September 20, 2022

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**Title**

Rules and Forms: Revision of Unlawful  
Detainer Summons for Use in Forcible Entry  
and Forcible Detainer Cases

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2023

**Rules, Forms, Standards, or Statutes Affected**

Revise form SUM-130

**Date of Report**

August 30, 2022

**Recommended by**

Civil and Small Claims Advisory Committee  
Hon. Tamara Wood, Chair

**Contact**

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### Executive Summary

The Civil and Small Claims Advisory Committee proposes that the Judicial Council revise form SUM-130, *Summons—Unlawful Detainer—Eviction*, to expand use of the mandatory form to expressly include forcible entry and forcible detainer proceedings. The revisions are intended to address confusion by courts and litigants as to whether form SUM-130 may be used in these types of proceedings.

### Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2023, revise the title of form SUM-130 to expressly include forcible entry and forcible detainer proceedings among the types of proceedings for which the form may be used.

The revised form is attached at pages 4–5.

## Relevant Previous Council Action

*Summons—Unlawful Detainer—Eviction* (form SUM-130) was initially adopted by the Judicial Council as *Summons—Unlawful Detainer* (form 982(a)(11)) and renumbered in 2004. The form has been revised a number of times, most recently effective January 1, 2022, to correct an internal reference, but the prior revisions are not relevant to this proposal.

## Analysis/Rationale

Currently, form SUM-130 is, by its title, limited to use in unlawful detainer proceedings. However, forcible detainer and forcible entry proceedings, like unlawful detainers, are special proceedings governed by chapter 4 of title 3 (Summary Proceedings) of part 3 (Special Proceedings of a Civil Nature) of the Code of Civil Procedure, beginning at section 1159.<sup>1</sup> The summonses for all three types of proceedings are governed by section 412.20, which applies to all civil summonses, except that defendants in these special proceedings have only five days to respond to the summons.<sup>2</sup>

There is currently no separate summons form designated for use in forcible detainer or forcible entry proceedings. Courts have reported that some parties attempt to file individually amended summons forms for use in these cases, causing confusion and inefficiency for court users and staff. Revising the mandatory form SUM-130 to expressly provide for its use in forcible detainer and forcible entry proceedings by revising the form title to read *Summons—Eviction (Unlawful Detainer/Forcible Detainer/Forcible Entry)* would alleviate confusion, provide plaintiffs with an appropriate summons form, and ensure that defendants are provided with the requisite notice.

## Policy implications

Because the proposal is intended only to clarify the scope of existing form SUM-130, no policy implications relating to this proposal were raised during the comment period or related committee discussions.

## Comments

The proposed revised form was circulated for public comment between April 1 and May 13, 2022, as part of the regular spring comment cycle. The committee received four comments, which all indicated support for the proposal. The commenters included the Orange County Bar Association, the Superior Court of San Bernardino County, the Superior Court of San Diego County, and John Zorbas, director of the Butte County Public Law Library. Mr. Zorbas mentioned that forcible detainer is a common cause of action that currently requires modification of the existing form and “[t]he proposed amendment to SUM-130 has long been necessary!” The other commenters agreed that the proposal appropriately addresses its stated purpose, without offering any suggested modifications.

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<sup>1</sup> See Code Civ. Proc., §§ 1159, 1160.

<sup>2</sup> See Code Civ. Proc., § 1167.

### **Alternatives considered**

The committee considered not recommending any changes to the form, but decided expressly providing that form SUM-130 is also for use in forcible detainer and forcible entry cases would be beneficial to parties and courts. Alternative form titles were also considered, but the committee concluded that the proposed revised title would provide the most clarity. Finally, the committee considered whether any substantive revisions to the form would be appropriate to make the form usable in forcible detainer and forcible entry cases in addition to unlawful detainers, but concluded that the substance is already appropriate for use in all three types of proceedings.

### **Fiscal and Operational Impacts**

The committee anticipates that this proposal will result in costs incurred by courts to incorporate new forms into their paper or electronic processes and to train court staff. However, given that the proposal only modifies the title of an existing form, any such costs or impacts are likely to be minor.

### **Attachments and Links**

1. Form SUM-130, at pages 4–5
2. Chart of comments, at pages 6–8

**SUMMONS—EVICTION**  
**(CITACIÓN JUDICIAL—DESALOJO)**

**UNLAWFUL DETAINER / FORCIBLE DETAINER / FORCIBLE ENTRY**  
**(RETENCIÓN ILÍCITA DE UN INMUEBLE / RETENCIÓN FORZOSA / ENTRADA FORZOSA)**

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**

**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

FOR COURT USE ONLY  
 (SOLO PARA USO DE LA CORTE)

DRAFT

03/15/2022

Not Approved by  
 the Judicial Council

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 5 days. You have 5 DAYS, not counting Saturdays and Sundays and other judicial holidays, after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff.

*¡AVISO! Usted ha sido demandado. Si no responde dentro de 5 días, el tribunal puede emitir un fallo en su contra sin una audiencia. Una vez que le entreguen esta citación y papeles legales, solo tiene 5 DÍAS, sin contar sábado y domingo y otros días feriados del tribunal, para presentar una respuesta por escrito en este tribunal y hacer que se entregue una copia al demandante.*

A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

*Una carta o una llamada telefónica no lo protege. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no presenta su respuesta a tiempo, puede perder el caso por falta de comparecencia y se le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services website ([www.lawhelpca.org](http://www.lawhelpca.org)), the California Courts Online Self-Help Center ([www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp)), or by contacting your local court or county bar association.

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados local.*

**FEE WAIVER:** If you cannot pay the filing fee, ask the clerk for a fee waiver form. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**EXENCIÓN DE CUOTAS:** *Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos con un gravamen sobre cualquier cantidad de \$10,000 ó más recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desestimar el caso.*

1. The name and address of the court is:  
 (El nombre y dirección de la corte es):

CASE NUMBER (número de caso):

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

3. (Must be answered in all cases) An **unlawful detainer assistant (Bus. & Prof. Code, §§ 6400–6415)**  did not  did for compensation give advice or assistance with this form. (If plaintiff has received **any** help or advice for pay from an unlawful detainer assistant, complete item 4 below.)

4. **Unlawful detainer assistant** (complete if plaintiff has received any help or advice for pay from an unlawful detainer assistant):

- a. Assistant's name:
- b. Telephone no.:
- c. Street address, city, and zip:
  
- d. County of registration:
- e. Registration no.:
- f. Registration expires on (date) :

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy  
 (Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
 (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (form POS-010).)

[SEAL]

5. **NOTICE TO THE PERSON SERVED:** You are served
- a.  as an individual defendant.
  - b.  as the person sued under the fictitious name of (specify):
  - c.  as an occupant.
  - d.  on behalf of (specify):
 

under: <input type="checkbox"/> CCP 416.10 (corporation).	<input type="checkbox"/> CCP 416.60 (minor).
<input type="checkbox"/> CCP 416.20 (defunct corporation).	<input type="checkbox"/> CCP 416.70 (conservatee).
<input type="checkbox"/> CCP 416.40 (association or partnership).	<input type="checkbox"/> CCP 416.90 (authorized person).
<input type="checkbox"/> CCP 415.46 (occupant).	<input type="checkbox"/> other (specify):
  - e.  by personal delivery on (date):

**SPR22-06**

**Rules and Forms: Revision of Unlawful Detainer Summons for Use in Forcible Detainer and Forcible Entry Cases (Revise form SUM-130)**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Orange County Bar Association by Daniel S. Robinson President	A	The proposal adequately addresses the stated purpose of providing a mandatory judicial council form to be used in forcible entry/forcible detainer proceedings.	The committee appreciates the feedback and support for the proposal.
2.	Superior Court of San Bernardino County	NI	<p><b>Request for Specific Comments in addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</b></p> <ul style="list-style-type: none"> <li>Does the proposal appropriately address the stated purpose? <b>Yes.</b></li> </ul> <p><b>The advisory committee [or other proponent] also seeks comments from courts on the following cost and implementation matters:</b></p> <ul style="list-style-type: none"> <li>Would the proposal provide cost savings? If so, please quantify. <b>No.</b></li> <li>What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? <b>Updating form packets. Informing/training staff.</b></li> <li>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>Yes.</b></li> </ul>	The committee appreciates the information provided.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

**SPR22-06**

**Rules and Forms: Revision of Unlawful Detainer Summons for Use in Forcible Detainer and Forcible Entry Cases (Revise form SUM-130)**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<ul style="list-style-type: none"> <li>How well would this proposal work in courts of different sizes? <b>Do not think size would have an impact.</b></li> </ul>	
3.	Superior Court of San Diego by Mike Roddy, Court Executive Officer	A	<p>Does the proposal appropriately address the stated purpose? <b>Yes.</b></p> <p>Would the proposal provide cost savings? If so, please quantify. <b>No.</b></p> <p>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? <b>Updating internal procedures and training staff.</b></p> <p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>Yes.</b></p> <p>How well would this proposal work in courts of different sizes? <b>It appears that the proposal would work for courts of all sizes.</b></p>	The committee appreciates the information provided.
4.	John Zorbas Law Library Director/Attorney Butte County Public Law Library Oroville, CA	A	Forcible Detainer to my knowledge and experience is a common cause of action, and is a summary proceeding. The SUM-130 with the word “Forcible” written-above “Unlawful” and	The committee appreciates the feedback and support for the proposal.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

**SPR22-06****Rules and Forms: Revision of Unlawful Detainer Summons for Use in Forcible Detainer and Forcible Entry Cases (Revise form SUM-130)**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			with “Unlawful” lined-through is presently necessary in order to obtain the issuance of a Summons for Forcible Detainer, California Rules of Court, Rule 1.31(e) notwithstanding. Unauthorized “campers” have become a problem for Northern California property owners who themselves were displaced by the Camp Fire and by other fires. The proposed amendment to SUM-130 has long been necessary!	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated