



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 20-134

For business meeting on May 15, 2020

Title

Unlawful Detainer: Complaint and Answer Forms

Agenda Item Type

Action Required

Effective Date

September 1, 2020

Rules, Forms, Standards, or Statutes Affected

Revise forms UD-100 and UD-105

Date of Report

March 27, 2020

Recommended by

Civil and Small Claims Advisory Committee
Hon. Ann I. Jones, Chair

Contact

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Executive Summary

The Civil and Small Claims Advisory Committee recommends revising the Judicial Council unlawful detainer complaint and answer forms to reflect recent changes to landlord-tenant law enacted by Assembly Bill 1482 (Stats. 2020, ch. 597), the Tenant Protection Act of 2019. This new law adds several sections to the Civil Code—one to place restrictions on terminations of tenancies (Civ. Code, § 1946.2) and two relating to caps on rent increases over a 12-month period (Civ. Code, §§ 1947.12, 1947.13). The new laws went into effect January 1, 2020, and will remain in effect until January 1, 2030.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective September 1, 2020, revise *Complaint—Unlawful Detainer* (form UD-100) and *Answer—Unlawful Detainer* (form UD-105) to include new and revised items reflecting the provisions in the Tenant Protection Act requiring, for certain tenancies, just cause for evictions, additional notices in advance of eviction for certain reasons, and a cap on rental increases. The committee also recommends revising an item in form UD-100 relating to venue for unlawful detainer cases generally.

The revised forms are attached at pages 9–15.

Relevant Previous Council Action

The unlawful detainer (UD) complaint form was last revised 15 years ago to incorporate amendments to Code of Civil Procedure section 1166 requiring that a copy of the rental agreement, if available; a copy of the notice of termination of tenancy; and a proof of service of that notice be attached to an unlawful detainer complaint. The UD answer form has been revised several times in recent years to include new affirmative defenses that the Legislature has mandated be added to the form.

Analysis/Rationale

Although neither *Complaint—Unlawful Detainer* (form UD-100) nor *Answer—Unlawful Detainer* (form UD-105) is a mandatory form, both are used frequently for several reasons: the requirements of what must be in a residential UD complaint are very detailed and technical; the expedited nature of the process requires that the pleadings be created quickly; and many defendants, as well as an increasing number of plaintiffs, are self-represented. For these reasons, although landlords with tenancies subject to the provisions of the new law can create their own pleadings to reflect the new requirements, and tenants can add any applicable new affirmative defenses as an “other” affirmative defense on the current form, the committee is recommending that the forms be revised so that they can be used by all parties in residential UD actions, regardless of whether a tenancy at issue is subject to the new law.

***Complaint—Unlawful Detainer* (form UD-100)**

New section 1946.2¹ places additional requirements on landlords relating to terminations of certain tenancies, several of which are now part of the prima facie UD case for those tenancies:

- Landlords may only terminate tenants who have been in residence for 12 months or longer with just cause, which must be stated in the notice terminating the tenancy. (§ 1946.2(a).)
- If the just cause is a curable lease violation (other than for payment of rent), the landlord must issue two notices rather than the traditional single notice to quit: an initial notice including an opportunity to cure under Code of Civil Procedure section 1161, paragraph 3, and if that period passes without a cure, a second notice for termination. (§ 1946.2(c).)
- When no-fault just cause applies, the landlord must provide relocation assistance in the form of either a credit for the last month’s rent or a direct payment to the tenant in that amount. (§ 1946.2(d)(1).) If the landlord does not comply with this section, the notice of termination is void. If the landlord complies, but the tenant fails to vacate after expiration

¹ Unless otherwise noted, all statutory references in this document are to the Civil Code.

of the notice to terminate, the amount of relocation paid or credited to the tenant is recoverable as damages in the UD action. (§ 1946.2(d).)

The revised *Complaint—Unlawful Detainer* (form UD-100) includes two new items to reflect the requirements described above.

- Item 7 specifies whether the tenancy at issue in the complaint is subject to the new law. The new law applies only when tenants have been in the property for certain periods of time (see § 1946.2(a)(1) and (2)), and many properties are exempt (see § 1946.2(e)). If the assertion is that the tenancy is exempt from the new law (that is, checks item 7a in the form), the plaintiff must state which specific part of the law that assertion is based on.
- Item 8, to be completed only if the property is subject to the new law, attests to the just cause for the termination and identifies whether it was at-fault or no-fault just cause. If the latter, the plaintiff must identify which form of the required relocation assistance was paid and the amount paid. Item 8c allows the plaintiff to claim the relocation assistance as damages.²

Item 9 (which is in current *Complaint—Unlawful Detainer* as item 7) has also been revised. This item addresses the service of notices of termination: the plaintiff must identify which type of notice was given from a list provided, state the date the period in the notice ended, assert that the facts in the notice are true, and provide that a copy of the notice is attached. This item has been revised to reflect the new provisions regarding the notice required for at-fault evictions based on curable violations of the lease or rental agreement. (§ 1946.2(c).) That section requires that when the termination is based on “a curable lease violation,” a landlord must serve two three-day notices:

- (1) A three-day notice under Code of Civil Procedure section 1161, paragraph 3 (requiring a three-day notice that includes the options of either curing the violation of certain covenants and conditions in the lease or giving up possession of the property); and
- (2) If the asserted violations are not cured within that first three-day period, a three-day notice to terminate, this time without the option to cure.

Item 9 has been revised to attempt to reflect this double-notice provision.³ The list of potential notices now includes a “3-day notice to quit under Civil Code, § 1946.2(c),” which also requires

² A new item has also been added to item 19 to include recovery of the relocation assistance in the prayer at the end of the complaint.

³ The committee recognizes that the language of the statute requires, essentially, two notices to quit in these circumstances: the notice to cure or quit under the Code Civil Procedure that is expressly incorporated by reference into § 1946.2(c) and the notice to quit to be provided following that first notice. Although this may not have been the intent of the authors, it is what the statute says. The revisions to the complaint form are intended to allow parties to use it even with this inconsistent language in the statute. The committee may recommend further revisions if the

that the plaintiff state the date when the prior required notice to perform covenants (the first notice that section 1946.2(c) requires be made) was served. (See item 9a6.) In addition, an annotation has been added to the current “3-day notice to perform covenants or quit” (the notice that is regularly used under Code of Civil Procedure section 1161, paragraph 3) stating that it is not to be used if the tenancy at issue is under the Tenant Protection Act. (See item 9a5.)

The instructions in item 9(e) to provide a copy of the termination notice have also been revised to require a copy of both notices when two are required under section 1946.2(c). And the instruction in item 9(f) to complete attachments showing the service of notices not otherwise described in 9 has been expanded to include service of this prior required notice under section 1946.2(c).

In addition to the revisions to reflect the new law, item 3 in the complaint form has been revised to request more information regarding the address of the premises at issue, to make the basis for venue clearer to defendants and courts.

Answer—Unlawful Detainer (form UD-105)

New affirmative defenses have been added to the answer form. It is clear from the language of section 1946.2(a) that lack of just cause in the written termination notice is sufficient to block termination of certain tenancies and can be asserted as an affirmative defense to an unlawful detainer action. A violation of the new rent control provisions in section 1947.12 could also block termination under certain circumstances. The committee is recommending that these and other affirmative defenses arising from violations of the Tenant Protection Act be added to item 3 in the *Answer—Unlawful Detainer* (form UD-105).

Policy implications

Although the new Tenant Protection Act has significant policy implications, the recommended forms have none on their own. The revised forms reflect the new statutory provisions to assist parties in making and defending unlawful detainer cases—and courts in adjudicating them.

Comments

Nine comments were received; all either agreed with the proposal, agreed if modified, or did not indicate a position. The comments were from the Orange County Bar Association; Superior Courts of Los Angeles, Orange, and San Diego Counties; four legal service organizations, Disability Rights California, Legal Services of Northern California, Public Law Center, and Western Center on Law & Poverty (on behalf of itself and nine other organizations, all listed on the comments chart); and a private attorney (commenting only on the venue provision). A chart with the text of all the comments and the responses to each from the advisory committee is attached at pages 16–42. The more significant comments are described below.

Legislature revises the statute to clarify this provision or an appellate court interprets the law in a way that the proposed form does not reflect.

Multiple complaint forms

The invitation to comment asked for specific comments on whether, in light of the additional requirements added to UD procedures for certain tenancies by the Tenant Protection Act, a separate complaint form should be developed for cases involving tenancies subject to the act. Seven commenters responded to this question (the private attorney and Superior Court of Los Angeles County did not respond). The majority, including all the legal service commenters, disagreed with the idea of multiple complaint forms. Commenters asserted that having to choose between the forms could be confusing to the parties and, if the wrong form is chosen, could lead to unnecessary demurrers or motions and the necessity to file amended complaints, causing delays in what is intended to be an expedited process. Moreover, commenters pointed out that the question of whether the Tenant Protection Act applied might itself be at issue in the lawsuit, and that issue could be difficult to raise if the wrong complaint form were used. The committee agrees with these commenters and does not plan to develop a complaint form specific only to cases under the new law at this time.

The only commenter who asked for two separate complaints did so on the grounds that it might otherwise be confusing for a clerk to know what had to be alleged if a default judgment was requested. The Superior Court of Orange County suggested that, if a separate complaint form was not developed for cases under the Tenant Protection Act, the request for default form be revised to include an item for plaintiffs to note whether the case is subject to the act. That proposal is beyond the scope of the current proposal, but the committee will consider it as time and resources allow.

Allegations of exemption from new law

Several commenters, including the Superior Court of Los Angeles County and the legal service commenters, proposed that item 7a in the complaint, an assertion that the tenancy at issue is not subject to the Tenant Protection Act, include the factual basis for that assertion, with several commenters suggesting that a checklist be included in the form of all potential grounds for exemption in the statute. They asserted that without such information, the tenant will not know the grounds on which the exemption is claimed and may therefore face the burden of having to prove that none of the many potential exemptions apply.

The committee agrees that a bare statement of exemption could place an unfair burden on the tenant and has revised this item in light of the comments received. Because a list of potential grounds for exemptions would be extensive and detailed, and would make an already complex form even more complicated and difficult to follow, the committee has added instead a requirement that the plaintiff claiming an exemption identify the specific subpart of the statute being relied on. This requirement should provide a defendant with sufficient information to counter the claim, if appropriate.

Allegations of just cause for eviction

Item 8 includes allegations as to whether the tenancy was terminated for at-fault or no-fault just cause. (The distinction is important because if the latter, then the landlord is required to have provided relocation assistance at the time the notice of termination was provided.) Several

commenters asserted that this item should also require the plaintiff to state the factual basis for the termination, to support the allegation of just cause. The committee considered the comments but declined to modify this item. The statutory requirement is not merely that the landlord have just cause to evict, but that the just cause be stated in the written notice to terminate the tenancy. (§ 1946.2(a).) The written notice must be attached to the UD complaint⁴ and show whether the required just cause was stated. Including an opportunity in item 8 to plead some basis for just cause that is different from what is in the notice of termination would not provide useful information and could lead to confusion.

Allegations of notice under section 1946.2(c)

As noted above, the committee found the new double-notice requirement for certain terminations under section 1946.2(c)⁵ ambiguous, at best, because *both* notices that the landlord is required to serve on the tenant with a curable lease violation may require that the tenant has three days to quit the property. The first notice—the notice to be made under Code of Civil Procedure section 1161, para. 3⁶—must, under that statute, provide an option to cure the violations or give up possession of the property at the end of the three days if the violations are not cured. The second notice, to be given only if the violations are not cured with the first three-day period, is to require the tenant to give up the property in three days, but at the end of a different three-day period.

Legal service commenters assert that the first notice required under that code section is “a notice to cure only” (Western Center for Law and Poverty) and that the notice provisions in item 9 of the complaint are confusing in not making this clear. Although the committee does not agree that the first notice required by § 1946.2(c) is anything other than what is expressly referenced in that statute—i.e., a notice under section 1161 of the Code of Civil Procedure—the committee has further revised the notice listed in item 9a(6) to clarify that any notice terminating a tenancy subject to the Tenant Protection Act that involves a curable lease violation must involve two notices, with a notice to perform covenants served before the three-day notice to terminate. Additionally, item 9a(5), for a three-day notice to perform covenant or quit (without any additional notice to quit) has now been annotated to note that it should not be checked if the property is subject to the Tenant Protection Act (so that notices for curable violations under the

⁴ See Code Civ. Proc., § 1166(d)(1)(A); item 9(e) in form UD-100.

⁵ § 1946.2(c):

Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

⁶ Code Civ. Proc., § 1161, para. 3:

When he or she continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, . . . in writing, *requiring the performance of such conditions or covenants, or the possession of the property*, shall have been served upon him or her. [emphasis added]

act must be addressed by item 9(a)(6)). With these modifications, along with clarification of the language in 9e noting that copies of both notices are required for a termination subject to section 1946.2(c), the committee believes that the form allows plaintiffs to allege that they have met the requirements of section 1946.2(c). As noted above, should the Legislature or a Court of Appeal clarify the meaning of that section, the committee will revisit this part of the complaint to see if further revisions are appropriate.

Allegations of other notices under the Tenant Protection Act

The legal service commenters request that several notice requirements in the Tenant Protection Act beyond those in section 1946.2(c) also be added to the UD complaint form. They assert that a complaint should require that the landlord allege compliance with each of these provisions and attach the required notices. The committee considered each notice identified in the comments and concluded that they were not part of a prima facie UD case and did not need to be added to the complaint form. The individual notices identified are either facts to be considered in determining whether a specific type of just cause existed (§ 1946.2(b)(2)(A)(ii)) or a specific exemption applied (§ 1946.2(e)(8)(B)), or are general notices of a tenant's rights under the act (§ 1946.2(f)). While failure to comply with all statutory requirements relating to a tenancy may be an affirmative defense in a UD case, allegations that the plaintiff has complied with each are not elements of a prima facie case for a UD complaint.

More detailed affirmative defenses

All the legal service commenters requested that more detailed affirmative defenses be included on the form than the single general affirmative defense for violations of the Tenant Protection Act that was included in the answer form circulated for comment. They assert that more detailed allegations are needed in order for self-represented tenants to be able to understand the available affirmative defenses. The committee agrees and has modified item 3h on form UD-105 to include more specific affirmative defenses relating to lack of compliance with the new law.

Alternatives considered

The advisory committee considered not recommending any revisions to the forms, in light of their optional nature, but decided against that option because the forms are so often used by self-represented parties who would, without them, find navigating the technicalities of unlawful detainer litigation very difficult.

As noted above, the committee considered creating a separate UD complaint form to be used for unlawful detainers either for all tenancies subject to this new law or for those subject to the double-notice requirements under section 1946.2(c). The committee concluded that such a form would not necessarily address the issues raised by the double-notice provision and, as confirmed by commenters, was likely to make UD litigation even more complicated.

Fiscal and Operational Impacts

The enactment of the Tenant Protection Act, which went into effect January 1, 2020, has resulted in courts having to update internal procedures and case management systems and train judicial

officers, self-help center staff, and court staff on the new law, including case processing staff who process clerk default judgments. This proposal to revise the forms may result in courts having to update and order additional local form packets.

Attachments and Links

1. Forms UD-100 and UD-105, at pages 9–15
2. Chart of comments, at pages 16–42
3. Link A: Assembly Bill 1482 (Stats. 2020, ch. 597),
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB368&search_keywords

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: () - FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 03-26-20 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT: <input type="checkbox"/> DOES 1 TO	
COMPLAINT—UNLAWFUL DETAINER* <input type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Amendment Number):	CASE NUMBER:
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000. <input type="checkbox"/> exceeds \$10,000 but does not exceed \$25,000. <input type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (amount demanded exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint (check all that apply): <input type="checkbox"/> from unlawful detainer to general unlimited civil (possession not in issue). <input type="checkbox"/> from limited to unlimited. <input type="checkbox"/> from unlawful detainer to general limited civil (possession not in issue). <input type="checkbox"/> from unlimited to limited.	

1. PLAINTIFF (name each):

alleges causes of action against DEFENDANT (name each):

2. a. Plaintiff is (1) ☐ an individual over the age of 18 years. (4) ☐ a partnership.
 (2) ☐ a public agency. (5) ☐ a corporation.
 (3) ☐ other (specify):
- b. ☐ Plaintiff has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):
3. a. The venue is the court named above because defendant named above is in possession of the premises located at (street address, apt. no., city, zip code, and county):
- b. The premises in 3a are (check one)
 (1) ☐ within the city limits of (name of city):
 (2) ☐ within the unincorporated area of (name of county):
- c. The premises in 3a were constructed in (approximate year):
4. Plaintiff's interest in the premises is ☐ as owner ☐ other (specify):
5. The true names and capacities of defendants sued as Does are unknown to plaintiff.

* NOTE: Do not use this form for evictions after sale (Code Civ. Proc., § 1161a).

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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6. a. On or about *(date)*:
defendant (name each):
- (1) agreed to rent the premises as a ☐ month-to-month tenancy ☐ other tenancy *(specify)*:
 (2) agreed to pay rent of \$ _____ payable ☐ monthly ☐ other *(specify frequency)*:
 (3) agreed to pay rent on the ☐ first of the month ☐ other day *(specify)*:
- b. This ☐ written ☐ oral agreement was made with
 (1) ☐ plaintiff. (3) ☐ plaintiff's predecessor in interest.
 (2) ☐ plaintiff's agent. (4) ☐ Other *(specify)*:
- c. ☐ The defendants not named in item 6a are
 (1) ☐ subtenants.
 (2) ☐ assignees.
 (3) ☐ Other *(specify)*:
- d. ☐ The agreement was later changed as follows *(specify)*:
- e. ☐ A copy of the written agreement, including any addenda or attachments that form the basis of this complaint, is attached and labeled Exhibit 1. *(Required for residential property, unless item 6f is checked. See Code Civ. Proc., § 1166.)*
- f. ☐ *(For residential property)* A copy of the written agreement is **not** attached because *(specify reason)*:
 (1) ☐ the written agreement is not in the possession of the landlord or the landlord's employees or agents.
 (2) ☐ this action is solely for nonpayment of rent *(Code Civ. Proc., § 1161(2))*.
7. The tenancy described in 6 *(complete (a) or (b))*
 a. ☐ is **not** subject to the Tenant Protection Act of 2019 (Civil Code, § 1946.2). The specific subpart supporting why tenancy is exempt is *(specify)*:
 b. ☐ is subject to the Tenant Protection Act of 2019.
8. *(Complete only if item 7b is checked. Check all applicable boxes.)*
 a. ☐ The tenancy was terminated for at-fault just cause (Civil Code, § 1946.2(b)(1)).
 b. ☐ The tenancy was terminated for no-fault just cause (Civil Code, § 1946.2(b)(2)) and the plaintiff *(check one)*
 (1) ☐ waived the payment of rent for the final month of the tenancy, before the rent came due, under section 1946.2(d)(2), in the amount of \$ _____.
 (2) ☐ provided a direct payment of one month's rent under section 1946.2(d)(3), equaling \$ _____ to *(name each defendant and amount given to each)*:
- c. ☐ Because defendant failed to vacate, plaintiff is seeking to recover the total amount in 8b as damages in this action.
9. a. ☐ Defendant *(name each)*:

was served the following notice on the same date and in the same manner:

- (1) ☐ 3-day notice to pay rent or quit (5) ☐ 3-day notice to perform covenants or quit
 (2) ☐ 30-day notice to quit *(not applicable if item 7b checked)*
 (3) ☐ 60-day notice to quit (6) ☐ 3-day notice to quit under Civil Code, § 1946.2(c)
 (4) ☐ 3-day notice to quit Prior required notice to perform covenants served *(date)*:
 (7) ☐ Other *(specify)*:

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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9. b. (1) On (date): _____ the period stated in the notice checked in 9a expired at the end of the day.
 (2) Defendants failed to comply with the requirements of the notice by that date.
- c. All facts stated in the notice are true.
- d. ☐ The notice included an election of forfeiture.
- e. ☐ A copy of the notice is attached and labeled Exhibit 2. *(Required for residential property. See Code Civ. Proc., § 1166. When Civil Code, § 1946.2(c), applies and two notices are required, provide copies of both.)*
- f. ☐ One or more defendants were served (1) with the prior required notice under Civil Code, § 1946.2(c), (2) with a different notice, (3) on a different date, or (4) in a different manner, as stated in Attachment 10c. *(Check item 10c and attach a statement providing the information required by items 9a–e and 10 for each defendant and notice.)*
10. a. ☐ The notice in item 9a was served on the defendant named in item 9a as follows:
- (1) ☐ By personally handing a copy to defendant on (date): _____
- (2) ☐ By leaving a copy with (name or description): _____, _____, _____
 a person of suitable age and discretion, on (date): _____ at defendant's
☐ residence ☐ business AND mailing a copy to defendant at defendant's place of residence
 on (date): _____ because defendant cannot be found at defendant's residence or usual place of business.
- (3) ☐ By posting a copy on the premises on (date): _____
☐ AND giving a copy to a person found residing at the premises AND mailing a copy to defendant at the premises
 on (date): _____
 (a) ☐ because defendant's residence and usual place of business cannot be ascertained OR
 (b) ☐ because no person of suitable age or discretion can be found there.
- (4) ☐ *(Not for 3-day notice; see Civil Code, § 1946, before using)* By sending a copy by certified or registered mail
 addressed to defendant on (date): _____
- (5) ☐ *(Not for residential tenancies; see Civil Code, § 1953, before using)* In the manner specified in a written
 commercial lease between the parties
- b. ☐ (Name): _____
 was served on behalf of all defendants who signed a joint written rental agreement.
- c. ☐ Information about service of notice on the defendants alleged in item 9f is stated in Attachment 10c.
- d. ☐ Proof of service of the notice in item 9a is attached and labeled Exhibit 3.
11. ☐ Plaintiff demands possession from each defendant because of expiration of a fixed-term lease.
12. ☐ At the time the 3-day notice to pay rent or quit was served, the amount of **rent due** was \$ _____
13. ☐ The fair rental value of the premises is \$ _____ per day.
14. ☐ Defendant's continued possession is malicious, and plaintiff is entitled to statutory damages under Code of Civil Procedure
 section 1174(b). *(State specific facts supporting a claim up to \$600 in Attachment 14.)*
15. ☐ A written agreement between the parties provides for attorney fees.
16. ☐ Defendant's tenancy is subject to the local rent control or eviction control ordinance of (city or county, title of ordinance, and
 date of passage): _____
- Plaintiff has met all applicable requirements of the ordinances.
17. ☐ Other allegations are stated in Attachment 17.
18. Plaintiff accepts the jurisdictional limit, if any, of the court.

PLAINTIFF: DEFENDANT:	CASE NUMBER:
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19. PLAINTIFF REQUESTS

- | | |
|---|---|
| a. possession of the premises.
b. costs incurred in this proceeding:
c. <input type="checkbox"/> past-due rent of \$
d. <input type="checkbox"/> reasonable attorney fees.
e. <input type="checkbox"/> forfeiture of the agreement. | f. <input type="checkbox"/> damages in the amount of waived rent or relocation assistance as stated in item 8: \$
g. <input type="checkbox"/> damages at the rate stated in item 13 from
<i>date:</i>
for each day that defendants remain in possession through entry of judgment.
h. <input type="checkbox"/> statutory damages up to \$600 for the conduct alleged in item 14.
i. <input type="checkbox"/> other (<i>specify</i>): |
|---|---|

20. ☐ Number of pages attached (*specify*):

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

21. ☐ (*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:
b. Street address, city, and zip code: | c. Telephone no.:
d. County of registration:
e. Registration no.:
f. Expires on (<i>date</i>): |
|--|---|

Date:

(TYPE OR PRINT NAME)	(SIGNATURE OF PLAINTIFF OR ATTORNEY)
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VERIFICATION

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

I am the plaintiff in this proceeding and have read this complaint. 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 PLAINTIFF)
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ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT 03-26-20 Not approved by the Judicial Council
PLAINTIFF: DEFENDANT:		CASE NUMBER:
ANSWER—UNLAWFUL DETAINER		

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. (Do not check this box if the complaint demands more than \$1,000.)
- b. ☐ Defendant admits that all of the statements of the complaint 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. **AFFIRMATIVE DEFENSES** (**NOTE:** For each box checked, you must state brief facts to support it in item 3m (page 2) 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 3m the facts showing violation of the ordinance.)

CASE NUMBER:

3. 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 3m 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. ☐ Other affirmative defenses are stated in item 3m.
- m. *(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 3m.

CASE NUMBER:

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):
☐ 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 his or her 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)

W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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

	Commenter	Position	Comment	Committee Response
1.	Disability Rights California By Lucia Choi Staff Attorney	NI	<p>Disability Rights California (DRC), the protection and advocacy system for the State of California, submits this letter in response to the Judicial Council's invitation to comment on the proposed revisions to the unlawful detainer complaint and answer forms (UD-100 and UD-105, respectively).</p> <p>Disability Rights California (DRC), the largest disability rights group in the country, represents Californians with disabilities in matters that further their rights and access to justice. In that broad spectrum of work, DRC represents tenants in securing safe and affordable housing. Our housing advocacy includes promoting affordable, accessible, and equitable housing development, protecting tenants' rights, including defending unlawful detainer actions, and preventing displacement of marginalized communities. These projects allow our organization to assess the impact of the Judicial Council's proposed changes to its forms, especially the impact on tenants with disabilities.</p> <p>I. Request for Specific Comments</p> <p>The Judicial Council has asked for specific comments on item 9 of the revised complaint form, and whether the proposed changes appropriately reflect the double notice requirements outlined in Civil Code § 1946.2(c). The Judicial Council has also considered creating a new complaint form to be used for tenancies subject to the double notice. As an initial matter, we support and join in the comments submitted by Western Center on Law and Poverty in response to these comments. We also offer some additional suggestions.</p> <p>A. The proposed revisions to item 9 in the revised complaint form do not appropriately reflect the two-step notice requirements outlined in Civil Code § 1946.2(c).</p> <p>Civil Code § 1946.2(c) requires that landlords, before issuing a notice to terminate a tenancy for just cause that is a curable material lease violation, first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to Code of Civil Procedure</p>	<p>The committee appreciates the comments.</p> <p>The committee notes the agreement with the comments from the Western Center on Law and Poverty.</p> <p>The committee has revised item 9 in light of these suggestions from multiple commenters. The committee has attempted to clarify that for terminations under § 1946.2(c) the landlord must provide two notices: a notice under paragraph 3 of Code of Civ. Proc. §1161</p>

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

W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			<p>§ 1161(3). Item 9's proposed language makes it unclear whether the landlord is required to provide an opportunity to cure. Rather, the current language appears to require the landlord serve two sequential notices to quit. The Tenant Protection Act requires that for covered units, first a 3-day notice to cure and then, if the violation has not been cured, a 3-day notice to quit, to be served. The form should be revised accordingly.</p> <p>B. The Judicial Council should not develop a separate complaint form. The Judicial Council has proposed an alternative to revising item 9 in the revised complaint form. The alternative proposed is a new complaint form for units covered under the Act. This new form will cause additional confusion among litigants and may cause plaintiffs to file the wrong form. Plaintiffs would either have to dismiss their original complaint and refile, or amend the existing complaint. In either case, the refiling or amendment would cause confusion for self-represented tenants, who are mostly unaware of the requirement to answer to amended, or even refiled, complaints. This can lead to tenants waiving important legal defenses or worse, default judgments.</p> <p>II. Additional Comments While the Judicial Council has raised specific questions for comment, we respectfully provide the following comments on other sections of the proposed forms.</p>	<p>(which is, according to that statute, a notice to perform covenants or return possession within three days of the notice) and, if the violation of covenants is not cured within the three days, a notice to quit. Because this provision in the statute is internally inconsistent (essentially requiring two notices to quit, one with the right to cure as an alternative and one without), it has been difficult for the committee to revise the form to reflect the statute as clearly as it would normally like. The committee will further revise the form should the statute be clarified.</p> <p>The committee agrees and will not develop a second complaint form at this time.</p>

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W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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

Commenter	Position	Comment	Committee Response
		<p>A. Item 7 of the Complaint should require the plaintiff to specify the applicable exemption to the Tenant Protection Act. Currently, Item 7 of the Complaint requires that the plaintiff specify whether or not the tenancy is subject to the Tenant Protection Act. If the plaintiff checks the box claiming that the tenancy is not subject to the Act, the form should also require that the plaintiff provide a basis for claiming the tenancy is not covered. The form could have a checklist of the exemptions, or a blank field requiring the plaintiff to state the exemption. Without a checklist or blank field, the complaint form does not give the defendant any information about the basis for the plaintiff's asserted exemption from the Act. This basic information makes it possible for the defendants to respond to, and for the court to evaluate, the claimed exemption. Failure to require the basis for exemption on the form will lead to confusion, inefficiency, and wrongful terminations of tenancy.</p> <p>B. Item 8 of the Complaint should require the plaintiff to specify the basis for the termination of tenancy. Currently, Item 8 of the Complaint requires that the plaintiff specify whether the tenancy was terminated for "at-fault" reasons or "no fault" reasons under the Tenant Protection Act. However, the form does not require that the plaintiff state a specific basis for the termination that are outlined in the Act. Again, the Tenant Protection Act includes a list of "at fault" and "no fault" just cause bases for termination of tenancy that should be listed on the form. Or, the form could provide a blank field that the plaintiff can fill in with their stated cause for termination of the tenancy.</p>	<p>The committee has revised the form to require a landlord who asserts that the tenancy at issue is not subject to the Tenant Protection Act to identify the specific subpart of the act the landlord is relying on. This should provide defendants with sufficient information to know whether to agree with or deny the allegation.</p> <p>The committee has considered but declines to accept this suggestion. Section 1946.2 provides that, for all tenancies covered by the Tenant Protection Act, a landlord "shall not terminate the tenancy without just cause <i>which shall be stated in the written notice.</i>" That written notice must be attached to all UD complaints for residential property (Code. Civ. Proc. § 1166(d)(2) and item 9e on form UD-100). Therefore, adding an item on the form for asserting just cause is irrelevant—the landlord can only rely on just cause stated in the written notice of termination—and could lead to unnecessary confusion in the litigation.</p>

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W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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

	Commenter	Position	Comment	Committee Response
			<p>C. Item 9 of the Complaint should include claims of service of other notice requirements of the Tenant Protection Act.</p> <p>Section 9 of the Complaint form has been revised to specifically allow the plaintiff to allege service of the prior notice to cure under section 1946.2(c); however, it does not provide a space for the landlord to allege compliance with other notice requirements of the Tenant Protection Act. For example, after July 1, 2020, evictions based on owner/family member move-ins, are only permitted when a tenant has agreed, in writing, to specific lease language. Civil Code § 1946.2(b)(2)(A)(ii). Similarly, a landlord who claims an exemption from the Act must have provided the tenant a notice of exemption using specific language. Civil Code § 1946.2(g)(8)(B). Finally, the landlord must provide tenants with notice of their rights under the Act pursuant to Civil Code § 1946.2(f). The complaint should require that the landlord allege compliance with each of these provisions and attach the required notices.</p>	<p>The committee has considered but declines to accept this suggestion. The notices mentioned here are not part of the prima facie case for and unlawful detainer action. The first is part of a specific basis for “just cause” (§ 1946.2(b)(2)(A)), and will either be contained in the rental agreement to the complaint or not. The second is part of the basis for one type of exemption from the act (§ 1946.2(g)(8)), and the tenant will know if that exemption is being alleged by the plaintiff based on the allegations now required to be made to item 7 in form UD-100. The third is a general notice of rights under the act that the landlord must give to all tenants either as an addendum to the rental agreement or, for tenancies commenced before July 1, 2020, as a written notice signed by the tenant. (§ 1946.2 (f). There is no provision in the act that a termination would be void if this notice is not provided. To the extent that a landlord must comply with all statutory requirements to obtain a judgment of unlawful detainer, failure to provide such notice would, at most, be an affirmative defense.</p>
			<p>D. Item 3(h) of the Answer should include specific allegations of the plaintiff’s violation of the Tenant Protection Act.</p> <p>The proposed Answer form includes only a general provision for the tenant to allege noncompliance with the Tenant Protection Act, and it</p>	<p>The committee agrees that more specific affirmative defense allegations will be</p>

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W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			<p>is unclear what “demand for provision” refers to. This general language should be modified to read “Plaintiff’s demand for possession violates the Tenant Protection Act, Civil Code section 1946.2 or 1947.12 because...” and then list specific allegations that include checked boxes. Some examples that can be included are:</p> <ul style="list-style-type: none">• Plaintiff has raised the rent more than the amount allowed by the Tenant Protection Act, Civil Code section 1946.12;• Plaintiff fails to state a just cause for termination of tenancy;• Plaintiff failed to provide a notice of rights as required by the Tenant Protection Act, Civil Code section 1946.2 or 1947.12;• Plaintiff failed to provide an opportunity to cure any alleged violations of the lease;• Plaintiff failed to comply with the relocation assistance requirements of the Tenant Protection Act, Civil Code section 1946.2(d). <p>These more specific statements of affirmative defenses will assist unrepresented tenants in identifying which defense is appropriate to allege for their tenancy.</p>	<p>helpful to the parties. The <i>Answer</i> (form UD-105) has been further modified in light of these comments.</p> <p>The committee notes that there is no provision in section 1946.12 that would void a termination on the grounds that rent was raised beyond the authorized amount. However, an affirmative defense has been added for failure to pay that amount above the amount lawful under the act.</p> <p>A modified version of this affirmative defense has been included in the form.</p> <p>This affirmative defense has not been expressly been included, but can be made in the general affirmative defense for violations of the act added at item 3h(5).</p> <p>A modified version of this affirmative defense has been included in the form.</p> <p>This affirmative defense has been added.</p>

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W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			<p>E. References to “Item 3m” or “Attachment 3m” in the Answer create confusion and should be clearly distinguished.</p> <p>The proposed Answer form contains several references to either “Item 3m” or “Attachment 3m.” (See specifically items 3(h), 3(l), and 3(m) of the proposed Answer form.) Currently, the self- help centers in the courthouses assisting self-represented landlords and tenants use an attachment created by different legal service agencies. This 7-to-8-page attachment was originally referred to as “Attachment 3k,” then subsequently changed to “Attachment 3l” when the Judicial Council last updated its Answer form on September 1, 2019. This attachment includes many detailed affirmative defenses that help the court assess the defendant’s specific claims. For example, the attachment provides details of specific habitability conditions that exist on the premises and whether there is a substandard order from a government agency in place. It appears that the Judicial Council may be again changing the name of this attachment from “Attachment 3l” to “Attachment 3m.” However, the current references to “3m,” are confusing because it’s unclear whether the form is referring to paragraph 3, subsection m of the Judicial Council form itself or to the attachment created by legal service agencies. It seems that the form may be differentiating the two by referring to one as “Item 3m,” and the other as “Attachment 3m.” However, most self-represented litigants will not be able to distinguish the two. The form should clarify so as to prevent confusion for self-represented tenants, especially when they are receiving services from self-help centers.</p>	<p>Item 3m on form UD-105 is for facts supporting the affirmative defenses checked on the form (see corrected instructions at item 3; it was item 3/ before the new affirmative defense was added). If the statement of facts is too lengthy to fit on the form at item 3m, a party may attach a document to the form containing these fact (usually using form MC-025, a blank form that may be used as an attachment to any Judicial Council form). This attachment is to be titled “Attachment 3m” so that the court knows that it is information related to that item on the form.</p> <p>None of the references in the form are intended to be to documents created by particular legal service agencies.</p> <p>The language on the form has been modified in light of this comment, to explain that the attachment is to be used when more room is needed to provide information.</p>
2.	Legal Services of Northern California (LSNC) by Kate Wardrip, Supervising Attorney and Da Hae Kim, Staff Attorney	NI	<p>Legal Services of Northern California (LSNC) provides the following comments on proposals in Invitation to Comment, W20-03 that revises the Unlawful Detainer Forms UD-100 and UD-105 to reflect changes enacted in the Tenant Protection Act of 2019.</p> <p>LSNC provides free civil legal services in 23 northern California counties to lower income people and seniors. Our service area runs from Sacramento County to the Oregon border and includes larger</p>	<p>The committee appreciates the comments.</p>

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W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			<p>urban communities as well as smaller and more rural communities. We provide legal services in a variety of issues, including housing, health care, public benefits, and education, but housing is the number one issue for our clients year after year. Every year we provide assistance to thousands of tenants throughout our 23 county service area, many of whom are facing eviction. We provide advice and counsel to tenants who are defendants in unlawful detainers and also represent tenants in unlawful detainers. As just one example, our Yolo County office has a Shriver Project grant, in which we assist in pro per or represent in about 225 unlawful detainers each year.</p> <p>LSNC makes the following comments on the proposed changes to the forms out of our experience responding to complaints and preparing answers. In addition, we support and agree with the comments submitted by Madeline Howard with the Western Center on Law and Poverty.</p> <p>I. There Should Not Be Two Complaint Forms.</p> <p>The Judicial Council should not develop two Complaint forms as this will add confusion for both Plaintiffs and Defendants when trying to determine which Complaint is relevant and whether the correct form was used. Further, it is important that Plaintiffs allege whether AB 1482 applies or not for any unlawful detainer as this will be an initial issue to determine if the termination notice is valid and if the reason for the termination is lawful. If there is a Complaint for tenancies not covered by AB 1482 and this form is used in a case in which a Defendant asserts AB 1482 does apply, it may result in significant confusion and delay of the case as there will not be sufficient allegations as to why AB 1482 does not apply.</p> <p>II. The Complaint Form Should be Revised.</p>	<p>The committee notes the agreement with the comments from the Western Center on Law and Poverty.</p> <p>The committee agrees and will not develop a second complaint form at this time.</p>

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

W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			<p>A. Plaintiffs who claim they are exempt from the Tenant Protection Act of 2019 should be required to plead the reason they are exempt in Item 7.</p> <p>Paragraph 7 of the proposed Complaint should be revised to include specific allegations as to why the tenancy is or is not subject to the Tenant Protection Act of 2019.</p> <p>In an unlawful detainer action, notice to the tenant that they must quit is a prerequisite to filing the Complaint. Strict compliance with the statutory notice requirements is a prerequisite to invoking the summary unlawful detainer procedure. (Lamey v. Masciotra (1969) 273 Cal.App.2d.709; Baugh v. Consumer Associates, Ltd. (1966) 241 Cal.App.2d. 672.) The notice is also a requirement of the complaint because the plaintiff must attach to the complaint "a copy of the notice or notices of termination served on the defendant upon which the complaint is based." (Cal. Code of Civ. Proc. § 1166(d)(1)(A).) When a plaintiff fails to comply with the notice requirements, the complaint fails to support a cause of action in unlawful detainer and the court lacks both personal and subject matter jurisdiction. (Kwok v. Bergren (1982) 130 Cal. App.3d 596, 599-600). For tenancies covered by the Tenant Protection Act, a Plaintiff will only be able to comply with these pleading requirements if they allege whether the tenancy is or is not subject to the Act.</p> <p>The Tenant Protection Act of 2019 applies to many California tenancies but not all. For example, the just cause protections do not apply when a tenant has not been in property for a certain period of time (see § 1946.2(a)(1) and (2) and some properties are exempt (see § 1946.2(e).) The current proposed Complaint does not provide a defendant with any information as to why the Plaintiff may allege the tenancy is exempt from the Act and should be revised to include this information. We believe this change is important because it will provide a statement of the facts necessary in order to provide</p>	<p>This item has been modified in light of suggestions received, to require identification of the statutory basis for a landlord alleging that the premises are not subject to the TPA. See committee response above to the comment on this item by Disability Rights Advocates.</p>

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Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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Commenter	Position	Comment	Committee Response
		<p>defendants with enough information to prepare their case. If the Plaintiff is not required to plead the reason that the Tenant Protection Act does not apply to the tenancy, then the burden is effectively put on the Defendant to guess the grounds that Plaintiff asserts exempts them from the requirements and protections of the Tenant Protection Act.</p> <p>One way the form can be revised is to change Item 7a to read:</p> <ul style="list-style-type: none">• The tenancy is not subject to the Tenant Protection Act of 2019 (Civil Code § 1946.2) because <p>(1) The property is exempt under Civil Code, § 1946.2(e) because (or provide a list of the exemptions and Plaintiff checks the appropriate one)</p> <p>(2) Because the property is exempt because of the length of the tenancy (Civil Code § 1946.2(a)(1) and (2)).</p> <p>B. Item 9 is confusing and should be revised.</p> <p>Item 9f is extremely confusing. Since plaintiffs are already required to plead that they served a prior required notice under§ 1946.2(c) in Item 9a(6), it is unnecessarily confusing to also have them check box f. Therefore, we suggest that Item 9f be left as it was and instead add below Item 9a(6) "(Check item 10c and attach a statement providing the information required by items 9a-e and 10 for the prior notice.)"</p> <p>We also strongly agree with Western Center on Law and Poverty's comments that Item 9 in the proposed form does not correctly address the two-step notice provision under section 1946.2(c), and that the proposed form should be revised to make clear the first notice is a notice to cure (not a notice to cure or quit).</p>	<p>The committee has considered this comment but declines to modify its recommendation on this item. The committee concluded that adding that further information to item 9(a)(6) would make item 9a too confusing.</p> <p>Item 9(a) and 9(e) have been modified in light of suggestions received. See committee response above to the comment on this item by Disability Rights Advocates.</p>

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Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			<p>We also agree with Western Center on Law and Poverty's comments that the proposed Complaint should be revised to include a place for a Plaintiff to allege compliance with other notice requirements, such as those in sections 1946.2(b)(2)(A)(ii), 1946.2(t) and 1946.2(g)(8)(B). For example, on the current answer form, items (3)(j) and (3)(k) summarize defenses tenants may use rather than solely providing citations.</p> <p>III. The Answer Form Should be Revised to Include More Detailed Allegations Regarding the Tenant Protection Act.</p> <p>The proposed Answer form should be revised to include more specific allegations as to why Defendant alleges Plaintiff has not complied with the Tenant Protection Act. This is especially important to ensure that unrepresented Defendants may successfully assert their defenses.</p> <p>As an initial matter, we note that "Plaintiffs demand for provision ... " in Item 3h should be changed to "Plaintiffs demand for possession ... "</p> <p>Currently, numerous tenants are unrepresented by attorneys during the unlawful detainer process. However, a hugely disproportional amount of landlords retain attorneys to evict their tenants. Taking Notice, (Feb. 24, 2015) UCLA Luskin School of Public Affairs, Pg. 8-9.</p> <p>It is our organization's experience that while tenants are very likely to represent themselves, they are also more likely to be unfamiliar with the judicial system or tenant protections compared to housing law attorneys that landlords retain. The effect is that many tenants placed in a situation of losing their homes are unequipped with assistance or knowledge to win unlawful detainer cases.</p>	<p>The committee considered this suggestion but declines to follow it. See committee response above to the comment on these further notices by Disability Rights Advocates.</p> <p>This error has been corrected.</p>

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Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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			<p>Item (3)(h) on the proposed answer form offers a glimpse of protections that may be applicable to tenants by alluding to " ... the Tenant Protections Act." However, tenants are unlikely to be aware of the specific protections the Act provides and therefore unlikely to choose that as their defense on the Answer form.</p> <p>The Answer should allow the defendant to allege why the Plaintiff as not complied with the Act. For example, one way this can be accomplished is to revise the Answer to include check boxes that state:</p> <p>"Plaintiffs demand for possession violates the Tenant Protection Act, Civil Code section 1946.2 or 1947.12 for the following reasons (check all that apply):"</p> <ul style="list-style-type: none">• Plaintiff unlawfully raised rent by more than the amount allowed by the Tenant Protection Act, Civil Code section 1946.12• Plaintiff fails to state just cause for the termination of tenancy• Plaintiff alleges the termination of tenancy is for a no-fault reason, but did not provide relocation assistance as required by the Tenant Protection Act, Civil Code section 1946.2(d)• Plaintiff failed to provide a notice of rights as required by the Tenant Protection Act, Civil Code section 1946.2 or 1947.12• Plaintiffs alleged cause for the termination is not just cause under the Tenant Protection Act, Civil Code section 1946.2(b) <p>The Judicial Council should provide a summary of defenses available to tenants under the Act in the Answer form, just as it has with other defenses.</p>	<p>The <i>Answer</i> (form UD-105) has been further modified in light of the suggestions to include more specific affirmative defenses. See committee response above to Disability Rights Advocates' comment on this point to see responses as to each individual affirmative defense suggested.</p>
3.	Mark W. Lomax Attorney Pasadena, CA	AM	<p>This is a proposal to revise form UD-100. In an action subject to C.C.P. section 396a, including an unlawful detainer, the plaintiff or the plaintiff's attorney must state in a verified complaint (or in an affidavit filed and served with the complaint): (1) that the action is an unlawful detainer; and (2) facts showing the action has been commenced in the proper superior court and the proper court</p>	<p>The committee believes that the facts currently to be alleged in the complaint at item 3, the address of the premises at issue, are sufficient to comply with the requirement that a plaintiff plead "facts showing that the action has been</p>

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W20-03**Unlawful Detainer: Complaint and Answer Forms** (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			<p>location. (C.C.P. §396a(a).) The proper court and court location for trial of an unlawful detainer are prescribed by C.C.P. section 392.</p> <p>The current version of the optional form Complaint-Unlawful Detainer, form UD-100, contains no allegations regarding venue. Since the form does not comply with section 396a, the Judicial Council should use the revisions required by SB 1482 as an opportunity to revise form UD-100 so that it complies with section 396a.</p> <p>The form should be revised to add a provision for the plaintiff to state that the superior court of the county where the case is being filed is the proper court because the real property, or some part of it, is situated in the county, and that the court location where the case is being filed is the proper location because it is the nearest or most accessible location to the property where the court tries unlawful detainer proceedings. I previously notified the council of the need to revise form UD-100 by letter dated Dec. 10, 2013.</p>	<p>commenced” in the proper court.</p> <p>However, in light of this comment, the committee has further amended item 3.</p>
4.	Orange County Bar Association by Scott B. Garner, President Newport Beach, California	A	<p>1. “Does the proposal appropriately address the stated purpose?” The OCBA believes it appropriately addresses the stated purpose.</p> <p>2. “Do the proposed revisions to [the relevant portion of] the revised complaint form appropriately reflect the double notice requirements[.]?” They do. It might be helpful to annotate Section 9.e. of the form to require that copies of both notices be provided if the “double notice” box in 9.a(6) is checked.</p> <p>3. “Should a separate complaint form be developed, either for cases involving the double -notice provisions or for all cases subject to the just cause termination provisions of Civil Code section 1946.2?” No. Multiple complaint forms will likely cause confusion among landlords who will try to proceed based on the wrong form. If that happens, the UD process—which is designed to be efficient—will be delayed</p>	<p>The committee appreciates the comment.</p> <p>Item 9(e) has been modified to make it clearer that when section 1946.2(s) applies (the double notice requirement) that both notices must be provided.</p> <p>The committee agrees and will not be developing a second complaint form at this time.</p>

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

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Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			significantly because a landlord will have to re-file using the correct form.	
5.	Public Law Center by Leigh E.Ferrin Director of Litigation and Pro Bono Santa Ana, California	AM	<p>Public Law Center (PLC) is a 501(c)(3) not-for-profit organization that provides free civil legal services to low-income individuals and families across Orange County. The civil legal services that we provide include consumer, family, immigration, housing, veterans, community organizations, and health law.</p> <p>PLC appreciates the opportunity to comment on Invitation W20-03, the revision of the unlawful detainer complaint and answer forms (UD-100 and UD-105).</p> <p>UD-100 Notice Requirements</p> <p>We believe that the forms do not adequately represent the changes in the law, particularly under the new California Civil Code section 1946.2. Section 9 of the form incorrectly implies that the landlord must provide two almost identical notices to cure and to quit. However, the two step notice provision instead provides for two different notices, one to cure, and then, if the tenant does not cure, then a second notice to quit. California Civil Code section 1946.2(c) refers to California Code of Civil Procedure section 1161(3) for an explanation of what a landlord must do to cure a material breach of the lease:</p> <p>“(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.”</p>	<p>The committee appreciates the comments.</p> <p>Item 9a and 9e have been revised in light of suggestions received. See committee response above to the comment by Disability Rights Advocates on the issue of two notices under § 1946.2(c).</p>

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Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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			<p>PLC proposes that Form UD-100 section 9 be revised to clarify that two of the same notices are not required, but that one notice to cure and a second notice to quit are the requirements under the new law.</p> <p>Tenancy not Covered by the Act When preparing a complaint for unlawful detainer, under the Tenant Protection Act (TPA), a landlord must specify when a tenancy is not covered by the TPA. The council has proposed a checkbox option in Section 7 Form UD-100. Because a checkbox does not provide much information on which a tenant and/or his or her advocate can make a determination about the appropriateness of the claim, PLC proposes that if a landlord checks the box alleging that the tenancy is not covered by the TPA, that the landlord should also be required to provide a basis for the claim. The TPA was drafted with a list of specific exemptions that a landlord could claim as reasons why the tenancy is not covered. PLC proposes that those specific exemptions be made into a checkbox list that is included in section 7. Then, if a landlord checks the box stating that the tenancy is not covered by the TPA, the landlord would also be required to check one of the boxes that support the claimed exemption. PLC believes that requiring the additional information will inform not just tenants and their advocates, but also the court which will be reviewing the complaint for compliance, since courts have found that strict compliance with statutes governing the eviction procedures in California is required. (Kwok v. Bergren (1982) 130 Cal.App.3d 597, 599-600.)</p> <p>Basis for Termination of the Tenancy PLC proposes that Section 8 on Form UD-100 be revised to require the landlord to state a specific basis for termination of the tenancy. The TPA has set forth a specific list of “at fault” and “no fault” bases for termination of tenancy. These bases could form a checkbox list to be included in Section 8 to ensure that all parties and the court have a</p>	<p>Item 7 has been revised in light of suggestions received. See committee response above to the comment by Disability Rights Advocates on item 7.</p> <p>The committee considered this comment but declined to follow the suggestion. See committee response above to the comment by Disability Rights Advocates on item 8.</p>

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			<p>clear understanding of why the landlord is justified in terminating the tenancy.</p> <p>In combination with the revision of Section 7 of Form UD-100, PLC also proposes that the following language be included with Section 9(a)(4): “Only complete if Plaintiff has checked the box in Section 7(a).” This minor revision will clarify the information required, and will help the courts, defendants and counsel better understand why Section 9(a)(4) is checked or left blank, based on the answer provided in Section 7(a).</p> <p>Additional Miscellaneous Provisions</p> <p>Additionally, under Section 9, we appreciate that the judicial council revised the form so that the plaintiff may specifically allege service of the initial notice under California Civil Code Section 1946.2(c). However, we propose that there also should be space for a landlord to allege compliance with the other notice requirements contained in the TPA. For example, after July 1, 2020, a tenant must have agreed in writing to specific language in the lease if a landlord later attempts to evict the tenant so that the landlord or a close family member of the landlord may move in to the premises. Cal. Civ. Code §1946.2(b)(2)(A)(ii). Similarly, for a single family home to be exempt from the protections of the TPA, the tenant must have been provided a notice of exemption using specific language. Cal. Civ. Code §1946.2(g)(8)(B). Finally, tenants must be provided with notice of their rights [at the time of signing the lease? Or when?] under the TPA pursuant to Cal. Civ. Code §1946.2(f). Each of these requirements must be met before a landlord may move forward with an unlawful detainer action. To ensure compliance, the judicial council could amend Form UD-100 to reflect these requirements, either in Section 9, or in a newly created section or sections.</p> <p>UD-105</p> <p>In Section 3(h) of Form UD-105, PLC proposes that the Judicial Council provide either more space, or even a checklist option (with</p>	<p>The committee considered this comment but declined to follow the suggestion. See committee response above to the comment by Disability Rights Advocates on additional notice requirements in the TPA.</p> <p>The <i>Answer</i> (form UD-105) has been further modified in light of the</p>

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		<p>an “other” at the end) allowing the defendant/tenant to specify what the alleged violations of the TPA are. Because such a significant number of defendants/tenants are representing themselves in eviction defense cases, it is particularly important to ensure that the pleadings are thorough and clear. This will not only allow for the most accurate information to be available during the litigation, but will also ensure all parties feel they had access to a fair and just judicial system. PLC believes that the general provision for the tenant to allege noncompliance with the TPA is insufficient. In many cases, it will be in the tenant’s best interest to be able to allege specific violations of the TPA, for the landlord’s and the court’s benefit. Rather than include the statement “demand for provision,” PLC proposes that Section [3m] instead state “Plaintiff’s demand for possession violates the Tenant Protection Act, Cal. Civ. Code Section 1946.2 or 1947.12. The form can then instruct the defendant to briefly state in section 3m the facts supporting the allegation that the plaintiff/landlord violated the TPA.</p> <p>If simply providing space for the defendant/tenant to allege violations of the TPA is not desirable (and we could see how this could be a problem), PLC proposes a checklist along the following lines:</p> <ul style="list-style-type: none">• Plaintiff has raised the rent more than the amount allowed by the Tenant Protection Act, Civil Code section 1946.12.• Plaintiff fails to state a just cause for termination of tenancy.• Plaintiff failed to provide a notice of rights as required by the Tenant Protection Act, Civil Code section 1946.2 or 1947.12.• Plaintiff failed to comply with the relocation assistance requirements of the Tenant Protection Act, Civil Code section 1946.2(d). <p>These more specific statements of affirmative defenses will assist unrepresented tenants in identifying which defense is appropriate to allege for their tenancy.</p> <p>PLC believes strongly that there should only be one form for both the UD-100 and the UD-105. Once additional versions of forms are</p>	<p>suggestions to include more specific affirmative defenses. See committee response above to Disability Rights Advocates’ comment on this point to see responses as to each individual affirmative defense suggested.</p>

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			added, it becomes very confusing for self-represented litigants to determine the appropriate form(s) to complete and submit for filing. PLC also believes that the “double” notice requirements are not so complicated as to require a separate form entirely. As clarified above, when properly expressed, the “double” notice requirements are not in fact duplicative; rather they are two separate requirements to ensure the landlord is providing the appropriate notice.	The committee agrees, and will not be developing additional complaint forms at this time.
6.	Superior Court of Los Angeles County By Bryan Borys Director of Research and Data Management	AM	<p>Recommended modifications to Form UD 100:</p> <p>(3) Amend this paragraph to add a requirement that the plaintiff specify which city limits (or unincorporated county) is the location of the property. Add subparagraphs as follows:</p> <p>[check box] The property is within the city limits of [name city] or [check box] The property is within the unincorporated limits of [name county]</p> <p>State the approximate year the property was constructed:</p> <p>It is often important to know where the property is located to properly apply local ordinances that must be consulted to address pre-trial motions as well as mediations and settlement conferences. The plaintiff should be able to provide this information.</p> <p>(6) Delete paragraph 6 f. (2) and combine f. (1) into f. Other than not having possession of the lease, there is no reason for the plaintiff not to attach the lease. A lease is a contract and California law requires that a contract be attached to a complaint or that the material terms of the contract be pleaded. The form does not allow the latter approach and it is not practical in a form pleading. It is also our experience that the lease is often omitted to avoid highlighting defects in plaintiff’s cause of action and in some cases to allow the plaintiff to produce the lease later in the litigation (if it prevails and there is an attorney fee clause) or to withhold it from a prevailing tenant who may not have a copy to prevent the tenant from recovering fees.</p>	<p>The form has been modified to reflect this suggestion.</p> <p>The committee considered this comment but declines to implement this suggestion. Statute expressly provides that plaintiff in an unlawful detainer action does not have to attach a copy of the rental agreement when the action is based solely on the failure to pay rent. Code Civ. Proc. § 1166(d).</p>

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		<p>(7) Require plaintiff's to plead the facts that give rise to an exemption under the TPA. Merely pleading legal conclusions is not sufficient in a fact pleading jurisdiction like California. Re-write the subparagraphs under this paragraph to read as follows:</p> <p>[check box] is subject to the TPA of 2019. [check box] is not subject to the TPA of 2019, allege all facts supporting exemption:</p> <p>(8) Plaintiffs should be allowed to also plead their satisfaction of local ordinance relocation requirements. Add 8 b 3 as follows:</p> <p>(3). [check box] provided a payment satisfying local ordinance requirements. Identify the ordinance and state all facts:</p> <p>(15) If there is a written agreement between the parties providing for attorney fees (and if it is not in the lease already attached) the agreement should be attached. This paragraph should be amended to require the agreement to be attached. If the agreement is not available or if it is not in writing it is not enforceable.</p> <p>(16) The last line of this paragraph should be modified to add a check box at the front to require the plaintiff to affirmatively assert that it has met all of the requirements of the applicable ordinances and the</p>	<p>In light of comments received, the form has been revised to require plaintiff to specifically plead what section of the TPA is being relied on to assert that the TPA does not apply.</p> <p>The committee considered this comment but declines to accept the suggestion. Item 8 applies only to premises and tenancies subject to the statewide TPA, so landlord with premises subject to local rent or eviction ordinances would not complete it. Currently item 16 is for facts pertinent to local ordinances. As time and resources permit, the committee will consider whether that item can be amended in a way that would be useful across the state.</p> <p>The committee considered this comment but declines to accept the suggestion. Such attachment is not required in complaints for other situations in which attorneys fees are claimed.</p> <p>The committee declines this suggestion. The item has a checkbox to choose whether a local ordinance applies. The statement that it has been complied with</p>

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			<p>last word should have ‘(s)’ added since there may be multiple ordinances involved.</p> <p>The verification form attached to the complaint should require any attorney signing for his or her client to represent that the client is not present in the county where the attorney has his or her offices. See CCP Section 446.</p> <p>Recommended changes to Form UD 105</p> <p>(3) h and j. There appears to be a typo – it should be demand for “possession” rather than “provision.”</p> <p>Questions:</p> <ul style="list-style-type: none">• Does the proposal appropriately address the stated purpose? Yes• <p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <ul style="list-style-type: none">• 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?	<p>is a mandatory assertion and is being made under penalty of perjury. Therefore a checkbox would only provide an option to <i>not</i> make that statement.</p> <p>The inappropriate verification above the attorney signature line has been removed. The remaining verification is for a party only (which has not changed from the current form) and instructs attorneys who are signing a verification to create their own verification, using appropriate language</p> <p>This has been corrected.</p> <p>The committee appreciates the response.</p> <p>The committee appreciates the responses.</p>

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W20-03**Unlawful Detainer: Complaint and Answer Forms** (Revise forms UD-100 and UD-105)

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			<p>Might require document code and configuration in CMS for the second notice and any supporting documents.</p> <ul style="list-style-type: none"> • Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <p>No. Would require 6 months for CMS changes and staff training.</p>	<p>The committee notes that the TPA is already in effect, so the committee is recommending that these optional pleading forms be implemented as soon as council process permits.</p>
7.	Superior Court of Orange County Civil and Appellate Division Management and Analyst Team	NI	<ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? Although the proposal does address the stated purpose of the revised forms, it does not provide clear guidance on the double notice requirement. • Does the proposed revisions to item 9 in the revised complaint form appropriately reflect the double notice requirements in new Civil Code section 1946.2(c)? <p>The double notice does present challenges and additional guidance would be helpful. For example, the language references the word notice in the singular. But it is highly possible that a court user would check both box 9.a.(1) and 9.a.(6). Also, it is not clear what date court users would need to write in 9.b(1). Then as noted, 9.e. states “If two notices are required...” adding to the confusion. Any further clarification or guidance that can be provided would be helpful.</p>	<p>The committee appreciates the comments. As discussed in the committee response above to the Disability Rights Advocates comment on the notice issue under § 1946.2(c), the statute itself is internally inconsistent, making it difficult for the committee to provide as clear guidance on this issue as it would hope to do.</p> <p>See above. The committee has further modified item 9a, 9b, and 9e in light of comments received. See committee response above to comment of Disability Rights Advocates comment on the issue of notice under section 1946.2(c).</p>

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			<ul style="list-style-type: none">Should a separate complaint form be developed, either for cases involving the double-notice provisions or for all cases subject to the just cause termination provisions of Civil Code section 1946.2? A new complaint form may be the best way to clarify the confusion noted above. So, if clarity cannot be achieved in a single form, then a separate form should be considered when CC §1946.2 applies.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? This will impact court staff as it will require training of case processing staff who process clerk default judgments for unlawful detainer cases. The approximate level of effort is estimated at 16 hours FTE by a Program Coordinator Specialist over approximately one month to revise procedures, approve through workflow, train staff and implement.Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes, that should be sufficient time.	<p>The committee has concluded that a second complaint form just for TPA covered tenancies should not be developed, primarily because whether a unit or tenancy is subject to the TPA requirements may be one of the issues in dispute in an unlawful detainer. In addition, if the wrong form is inadvertently chosen, a party may have to amend or face a demurrer, etc., causing unnecessary work for both parties and courts.</p> <p>The committee appreciates the court's responses.</p>
8.	Superior Court of San Diego County by Mike Roddy Executive Officer	A	Does the proposal appropriately address the stated purpose? Yes; however, there is a potential issue with the request for default form if the revised complaint form is adopted.	The committee appreciates the court's responses.

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			<p>Do the proposed revisions to item 9 in the revised complaint form appropriately reflect the double notice requirements in new Civil Code section 1946.2(c)? Yes.</p> <p>Should a separate complaint form be developed, either for cases involving the double - notice provisions or for all cases subject to the just cause termination provisions of Civil Code section 1946.2? Yes, a separate complaint for cases involving the double - notice provisions or for all cases subject to the just cause termination provisions of Civil Code section 1946.2 would be preferred. There is a concern with the increased amount of time needed by staff to review the complaint when processing a default. Having a separate form would alleviate this concern. However, if the Judicial Council is not inclined to create an additional UD Complaint form, in the alternative, we would request that CIV-100 be amended to include the following checkbox: <input type="checkbox"/> The complaint filed is subject to the Tenant Protection Act of 2019 (Civil Code §1946.2).</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? Updating internal procedures and case management system, training affected staff, updating and ordering local forms packets.</p> <p>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p>	<p>The committee agrees, but in light of other comments received has further modified item 9.</p> <p>The committee has concluded that a second complaint form just for TPA covered tenancies should not be developed, primarily because whether a unit or tenancy is subject to the TPA requirements may be one of the issues in dispute in an unlawful detainer. In addition, if the wrong form is inadvertently chosen, a party may have to amend or face a demurrer, etc., causing unnecessary work for both parties and courts.</p> <p>The committee will consider in the future, as time and resources allow, whether the request for default form should be revised to reflect whether the TPA applies.</p> <p>The committee appreciates the court's responses to these questions.</p>

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			Yes, provided the final version of the forms are provided to the courts at least 30 days prior to the effective date. This will give courts sufficient time to update their procedures, configure local packets, and order printed stock.	Final versions of the forms should be approved by council in May, with an effective date of September 1.
9.	<p>Western Center on Law & Poverty By Madeline Howard, Sr. Attorney</p> <p>Also signed by: Carolyn Gold Eviction Defense Collaborative</p> <p>Sara Hedgpeth-Harris Central California Legal Services</p> <p>Eric Post BASTA</p> <p>Jason Tarricone Community Legal Services of East Palo Alto</p> <p>Ugochi Anaebere-Nicholson Public Law Center</p> <p>Michael Rawson Public Interest Law Project</p>	NI	<p>Western Center on Law & Poverty and the undersigned housing rights organizations submit this letter in response to the Judicial Council's invitation to comment on the unlawful detainer complaint and answer forms.</p> <p>Western Center represents low-income Californians in securing housing, health care, racial justice, public benefits and access to justice. Our housing advocacy incorporates promotion of affordable and equitable housing development, protection of tenants' rights, and preventing displacement of low-income communities and communities of color. We also work to ensure equal access to courts for people with disabilities, people with limited English proficiency, low-income people and other groups. As a legal services support center, we collaborate with housing rights organizations including those that have signed this comment letter, and learn of trends impacting tenants around the state. We are therefore uniquely positioned to assess the impact of the Judicial Council's proposed changes to the unlawful detainer forms. Western Center is also one of the sponsors of AB 1482, the Tenant Protection Act. Below we respond to the Judicial Council's questions and provide additional comments.</p> <p>I. The proposed revisions to item 9 of the complaint form do not appropriately reflect the two- step notice requirements in new Civil Code section 1946.2(c).</p> <p>The form does not correctly address the two-step notice provision, which requires that the landlord first serve a notice to cure (<i>not</i> cure or quit) and then, if the tenant does not cure, allows for service of a notice to quit. The new law, section</p>	<p>The committee appreciates the comments.</p> <p>In light of comments received, item 9 has been further modified. See committee's response above to the comments of</p>

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	Taylor Campion Family Violence Appellate Project Monique Berlanga Centro Legal de la Raza Sabyl Landrum East Bay Community Law Center		<p>1946.2(c)¹, refers to Code of Civil Procedure section 1161(3) for what it means to cure a material breach of the lease. This language should not be interpreted to require two sequential notices to <u>quit</u> but, rather, one notice to <u>cure</u> and a subsequent notice to quit. Civil Code section 1946.2, the just cause portion of the Act, begins with “Notwithstanding any other law...”, and then goes on to describe the requirement for just cause, the allowable just cause reasons for eviction, and the relevant notice requirements. The statute is clear that for covered units, a notice to cure and additional notice to quit are required before there is a valid cause of action. The reference is intended to spell out that a tenant should be given the opportunity to cure that is provided for in 1161(3):</p> <p>“(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.”</p> <p>Requiring that sequential notices to quit be listed in the complaint does not conform to the law and will cause confusion among tenants and landlords, thwarting the intention of the Act. The first notice required by Civil Code § 1946.2(c) is a notice to cure only. The form should be revised accordingly.</p> <p>II. The Judicial Council should not develop a separate complaint form.</p> <p>The Judicial Council should not develop a separate form for</p>	Disability Rights Advocates on the issue of notice under § 1946.2(c).

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			<p>covered tenancies, because this will cause additional confusion among litigants and create more work for courts. Furthermore, whether a unit or tenancy is subject to the requirements of the Act may be one of the issues in dispute in an unlawful detainer. This issue should be resolved by the court.</p> <p>III. The forms should be revised to add clarity regarding compliance with the Tenant Protection Act</p> <p>A. Revisions to the proposed Complaint form The proposed forms should be revised to include more specific allegations regarding compliance or non-compliance with the Tenant Protection Act. Specifically, complaint checkbox 7 for “tenancy not covered” should include a space or checkbox for the landlord to provide a basis for alleging the tenancy is not covered. The Tenant Protection Act has a specific list of exemptions which could be converted into a checklist, or the form could include a blank field for the plaintiff to reference the exemption. As currently structured, the complaint form does not give the defendant any information about the basis for the landlord’s asserted exemption from the Act. This will make it difficult for the defendant to include information relevant to any claimed exemption in the responsive pleading. Including this basic information in the complaint will also assist the court in evaluating application of the Tenant Protection Act.</p> <p>Similarly, check box 8 on the Complaint should state a specific basis for termination. Again, the Tenant Protection Act includes a list of “at fault” and “no fault” just cause bases for termination of tenancy which could be converted into a check list.</p> <p>Section 9 of the Complaint form has been revised to specifically allow the plaintiff to allege service of the prior notice under</p>	<p>The committee agrees and will not be developing a second complaint form at this time.</p> <p>This item has been further modified in light of comments received. See committee’s response above to the comments of Disability Rights Advocates on item 7.</p> <p>The committee considered this comment but declined to implement this suggestion. See committee’s response above to the comments of Disability Rights Advocates on item 8.</p> <p>The committee considered this comment but declined to implement this</p>

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			<p>section 1946.2(c), however it does not provide a space for the landlord to allege compliance with other notice requirements of the Tenant Protection Act. For example, after July 1, 2020, for owners to evict a tenant in order to move into the unit or have a close family member move in, the tenant must have agreed in writing to specific lease language.</p> <p>§1946.2(b)(2)(A)(ii). Similarly, for a single family home to be exempt from the protections of the Act, the tenant must have been provided a notice of exemption using specific language.</p> <p>§1946.2(g)(8)(B). Finally, tenants must be provided with notice of their rights under the Act pursuant to section 1946.2(f). The complaint should require that the landlord allege compliance with each of these provisions and attach the required notices.</p> <p>B. Revisions to the proposed Answer form</p> <p>The proposed Answer form includes only a general provision for the tenant to allege non-compliance with the Tenant Protection Act, and it is unclear what “demand for provision” refers to. This general language should be modified to read “Plaintiff’s demand for possession violates the Tenant Protection Act, Civil Code section 1946.2 or 1947.12. (briefly state in item 3m the facts showing violation of the statute.)”</p> <p>The Answer form should also allow the tenant to specifically allege a type of violation of the Act. For example, the Answer should include check boxes that state:</p> <ul style="list-style-type: none">• Plaintiff has raised the rent more than the amount allowed by the Tenant Protection Act, Civil Code section 1946.12;• Plaintiff fails to state a just cause for termination of tenancy;• Plaintiff failed to provide a notice of rights as required by the Tenant Protection Act, Civil Code section 1946.2 or 1947.12;• Plaintiff failed to comply with the relocation assistance requirements of the Tenant Protection Act, Civil Code section 1946.2(d).	<p>suggestion. See committee’s response above to the comments of Disability Rights Advocates on the issue of additional notices under TPA</p> <p>The <i>Answer</i> (form UD-105) has been further modified in light of the suggestions to include more specific affirmative defenses. See committee response above to Disability Rights Advocates’ comment on this point to see responses as to each individual affirmative defense suggested.</p>

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

W20-03

Unlawful Detainer: Complaint and Answer Forms (Revise forms UD-100 and UD-105)

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	Commenter	Position	Comment	Committee Response
			These more specific statements of affirmative defenses will assist unrepresented tenants in identifying which defense is appropriate to allege for their tenancy.	

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