

UD PRO PER DISCOVERY PACKET

What is discovery?

Discovery is the legal process that allows the parties to exchange information and evidence before a trial. The California Code of Civil Procedure (CA CCP) sets the rules for discovery.

There are different types of discovery requests that either the landlord or tenant can serve on the other after the unlawful detainer is filed. The answers to discovery may be used at trial.

What types of discovery are there?

1. **Interrogatories** – list of questions that ask for specific answers and details.
 - a. Form Interrogatories – fillable court forms with questions that may be asked in any type of case. There are general interrogatories and interrogatories for unlawful detainers.
 - Both general interrogatories and interrogatories for unlawful detainers can be served in an unlawful detainer case.
 - b. Special Interrogatories – questions that are more specific to the issues in a certain case and are specifically written to ask about the details of that case.
2. **Requests for Admissions** – questions that ask whether a statement is true or a document is accurate.
3. **Requests for Production of documents** – requests to review documents or requests for copies of any case related documents like a lease or photographs of conditions in the unit.
4. **Deposition** – an in person interview that requires the responding party to answer questions under oath and in the presence of a court reporter, who prepares a transcript of the interview.

When can discovery be served?

- A tenant may serve discovery at any time [CCP 2030.020(a), 2033.020(a), 2031.020(a)]
- A landlord can serve discovery five (5) days after the service of the summons or ten (10) days after the answer is filed. [CCP 2030.020(c), 2033.020(c), 2031.20(c)]
- The party asking for discovery must give the answering party enough time for discovery to be completed at least five (5) days before the day of the trial. [CCP 2024.050, CCP 2024.060]

When are discovery answers due?

The way discovery is served will determine when the answers are due.

- Discovery served in person (hand delivered) are due within five (5) days of service
- Discovery served by expedited mail (FedEx) are due within seven (7) days of service

- Discovery served by regular (US postal service) mail are due within ten (10) days of service

What happens if I do not respond to Discovery?

- The other side may ask the court for an order to make you respond to its questions and pay sanctions (a penalty in fees) for not responding in time
- The other side may ask the court for an order that you admitted to all the allegations it made in the complaint (since you did not respond), and **you could lose your case without a trial**
- The other side may also ask that you pay for its attorney's fees [CCP 2033.420]

How do I respond to Discovery?

There is no fillable form to respond to discovery. You must complete your answers on pleading paper (a copy is attached) and include the following information:

1. Caption – your name, address, telephone number, the case number, identification of the parties, and the type of discovery request that the responding party is responding to,
2. The set number of the discovery,
3. Name of the asking party,
4. Name of responding party,
5. Responses to each question,
6. **The statement, "I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct,"**
7. The date, and
8. Your signature.

Please note that if you intentionally make a false statement on your responses, you are committing perjury and may subject yourself to **criminal charges**.

How do I respond to Interrogatories?

Answers to interrogatories may consist of sentences, phrases, dates and numbers. You only need to respond to a form interrogatory that is marked. For example, a form interrogatory may ask:

Question – Has the defendant or anyone acting on the defendant's behalf offered any payments to the plaintiff, which the plaintiff refused to accept? If so, for each offer state:

- (a) the amount;
- (b) the date;
- (c) purpose of offer;
- (d) manner of the offer
- (e) Identity of the person making the offer
- (f) Identity of the person refusing the offer

Answer – Yes.

- (a) \$800
- (b) June 3, 2019
- (c) Pay unpaid rent from the 3 Day Notice
- (d) Money order, dated June 5, 2019, offered in person.

- (e) Defendant, Mary Johnson
- (f) On-site Manager, Joseph Smith

How do I respond to Requests for admissions?

Requests for admissions require that you admit or deny the truth of statements presented.

There are a few ways to respond to a request for admissions.

1. If a statement is true, you would respond with “Admit”
2. If the statement is false you may answer with “Deny.”
3. If a statement is partially true and partially false, you must respond indicating the part of the statement that you admit and the part that you deny (CCP 2033.220(b)(1) & (2)).

For example, in a case that may involve withholding of rent due to issues with the unit, you may see:

Statement – Admit that you are a tenant at 4321 Maple Street, Unit C, Los Angeles, California.

Answer – Admit.

Statement – Admit that you never complained about any conditions of the unit during your tenancy.

Answer – Deny.

How do I respond to Requests for production of documents?

Requests for production of documents are generally asking for copies of documents, photographs, print outs of electronically stored information, or a chance to inspect similar records.

Answers to requests for documents may include:

1. A written response stating that the document will be provided, and/or
2. a reference to a document that is being included in the answer.

For example:

Question/request: Provide all documents that contain the terms or conditions of your tenancy.

Answer: See the attached 2019 lease agreement and the 2020 Notice of Change of Terms of Tenancy.

****You would add those documents to the pleading paper with your written responses.****

What do I do if I do not have the information to respond to interrogatories, requests for admissions or requests for production of documents?

You may do any of the following:

1. Explain that you do not have the information
2. State that you do not have the requested document(s), or
3. Make a legal objection to an interrogatory, request for information or request for document(s).

*****You must include the legal reason and language from the CCP to properly respond*****

For Interrogatories, you may state:

Plaintiff/Defendant does not have personal knowledge sufficient to respond fully despite a reasonable and good faith effort to obtain the information.

For Requests for Admissions, you may state:

Plaintiff/Defendant cannot truthfully admit or deny the matters set forth in this request because (s)he does not have knowledge of these matters, despite reasonable inquiry into the matter by reviewing all of the records and information available to her/him to obtain information from which the truth or falsity of the matter might be learned.

For Requests for Production of Documents:

After a diligent search and reasonable inquiry Plaintiff/defendant is unable to comply with the request because:

1. The requested item or thing does not exist,
2. The requested item or thing no longer exists, or
3. The requested item or thing is not in her/his possession,

OBJECTIONS

Objections are legal arguments that may be raised in response to discovery requests. Keep in mind that if a part of an answer is not something you can object to, you must still respond. Here are several objections that are used frequently in the discovery process and may apply.

1. **Relevance** - The request is not reasonably calculated to lead to the discovery of relevant, admissible evidence.
 - a. For example, if you are being sued for not paying rent and the landlord asks if you ever committed a crime at the property, that question may not be relevant to the issue.
2. **Vague** - The request is vague, ambiguous or unintelligible.
 - a. For example, if the landlord asks, "When did you see the problems in your unit," it would not be clear as to what problems they are talking about, when you first saw the problems or when you last saw the problems.
3. **Overbroad** - The request is overly broad or unduly burdensome.
 - a. For example, if the landlord asks for details about every communication you had with the property manager during your tenancy, you could object on the basis that it is overbroad as they could have just asked for all communications in the past month, or all communications in the past month about repairs needed at the property.
4. **Compound** - The request is impermissibly compound.
 - a. For example, if the landlord asks you to admit that you drive a 2006, Honda Accord, that was involved in an accident in the parking garage at the property where you live, on March 5, 2020, they are asking multiple questions at once.

Serving (mailing) Discovery Responses

After completing discovery responses, you should review to make sure you answered all questions or raised the right defenses. Then, you should make a copy for your records.

The original, signed responses must be mailed (by an someone 18 years or older, and not involved in the case) to the attorney for the other party (or the other party if they are representing themselves).

When the responses are mailed, they must include a proof of service, which is a document with the details about when and how it was served.

You may use a fillable proof of service form, such as form PS-030, to document service and the person serving for you must enter the following information:

1. The caption – your name, address, telephone number, the court’s information, and the case number
2. The address of the person who will be mailing the answers.
3. The date the responses were mailed.
4. The city and state where the responses were mailed from.
5. The responses that were mailed (eg. Responses to Form interrogatories, etc.)
6. Check the box indicating that the responses were sent via first class mail.
7. The name and address of the person who will receive the answers.
8. The date, name and signature of the person who mailed the answers.

A copy of the proof of service should be included in with the answers being served and the you should keep the original with their records. This document will be important to keep, if the other side goes to court to dispute that you responded to their discovery.