

Tenants' Right to Counsel

June 20, 2023

What is Tenants' Right to Counsel?

- No Eviction without Representation
- Tenants who have received an eviction notice or been served with an unlawful detainer (eviction) lawsuit and are not living with their landlord have a right to a free attorney.
- The attorney will provide full scope representation (representation throughout all stages of the case).

Eviction Statistics

CA CITY	POPULATION	# OF EVICTIONS (2016)	EVICTIONS PER 100 RENTER HOMES	EVICTIONS/POP RATIO
Lancaster	169,185	3	0.01	0.002
Palmdale	163,463	6	0.04	0.004
Madera	160,256	101	1.20	0.063
Indio	91,980	82	0.90	0.089
Merced	91,563	376	2.55	0.411
South Gate	90,926	173	1.32	0.190
Tulare	70,693	149	1.85	0.211
Atwater	32,372	84	1.98	0.259

1. https://www.california-demographics.com/cities_by_population

2. <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=1&d=evictionRate>

Gaps in Legal Representation

2010 Fordham
Urban Law Review

LANDLORDS

90%

of landlords had legal
representation in eviction cases

TENANTS

10%

of tenants had legal
representation in eviction cases

2022 National
Coalition for a Civil
Right to Counsel

LANDLORDS

82%

of landlords had legal
representation in eviction cases

TENANTS

3%

of tenants had legal
representation in eviction cases

1. <https://www.irp.wisc.edu/publications/fastfocus/pdfs/FF22-2015.pdf>

2. http://civilrighttocounsel.org/uploaded_files/280/Landlord_and_tenant_eviction_rep_stats__NCCRC_.pdf

Eviction Process

Tenant receives 3-Day, 30-Day, 60-Day or 90-Day Notice to move out

Tenant is served "Summons" and "Complaint – Unlawful Detainer"

5 Days

Tenant does nothing

Landlord files "Request to Enter Default"

Landlord files "Request/Counter-Request to Set Case for Trial"

Tenant files motion(s)

Judgement entered in favor of Landlord

Discovery

Tenant files "Answer" within 5 days

Optional: Tenant files "Motion to Set Aside Default and Default Judgement"

Notice of Hearing

Trial held within 20 days

Judgement for Tenant

Judgement for Landlord

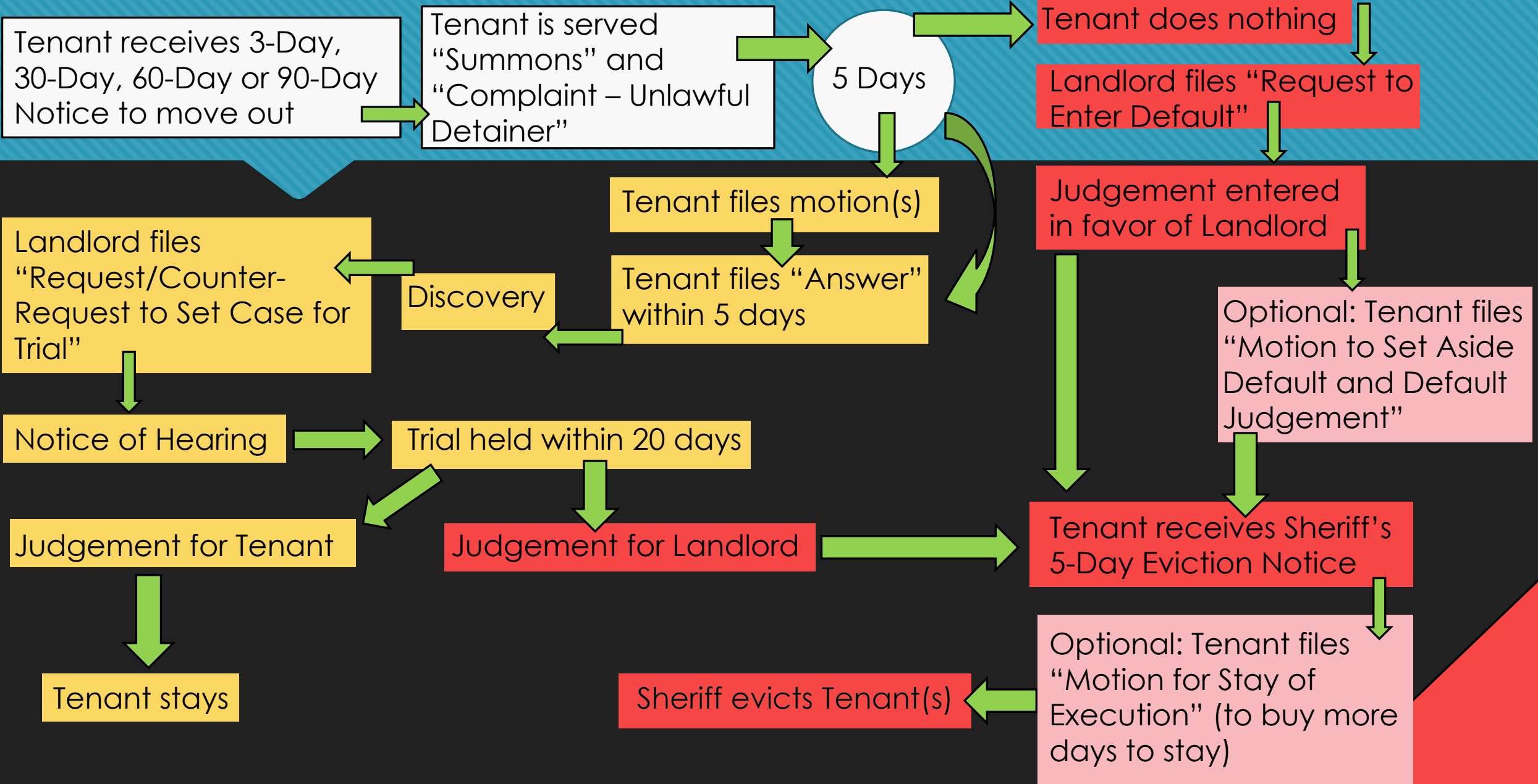
Tenant receives Sheriff's 5-Day Eviction Notice

Tenant stays

Sheriff evicts Tenant(s)

Optional: Tenant files "Motion for Stay of Execution" (to buy more days to stay)

Eviction Process



Impact of Eviction

- Family instability, disruption, and displacement
- Homelessness
- Increased shelter costs
- Increased policing, incarceration, prosecution, and court costs
- Costs related to encampment cleanup and sanitation
- Disruption to children's education
- Loss of employment and/or difficulty finding employment
- Increased risk of physical and mental health issues
- Increased healthcare costs related to physical and mental health issues
- Increased risk of children entering foster care and/or experiencing abuse/neglect
- Community instability
- Negative impact of credit scores and ability to re-rent
- Loss of personal assets

2023 Flood

- 01/04/2023 – Governor Newsom proclaimed a state of emergency
- 01/07/2023 – City's Director of Emergency Services proclaimed local emergencies
- 01/09-10/2023 – City issued discretionary and mandatory evacuation orders to City residents



2023 Flood

- 01/14/2023 – City's Director of Emergency Services proclaimed local emergencies
- City Staff estimated ~1,600 Merced residents were displaced from approximately 720 rental housing units
- Residents were suddenly displaced from their rental homes without warning or fault



2023 Flood

- 04/03/2023 – Approved Urgency Ordinance to protect renters impacted by recent flooding.
- 04/17/2023 – Adopted “Displaced Tenant Protections” Ordinance adding Chapter 9.75 to the City of Merced Municipal Code.
- Acknowledged the need to protect tenants but the City did not create a Right to Counsel Program to support tenants.

Woodbridge Place
3028 Willowbrook Dr. Ste 408
Merced, Ca 95348
(209) 233-9479

January 20, 2023

To whom it may concern:

[REDACTED]
[REDACTED] Willowbrook Dr. # [REDACTED]
Merced, Ca 95348

The above resident has been displaced from their unit for an undetermined amount of time due to their unit being rendered uninhabitable. The cause of this was the flooding that took place in Merced County with Bear Creek overflowing.

Sincerely,

Woodbridge Place Apartments

Cc: Tenant File

K-Street Apartment

- Negligence on habitability Issues from prior years (fire 2016)
- Building changes ownership and management company at the Beginning of 2023
- A few units receive 90 day notice
- Apartments are Remodeled
- Smoke & Fire Incident
- Tenants apartments destroyed
- Water Shut Off



K-Street Apartment



K-Street Apartment

- Electricity Shut Off
- Building Red Tagged
- Less than 24 hours to Leave with the assistance of Red Cross
- Keys taken away from some tenants
- Locks changed
- Notice to quit served to tenants



NOTICE TO QUIT

TO: [REDACTED], any and all others in possession of
[REDACTED] K STREET # [REDACTED]
MERCED, CA 95340

THIS BUILDING HAS BEEN DECLARED UNINHABITABLE BY THE CITY OF MERCED BUILDING DEPARTMENT. IT IS UNSAFE TO OCCUPY. ANY PERSONS FOUND ANYWHERE ON THE PREMISES ARE IN VIOLATION OF THE LAW.

TAKE NOTICE that you are hereby required by this notice to remove from and deliver up possession of the above-described premises now held by you at the address listed above IMMEDIATELY Pursuant to Cal. Civ. Code § 1933, **The hiring of a thing terminates: 4. By the destruction of the thing hired** AND California Penal Code §602(n) §602(i) §647(g).

Pursuant to Civil Code section §1950.5(g), no later than 21 days after vacating the premises, Landlord shall furnish resident a copy of an itemized statement indicating the basis for, and the amount of, any security deposit received and the disposition of the security deposit and shall return any remaining portion of the SECURITY DEPOSIT to the Resident.

TO ENSURE THAT YOU RECEIVE YOUR SECURITY DEPOSIT DISPOSITION, PLEASE PROVIDE SOLDABI REALTY WITH A FORWARDING ADDRESS AS SOON AS POSSIBLE.

TO DATE, no "public record" has been created by virtue of the preparation and service of this notice. However, if legal proceedings should result in a judgment for money being entered against you, it will be enforceable for at least 10 years. Such a judgment could result in your wages, money and property being taken from you. An unlawful detainer judgment against you could also be made a part of your credit report prepared by a credit-reporting agency. The inclusion of an unlawful detainer judgment in your credit report could severely hinder your ability to obtain a loan, to purchase a home or vehicle, to rent a home elsewhere, to obtain credit cards, etc.

Your rent in the amount of \$124.68 is being refunded for the period of April 13, 2023, through April 30, 2023. You may turn in your keys and pick up your refund payment (if applicable) from Soldabi Realty, 2830 G Street, suite B, Merced, Ca 95340.

Please contact SOLDABI REALTY at Phone 209-383-3000, if you have any questions.

Date: 4/13/2023

Nancy Cruz
NANCY CRUZ,
Agent for: STEADY CAPITAL LLC c/o SOLDABI REALTY

SOLDABI REALTY
2830 G Street, suite B, Merced, Ca 95340
209-383-3000

personally hand to me!

DECLARATION OF SERVICE OF NOTICE

RENTER(S): [REDACTED]

NAME OF PERSON SERVED (IF OTHER THAN RENTER): _____

PLACE OF SERVICE: [REDACTED] K STREET [REDACTED]
MERCED, CA 95340

DATE: 4/13/2023 TIME OF SERVICE: 3:30pm

I, **Florence Baker**, served a copy of the NOTICE TO QUIT on the tenant (s) named above by:

☐ Delivering it personally to one or more of the renter(s) named above.

☐ Leaving a copy with the person named above, who is of suitable age and discretion, at the renter(s) premises/business and by sending a copy in a sealed envelope, by first class mail, postage prepaid, addressed to the renter(s) at the premises.

☒ Affixing a copy to the front door of the premises and by sending a copy in a sealed envelope by first class mail, postage prepaid, addressed to the renter(s) at the premises, in as much as the renter(s) actual place of residence or business cannot be ascertained and/or a person of suitable age and discretion cannot be found at the renter(s) premises or business.

☒ (if checked) I am not a registered California Process server.
☐ (if checked) I am a registered California Process server.
○ Registration number _____

I am personally aware of these facts and I am competent to testify thereto as a witness. I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on the following date and the following place: Merced, California.

Date: 4-13-23

Florence Baker
Declarant: Florence Baker

Tenants' Rights to Counsel Legislation

○ States (3)

- Washington (2021)
- Maryland (2021)

- Connecticut (2021)
- Minnesota (2023) – Eff 08/2023

○ Cities (15)

- New York City (2017)
- San Francisco (2018)
- Newark (2018)
- Cleveland (2019)
- Philadelphia (2019)
- Boulder (2020)
- Baltimore (2020)

- Seattle (2021)
- Louisville (2021)
- Denver (2021)
- Toledo (2021)
- Minneapolis (2021)
- Kansas City (2021)
- New Orleans (2022)
- Detroit (2022)

Right to Counsel Impact

- Kansas City
 - Pre-Right to Counsel eviction rate was 99%
 - 1st 3 months of Right to Counsel, eviction rate dropped to less than 20%
- New York City
 - 84% of represented tenants were able to remain in their homes
 - Evictions dropped 29% in zip codes with Right to Counsel
- San Francisco
 - 10% decrease in eviction filing from 2018 to 2019
- Study published in Georgetown Journal on Poverty Law & Policy
 - Fully represented tenants remained in their homes 3x as often as limited/unrepresented tenants

TABLE 1. CASES RESOLVED WITH TENANT IN POSSESSION OF UNIT¹³²

No Legal Aid	14%
Unbundled Legal Aid	18%
Full Representation N 137	55%

1. http://civilrighttocounsel.org/uploaded_files/283/RTC_Enacted_Legislation_in_Eviction_Proceedings_FINAL.pdf

2. https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2112&context=faculty_publications

Merced Tenants' Right to Counsel

- Create a Tenants' Right to Counsel Program,
- Provide free full legal representation for low to moderate income tenants facing eviction,
- Procure designated organization(s) to provide full legal representation in eviction proceedings,
- Require landlords to disclose to their tenants certain information regarding the access to full legal representation in eviction proceedings,
- Create an annual report that analyzes implementation and performance metrics to assess the continued needs of Merced residents.

Recommendation

- Provide direction to staff to work with Council Member Xiong in developing a Tenants' Right to Counsel Ordinance.