

Landlord/Tenants Law For Public Librarians

Landlord/Tenant Law
For Public Librarians



An *Infopeople* Webinar

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12 Noon

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Agenda

- Provide a general overview of landlord - tenant law matters and the eviction process
- Become familiar with key terminology in landlord - tenant law matters
- Tour the California Court's self-help center's sections on evictions and housing
- Learn about additional print and online resources addressing landlord – tenant issues

Landlord-Tenant Overview

- Rights and responsibilities of CA tenants and landlords
- What is a UD?
 - CA Laws
- Eviction Process
 - Timeline
 - Types of Notices
 - Pleadings and Responses
- Most Commonly used UD Defenses
- Foreclosure
- Security Deposits

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Tenant's Legal Rights and Responsibilities

- Pay Rent
- Take reasonable care of the rental unit
- Repairs
- Limits on the Landlord's right of entry
- Security deposit limits
- Time to return security deposit
 - Itemized accounting

Tenant's Legal Rights and Responsibilities

- Repair and deduct
- Withhold rents
- Sue for damages
- Right to warranty of habitability
- Protection against retaliatory eviction

Refund of Security Deposits

- Allowable deductions:
 - Unpaid rent
 - Cleaning the rental unit when tenant moves out
 - Repair of damages other than normal wear and tear
 - If the lease allows for cost of restoring or replacing personal property (such as keys or furniture)
- 21 calendar days or less after tenant moves out
 - Send tenant a full refund of security deposit OR
 - Mail or personally deliver an itemized statement
- If Landlord does not provide refund
 - Tenant can call or request a refund
 - Tenant can sue in small claims court

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Landlord's Responsibilities

- Implied covenant of quiet enjoyment
- Landlord must make the unit fit to live in, or habitable
- Landlord must repair problems that make the rental unit unfit to live in or uninhabitable

What is an Unlawful Detainer?

- Statutory procedure defined under California Code of Civil Procedure §1161-1179a
- Lawsuit that a landlord must file and win before he or she can evict a tenant
- Also called an eviction lawsuit

Rent Control

- Protections:
 - Rent increases are limited on a yearly basis
 - Greater Tenant Protections
- Cities with Rent Control

Berkeley	Beverly Hills	East Palo Alto
Glendale	Hayward	Maywood
Los Angeles	Oakland	Palm Springs
Richmond	Ridgecrest	San Diego
San Francisco	Santa Monica	Thousand Oaks
West Hollywood		

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Who are the Parties
Involved in an Unlawful
Detainer?

Plaintiffs in Unlawful Detainers

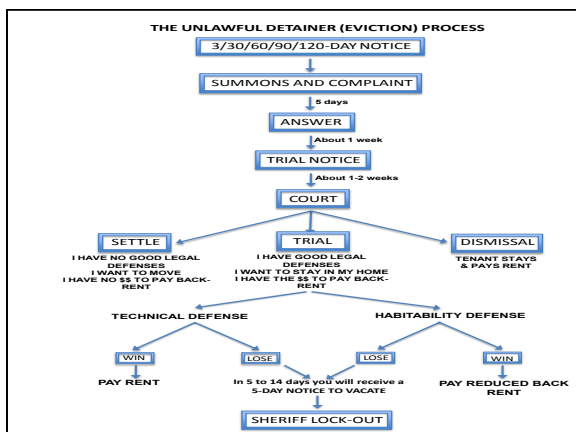


Defendants in Unlawful Detainers



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Notices to Terminate a Tenancy

<p>No Cause / Fault Notices</p> <ul style="list-style-type: none"> • 30/60/90-day notice to vacate <ul style="list-style-type: none"> • Non-rent control properties • 90-day notice <ul style="list-style-type: none"> • Government subsidized housing 	<p>For Cause Evictions</p> <ul style="list-style-type: none"> • Three-day notice to pay rent or quit • Three day notice to cure or quit • Three-day notice to quit
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Step 1: Eviction Notice Stage

Notice must be **WRITTEN**

STRICT COMPLIANCE with CCP 1161 notice requirements

Time for compliance begins to run the day after notice is served

THREE DAY NOTICE TO PAY RENT OR QUIT

TO: **Joseph Resident**
 AND AS LESSEE'S CO-POSSESSOR:

YOU ARE HEREBY NOTICED that pursuant to the written rental agreement made which you hold the possession of the premises described herein, there is now due and unpaid RENT in the total sum of:

One Thousand One Hundred and 1/100

corresponding to the first 1/100 of that month. Three (3) days after service of this Notice, you must pay the amount of said rent in full or you will be deemed to have accepted the terms of the notice to vacate and you will be required to vacate the premises. You are hereby notified that you have 3 days to vacate the premises, to make and receive or cause agricultural facilities to be received and said tenants.

YOU ARE FURTHER NOTICED that by this Notice the landlord/agent deems to and does declare a substantial and material breach of said lease and you are hereby notified that you are to vacate the premises on or before the date stated below:

2424 Sunny Lane Pt. #3, Los Angeles, CA 90008
 Date: **3/26/13** / 11:59 AM (PST) / **Sheila Manager**
 Address to pay: **2424 Sunny Lane Place, Manager's Office #1**

This Notice is being served by the Law Office of Douglas B. Webb and Associates
 2424 Sunny Lane, Suite 300, Los Angeles, CA 90008
 Tel: (213) 481-1111 / Fax: (213) 481-1112 / Email: douglas@dbwebb.com

The above information is the Law Office of Douglas B. Webb and Associates
 www.douglasbwebb.com / www.douglasbwebb.com

Los Angeles (213) 481-1111 / Fax: (213) 481-1112 / Email: douglas@dbwebb.com
 Long Beach (562) 431-8888 / Fax: (562) 431-8889 / Email: douglas@dbwebb.com
 Torrance (310) 555-7777 / Fax: (310) 555-7778 / Email: douglas@dbwebb.com
 If you need assistance for legal or other services, please contact (213) 481-1111.

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Three-Day Notice to Pay Rent or Quit

- For when tenant is behind on the rent
- Three days begins on the first day after service of the notice
- If the third day falls on a Saturday, Sunday or legal holiday – the three-day period will not expire until the following Monday or non-holiday

THREE-DAY NOTICE TO PAY OR QUIT (UNLAWFUL DWELLING)

To: _____ (Tenant, Addressee, Recipient or Postmaster)

PLEASE TAKE NOTICE that you are hereby notified that you are in arrears on the rent you owe for the premises described below. You are hereby notified that you must pay the amount of the rent due to the landlord within three days after the date of this notice, or you must quit the premises within three days after the date of this notice. If you fail to pay the rent or quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

The amount of the rent due is: _____

If you fail to pay the rent or quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

If you fail to pay the rent or quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

Date: _____

Three-Day Notice to Cure or Quit

- For when tenant is violating terms of the lease or rental agreement, other than nonpayment of rent, and the problem can be fixed
- Must specify violation
- Written lease agreement must exist

THREE-DAY NOTICE TO CURE OR QUIT (BREACH OF LEASE)

To: _____ (Tenant, Addressee, Recipient or Postmaster)

PLEASE TAKE NOTICE that you are hereby notified that you are in breach of the terms of the lease or rental agreement for the premises described below. You are hereby notified that you must cure the breach within three days after the date of this notice, or you must quit the premises within three days after the date of this notice. If you fail to cure the breach or quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

The nature of the breach is: _____

If you fail to cure the breach or quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

If you fail to cure the breach or quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

Date: _____

Three-Day Notice to Quit

- For when tenant is violating terms of the lease or rental agreement, other than nonpayment of rent, and the problem cannot be fixed:
 - committing "waste"
 - creating a nuisance on the premises
 - Illegal use

THREE-DAY NOTICE TO QUIT (BREACH OF LEASE - WASTE, NUISANCE, OR ILLEGAL USE)

To: _____ (Tenant, Addressee, Recipient or Postmaster)

PLEASE TAKE NOTICE that you are hereby notified that you are in breach of the terms of the lease or rental agreement for the premises described below. You are hereby notified that you must quit the premises within three days after the date of this notice. If you fail to quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

The nature of the breach is: _____

If you fail to quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

If you fail to quit the premises within the time specified, the landlord may file a lawsuit against you to evict you from the premises and to collect the amount of the rent you owe.

Date: _____

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Tenant Defenses for Defective Notice

Pay or Quit Notice:

- Rent is not due
- Includes late fees
- Demands more rent than tenant owes
- Fails to state specific information pursuant to C.C.P. §1161(2)
- Fails to state amount due

Perform or Quit Notice:

- Fails to state how to cure alleged violation
- No written lease
- Not in the alternative and breach is "curable"

Applies to all:

- Does not declare a forfeiture of the lease
- Defective service of notice

Service of Notice

- Notice may be served upon the Tenant in one of three ways:
 - Personally
 - Leaving a copy with a person of suitable age and sending a copy by mail
 - Nail and mail

Step 2: The Unlawful Detainer

The court eviction process begins by filing a summons and complaint

Named Defendant(s) must be served a copy of the summons and complaint

The Court will mail out a Notice stating that UD lawsuit has been filed

SUMMONS AND COMPLAINT
UNLAWFUL DETAINER

NOTICE TO DEFENDANT:
YOU ARE HEREBY SERVED BY MAILING TO YOU BY REGISTERED MAIL WITH RETURN RECEIPT REQUESTED AND BY FIRST CLASS MAIL WITH RETURN RECEIPT REQUESTED AND BY FIRST CLASS MAIL WITH RETURN RECEIPT REQUESTED.

NOTICE TO PLAINTIFF:
YOU ARE HEREBY SERVED BY MAILING TO YOU BY REGISTERED MAIL WITH RETURN RECEIPT REQUESTED AND BY FIRST CLASS MAIL WITH RETURN RECEIPT REQUESTED AND BY FIRST CLASS MAIL WITH RETURN RECEIPT REQUESTED.

FILED
COUNTY OF LOS ANGELES
CLERK OF SUPERIOR COURT
11 SAMPLE CL 12807

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The Complaint:

States landlord's
basis for the eviction

Eviction Notice must
be attached to the
complaint, C.C.P. §
1166

Attorneys can use
their own pleadings

COMPLAINANT (Name, address, phone, fax, email, website) JAYLOR MCDONALD (FORM: 10/2011) LAW OFFICE OF MCDONALD & MCDONALD 1000 WILSHIRE BLVD., SUITE 1000 LOS ANGELES, CA 90024 Telephone: (310)121-1212	US-106 (Rev. 1/2011)
DEFENDANT (Name, address, phone, fax, email, website) 2424 BOSTON PLACE APARTMENTS, INC. 2424 BOSTON PLACE LOS ANGELES, CA 90024 Telephone: (310)121-1212	
COMPLAINT - UNLAWFUL DETAINER <input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Amendment Number: _____)	
ACTION IS A LIMITED CASE <input checked="" type="checkbox"/> <small>(Limits to \$5,000 but does not exceed \$5,000)</small> ACTION IS AN UNLIMITED CASE (Amount does not exceed \$5,000)	
ACTION IS RELEASED BY THE ANSWERED COMPLAINT OR OTHER COMPLAINT (Check all that apply) <input type="checkbox"/> This complaint releases all parties involved in this lawsuit. <input type="checkbox"/> This lawsuit is unrelated to any other lawsuit in progress involving the parties. <input type="checkbox"/> This lawsuit is related to another lawsuit involving the parties.	
1. PLAINTIFF (Name, address, phone, fax, email, website) (Name each) JAYLOR MCDONALD	
2. A. Plaintiff is: <input type="checkbox"/> an individual over the age of 18 years, <input type="checkbox"/> a partnership, <input type="checkbox"/> a public agency, <input type="checkbox"/> a corporation, <input type="checkbox"/> a limited liability partnership, or <input type="checkbox"/> other (specify): _____	
B. Plaintiff has acquired the business/property business name used in doing business under the fictitious name of (specify): 2424 Boston Place #3, Los Angeles, CA 90024	
3. Defendant named above is in possession of the premises located at (street address, Apt. no. only, do not include unit/number): 2424 Boston Place #3, Los Angeles, CA 90024	
4. Plaintiff retained the premises in: <input type="checkbox"/> an owner <input type="checkbox"/> other (specify): _____	
5. The last date and receipt of payment of rent or other amount is (specify): JAYLOR MCDONALD	
6. Plaintiff is not the person in: <input type="checkbox"/> joint tenancy with Plaintiff <input type="checkbox"/> other tenancy (specify): _____ <input type="checkbox"/> joint tenancy with Plaintiff <input type="checkbox"/> other tenancy (specify): _____ <input type="checkbox"/> joint tenancy with Plaintiff <input type="checkbox"/> other tenancy (specify): _____	
7. This is a: <input type="checkbox"/> new <input type="checkbox"/> renewal <input type="checkbox"/> other (specify): _____ <input type="checkbox"/> other (specify): _____	

NOTES: Check the box for conditions other than (a) or (b) above.
 I, the undersigned, declare under penalty of perjury that the foregoing is true and correct.
 Executed on _____ at _____, California.
 Signature of Plaintiff: _____
 Signature of Defendant: _____
 Date: _____

Common Defective Complaint Defenses

- Notice not attached
- Lease not attached:
 - Cases not based on failure to pay rent.
- Tenant named but incorrect address
- Improper Plaintiff:
 - Plaintiff must have some right of possession to the property either as the owner or agent of the owner

How to Respond to an Unlawful Detainer Complaint

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Responsive Pleadings

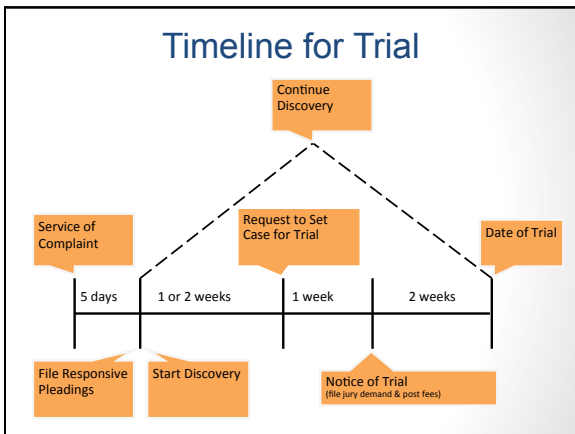
- **Answer**
 - General denial or deny each allegation in the complaint
 - Technical and factual defenses
 - If in doubt, raise the defense, otherwise it is waived
- **Pre-Judgment Claim of Right to Possession**
 - If tenant is in possession and not named on complaint
- **Demurrer**
 - Plaintiff failed to state a cause of action
 - Complaint is unclear
- **Motion to Quash Service of the Summons**
 - Improper service of the summons and complaint

Step 3: Filing a Response

5 DAYS to file an answer

Fail to file an answer, a default judgment will be entered and tenant will have to vacate

Answering defendant must claim defense(s) to complaint's allegations



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Pre-Trial Considerations

- **Jury Trial Demand:**
 - Must be filed **within 5 days** of the Notice of Trial date (C.C.P. § 631(d)(4))
 - Jury Fees: \$150 at least **5 days before trial**
- **Motion for Summary Judgment (C.C.P. § 437c):**
 - No triable issue of material fact
 - Defendant must show Plaintiff does not have a cause of action
 - Filed upon 5 days notice (C.C.P. § 1170.7) and opposition may be filed 1 day before or on hearing day.
- **Trial Date:**
 - Request to Set Case for Trial
- **Discovery:**
 - See Next Slide

Discovery and Unlawful Detainers

Civil Discovery Act C.C.P. § 2016 et seq.

Types of Discovery:

- **Written Interrogatories**
 - Form (UD-106)
 - Special Interrogatories
- **Demand for Production of Documents**
- **Request for Admissions**
- **Depositions**
 - Scheduled w/in 5 days of the Notice but no later than 5 days before Trial

Time Limitations:

- Discovery completed 5 days before the date of Trial
- Responses due w/in 5 days for personal service, 10 days for mailing
- Motions to Compel may be filed at any time upon 5 days notice

Commonly Used Tenant Defenses

- **Waiver of Notice to Quit**
 - Generally: Affirmative defense if landlord accepts rent to cover a period of time after the termination date stated in the notice
- **Estoppel**
 - Generally: Tenant must have relied on the landlord's conduct and was injured by it
- **Breach of the Warranty of Habitability**
 - What is a breach?
 - Proof of a substantial breach
- **Retaliatory Eviction**
- **Discrimination**

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After the Court's Ruling

- If tenant wins
 - Tenant will not have to move and pay back rent
 - Landlord may be ordered to pay court costs
- If landlord wins
 - Court issues Writ of Possession
 - Service of Writ and posting of 5 day Notice to Vacate
 - Sheriff will remove all occupants

Default Judgment if Tenant Fails to File Answer within Five Days

- Default judgment entered in favor of landlord
- Writ of possession
- Service of writ and posting of five day Notice to Vacate
 - To request additional time, tenant must file Stay of Execution with the court
- Sheriff will remove all occupants
- Setting aside default judgment requires proof of mistake, inadvertence, excusable neglect

Abandoned Personal Property Left in a Rental Unit

- California law has specific steps to follow to get possessions returned
 - Civil code § 1951.3
 - Identify and value the property left behind
 - Send possible owners notice
- If tenant does not respond to Notice
 - Property worth less than \$750 = Landlord
 - Property worth more than \$750 = auction
- Notice of Right to Reclaim Personal Property

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Protecting Tenants at Foreclosure Act

- Applies to all residential properties foreclosed after 5/20/2009
- Does not preempt local and state laws that offer additional protections
- 90-Day Notice required unless lease term not yet expired
- Must be "bona fide" tenant.
- Section 8 Tenants: new owner subject to lease and contract with PHA

Online Resources for Locating Information, Forms and Referrals

California Courts – Online Self-Help Center

<http://www.courts.ca.gov/>



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California Courts – Online Self-Help Center
<http://www.courts.ca.gov/selfhelp.htm>

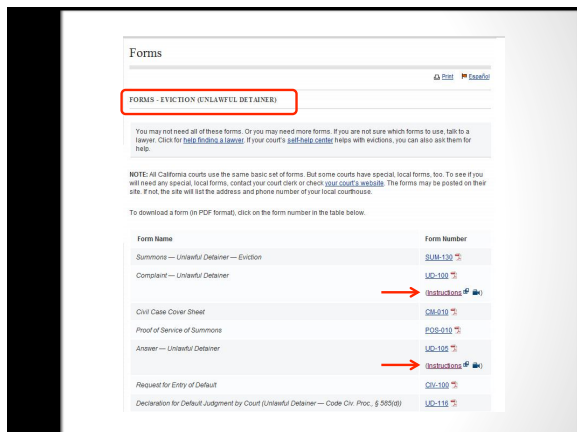
- For each case type, provides basic information about applicable law
- Outlines steps in court process
- Forms presented within informational context
- Instructions for completing each form

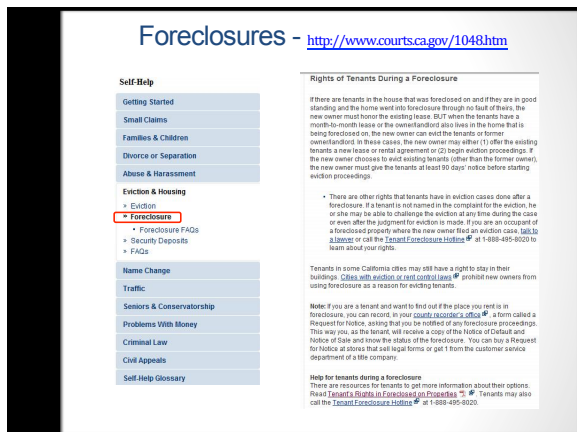
“Getting Started”
California Courts Online Self-Help Center
<http://www.courts.ca.gov/1002.htm>

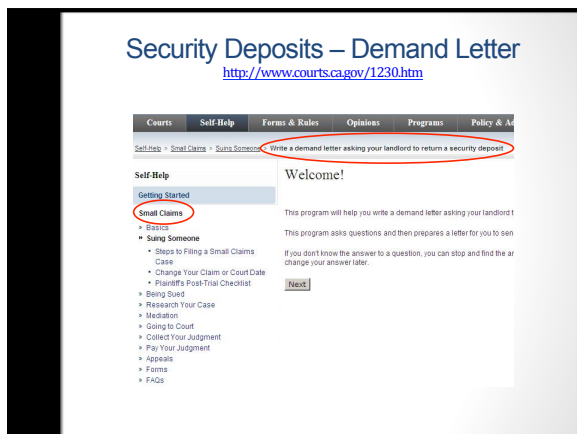
“Eviction and Housing”
California Courts Online Self-Help Center
<http://www.courts.ca.gov/selfhelp-housing.htm>

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Landlord-Tenant Legal Guides
 Dept. of Consumer Affairs Website
http://www.dca.ca.gov/publications/legal_guides/index.shtml

California Tenants – A Guide to Residential Tenants' and Landlords' Rights and Responsibilities

How to Get Possessions Back You Have Left in a Rental Unit

Options for a Landlord: When a Tenant's Personal Property Has Been Left in the Rental Unit

Landlords and Tenants Responsibilities For Habitability and Repairs

Rent Increases: Basic Information for Tenants



Online Resources – California State Bar
<http://www.calbar.ca.gov/PublicLegalInformation/AboutFamily.aspx>



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 Homeownership
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 More issues >

Families and Kids
 Adoption
 Child Support
 Custody/Visitation
 More issues >

Public Benefits
 Child Care / Foster Care
 Disability and Public Benefits
 Emergency Assistance
 More issues >

Protection from Abuse
 Child Abuse/Neglect
 Domestic Violence
 Elder Abuse
 More issues >

Health
 Control Over Health Care Decisions
 Health Insurance
 Health Care
 More issues >

Consumer & Small Claims
 Bankruptcy
 Cars
 Contract and Warranty Problems
 More issues >

Disability
 Assistive Technology
 Disability and Public Benefits
 Education Rights
 More issues >

Veterans and Military
 Appeals
 Claiming through VA
 Military Service
 Disabled Veterans
 More issues >

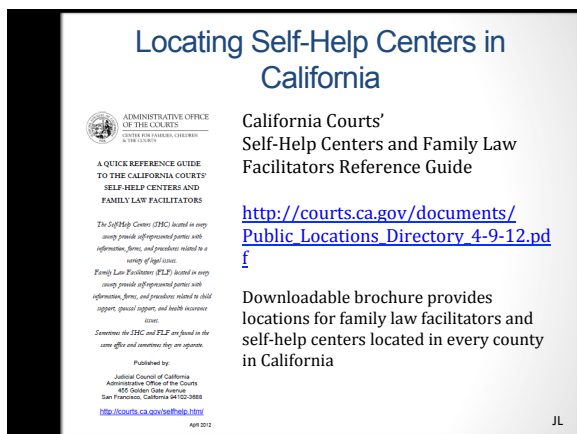
Seniors
 Elder Abuse
 In-De Home Supportive Services
 Medicare
 More issues >

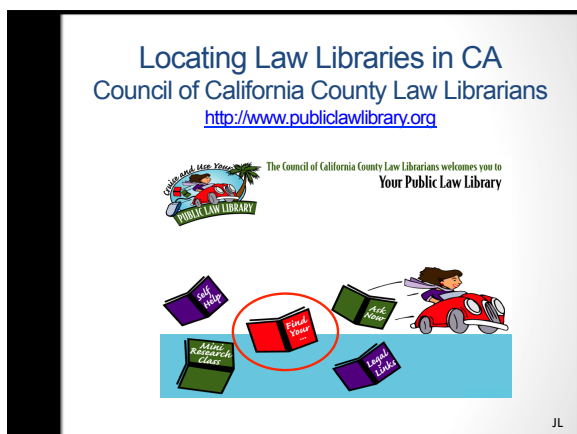
More Issues: Work, Individual & Civil Rights, Immigration, Life & Estate Planning, Native American Issues

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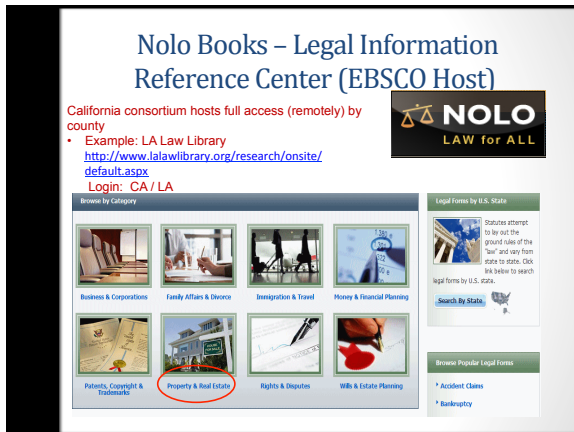


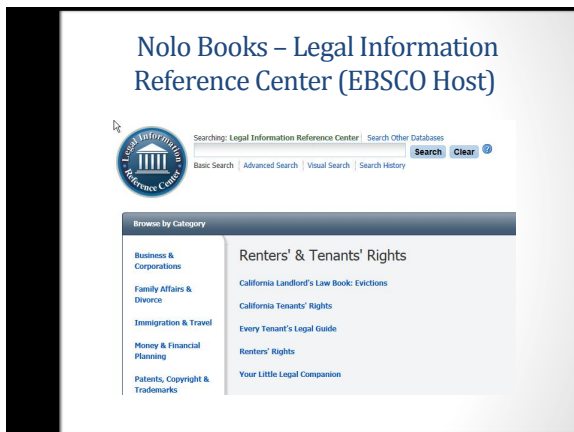




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Thank You!




Legal Aid
Foundation
Los Angeles

Janine Liebert
Librarian, Programs & Partnerships
LA Law Library
jliebert@lalawlibrary.org



LALAW LIBRARY

Ronnette Ramos
Managing Attorney
Legal Aid Foundation of Los Angeles
Ramos@lafia.org

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