



Law Office of  
Edgar Lopez APC

# Introduction

- CSUSB 15'
- California Western School of Law 19'
- I am an attorney in the inland empire.
- My practice areas include Civil Litigation, Personal Injury, and Estate Planning

\*The information presented in this presentation is not, and should not be considered, legal advice. It is advisable to consult with a lawyer for guidance pertaining to your individual situation.

# Types of Courts in California

- Superior Court of California, County of \_\_\_\_\_ (trial courts)
  - o Family Court
  - o Criminal Court
  - o Juvenile
  - o Probate
  - o Traffic
  - o Civil
- California Court of Appeals
- California Supreme Court
- U.S. District Court (federal court)

# Civil Court

Small Claims (CCP section 116.221)  
Limited Jurisdiction (CCP section 86)  
Unlimited Jurisdiction (CCP section 85)

# Causes of Action

## Landlord Tenant Disputes (Unlawful Detainer)

- LL- Eviction
- T- Breach of Quiet Enjoyment, Warranty of Habitability, Discrimination

## Breach of Contract

- Oral v. written contracts (CACI 302)
- Implied in fact (CACI 305)

## Negligence (CACI 400)

- Public Entity (Gov. Code section 815.6)
- Strict Liability (CACI 460)
- Medical Negligence (CACI 500)

## Fraud

- Intentional Misrepresentation (CACI 1900)
- Concealment (CACI 1901)
- Negligent Misrepresentation (CACI 1902)

1 Any Attorney or Party  
2 Any Street  
3 Any Town, CA 55555  
4 714-555-5555  
5 Any Attorney or Party

6  
7  
8 **Superior Court of the State of California**  
9 **For the County of \_\_\_\_\_**

10  
11 Any Plaintiff, ) Case No.  
12 Plaintiff, )  
13 vs. ) **COMPLAINT FOR:**  
14 \_\_\_\_\_ and DOES 1 ) **1. BREACH OF CONTRACT**  
15 through 100, inclusive ) **2. SPECIFIC PERFORMANCE**  
16 Defendants. ) **3. CLAIM AND DELIVERY**  
17 \_\_\_\_\_ )

18  
19 Plaintiff, \_\_\_\_\_ hereby files a Complaint and alleges as follows:

20  
21 **ALLEGATIONS COMMON TO AND INCLUDED IN**  
22 **ALL CAUSES OF ACTION**

23 1. Plaintiffs, \_\_\_\_\_, and \_\_\_\_\_, ("Plaintiff" or "Plaintiffs") are now, and at all  
24 relevant times mentioned herein were, individuals, residing and working in the County of  
25 \_\_\_\_\_, State of California.

26 2. Plaintiff is informed and believes, and thereon alleges, that defendant  
27 \_\_\_\_\_ ("\_\_\_\_") is now, and at all relevant times  
28 \_\_\_\_\_

# Affirmative Defenses

## Landlord Tenant Disputes (Unlawful Detainer)

- Breach of Implied Warranty of Habitability
- Violation of Civil Code section 1946.2

## Breach of Contract

- Mistake, Duress, undue influence, fraud, waiver, statute of limitations

## Negligence

- Comparative liability, assumption of risk, statute of limitations

## Fraud

- Statute of limitations, counterclaim, lack of intent)

## How do you know which court is proper? (SMJ)

- Where the Real Property is located (CCP section 392 (a))
- Where the defendants or some of them reside (CCP section 395(a))
- Where the injury occurred (CCP section 395(a))
- Where the Contract is made or is performed (CCP section 395.5.)

# Timeline

- Plaintiff files and serve (1-2 month)
- Response from Defendant (2-3 month)
- Discovery (generally cut off one month before trial)
  - Written Discovery
  - Depositions
  - Subpoenas
  - Experts
- Case Management Conference (5-10 month)
- Trial Setting Conference (8-12 month)
- Mediation (5-12 months)
- Trial (15-24 months)



## Plaintiff v. Defendant

### Plaintiff

- Default Judgment
- Motion for Summary Judgment (no triable issues as to entire complaint)
- Motion for Summary Adjudication (no triable issues as to a particular cause of action)
- Trial (matter of fact)

### Defendant

- Demurrer/ Motion to Strike (attack 4 corners of complaint)
- Voluntary Dismissal- Delay of Prosecution
- Involuntary Dismissal- other grounds
- Motion for Summary Judgment
- Motion for Summary Adjudication
- Trial

# Conclusion

- Litigation is costly
- Litigation is uncertain
- Litigation should be a last resort
- Avoid going to Court!
  
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