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WELCOME

Dear Client,

Thank you for choosing MT Evictions. Your business is appreciated, our goal is in helping you navigate through the nuances of an unlawful detainer process with the complexity of the state/local rules.

Our office has 16 years of experience and knowledge with the disadvantageous rent control rules, Section 8 tenancies, and REAP cases throughout various Southern California Counties. We strive to process evictions carefully and as efficiently as possible. Note, we are not in control of the California court system time-frame, especially with the recent court staff layoffs, court closures, and most recently the COVID-19 pandemic nuisances. This have created additional backlog of cases significantly affecting eviction timeframes. We are all frustrated with the delays and hope, in the near future, such delays are eliminated. Generally, “uncontested” cases take an average of 3 to 4 months from the time the tenant is personally served with the lawsuit. Some “contested” cases take 6 months or longer, to conclude, if the property is in LA County if jury demand is requested.

- The average time frame for 60% of the cases is approximately 3-4 months.
- 40% of the cases will take additional time due to delays created by tenants or their defense attorneys.
- Some rates may be slightly higher in some geographical areas.
- If case needs heavy litigation, additional fees will be required.
It is a common practice for Defendants, through their attorneys, to request jury trial. As this increases the fees and timeframes for an eviction considerably.
- A Jury Trial requires a separate contract, directly with jury trial attorney.

To best guide you through the eviction process, please read the attached frequently asked Questions & Answers, Jury Trial and Fee Service information attached.

It is our business to provide you with the best service available while conducting a strictly honest service.

Thank you,

Paulina Martignon
Lic.#: 175287



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Answers to Common Questions

The purpose of this document is to raise awareness of possible circumstances you can expect during the process of eviction. The following information is based on the average eviction case. Please be advised that each case varies depending on the nature of its details. Therefore, we cannot predict the specific outcome of your case.

MT Evictions staff are not attorneys and cannot provide you with legal advice. However, we maintain a relationship with specialized attorneys which allows us to provide you with the most efficient legal assistance. We consult with our legal team on a case-by-case basis.

Please refer to the following frequent Q&A. If your inquiries are not addressed herein, you may email them to MTevictions@gmail.com. Thank you in advance for your cooperation.

Q&A

1. **How does the Eviction process start?** The first and **most crucial step** which sets your case in the right direction is the **legal NOTICE**. These formal eviction notices range from 3, 10, 15, 30, 60, 90 or 120 days, depending on the type of tenancy/reason to evict. **These notices require strict compliance with mandatory legal disclosures. If your notice fails to include one of these legal requirements, your notice will be fatal to your case.**

2. **What happens after the Notice, expires?** If your tenant fails to comply with the formal eviction notice, it's time to initiate an **Unlawful Detainer lawsuit**, more commonly referred to as an "eviction". This is a process where we prepare a formal lawsuit on your behalf. It is then filed in court, and our registered process server serves the tenant legally. This is a significant step to protect your case. Like in any civil case, the person being sued has the right to contest/answer. In these types of cases, generally, the tenant has 10-18 business days to contest after being served.

3. **What happens if the tenant does not respond to the lawsuit?** If the tenant fails to respond to the lawsuit, our next step is to submit a request for a **Default Judgment**. The Default Judgment seals the case in your favor due to defendant's failure to respond to the lawsuit. Once the court approves this, we may hire the sheriff's department to execute the formal lockout, if necessary.

4. **What happens if the tenant responds to the lawsuit?** If your tenant responds to your lawsuit with a formal Answer, we will then **Request a Trial**. The trial usually takes place 3-4 weeks after the defendant's response. At this point, you may choose to appoint an attorney of your choice, or we can suggest a trusted attorney. As soon as your trial date is received, our office will schedule you an appointment to prepare you for trial.

5. Trial: few scenario possibilities:

a. TENANT IS A "NO SHOW": Attorney will proceed with Trial. Your case is presented before the judge with an absentee tenant. The attorney will ask questions; our office will provide you with sample questions. The attorney will request possession of your property, and money request.

b. TENANT IS PRESENT: It is expected by Judges for both parties to confer outside the courtroom, in an attempt to enter into a mutual agreement. This is known as a **STIPULATION**. This is a very common practice

in order to obtain a known and acceptable outcome. Time and money are negotiated. This negotiation/agreement is made in writing, and the judge makes the terms official.

c. AGREEMENT/SETTLEMENT CANNOT BE REACHED: Case will be heard before a judge. The Judge will then issue a verdict on the case

6. HOW DO I PREPARE FOR TRIAL? It is imperative that you gather the following documents:

- The original lease/rental agreement.
- Any and all letters/notices in regards to the tenancy/rental unit.
- Photos that will benefit your case, (clean unit, repairs, etc.).
- Receipts of improvements, repairs, fumigations done to the unit.
- Title, if there is an ownership issue.
- If this is an LLC, the Officer of the Corporation **MUST** be present.
- The person who served your tenant **MUST** be present in court for your case.

7. What if the tenant requests a Jury Trial? It is currently a common trend (delay tactic) for defense attorneys or tenants to request a Jury Trial. This is used as a delay tactic and as a negotiation angle. A Jury Trial can get extremely expensive, since preparation for these types of cases is extensive, involves selecting a panel of 12 juror's, preparing jury instructions, etc. This can cost you an average of \$9,500. We try to avoid Jury Trials vigorously by encouraging a Stipulation upon the tenant. With a Stipulation, both parties compromise, settle and reach a conclusion to prevent further legal expenses.

8. What happens if I win by Trial? We must wait for judgment to be entered with the court system. Once this is done, we may proceed file the Sheriff's request for lockout. This process can take up to 30-45 additional days, as it is a 4-step system.

9. DO I NEED THE SHERIFF FOR A LOCKOUT? Not necessarily. The need for a formal lock-out is eliminated if the tenant willingly hands over possession of the property by either 1) Turning over keys 2) Verbally notifying you of their vacancy 3) Surrendering possession of the premises in writing (text/email) or 4) Leaving the unit with open access. **What does a Sheriff do?** After processing your request, the Sheriff will serve tenants with a **5-day Notice to Vacate** the property. After the expiration of the 5-days, a **Lockout Appointment Date** will be issued.

10. CAN TENANTS CAUSE DELAYS? YES. Tenants have been known to file legal documents with the sole purpose of delaying the eviction process. The following procedures are just a few examples of methods that delay the Eviction process.

a. **A DEMURRER OR MOTION?** It is the tenant's formal objection to your Eviction lawsuit.

A Demurrer attacks the credibility of your suit by claiming that it is based on illegitimate grounds and that it requires remedy. Most of these objections are played out and downright frivolous. It is not difficult to challenge a Demurrer/Motions since the process is a delay tactic. A Demurrer/Motion is resolved by making a court appearance to objecting the motion in court. Once opposed, the tenant is instructed by the Judge not to file additional Demurrer's/Motions. It is imperative to show up to the Demurrer/Motion, since a Judge may grant the tenant's Demurrer/Motion if there is no appearance in court to object.

b. AN EX PARTE? This is an emergency hearing. It is a request for the court to hear a tenant's case with only 24-hour notice. This legal procedure usually occurs if a tenant is trying to avoid the sheriff's lockout. It is up to the discretion of the judge to approve these depending on the reason for filing. **The LA County court system, approves 95% of the defendants Ex-Parte request, regardless of the reason.**

c. A BANKRUPTCY/FEDERAL REMAND? It is not uncommon for tenants to declare bankruptcy during an eviction proceeding in order to “buy themselves” additional time. If this occurs, it delays the eviction process, as the tenant is granted an “Automatic Stay”, until a lift of this bankruptcy is obtained from the Federal Court. This process usually takes 45-days.

It is important to know that **none of these scenarios can stop your eviction.** However, they are done with the objective of creating a delay. The average Eviction can take 3 to 4 months to conclude, by filing bankruptcy, it delays it an average of 60 additional days.

JURY TRIALS

It is now a common trend for defense attorneys and tenants to request a TRIAL by JURY. The following information has been generated to help you better understand this process.

What is A Jury Trial?

A Jury Trial or a Trial by Jury is a legal proceeding in which a jury of 12 people has to be selected to determine the outcome of your case.

Does a Tenant have a right to request a Jury Trial?

Yes. It is every defendants/tenant right to request a Jury Trial instead of a traditional bench trial.

Why does a tenant request a Jury Trial?

This request is made to eliminate a bench trial, in which a judge makes all decisions. Defendants/Tenants have found that a jury can be more sympathetic than a judge since they can easily be influenced. It is also a way to raise costs for a plaintiff/landlord quickly, therefore, forcing a settlement beneficial to the defendant/tenant.

Can I avoid a Jury Trial?

No. Once the request for a Jury Trial has been requested; there is no way of avoiding it other than by settling the case with defendant/tenant.

How long does a Jury Trial Take?

A typical Jury Trial can take on week to complete. However, obtaining a court room for a Jury Trial can take up to 4 months as there is a lengthy waiting list.

How much does a Jury Trial cost?

Please note that a JURY TRIAL does require a separate contract, directly with an attorney. A typical Jury Trial can generally starts at \$9,500.00. Fees get collected once it has been realized that a settlement cannot be reached, and a Jury Trial will have to commence.

What can I expect in a Jury Trial?

The jury trial attorney will meet with you prior to in order to go over the documents, witness list, instructions and preparation for these procedure.