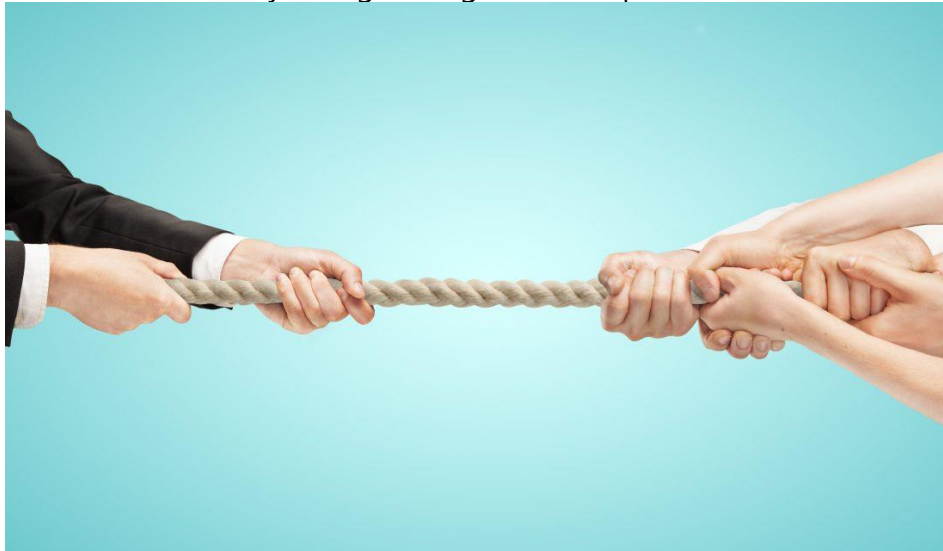


New rules for public access to unlawful detainer records

Posted by Giang Hoang-Burdette | Dec 5, 2016



Calif. Code of Civil Procedure §§1161.2, 1167.1

Amended and added by A.B.2819

Effective date: January 1, 2017

In an unlawful detainer (UD) action, the UD filing and case records are:

- public record if a residential landlord, after a trial, prevails on the UD action against all tenants party to the action within 60 days of the UD filing;
- public record if a non-residential landlord, after a trial, prevails on the UD action within 60 days of the UD filing;
- available by court order if the landlord prevails, after a trial, more than 60 days after the UD filing; and
- not public record if the tenant prevails or has the default judgment set aside.

A landlord now has 60 days from the UD action filing to file proof of service of a summons to a tenant in response to the UD action. A court may dismiss a UD action if the landlord fails to timely file the proof of service of summons to the tenant.

Editor's note — Currently, state law bars the release of information about a UD filing for a period of 60 days following the initial filing, called the masking window. When the law

establishing the masking window went into effect, lawmakers believed the 60-day period was a reasonable timeframe for resolving a UD action. If the tenant prevailed during the 60-day period, the UD action never made it into public record, and thus the UD did not appear on the tenant's rental history during tenant screening.

However, if resolution of the UD action drags beyond 60 days, regardless of the outcome, the UD filing is released as part of the tenant's rental history, available to tenant screening services. Tenants' rights groups believe this unfairly stigmatizes tenants who have UD actions filed against them, but who were never lawfully evicted.

This law attempts to strike a balance between landlords' rights to assess the risk of a tenant's default on a rental or lease agreement, and the tenants' rights to protect their rental history against unsuccessful or spurious eviction attempts.

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