

## UNLAWFUL DETAINER LITIGATION: PRETRIAL MATTERS

### A. PROCEDURAL OVERVIEW

1. [8:1] **Summary Nature of Unlawful Detainer Action:** An unlawful detainer action (CCP §1161 et seq.) affords landlords a speedy “summary eviction” remedy. Indeed, it is virtually the fastest civil trial proceeding.
  - a. [8:1.1] **Protections from COVID-19 evictions for failure to pay rent:** State and federal statutory provisions limit if and when residential tenancies may be terminated based on the tenant’s failure to pay rent during the COVID-19 pandemic.
    - (1) [8:1.2] **COVID-19 Tenant Relief Act:** The COVID-19 Tenant Relief Act (CCP §1179.01 et seq. (10/1/25 “sunset” date)) provides certain protections to residential tenants, including mobilehome tenants, being terminated for failure to pay rent due from March 1, 2020, through September 30, 2021.
      - (a) [8:1.3] **Protections from UD, default upon tenant’s proper delivery of COVID-19-related financial distress declaration within 15-day notice period:** With certain exceptions, where a tenant delivers a COVID-19-related financial distress declaration (§7:195.10) to the landlord by an approved method (CCP §1179.03; §7:195.12) within 15 days of service of a notice specified in CCP §1179.03(b) or (c) (§7:195.1 ff., 7:195.5 ff.), certain protections from UD or default apply, depending on whether rent was due during the “protected time period” (3/1/20 to 8/31/20) or the “transition time period” (9/1/20 to 9/30/21). [See CCP §1179.03(g)(1), (2); and detailed discussion at §7:195.20 ff.]
 

[8:1.4-1.9] *Reserved.*
      - (b) [8:1.10] **Limitation on UDs before 10/1/21:** The court may *not* find the tenant guilty of unlawful detainer *unless* (i) the tenant was guilty *before* March 1, 2020; (ii) the tenant failed to comply with CCP §1179.03 (see §7:195.10 ff.); or (iii) the termination arises because of an at-fault just cause, a no-fault just cause, with certain exceptions, or the property owner entered into a sales contract with a buyer who intends to occupy the property. [See CCP §1179.03.5; and detailed discussion at §7:195.30]
  - b. [8:2] **Shorter timeline to trial:** The normal pretrial time periods applicable in civil actions generally are often *narrower*

[8:2.1 — 8:5]

in UD actions. The unlawful detainer statutes prescribe shorter times for (i) filing a responsive pleading to the complaint, (ii) responding to motions to quash and motions for summary judgment, (iii) conducting discovery, (iv) noticing discovery motions, (v) court-ordered extensions of time, and (vi) setting the action for trial. [CCP §§1167, 1167.3-1167.5, 1170.5, 1170.7-1170.9, 2024.010, 2024.020, 2024.040, 2024.050, 2024.060, 2025.270, 2030.260, 2031.030, 2031.260, 2031.270, 2033.250]

- (1) [8:2.1] **Trial preference:** In fact, UD actions are given *precedence* (in trial setting and trial) over all other civil actions except those also granted special precedence by law. [CCP §1179a; *see* ¶9:26 *ff.*]
  - (2) [8:2.2] **“Delay reduction” case-processing standards:** Statewide “delay reduction” standards for limited civil cases provide that 90% of *general civil* actions should be “disposed of” within 12 months after filing (98% within 18 months, and 100% within 24 months; *see* CRC Standards of Jud. Admin., Standard 2.2(f)(2)). But the goal for *unlawful detainers* is 90% disposition within 30 days after filing and 100% within 45 days (CRC Standards of Jud. Admin., Standard 2.2(i)).
- c. [8:3] **Narrow scope of proceeding:** Apart from the shorter time-frames involved (¶8:2), unlawful detainer actions are necessarily expedited because of the limitations imposed on pleadings and issues that may be litigated:
- (1) [8:4] **Limitation on issues:** The only “triable” issue is the right to possession and incidental damages resulting from the unlawful detention (¶7:15, 8:86, 8:410). [*Martin-Bragg v. Moore* (2013) 219 CA4th 367, 385, 161 CR3d 471, 484 (citing text); *Larson v. City & County of San Francisco* (2011) 192 CA4th 1263, 1297, 123 CR3d 40, 68; *Lincoln Place Tenants Ass’n v. City of Los Angeles* (2007) 155 CA4th 425, 452, 66 CR3d 120, 139]
  - (a) [8:5] **Not title:** As a general rule, UD actions may not adjudicate questions of title. [*Martin-Bragg v. Moore* (2013) 219 CA4th 367, 385, 161 CR3d 471, 484—“denial of certain procedural rights enjoyed by litigants in ordinary actions is deemed necessary in order to prevent frustration of the summary proceedings by the introduction of delays and extraneous issues”; *Drybread v. Chipain Chiropractic Corp.* (2007) 151 CA4th 1063, 1072, 60 CR3d 580, 587; *High v. Cavanaugh* (1962) 205 CA2d 495, 498-499, 23 CR 121, 122-123]
- However, there are limited exceptions—i.e., where the landlord has commenced a concurrent quiet title action (*see* ¶8:359, 8:387); and in CCP §1161a UD’s (*see* ¶8:388).

- 1) [8:5.1] **Compare—consolidation of UD and related title actions:** Where landlord and tenant are litigating title in an independent civil action and an unlawful detainer is simultaneously pending between them, the trial court has power to order the two actions *consolidated*. Indeed, when resolution of the right to possession turns on the question of title, such consolidation may be a necessity. [*Martin-Bragg v. Moore* (2013) 219 CA4th 367, 385, 161 CR3d 471, 484 (citing text); see *Wilson v. Gentile* (1992) 8 CA4th 759, 761, 10 CR2d 713, 714—UD consolidated with tenant’s specific performance action to compel sale pursuant to option to purchase; see also ¶7:268 (alternatively, court may *stay* UD pending resolution of independent title action); and ¶8:409.1]
  
- (b) [8:6] **Damages:** Damages are awardable in a UD action only to the limited extent authorized by statute (CCP §§1166, 1174). [*Robert v. Redlich* (1952) 111 CA2d 566, 569, 244 P2d 933, 935]  
  
Specifically the damages sought must be directly related to the unlawful detention. [*Vasey v. California Dance Co.* (1977) 70 CA3d 742, 748, 139 CR 72, 75; see *Rossetto v. Barross* (2001) 90 CA4th Supp. 1, 6, 110 CR2d 255, 259—mortgage payments, property taxes and association dues recoverable in UD because they comprised part of defendant cotenant’s/co-owner’s rent]  
  
All other damages arising out of the tenancy are recoverable only through an independent civil action (*not* a summary proceeding). [*Green v. Mun.Ct. (Renfro)* (1975) 51 CA3d 446, 450, 124 CR 139, 141; *Hudec v. Robertson* (1989) 210 CA3d 1156, 1162-1163, 258 CR 868, 873]
  
- 1) [8:6.1] **No collateral estoppel bar to suit on independent damages claims:** An unlawful detainer judgment will *not* have collateral estoppel (issue preclusion) effect as to issues that *were not and could not have been litigated* in the unlawful detainer. Absent a comprehensive settlement of all disputes arising out of the tenancy (see ¶8:475 ff. re stipulated judgments), suit on the independent damages claims is thus not barred by the prior UD judgment. [See *Landeros v. Pankey* (1995) 39 CA4th 1167, 1173-1174, 46 CR2d 165, 169 (*discussed at* ¶8:475.1 ff.); *Duncan v. Kihagi* (2023) 96 CA5th 703, 711, 314 CR3d 644, 649—wrongful eviction judgment against landlords was not barred by tenant’s

surrender of possession of unit during UD actions, which focused solely on current possession; compare *Needelman v. DeWolf Realty Co., Inc.* (2015) 239 CA4th 750, 753-756, 758-760, 191 CR3d 673, 677-679, 681-682 (*discussed at* ¶8:475.3); *see also* ¶8:88]

*Cross-refer:* The res judicata and collateral estoppel effects of an unlawful detainer judgment are treated in detail at ¶9:409 ff.

- (2) [8:7] **Limitation on pleadings:** Affirmative defenses may be pleaded only to the extent they might defeat the landlord's right to possession. [See *Green v. Sup.Ct. (Sumski)* (1974) 10 C3d 616, 632-633, 111 CR 704, 715—warranty of habitability defense; *Schweiger v. Sup.Ct. (Bonds)* (1970) 3 C3d 507, 517, 90 CR 729, 735—retaliatory eviction defense; *Underwood v. Corsino* (2005) 133 CA4th 132, 135, 34 CR3d 542, 544—frustration of purpose defense; *Abstract Invest. Co. v. Hutchinson* (1962) 204 CA2d 242, 255, 22 CR 309, 317—racial discrimination defense; *Minelian v. Manzella* (1989) 215 CA3d 457, 463-464, 263 CR 597, 600—defense of excessive rent charged in violation of rent control ordinance; *see also Lincoln Place Tenants Ass'n v. City of Los Angeles* (2007) 155 CA4th 425, 452, 66 CR3d 120, 139-140—joinder of city and issue of city's enforcement of mitigation measures under CEQA beyond scope of unlawful detainer proceedings]

Indeed, the issues in unlawful detainer actions are so strictly limited that defendants *cannot file cross-complaints*. [*Union Oil Co. v. Chandler* (1970) 4 CA3d 716, 721, 84 CR 756, 760; *and see* ¶8:407 ff.]

- d. [8:8] **Compare—other (nonsummary) cause of action alternatives:** As explained in *Ch. 7*, some claims for possession and related relief can be litigated under other *nonsummary* causes of action—e.g., ejectment, quiet title or trespass (*see* ¶7:89 ff.). These independent civil actions may even be brought while an unlawful detainer is pending (Civ.C. §1952), allowing the parties to reach issues that cannot be adjudicated in the UD. However, since they are not handled on the summary UD calendar, they are likely to take far longer to resolve (although, the court has power to order consolidation with a simultaneously-pending UD; ¶8:5.1).

Likewise, an action commenced as a summary unlawful detainer may be “converted” to a general civil action (by amending the complaint) upon compliance with procedural prerequisites to preserve defendant's due process rights (e.g., giving defendant 30 days to file amended answer and cross-complaint). [See *Lynch & Freytag v. Cooper* (1990) 218 CA3d 603, 608-609,

267 CR 189, 192—UD converted to ordinary breach of contract action when P discovered fatal defect in three-day notice to pay or quit (conversion to general civil suit not limited to cases where possession no longer in issue); compare *Martin-Bragg v. Moore* (2013) 219 CA4th 367, 389-391, 161 CR3d 471, 487-489—trial court abused its discretion by denying request to consolidate UD and quiet title actions and thereby prejudiced party by forcing complex title issue to be litigated under UD summary procedures (see discussion at ¶7:268 ff.)]

e. **Insurance coverage issues**

- (1) [8:9] **Duty to defend UD under “personal injury” liability policy—tort vs. contract distinction:** Some tenants (especially business lessees) may have injury liability policies arguably requiring their insurers to defend and indemnify them in unlawful detainer proceedings. But most such policies only cover *tort* liability (here, a *tortious* interference with a real property interest). Thus, whether the insurer is obligated to defend depends on whether the UD is essentially founded upon tortious conduct or, instead, whether it “sounds in contract.” For this purpose, the gravamen of the facts giving rise to the right to recover possession must be examined. [*Fragomeno v. Insurance Co. of the West* (1989) 207 CA3d 822, 830-831, 255 CR 111, 116 (disapproved on other grounds by *Vandenberg v. Sup.Ct. (Centennial Ins. Co.)* (1999) 21 C4th 815, 841, 88 CR2d 366, 384, fn. 13); *Drybread v. Chipain Chiropractic Corp.* (2007) 151 CA4th 1063, 1075, 60 CR3d 580, 588; see *Mitchell Land & Improvement Co. v. Ristorante Ferrantelli, Inc.* (2007) 158 CA4th 479, 486, 70 CR3d 9, 15 (citing text)]
  - [8:9.1] If the unlawful detainer seeks to oust and collect damages from a *holdover* tenant (following expiration of a lease), it is essentially premised on *tortious* conduct, in that the holdover tenant is effectively trespassing; therefore, the insurer may have a duty to defend and indemnify. [*Fragomeno v. Insurance Co. of the West* (1989) 207 CA3d 822, 830-831, 255 CR 111, 116 (disapproved on other grounds by *Vandenberg v. Sup.Ct. (Centennial Ins. Co.)* (1999) 21 C4th 815, 841, 88 CR2d 366, 384, fn. 13)—“If the right to recovery is based upon a civil wrong such as possession of property by a . . . holdover tenant as a resulting trespasser, . . . the right to recover possession of the property by way of the summary and statutory procedure of unlawful detainer has its inception in tortious conduct”; see also *Drybread v. Chipain Chiropractic Corp.* (2007) 151 CA4th 1063, 1076-1077, 60 CR3d 580, 590—unlawful detainer based on “malicious” holdover possession after expiration of lease sounded in tort]

[8:9.2 — 8:10]

- [8:9.2] On the other hand, where the unlawful detainer emanates from *breach of the lease* during an *un-expired term* (nonpayment of rent, improper use of the premises, etc.), it is an action “sounding *in contract*” (not tort); and the insurer has *no duty* under a personal injury liability policy (or general liability policy with personal injury endorsement) to defend and indemnify the tenant in a UD action. [*Fragomeno v. Insurance Co. of the West* (1989) 207 CA3d 822, 830-831, 255 CR 111, 116-117 (disapproved on other grounds by *Vandenberg v. Sup.Ct. (Centennial Ins. Co.)* (1999) 21 C4th 815, 841, 88 CR2d 366, 384, fn. 13); see also *Home Indem. Co. v. Avol* (CD CA 1989) 706 F.Supp. 728, 732, aff’d (9th Cir. 1990) 912 F3d 469—suit for breach of warranty of habitability essentially a *contract* action and, thus, *landlord’s* insurer had no duty to defend and indemnify]

[8:9.3-9.4] *Reserved.*

- (2) [8:9.5] **Compare—duty to defend wrongful ejectment/ouster action:** Landlord comprehensive general liability (CGL) policies often contain a “personal injury” liability endorsement providing coverage for injury arising out of “wrongful entry or eviction, or other invasion of the right of private occupancy” committed in the conduct of the insured’s (landlord’s) business (or, alternatively, the CGL coverage is for personal injury arising out of “wrongful entry into, or eviction of a person, from a room, dwelling or premises that the person occupies . . .”). This coverage applies to tort claims arising out of the interference with an interest in real property and thus requires the insurer to defend against a tenant’s suit alleging *wrongful ejectment or ouster*. [*General Accident Ins. Co. v. West American Ins. Co.* (1996) 42 CA4th 95, 103-104, 105, 49 CR2d 603, 607, 608; see *Conway v. Northfield Ins. Co.* (2019) 399 F.Supp.3d 950, 964-965—insurer had duty to defend landlord under “personal or advertising injury” provision of CGL policy where tenant’s underlying action involved potential claims for partial constructive eviction, wrongful entry, and invasion of right of private occupancy due to nuisance of landlord’s contractors allegedly working during restaurant hours]

*Cross-refer:* For a comprehensive treatment of these issues and other related insurance coverage issues, see Croskey, Heeseman, Ehrlich, Klee & Kelley, *Cal. Prac. Guide: Insurance Litigation* (TRG), Ch. 7C.

2. [8:10] **Basic Eviction Steps:** These are the basic procedural steps to effect a lawful eviction by way of unlawful detainer:
  - Notice of termination (unless ground for eviction is expiration of a fixed-term tenancy) (*Ch. 7*).



- Filing and service of the unlawful detainer complaint.
  - (Optional) Service of “prejudgment claim of right to possession” form, attached to a copy of the UD summons and complaint, on unnamed occupants (CCP §415.46).
  - Defendant response (or default).
  - Request for trial setting.
  - Trial and judgment for possession.
  - Issuance of writ of possession.
  - Actual eviction pursuant to writ of possession.
- a. [8:11] **Time considerations:** As indicated, unlawful detainer actions are afforded statutory trial precedence (CCP §1179a) and are brought swiftly to trial. Generally, trial must be held no later than the 20th day after trial setting request; however, extensions are authorized upon agreement of the parties, or for other delays if a pretrial hearing is held (unlawful detainers involving commercial tenancies often *are* held beyond the 20th day because the parties typically engage in substantial pretrial discovery). [CCP §1170.5, ¶9:30 *ff.*]



[8:12] **PRACTICE POINTERS:** The actual timeline to trial after a request for trial setting varies in each jurisdiction (generally, the larger the court district, the longer the wait); but except in complex commercial cases and barring leave of court to continue discovery, there is ordinarily only a two to four week wait.

Counsel should become familiar with the particular time-frames where suit is filed. This knowledge is essential to competent pretrial preparation—including meaningful *settlement* negotiations. Landlords especially need to have a fix on the likely date for actual eviction in order to assess their costs and properly plan for rerenting the unit in question.

Tenant attorneys should keep in mind that their clients probably are unaware of the several-step procedure for eviction. These steps should be explained to their clients so that they can rationally decide how to respond to the eviction action.

- b. [8:13] **Unlawful detainer statutes control:** Procedures and proceedings in unlawful detainer had no counterpart at common law and are governed strictly by statute (CCP §1159 et seq., commonly known as the “Unlawful Detainer Act”). To the extent these statutes address unlawful detainer practice, they supersede other Code provisions regulating practice in civil actions generally. [*Schubert v. Lowe* (1924) 193 Cal. 291, 294-295, 223 P 550, 552; see *Palm Property Investments, LLC v. Yadegar* (2011) 194 CA4th 1419, 1424-1425, 123 CR3d

[8:13.1 — 8:14]

816, 820; *Drybread v. Chipain Chiropractic Corp.* (2007) 151 CA4th 1063, 1072, 60 CR3d 580, 586]

- (1) [8:13.1] **Strict adherence to statutory requirements:** Because of the summary character of unlawful detainer proceedings, the UD statutes are strictly interpreted and applied. Landlords who fail to follow the statutory prerequisites are likely to find their cases dismissed and may be deemed to have forfeited the preexisting right to evict. [*WDT-Winchester v. Nilsson* (1994) 27 CA4th 516, 520, 32 CR2d 511, 516; *Group XIII Properties LP v. Stockman* (2022) 85 CA5th Supp. 1, 15-16, 300 CR3d 913, 925-926—successor landlord precluded from serving 3-day notice to pay or quit for nonpayment of back rent for failure to strictly comply with Civ.C. §1962 requiring notice provide identification of property manager (*also discussed at* ¶2:123, 7:100.1); *Baugh v. Consumers Assocs., Ltd.* (1966) 241 CA2d 672, 674-675, 50 CR 822, 823-824 (superseded by statute on other grounds as stated in *WDT-Winchester v. Nilsson* (1994) 27 CA4th 516, 526, 32 CR2d 511, 516)]

- (2) [8:13.2] **Exception—eviction in bankruptcy:** A tenant in bankruptcy whose unexpired lease has been rejected (or deemed rejected) by the bankruptcy trustee (or debtor in possession) can be compelled to surrender the premises and evicted pursuant to bankruptcy court order under *federal bankruptcy law*. In this situation (at least in the Ninth Circuit), state unlawful detainer remedies and procedures are superseded. [*George v. County of San Luis Obispo* (2000) 78 CA4th 1048, 1051-1054, 93 CR2d 595, 598-600; *see* ¶7:1.2, 7:80.5 and 10:402 ff.]

[8:13.3-13.4] *Reserved.*

- c. [8:13.5] **COVID-19-related evictions under COVID-19 Tenant Relief Act:** Special practices and procedures apply to all residential unlawful detainers pursuant to the COVID-19 Tenant Relief Act (CCP §1179.01 et seq.) (10/1/25 “sunset” date). The Act extends protections from evictions for residential tenants for failure to pay rent due to the COVID-19 pandemic. *See detailed discussions at* ¶7:195 ff., 8:1.1 ff.
- d. [8:14] **Special concerns in rent control jurisdictions/under Tenant Protection Act of 2019:** Residential landlords in rent control jurisdictions or tenancies covered by the Tenant Protection Act of 2019 should commence unlawful detainers only if they believe the eviction is authorized by the applicable ordinance or the Act; and then only if they have strictly followed the applicable *statutory and ordinance* notice requirements. Unjustified eviction action in a rent control jurisdiction is particularly risky because it is likely to draw a “wrongful eviction” damages suit under state or local law (e.g., Civ.C. §1947.10 provides a *treble damages* remedy for fraudulent



“owner occupancy” evictions from rent controlled units; *see* ¶5:247 *ff.*, 5:379). [See, e.g., *Duncan v. Kihagi* (2021) 68 CA5th 519, 545-547, 284 CR3d 426, 445-447— S.F. unlawful eviction and tenant harassment ordinances allowing for trebling of “actual damages” includes emotional distress damages upon specified finding of landlord intent (affirming trial court’s reduction of damages to \$2.7 million to avoid excessiveness); *Kelly v. Yee* (1989) 213 CA3d 336, 342, 261 CR 568, 572—provision under S.F. ordinance for trebling “actual damages” in wrongful eviction cases is *mandatory* (*but see* ¶5:380.1 *ff.*); *Zimmerman v. Stotter* (1984) 160 CA3d 1067, 1078-1080, 207 CR 108, 115-117 (wrongful “owner occupancy” eviction where landlord failed to move in any family member); *and comprehensive discussion in Ch. 5*]

- (1) [8:14.1] **Special rent control provisions related to COVID-19 pandemic:** During the COVID-19 pandemic, local rent control jurisdictions have enacted ordinances extending special protections to tenants; e.g., declaring a moratorium on residential evictions for nonpayment of rent due to financial impacts related to the COVID-19 emergency, declaring a moratorium on rental increases, establishing rental assistance programs.

*Cross-refer:* For a list of COVID-19 information links on local rent control websites, *see* ¶5:1.6.

- (2) [8:14.2] **Caveat—limitations on local authority pursuant to COVID-19 Tenant Relief Act:** Pursuant to the COVID-19 Tenant Relief Act, any local authority enacted in response to the COVID-19 pandemic to protect tenants from eviction is subject to certain limitations. *See detailed discussion at* ¶5:1.7 *ff.*

3. [8:15] **Subject Matter Jurisdiction—Limited vs. Unlimited Civil Case Classification:** The amount in controversy determines whether an unlawful detainer should be filed as a superior court limited or unlimited civil case. [CCP §§85, 86, 88]

- a. [8:16] **No small claims court UD jurisdiction:** Small claims courts have *no* jurisdiction over unlawful detainer actions (regardless of the amount in controversy or the basis for terminating the tenancy). [Stats. 1992, Ch. 8, §1; cf. CCP §116.220]

- (1) [8:17] **Exception—small claims jurisdiction over COVID-19 rental debt disputes for actions commencing 11/1/21:** *See discussion at* ¶4:99.40 *ff.*

[8:18] *Reserved.*

- b. [8:19] **Limited civil case characterization—maximum \$35,000 in controversy:** An unlawful detainer action (as well as forcible entry and forcible detainer actions, ¶7:15 *ff.*) must be filed as a limited civil case where the total amount of damages claimed *does not exceed \$35,000*. [CCP §§85(a), 86(a)(4);

[8:19.1 — 8:22.1]

see *AP-Colton LLC v. Ohaeri* (2015) 240 CA4th 500, 504, 192 CR3d 754, 756]

Otherwise, the unlawful detainer is an unlimited civil case. [CCP §88]

*Cross-refer:* On the “damages” in controversy in an unlawful detainer (rent and certain other limited damages items), see ¶8:56 ff.

- (1) [8:19.1] **Jurisdiction not affected by attorney fees as costs allegations or awards:** Attorney fees awardable pursuant to statute, contract or “law” are treated as *costs of suit* and thus are *not considered* in determining the total amount of “damages claimed” for jurisdictional purposes (CCP §1033.5(a)(10), (c)(5)).

Therefore, a demand for attorney fees is *excluded* in calculating the \$35,000 limited civil case cut-off. Similarly, attorney fees exceeding \$35,000 may be awarded in a limited civil case. [*Stokus v. Marsh* (1990) 217 CA3d 647, 653-654, 266 CR 90, 93-94—\$75,000 fee award affirmed in hotly contested municipal court unlawful detainer]

[8:20] *Reserved.*

4. **Venue**

- a. [8:21] **“Proper” venue:** Unlawful detainers are “local” actions (i.e., concerning land) and, as such, require local adjudication. Therefore, venue is “proper” in (and the complaint should be filed in) the superior court of the county where the property is located. Where there are branch courts, the proper court location for an unlawful detainer is the one “nearest or most accessible” to the property (which may be specified by local court rule). [CCP §392(a)(1), (b); and see comprehensive treatment of venue in Weil & Brown et al., *Cal. Prac. Guide: Civ. Pro. Before Trial* (TRG), Ch. 3]

(Allegation of proper venue is an essential element of the complaint; see ¶8:38.)

- b. [8:22] **Venue transfer if action filed in “improper” court:** The local venue (and branch court) rule (¶8:21) is not jurisdictional. Hence, an unlawful detainer may proceed in an “improper” county (or, if there are branch courts, at an improper court location) unless defendant timely objects by motion to transfer to the “proper” court (or court location). [CCP §§396a(b), 396b; see ¶8:260 ff.]

➡ [8:22.1] **PRACTICE POINTER:** Since the local venue for an unlawful detainer will also be the county of defendant’s residence, UD defendants rarely (if ever) pass up the opportunity to seek a transfer to the proper county. Moreover, though courts are empowered to