

CALIFORNIA LAW REVISION COMMISSION

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Time Limits for Discovery in an Unlawful Detainer Case

Request for Public Comment

The California Law Revision Commission seeks public comment on its proposal relating to time limits for discovery in an unlawful detainer case.

The statutory procedure for an unlawful detainer case is designed to provide an expeditious means for a landlord to recover possession of property when a tenant wrongfully refuses to leave. Consistent with that goal, some provisions in the Civil Discovery Act set a special deadline, notice period, or other time limit for an unlawful detainer case. These time limits are substantially shorter than the corresponding time limits for other types of cases.

Typically, the language setting a special time limit for an unlawful detainer case is mixed with language setting the time limit for other types of cases. See Code Civ. Proc. §§ 2030.020, 2030.260, 2031.020, 2031.030, 2031.260, 2033.020, 2033.250. This drafting technique creates ambiguities. The Law Revision Commission recommends that these ambiguities be eliminated by amending each provision to separately state the unlawful detainer time limit.

The Commission also recommends amending a provision in which the special time limit for an unlawful detainer case is separately stated, but ambiguous in its application to a deposition that requires production of personal records pertaining to a consumer (Code Civ. Proc. § 2025.270). The proposed amendment of this provision would also clarify how the provision applies when employment records of an employee are subpoenaed. Similar clarifications would be made in a few other discovery provisions.

The Commission further recommends that each special time limit for discovery in an unlawful detainer case be revised to expressly apply to other types of summary proceedings for possession of real property.

Finally, the Commission recommends enactment of a new provision, which would establish a shortened five day notice requirement for a discovery motion in a summary proceeding for possession of real property.

The tentative recommendation is available from the California Law Revision Commission, 4000 Middlefield Road, Room D-1, Palo Alto, CA 94303-4739. The tentative recommendation is also available on the Commission's website (www.clrc.ca.gov) through the pull-down "Reports" menu.

The Commission often substantially revises its recommendations in response to public comment. To receive timely consideration, comments should be submitted to the Commission by **September 30, 2006**.

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