

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

PERCY CHEUNG, an individual and dba SMART CHOICE REALTY;
a business organization, form unknown; and DOES 1 through 20,
inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

THE PEOPLE OF THE STATE OF CALIFORNIA, and
THE CITY OF OAKLAND, a municipal corporation,

551085

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
ALAMEDA COUNTY

2009 FEB 19 PM 4:04

CLERK OF THE SUPERIOR COURT
BY DOROTHY L. LEE, DEPUTY

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA
1225 Fallon Street, Oakland, California 94612

RECORDED - 436902

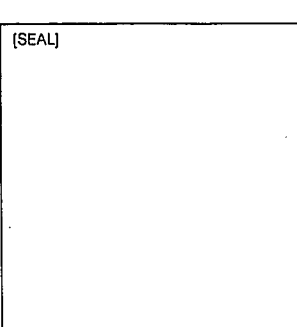
CASE NUMBER - 436902
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
JOHN A. RUSSO, City Attorney - State Bar No. 129729, One Frank H. Ogawa Plaza, 6th Floor, Oakland, CA
AMBER MACAULAY, Attorney - State Bar No. 253925 Telephone: (510) 238-7543 Fax: (510) 238-6500

DATE: FEB 19 2009 PAT S. SWEETEN Clerk, by DOROTHY L. LEE Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

FILED
CLERK OF SUPERIOR COURT
2009 FEB 19 PM 4:04

1 JOHN A. RUSSO, City Attorney - SB #129729
2 RANDOLPH W. HALL, Chief Assistant City Attorney - SB #080142
3 JAMES F. HODGKINS, Supervising Trial Attorney - SB #142561
4 SHEENA WADHAWAN, Attorney - SB #248335
5 DAVID HALL, Attorney - SB #250736
6 AMBER MACAULAY, Attorney - SB #253925
7 One Frank H. Ogawa Plaza, 6th Floor
8 Oakland, California 94612
9 Telephone: (510) 238-7543 Fax: (510) 238-6500
10 541433

11 Attorneys for Plaintiff, The People of the
12 State of California and Plaintiff and
13 Real Party in Interest, The City of Oakland

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF ALAMEDA
16 (UNLIMITED JURISDICTION)

17 THE PEOPLE OF THE STATE OF
18 CALIFORNIA,
19 Plaintiff, and
20 THE CITY OF OAKLAND, a municipal
21 corporation,
22 Plaintiff and Real
23 Party in Interest,
24 v.
25 PERCY CHEUNG, an individual and dba
26 SMART CHOICE REALTY; a business
organization, form unknown; and DOES 1
through 20, inclusive,
Defendants.

Case No. *PG* 09 - 436902
COMPLAINT FOR VIOLATION OF
OAKLAND'S JUST CAUSE
ORDINANCE, INJUNCTIVE RELIEF,
AND OTHER EQUITABLE RELIEF

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7. Defendants PERCY CHEUNG and SMART CHOICE REALTY achieve sales of vacant foreclosed properties by violating Oakland's Just Cause Ordinance (Oakland Municipal Code Sections 8.22.300 through 8.22.390). Plaintiff is informed and believes and on that basis alleges that tenants are ousted from their homes by Defendants because a vacant home is more marketable and easier to sell. Defendants' violations of the ordinance, include but are not limited to: 1) initiating the eviction process without a specific just cause ground; 2) providing written eviction notices that do not state a just cause ground, 3) failing to advise tenants of the Just Cause Ordinance or the tenant's right to seek advice from the Oakland Rent Board; and 4) failing to file copies of eviction notices served on the tenant with the Oakland Rent Board.

8. Plaintiff is informed and believes, and based on such information and belief alleges that Defendants PERCY CHEUNG and SMART CHOICE REALTY have violated tenants' rights and the Just Cause Ordinance in the eviction process initiated at 2791 25th Avenue, Oakland, California.

9. Defendants PERCY CHEUNG and SMART CHOICE REALTY additionally employ scare tactics through misleading language contained in the standardized and illegal eviction notice that they serve on tenants. The notice advises tenants that if the tenant does not call within 24 hours, the locks will be changed and personal property may be disposed of; acts which are plainly prohibited by state law governing eviction procedure or predicated upon a lawful eviction proceeding being initiated. Such actions also violate Oakland's Just Cause Ordinance.

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1 FIRST CAUSE OF ACTION

2 (Against Defendants PERCY CHEUNG, SMART CHOICE REALTY,
3 and DOES 1 THROUGH 20 - Violation of Oakland's Just Cause
4 Ordinance [Oakland Municipal Code Sections 8.22.300-390])

5 10. Plaintiff incorporates by reference Paragraphs 1 through 9 as though
6 fully set forth herein.

7 11. The City of Oakland brings this action pursuant to Section 401(6) of
8 the Oakland City Charter, which authorizes the City Attorney to commence an action to
9 abate or remove a violation and restrain and enjoin any person from violating any
10 provisions of the Municipal Code, or other applicable laws, rules, and regulations. The
11 City Attorney is additionally empowered to enforce Oakland's Just Cause Ordinance
12 pursuant to Oakland Municipal Code Section 8.22.370.

13 12. Oakland's Just Cause Ordinance (Municipal Code Sections 8.22.300
14 through 8.22.390), provides multiple safeguards to tenant renters in the City of Oakland.
15 Protective elements of the ordinance include, *inter alia*, requirements that:

- 16 • a property owner must have just cause in order to evict (8.22.360(A));
- 17 • a written eviction notice must advise a tenant of the applicable just
18 cause ground, the Just Cause Ordinance and the tenant's right to
19 seek advice from the Oakland Rent Board (8.22.360(B)); and
- 20 • copies of eviction notices must be filed with the Oakland Rent Board
21 within 10 days of service on a tenant (8.22.360(B)).

22 13. Defendants PERCY CHEUNG and SMART CHOICE REALTY have
23 violated the Just Cause Ordinance at least as to the initiation of the eviction process at
24 2791 25th Avenue, Oakland, California. Plaintiff is informed and believes that Defendants
25 violated the Just Cause Ordinance at other, as yet unascertained, locations in Oakland as
26 well. These violations include, but are not limited to: 1) initiating the eviction process
without just cause; 2) providing written eviction notices that do not i) state a just cause

1 ground, ii) advise tenants of the Just Cause Ordinance or iii) advise tenants of their right
2 to seek advice from the Oakland Rent Board; and 3) failing to file copies of eviction
3 notices with the Oakland Rent Board within 10 days of service on the tenant.

4 14. Wherefore, Plaintiff seeks relief as hereinafter set forth.

5 **SECOND CAUSE OF ACTION**

6 **(Against Defendants PERCY CHEUNG, SMART CHOICE REALTY,**
7 **and DOES 1 THROUGH 20 – Injunctive Relief**
8 **[Temporary Restraining Order, Preliminary and Permanent Injunctions])**

9 15. Plaintiff incorporates by reference Paragraphs 1 through 14 as though
10 fully set forth herein.

11 16. Defendants' wrongful conduct, unless and until enjoined and
12 restrained by order of this court, will cause great and irreparable injury to Plaintiff. During
13 the pendency of the instant lawsuit, defendants' on-going violations of Oakland's Just
14 Cause Ordinance will cause harm to the City of Oakland through repeated and unchecked
15 violations of its municipal code. Tenants within the City of Oakland will also continue to be
16 subjected to Defendants' illegal "disposition procedures" during the pendency of litigation.

17 17. Plaintiff has no adequate remedy at law for the injuries currently being
18 suffered, and that are threatened. Pecuniary compensation will not afford adequate relief
19 from the unceasing violations of Oakland's municipal code and the resulting displacement
20 of tenants and their families from their lawful dwellings (Civ. Code § 3422(1)).

21 18. Wherefore, Plaintiff seeks relief as hereinafter set forth.

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PRAYER

WHEREFORE Plaintiff prays for judgment as follows:

1. That pursuant to Oakland Municipal Code §§ 8.22.370(C), and Civil Code § 1942.4, Defendants be ordered to pay Plaintiff's actual damages, costs and attorney's fees.

2. That pursuant to Oakland Municipal Code § 8.22.370(C), and the court's inherent equity powers, Defendants, and each of them, and their employees, agents, salesmen, representatives, successors, assigns and all other persons, corporations or other entities acting under, by, through or on behalf of said Defendants, or acting in concert or participation with or for them with actual or constructive notice of this injunction, be permanently enjoined from violating the provisions of Oakland's Just Cause Ordinance (Oakland Municipal Code §§ 8.22.300 – 8.22.390) including, but not limited to, the violations alleged in this complaint.

3. That pursuant to the court's inherent equity powers, Defendants, and each of them, be ordered to allow tenants evicted by Defendants' unlawful actions to be restored to their prior residence. Alternatively, if tenants have already found a new residence, or Defendants are unable to restore tenants to their prior residence, that Defendants, and each of them, be ordered to pay the moving expenses and costs of tenants.

4. That pursuant to the court's inherent equity powers, Defendants, and each of them, be ordered to reimburse tenants for any other expenses incurred as a result of Defendants' unlawful attempts to evict or evictions.

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5. That Plaintiff has such other and further relief as the nature of the case may require and the court deems appropriate and just.

DATED: February 19, 2009

JOHN A. RUSSO, City Attorney
RANDOLPH W. HALL, Chief Assistant City Attorney
JAMES F. HODGKINS, Supervising Trial Attorney
SHEENA WADHAWAN, Attorney
DAVID HALL, Attorney
AMBER MACAULAY, Attorney

By: *Amber Macaulay*
Attorneys for Plaintiff, The People of the State of California and Plaintiff and Real Party in Interest
The City of Oakland