

**SUMMONS
(CITACION JUDICIAL)**

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

MATTHEW MURPHY, an individual;
KELLER WILLIAMS REALTY - OAKLAND/PIEDMONT,
a business organization; 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,

551159

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

FILED
ALAMEDA COUNTY

2009 FEB 19 PM 3:56

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

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

CASE NUMBER:
(Número del Caso): 09 - 436901

DATE: FEB 19 2009
(Fecha)

PAT S. SWEETEN Clerk, by
(Secretario)

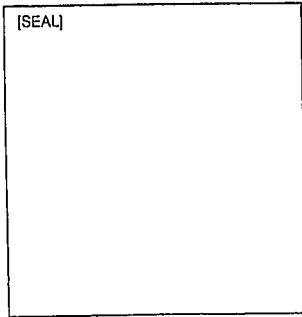
DOROTHY L. LEE, Deputy
(Adjunto)

(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: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
- by personal delivery on (date):



2009 FEB 19 PM 3: 55

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 543082

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 MATTHEW MURPHY, an individual;
26 KELLER WILLIAMS REALTY –
OAKLAND/PIEDMONT, a business
organization; and DOES 1 through 20,
inclusive,
Defendants.

Case No. *RC* 09 - 436901
COMPLAINT FOR VIOLATION OF
OAKLAND'S JUST CAUSE
ORDINANCE, INJUNCTIVE RELIEF,
AND OTHER EQUITABLE RELIEF

27 ///
28

1 The People of the State of California as Plaintiff and the City of Oakland, as
2 Plaintiff, and Real Party, hereinafter "Plaintiff" allege against Defendants MATTHEW
3 MURPHY, KELLER WILLIAMS REALTY – OAKLAND/PIEDMONT, and DOES 1
4 THROUGH 20, hereinafter "Defendants", and each of them, as follows:

5 1. Plaintiff, the City of Oakland, is a municipal corporation and a
6 chartered city, organized and existing under the laws of the State of California.

7 2. Defendant MATTHEW MURPHY is a licensed real estate broker with
8 a principal place of business in Oakland, California. He is licensed by the State of
9 California and currently does business in Oakland, California.

10 3. KELLER WILLIAMS REALTY is a real estate franchise company.
11 Each office is independently owned and operated. Defendant KELLER WILLIAMS
12 REALTY – OAKLAND/PIEDMONT has a principal place of business in Oakland, California
13 and currently does business in Oakland, California. Defendant MATTHEW MURPHY is
14 an agent of KELLER WILLIAMS REALTY – OAKLAND/PIEDMONT.

15 4. Venue is proper in Alameda County because the actions that give rise
16 to the allegations occurred at properties in Oakland, California, a city in Alameda County.

17 5. Defendants DOES 1 through 20 are sued as fictitious names, their
18 names and capacities being unknown to Plaintiff. When their true names and capacities
19 are ascertained, Plaintiff will amend this complaint.

20 6. Whenever reference is made to an act performed by Defendants
21 such allegations include the defendants, their agents, managers, representatives,
22 employees or DOES 1 through 20 who performed or authorized such acts while engaged
23 in the operation, management, direction or control of the defendants' affairs, and acting
24 within the scope of their duties.

25 ///
26

1 the Just Cause Ordinance.

2 11. Defendants MATTHEW MURPHY and KELLER WILLIAMS REALTY
3 – OAKLAND/PIEDMONT additionally employ scare tactics through misleading language
4 contained in the standardized and illegal eviction notice that they serve on tenants. The
5 notice advises tenants that if the tenant does not call within 48 hours, the bank will pursue
6 legal action to have the tenants evicted from the property and seek monetary damages for
7 the unlawful occupation of the property; acts which are plainly prohibited by state law
8 governing eviction procedure or predicated upon a lawful eviction proceeding being
9 initiated. Such actions also violate Oakland's Just Cause Ordinance.

10 **FIRST CAUSE OF ACTION**

11
12 **(Against Defendants MATTHEW MURPHY,
13 KELLER WILLIAMS REALTY - OAKLAND/PIEDMONT, and
14 DOES 1 THROUGH 20 - Violation of Oakland's Just Cause
Ordinance [Oakland Municipal Code Sections 8.22.300-390])**

15 12. Plaintiff incorporates by reference Paragraphs 1 through 11 as
16 though fully set forth herein.

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

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

- 25 • a property owner must have just cause in order to evict (8.22.360(A));
26

- a written eviction notice must advise a tenant of the applicable just cause ground, the Just Cause Ordinance and the tenant's right to seek advice from the Oakland Rent Board (8.22.360(B)); and
- copies of eviction notices must be filed with the Oakland Rent Board within 10 days of service on a tenant (8.22.360(B)).

15. Defendants MATTHEW MURPHY and KELLER WILLIAMS REALTY – OAKLAND/PIEDMONT have violated the Just Cause Ordinance at least as to the initiation of the eviction process at 9836-9840 Walnut Street, Oakland, CA. Plaintiff is informed and believes that Defendants violated the Just Cause Ordinance at other, as yet unascertained, locations in Oakland as 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 ground, ii) advise tenants of the Just Cause Ordinance or iii) advise tenants of their right to seek advice from the Oakland Rent Board; and 3) failing to file copies of eviction notices with the Oakland Rent Board within 10 days of service on the tenant. These actions by Defendants, and each of them, have continued despite being advised of the requirements of the Just Cause Ordinance.

16. Wherefore, Plaintiff seeks relief as hereinafter set forth.

SECOND CAUSE OF ACTION

**(Against Defendants MATTHEW MURPHY,
KELLER WILLIAMS REALTY – OAKLAND/PIEDMONT,
and DOES 1 THROUGH 20 – Injunctive Relief
[Temporary Restraining Order, Preliminary and Permanent Injunctions])**

17. Plaintiff incorporates by reference Paragraphs 1 through 16 as though fully set forth herein.

18. Defendants MATTHEW MURPHY, KELLER WILLIAMS REALTY – OAKLAND/PIEDMONT and DOES 1 through 20 and each of them, wrongfully and unlawfully force tenants out of their apartments/homes by use of misrepresentation and

1 corporations or other entities acting under, by, through or on behalf of said Defendants, or
2 acting in concert or participation with or for them with actual or constructive notice of this
3 injunction, be permanently enjoined from violating the provisions of Oakland's Just Cause
4 Ordinance (Oakland Municipal Code §§ 8.22.300 – 8.22.390) including, but not limited to,
5 the violations alleged in this complaint.

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

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

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

17 DATED: February 19, 2009

18 JOHN A. RUSSO, City Attorney
19 RANDOLPH W. HALL, Chief Assistant City Attorney
20 JAMES F. HODGKINS, Supervising Trial Attorney
21 SHEENA WADHAWAN, Attorney
22 DAVID HALL, Attorney
23 AMBER MACAULAY, Attorney

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