

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address):

Mike Drumheller, Mike Lunn  
5852 88th Street Ste. 700  
Sacramento, CA 95828

TELEPHONE NO:

916 276-5671

FOR COURT USE ONLY

FILED / ENCLOSED  
UNLAWFUL DETAINERS

08 SEPT 15 PM 4:26

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

P. CORREALE DEPUTY

ATTORNEY FOR (Name):

NAME OF COURT: Sacramento County Superior Court  
STREET ADDRESS: Unlawful Detainer Unit, Room 320  
MAILING ADDRESS: 301 Bicentennial Circle  
CITY AND ZIP CODE: Sacramento, CA 95825  
BRANCH NAME: Carol Miller Justice Center

PLAINTIFF: Mark J. Bixby, as Trustee of the Mark J. Bixby 1996 Rev. Lv Trust  
DEFENDANT: Mike Drumheller, Mike Lunn

CASE NUMBER:

08UD09090

**ANSWER—Unlawful Detainer**

1. Defendant (names):

Mike Drumheller, ~~Mike Lunn~~

answers the complaint as follows:

2. Check ONLY ONE of the next two boxes:

- a.  Defendant generally denies each statement of the complaint. (Do not check this box if the complaint demands more than \$1,000.
- b.  Defendant admits that all of the statements of the complaint are true EXCEPT  
(1) Defendant claims the following statements of the complaint are false (use paragraph numbers from the complaint or explain):

Continued on Attachment 2b (1).

- (2) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (use paragraph numbers from the complaint or explain):

Continued on Attachment 2b (2).

3. AFFIRMATIVE DEFENSES (NOTE: For each box checked, you must state brief facts to support it in the space provided at the top of page two (item 3j)).

- a.  (nonpayment of rent only) Plaintiff has breached the warranty to provide habitable premises.
- b.  (nonpayment of rent only) Defendant made needed repairs and properly deducted the cost from the rent, and plaintiff did not give proper credit.
- c.  (nonpayment of rent only) On (date): before the notice to pay or quit expired, defendant offered the rent due but plaintiff would not accept it.
- d.  Plaintiff waived, changed, or canceled the notice to quit.
- e.  Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant.
- f.  By serving defendant with the notice to quit or filing the complaint, plaintiff is arbitrarily discriminating against the defendant in violation of the Constitution or laws of the United States or California.
- g.  Plaintiff's demand for possession violates the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage):

(Also, briefly state the facts showing violation of the ordinance in item 3j.)

- h.  Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.
- i.  Other affirmative defenses are stated in item 3j.

PLAINTIFF (Name): Mark J. Bixby, as Trustee of the Mark J. Bixby 1996 Rev. Lv Tr

CASE NUMBER:

DEFENDANT (Name): Mike Drumheller, Mike Lunn

08UD09090

3. AFFIRMATIVE DEFENSES (cont'd)

j. Facts supporting affirmative defenses checked above (identify each item separately by its letter from page one):

- a. Non-operational air conditioning June, July, August.
- b. Fraudulent misrepresentation that facility had class A office addition fully permitted and improved by plaintiff in 2004.
- c. Negligence in providing a secure area.
- d. Passive cooperation with previous co-tenants.

(1)  All the facts are stated in Attachment 3j. (2)  Facts are continued in Attachment 3j.

4. OTHER STATEMENTS

- a.  Defendant vacated the premises on (date):
- b.  The fair rental value of the premises alleged in the complaint is excessive (explain):

c.  Other (specify):

Negligence: installing gas line per contract in a timely manner ( neglected to get a written proposal from PG&E. 2 Mo. delay

5. DEFENDANT REQUESTS

- a. that plaintiff take nothing requested in the complaint.
- b. costs incurred in this proceeding.
- c.  reasonable attorney fees.
- d.  that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.
- e.  Other (specify):  
Fairly compensates defendants for said delays, negligence, misrepresentations and fraud.

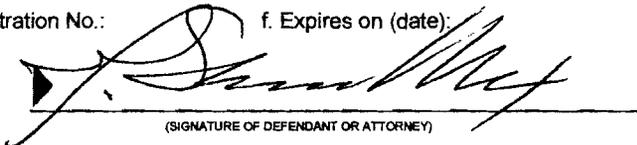
6.  Number of pages attached (specify):

UNLAWFUL DETAINER ASSISTANT (Business and Professions Code sections 6400- 6415)

7. (Must be completed in all cases) An unlawful detainer assistant  did not  did for compensation give advice or assistance with this form. (If defendant has received any help or advice for pay from an unlawful detainer assistant, state:

- a. Assistant's name:
- b. Telephone No.:
- c. Street address, city, and ZIP:
- d. County of registration:
- e. Registration No.:
- f. Expires on (date):

MIKE DRUMHELLER  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT OR ATTORNEY)

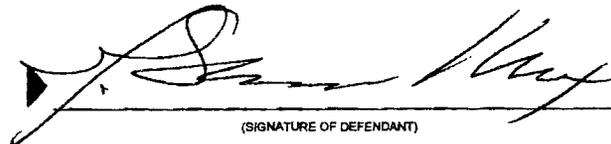
(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless his or her attorney signs.)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date:

Mike Drumheller 9/15/08  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF DEFENDANT)



Tape: 10000-11725  
 11771-16806  
 20000-20175  
 (916) 875-7746 20440-24928

Contested

Superior Court of California, County of Sacramento  
 Unlawful Detainer Division  
 301 Bicentennial Circle  
 Sacramento, CA 95826-2701

NO RTC

Case No.: 08UD09090

PLAINTIFFS

- 1- RADER RADER GOULART & GRAY - Attorney for Plaintiff  
 2617 K STREET SUITE 200  
 SACRAMENTO, CA 95816-5185  
 Phone: (916) 446-7577  
*Richard Gray*
- 2- BIXBY, MARK J.  
 C/O - MARK J. BIXBY 1996 REVOCABLE LIVING TRUS  
 2617 K STREET SUITE 200  
 SACRAMENTO, CA 95816-5185  
*Heidi Bixby*

DEFENDANTS

- 3- DRUMHELLER, MIKE  
 5852 88TH STREET SUITE 700  
 SACRAMENTO, CA 95828
- 4- LUNN, MICHAEL  
 5852 88TH STREET SUITE 700  
 SACRAMENTO, CA 95828

*Fw/ANS  
 9-15-08  
 Deft ent  
 10-3-08*

See attached sheet for additional plaintiffs and defendants.

DATE FILED	HEARING DAY	HEARING DATE	HEARING TIME	DEPARTMENT	CLERK	PARTIES PRESENT
08/27/2008	Thursday	10/16/2008	8:00 A.M.	88	L. Miller	1r2p3p4p

JUDICIAL WORKSHEET

*Laura Herda  
 Ct Reporter*

Defendant owes Plaintiff the sum of \$0.00, not including court costs. Reason: Failure to comply.

- Mediated agreement reached.
- Stipulated  judgment  order in favor of  plaintiff  defendant.  Ratification required.
- Case dismissed  with prejudice  without prejudice.
- Matter dropped from calendar  for non appearance  other: \_\_\_\_\_
- Case continued to: \_\_\_/\_\_\_/\_\_\_ at \_\_\_:\_\_\_ m in department \_\_\_ reason: \_\_\_\_\_

WITNESSES SWORN AND TESTIFIED	PLAINTIFF	DEFENDANT	EXHIBITS	IDENTIFIED	ADMITTED	RETURNED
<i>Heidi Bixby</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>1, 2</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Mark Bixby</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>3</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Michael Lunn</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<i>k</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Mike Drumheller</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<i>A, B (w/d) C, D, E, F, G (w/d)</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Cameron Herait</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>H (w/d) I, J, K</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Default Judgment entered as to: \_\_\_\_\_
- A statement of decision  was not requested  was requested.

Judgment in Favor of Plaintiff after Trial:

RECOVERABLE	ALL DEFENDANT	DEFENDANT 1	DEFENDANT 2	DEFENDANT 3	DEFENDANT 4
Principal		<i>15,247.28</i>			
Daily Rental Value	<i>160.33</i>	<i>160.33</i>			
Attorney's Fees	<i>R</i>	<i>R</i>			
Court Costs	<i>R</i>	<i>R</i>			
Total					

- Plaintiff is entitled to possession and a writ shall issue for the premises described as: 5852 88th Street Suite 700, Sacramento, CA 95828.
- Writ of Possession stayed to: \_\_\_/\_\_\_/\_\_\_ at \_\_\_:\_\_\_ m.  No further stays may be requested.
- Rental agreement is cancelled.  The lease is forfeited.
- Judgment applies to all occupants of the premises including tenants, subtenants, and named claimants.

Judgment in Favor of Defendant after Trial: \_\_\_\_\_

- Plaintiff is to receive nothing from defendant.
- Defendant is to recover costs \$ \_\_\_\_\_ and attorney fees \$ \_\_\_\_\_.
- Defendant is entitled to possession of the premises described as: 5852 88th Street Suite 700, Sacramento, CA 95828.

**Conditional Judgment.** Plaintiff breached the covenant to provide habitable premises to defendant.

Defendant must pay plaintiff a reduced rent:

MONTH	REDUCED RENT						

Defendant is entitled to attorney fees \$ \_\_\_\_\_ and costs \$ \_\_\_\_\_.

Defendant is the prevailing party if defendant pays plaintiff the amount of \$ \_\_\_\_\_ by \_\_\_\_:\_\_\_\_ m on \_\_\_\_/\_\_\_\_/\_\_\_\_ at \_\_\_\_\_.

Judgment will be entered for defendant when defendant has complied  by defendant's filing of a declaration under penalty of perjury, with proof of service on the plaintiff, OR  at a hearing that has been set in this court for \_\_\_\_/\_\_\_\_/\_\_\_\_ at \_\_\_\_:\_\_\_\_ m in department \_\_\_\_\_.

Defendant must continue to pay rent after expiration of the 3-day notice if the defendant continues in possession of the premises in the amount of \$ \_\_\_\_\_ per month. The total rent under the 3-day notice is \$ \_\_\_\_\_.

Plaintiff must repair the defects listed below. The court retains jurisdiction over the case until those repairs are made. Rent remains reduced in the amount of \$ \_\_\_\_\_ until the repairs are made.

1.	3.
2.	4.

Rent will increase to \$ \_\_\_\_\_ the day after  plaintiff files a declaration under penalty of perjury, with proof of service on the defendant, stating that all the repairs have been made  it is established that all the repairs have been made at a hearing set in this court for \_\_\_\_/\_\_\_\_/\_\_\_\_ at \_\_\_\_:\_\_\_\_ m in department \_\_\_\_\_.

Plaintiff is the prevailing party if defendant fails to comply with this Conditional Judgment.

Judgment will be entered for plaintiff in the amount of \$ \_\_\_\_\_  when plaintiff files a declaration under penalty of perjury, with proof of service on the defendant, that the amount set has not been paid, OR  at a hearing that has been set in this court for \_\_\_\_/\_\_\_\_/\_\_\_\_ at \_\_\_\_:\_\_\_\_ m in department \_\_\_\_\_.

Plaintiff is awarded possession of the premises described as: 5852 88th Street Suite 700, Sacramento, CA 95828.

Rental agreement is cancelled.  The lease is forfeited.

Other: See Attached document

Date: 10/17/08

Judicial Officer: \_\_\_\_\_

Russ Detrick  
Commissioner Russ Detrick, Temporary Judge

08UD09090

ATTACHMENT

Upon stipulation of the parties all exhibits will be released to the offering party and they will be retained by the court in Department 88 until October 31, 2008 for pick up by the offering party. Should the offering party not pick up their respective exhibits by October 31, 2008 the exhibits will be destroyed.