

SUMMONS
(CITACION JUDICIAL)
UNLAWFUL DETAINER—EVICTION
(RETENCIÓN ILÍCITA DE UN INMUEBLE—DESALOJO)

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

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

DAVI ANTHONY RODRIGUES dba BLACK MARKET, AYATOLLA OF GONDOLA and DOES 1 to 20

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

MARK BIXBY, as Trustee of the MARK BIXBY REVOCABLE LIVING TRUST Dated October 2, 1996

You have 5 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. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) 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 5 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. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). 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.

1. The name and address of the court is:
(El nombre y dirección de la corte es):
SACRAMENTO COUNTY SUPERIOR COURT
301 BICENTENNIAL CIRCLE
SAME
SACRAMENTO, CA 95826
CAROL MILLER JUSTICE CENTER

CASE NUMBER: **05UD05730**
(Número del Caso)

2. 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):
CHARLES A. TWEEDY, SBN 096234 (916) 631-8388
MOYER, PARSHALL & TWEEDY, LLP (916) 631-8188
11341 GOLD EXPRESS DRIVE
GOLD RIVER, CA 95670

3. (Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code, §§ 6400-6415) did not did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)

Date: **AUG - 8 2005**
(Fecha)

JODY PATEL

Clerk, by *[Signature]*, Deputy
(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)).

[SEAL]



4. NOTICE TO THE PERSON SERVED: You are served

- a. as an individual defendant.
- b. as the person sued under the fictitious name of (specify):
- c. as an occupant
- d. 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)
- CCP 415.46 (occupant) other (specify):

*Black Market
Ayatolla of Gondola*

5. by personal delivery on (date): **8-15-05**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, *State Bar number, and address*):
 CHARLES A. TWEEDY, SBN 096234
 CRYSTAL V. HODGSON, SBN 232838
 MOYER, PARSHALL & TWEEDY, LLP
 11341 GOLD EXPRESS DRIVE, SUITE 110
 GOLD RIVER, CA 95770
 TELEPHONE NO.: (916) 631-8388 FAX NO. (Optional): (916) 631-8188
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name): Plaintiff MARK BIXBY

FOR COURT USE ONLY
 05 AUG -8 PM 2:25
 B. WILLS
 DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO
 STREET ADDRESS: 301 BICENTENNIAL CIRCLE
 MAILING ADDRESS: SAME
 CITY AND ZIP CODE: SACRAMENTO, CA 95826
 BRANCH NAME: CAROL MILLER JUSTICE CENTER

PLAINTIFF: MARK BIXBY, as Trustee of the MARK BIXBY REVOCABLE LIVING TRUST Dated October 2, 1996
 DEFENDANT: DAVI ANTHONY RODRIGUES dba BLACK MARKET, AYATOLLA OF GONDOLA
 DOES 1 TO 20

COMPLAINT — UNLAWFUL DETAINER*
 COMPLAINT AMENDED COMPLAINT (Amendment Number):

CASE NUMBER: 05UD05730

Jurisdiction (check all that apply):
 ACTION IS A LIMITED CIVIL CASE
 Amount demanded does not exceed \$10,000
 exceeds \$10,000 but does not exceed \$25,000
 ACTION IS AN UNLIMITED CIVIL CASE (amount demanded exceeds \$25,000)
 ACTION IS RECLASSIFIED by this amended complaint or cross-complaint (check all that apply):
 from unlawful detainer to general unlimited civil (possession not in issue) from limited to unlimited
 from unlawful detainer to general limited civil (possession not in issue) from unlimited to limited

- PLAINTIFF (name each): MARK BIXBY, as Trustee of the MARK BIXBY REVOCABLE LIVING TRUST Dated October 2, 1996
 alleges causes of action against DEFENDANT (name each): DAVI ANTHONY RODRIGUES dba BLACK MARKET, AYATOLLA OF GONDOLA
- a. Plaintiff is (1) an individual over the age of 18 years. (4) a partnership.
 (2) a public agency. (5) a corporation.
 (3) other (specify): Trustee of Revocable Trust
 b. Plaintiff has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):
- Defendant named above is in possession of the premises located at (street address, apt. no., city, zip code, and county):
 5852 - 88th Street, Suite 400, Sacramento, CA 95828
- Plaintiff's interest in the premises is as owner other (specify):
- The true names and capacities of defendants sued as Does are unknown to plaintiff.
- a. On or about (date): August 9, 2004 defendant (name each): DAVI ANTHONY RODRIGUES dba BLACK MARKET, AYATOLLA OF GONDOLA
 (1) agreed to rent the premises as a month-to-month tenancy other tenancy (specify): 3 year term
 (2) agreed to pay rent of \$ 3,360.00 payable monthly other (specify frequency):
 (3) agreed to pay rent on the first of the month other day (specify):
 b. This written oral agreement was made with
 (1) plaintiff. (3) plaintiff's predecessor in interest.
 (2) plaintiff's agent. (4) other (specify):

*NOTE: Do not use this form for evictions after sale (Code Civ. Proc., § 1161a).

PLAINTIFF (Name): MARK BI... as Trustee of the MARK BI...
REVOCABLE LIVING TRUST Dated October 2, 1996
DEFENDANT (Name): DAVI ANTHONY RODRIGUES dba BLACK MARKET,
AYATOLLA OF GONDOLA

CASE NUMBER:

- 6. c. The defendants not named in item 6a are
 - (1) subtenants.
 - (2) assignees.
 - (3) other (specify): Occupants, persons in possession.
- d. The agreement was later changed as follows (specify):
Addendum No. 1 dated September 7, 2004, Addendum No. 2 dated September 7, 2004.
- e. A copy of the written agreement, including any addenda or attachments that form the basis of this complaint, is attached and labeled Exhibit 1. (Required for residential property, unless item 6f is checked. See Code Civ. Proc., § 1166.)
- f. (For residential property) A copy of the written agreement is not attached because (specify reason):
 - (1) the written agreement is not in the possession of the landlord or the landlord's employees or agents.
 - (2) this action is solely for nonpayment of rent (Code Civ. Proc., § 1161(2)).

7. a. Defendant (name each): DAVI ANTHONY RODRIGUES dba BLACK MARKET, AYATOLLA OF GONDOLA

was served the following notice on the same date and in the same manner:

- (1) 3-day notice to pay rent or quit
 - (2) 30-day notice to quit
 - (3) 60-day notice to quit
 - (4) 3-day notice to perform covenants or quit
 - (5) 3-day notice to quit
 - (6) Other (specify): 30 day notice to perform
- b. (1) On (date): August 6, 2005 the period stated in the notice expired at the end of the day. or quit
- (2) Defendants failed to comply with the requirements of the notice by that date.
- c. All facts stated in the notice are true.
- d. The notice included an election of forfeiture.
- e. A copy of the notice is attached and labeled Exhibit 2. (Required for residential property. See Code Civ. Proc., § 1166.)
- f. One or more defendants were served (1) with a different notice, (2) on a different date, or (3) in a different manner, as stated in Attachment 8c. (Check item 8c and attach a statement providing the information required by items 7a-e and 8 for each defendant.)

8. a. The notice in item 7a was served on the defendant named in item 7a as follows:

- (1) by personally handing a copy to defendant on (date):
- (2) by leaving a copy with (name or description):
a person of suitable age and discretion, on (date): _____ at defendant's
 residence business AND mailing a copy to defendant at defendant's place of residence on
(date): _____ because defendant cannot be found at defendant's residence or usual
place of business.
- (3) by posting a copy on the premises on (date): July 6, 2005 AND giving a copy to a person found
residing at the premises AND mailing a copy to defendant at the premises on
(date): July 6, 2005
 - (a) because defendant's residence and usual place of business cannot be ascertained OR
 - (b) because no person of suitable age or discretion can be found there.
- (4) (Not for 3-day notice; see Civil Code, § 1946 before using) by sending a copy by certified or registered mail
addressed to defendant on (date):
- (5) (Not for residential tenancies; see Civil Code, § 1953 before using) in the manner specified in a written
commercial lease between the parties.

b. (Name):

was served on behalf of all defendants who signed a joint written rental agreement.

c. Information about service of notice on the defendants alleged in item 7f is stated in Attachment 8c.

d. Proof of service of the notice in item 7a is attached and labeled Exhibit 3.

PLAINTIFF (Name): MARK BIXBY, as Trustee of the MARK BIXBY REVOCABLE LIVING TRUST Dated October 2, 1996
DEFENDANT (Name): DAVI ANTHONY RODRIGUES dba BLACK MARKET, AYATOLLA OF GONDOLA

CASE NUMBER:

- 9. Plaintiff demands possession from each defendant because of expiration of a fixed-term lease.
- 10. At the time the 3-day notice to pay rent or quit was served, the amount of rent due was \$
- 11. The fair rental value of the premises is \$ 112.00 per day.
- 12. Defendant's continued possession is malicious, and plaintiff is entitled to statutory damages under Code of Civil Procedure section 1174(b). (State specific facts supporting a claim up to \$600 in Attachment 12.)
- 13. A written agreement between the parties provides for attorney fees.
- 14. Defendant's tenancy is subject to the local rent control or eviction control ordinance of (city or county, title of ordinance, and date of passage):

Plaintiff has met all applicable requirements of the ordinances.

- 15. Other allegations are stated in Attachment 15.
- 16. Plaintiff accepts the jurisdictional limit, if any, of the court.

17. PLAINTIFF REQUESTS

- a. possession of the premises.
- b. costs incurred in this proceeding:
- c. past-due rent of \$
- d. reasonable attorney fees.
- e. forfeiture of the agreement.
- f. damages at the rate stated in item 11 from (date): August 5, 2005 for each day that defendants remain in possession through entry of judgment.
- g. statutory damages up to \$600 for the conduct alleged in item 12.
- h. other (specify):

18. Number of pages attached (specify): 23

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§ 6400-6415)

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

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

Date: August 05, 2005

CHARLES A. TWEEDY
(TYPE OR PRINT NAME)


(SIGNATURE OF PLAINTIFF OR ATTORNEY)

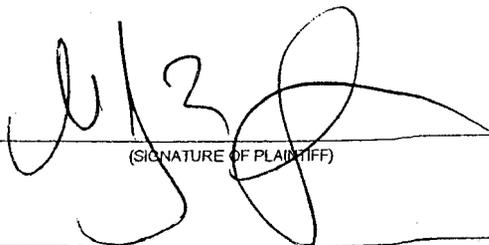
VERIFICATION

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

I am the plaintiff in this proceeding and have read this complaint. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 05, 2005

MARK BIXBY, Trustee
(TYPE OR PRINT NAME)


(SIGNATURE OF PLAINTIFF)

ATTACHMENT 15 TO COMPLAINT - UNLAWFUL DETAINER

Page 1

Attachment to Complaint

Tenant has violated the following covenants of the Lease Agreement and has failed to cure his breach of each covenant within the thirty (30) day notice period as required by the Lease Agreement, Section 10.02(c) and California CCP Section 1161.

1. Tenant has failed to comply with Addendum No. 2 to the Lease Agreement, Section 4.05 which states:

"Tenant knows Landlord still needs access to final restrooms and demising wall or other county required or Article Seventeen tenant improvements."

Tenant has violated this part of the Lease as he has refused to allow Landlord access to the premises in order to complete the said improvements as required by Addendum No. 2 of the Lease Agreement, Section 4.05.

2. Tenant has also failed to comply with Addendum No. 2 to the Lease Agreement, Section 4.05 which states in relevant part:

"Temporary parking of large delivery trucks in the project shall be permitted by the rules and regulations established by the landlord. Vehicles shall be parked only in striped parking spaces and not in driveways, loading areas or other locations not designated for parking. . ."

Tenant has violated this provision of the Lease as he has caused large trailers to be parked in the parking lot and within the surrounding areas of the building overnight and for long periods of time. Tenant has also violated this Section of the Lease as he has allowed garbage and debris to remain in the parking lot for long periods of time.

3. Tenant has also failed to comply with Section 5.02 of the Lease Agreement which states in relevant part:

"Tenant shall not cause or permit the Property to be used in any way which constitutes a violation of any law, ordinance, or governmental regulation or order, which annoys or interferes with the rights of tenants of the Project, or which constitutes a nuisance or waste. . ."

Tenant has violated Section 5.02 of the Lease Agreement by failing to obtain certificates of occupancy, as required by city laws, and Tenant has failed to obtain fire permits as required by local ordinances.

ATTACHMENT 15 TO COMPLAINT - UNLAWFUL DETAINER - Continued

Page 2

4. Tenant has also failed to comply with Section 5.03 of the Lease Agreement which states in relevant part:

"As used in this Lease, the term 'Hazardous Material' means any flammable items, explosives, radioactive materials, hazardous or toxic substances, material or waste or related materials, including any substances as defined as or included in the definition of 'hazardous substances,' 'hazardous wastes,' 'hazardous materials' or 'toxic substances. . .'. Tenant shall not cause or permit any Hazardous Material to be generated, produced, brought upon, used, stored, treated or disposed of in or about the Property by Tenant, its agents, employees, contractors, sublessees or invitees without the prior written consent of Landlord . . ."

Tenant has violated this section of the Lease Agreement by storing and/or using hazardous materials as defined by the Lease on the premises without Landlord's written consent to store or use the hazardous materials.

5. Tenant has failed to comply with Section 5.06 of the Lease Agreement which states in relevant part:

"Landlord or its agents may enter the Property at all reasonable times to show the Property to potential buyers, investors or tenants or other parties; to do any other act or to inspect and conduct tests in order to monitor Tenant's compliance with all applicable environmental laws and all laws governing the presence and use of Hazardous Material; or for any other purpose Landlord deems necessary. Landlord shall give Tenant prior notice of such entry, except in the case of an emergency. Landlord may place customary 'For Sale' or 'For Lease' signs on the Property."

Tenant has violated this section of the Lease Agreement as he has failed to allow Landlord access to the premises in order to complete tenant improvements listed in Article Seventeen of the Lease Agreement and County required construction project.

Pursuant to Section 10.2, Subsection C of the Lease Agreement, and California Code of Civil Procedure Section 1161, Landlord tendered to Tenant a thirty day notice to perform the aforesaid covenants or to deliver possession of the premises. Tenant has failed to cure the stated violations of the Lease Agreement within the thirty day notice period.