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Duty of Competence

Yahoo/Sent ☆

michael gasio

From: gasio77@yahoo.com

To: richardrosiak@yahoo.com, Robert Boyajian, Helder Pinheiro, Andrew Elkins

Mon, Feb 3 at 6:55 AM ☆

In California, when you pay an attorney for **complete eviction defense**, the expected services should include a full range of legal support to protect your rights as a tenant. The exact scope of services depends on the **retainer agreement**, but in general, a lawyer providing **full eviction defense** should perform the following services:

Minimum Legal Services Expected for a Complete Eviction Defense

- Initial Case Evaluation & Strategy Development**
 - Review all lease agreements, notices, court filings, and other relevant documents.
 - Assess whether the eviction is lawful and identify potential defenses.
 - Determine if there are any procedural defects in the landlord's case.
- Responding to the Eviction Lawsuit (Unlawful Detainer)**
 - File a **response** (Answer or Demurrer) within the deadline.
 - Raise legal defenses such as:
 - Failure to properly serve eviction notices**
 - Retaliatory eviction**
 - Breach of warranty of habitability (mold, repairs, etc.)**
 - Fraudulent lease agreements**
 - Discrimination violations**
 - Request **jury trial** if applicable.
- Pre-Trial Motions and Negotiations**
 - File **Motions to Dismiss** (if there are legal grounds).
 - Submit **Requests for Discovery** (to obtain evidence from the landlord).
 - Negotiate a **settlement agreement** if favorable.
 - Attend **mandatory settlement conferences or mediation** if scheduled.
- Court Representation**
 - Appear at **all hearings** (including pre-trial motions and trial).
 - Argue legal defenses before the judge.
 - Cross-examine the landlord and their witnesses.**
 - Present tenant's evidence, including photos, communications, and expert testimony.
 - Make closing arguments in defense of the tenant.
- Post-Trial Services**
 - If the case is lost, **file an appeal** (if there are legal grounds).
 - Request a **stay of execution** to delay eviction.
 - If a settlement was reached, ensure **enforcement** of the agreement.
 - If the case was dismissed, file a **motion to seal** the eviction record.

Legal Obligations of the Lawyer

- Duty of Competence:** Under **California Business and Professions Code § 6068** and **California Rules of Professional Conduct**, a lawyer must competently handle a case and not abandon a client at the last minute.
- Duty of Communication:** The lawyer must keep you informed and **not disappear before trial**.
- Duty of Diligence:** They must put in the necessary effort and skill to represent you adequately.

