

# **UNLAWFUL DETAINER MOTION TO CONTINUE THE TRIAL DATE**



## **Forms**

### **Self-Help Legal Access Centers**

**Santa Monica**  
1725 Main St.,  
Room 210  
Santa Monica, CA 90401

**Inglewood**  
1 East Regent St.,  
Room 107  
Inglewood, CA 90301

**Torrance**  
825 Maple Ave.,  
Room 160  
Torrance, CA 90503

**Long Beach**  
275 Magnolia Ave.,  
Room 3101  
Long Beach, CA 90802

**March 2019**

This guide is designed to help you fill out the forms yourself. It is not intended to provide legal advice nor strategy as to how to complete the case. The information provided in this packet only presents options and examples. This is not a substitute for professional legal advice from an attorney.

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Defendant in Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

\_\_\_\_\_  
Plaintiff,  
  
vs.  
  
\_\_\_\_\_  
Defendant.

Case No.: \_\_\_\_\_

**EX PARTE APPLICATION FOR ORDER  
SHORTENING TIME ON NOTICE OF  
MOTION AND MOTION TO CONTINUE  
THE TRIAL DATE; MEMORANDUM OF  
POINTS AND AUTHORITIES;  
DECLARATION OF DEFENDANT;  
[PROPOSED] ORDER**

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_

Defendant hereby move this court for the issuance of an ex parte order shortening time for service of notice of motion and motion for order continuing trial of the within unlawful detainer action pending the hearing on Defendant's motion to continue the trial.

This application is made on the grounds that good cause exists for shortening time for service of the attached motion in that trial is set for \_\_\_\_\_. Also, without the order, Defendant's motion will not be heard, and Defendant's ability to continue the trial date will be moot.

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//

1 This application is based upon the declarations and memorandum of points and authorities, Code  
2 of Civil Procedure Section 128(8), the inherent discretionary power of a court of general jurisdiction to  
3 grant a trial continuance in a proper case, and upon all papers on file in this action.

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1 POINTS AND AUTHORITIES

2 Courts of general jurisdiction have a statutory as well as inherent duty and power to control their  
3 own processes and orders so as to make them conform to justice, including the granting of a trial  
4 continuance in a proper case. Code of Civil Procedure Section 128(8) states: “(a) Every court shall have  
5 power; (8) to amend and control its process and order so as to make them conformable to law and  
6 justice.” See also, *California Cotton Credit Corporation v. Superior Court* (1932) 127 Cal. App. 472.

7 On a showing of good cause a court may grant ex parte leave to shorten the time required for  
8 service of notice of hearing on a motion. *Code of Civil Procedure Section 1005 (b)*.

9 The concept of good cause implies a factual showing that a reasonable ground exists for the  
10 requested order, i.e., a good reason for excusing performance of a duty imposed by statute. *Waters v.*  
11 *Superior Court* (1962) 58 Cal.2d 885, 893, 27 C.R. 153, 157.

12 As is disclosed by the attached declaration, good cause exists for the requested order in that trial is  
13 currently set for \_\_\_\_\_. If Defendant was forced to file this motion under the notice  
14 requirement per Code of Civil Procedure section 1005, then the motion would be rendered moot.

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**DECLARATION OF DEFENDANT**

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The undersigned alleges:

1. I am the named defendant in this Unlawful Detainer action.
2. I am unable to attend the trial due to the following reason(s):

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at \_\_\_\_\_, California on \_\_\_\_\_.

\_\_\_\_\_  
Defendant in Pro Per

1 **DECLARATION OF NOTICE TO PLAINTIFF**

2  
3 The undersigned declares as follows:

4 [ ] I telephoned the landlord's attorney, \_\_\_\_\_, at the following number  
5 \_\_\_\_\_, I called at \_\_\_\_\_ a.m./p.m. on the date of  
6 \_\_\_\_\_. I spoke to a person who said his/her name was  
7 \_\_\_\_\_. I informed him/her that Defendant would be going into court  
8 to seek an ex parte order shortening time on the notice of motion to continue the trial date in the case of  
9 \_\_\_\_\_, case number # \_\_\_\_\_, on  
10 \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in Department \_\_\_\_\_  
11 of the Los Angeles Superior Court, \_\_\_\_\_, \_\_\_\_\_, CA  
12 \_\_\_\_\_.

13 When I gave her ex-parte notice she/he said:

14 "\_\_\_\_\_."

15 [ ] I telephoned the landlord's attorney, \_\_\_\_\_, at the following number  
16 \_\_\_\_\_, I called at \_\_\_\_\_ a.m./p.m. on the date of  
17 \_\_\_\_\_. No one answered the phone and I left the following message on their  
18 voicemail:

19 "This is \_\_\_\_\_. I am giving ex parte notice in the case of  
20 \_\_\_\_\_, case # \_\_\_\_\_. The Defendant will go into  
21 court on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m. in Department  
22 # \_\_\_\_\_ of the Los Angeles Superior Court,  
23 \_\_\_\_\_, \_\_\_\_\_, CA \_\_\_\_\_. He/She  
will ask for an ex parte order shortening time on the notice of motion to continue  
the trial date. I can be reached at \_\_\_\_\_."

24 [ ] "A party seeking an ex parte order must notify all parties no later than 10:00 a.m. the court day  
25 before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time  
26 for notice." CAL. R. CT. 3.1203(a) (Deering 2009). Here, the notice was given before 10:00 a.m. the day  
27 before the ex parte appearance and therefore was valid notice under the California Rules of the Court.

1 [ ] "A party seeking an ex parte order in an unlawful detainer proceeding may provide shorter notice  
2 than required under (a) provided that the notice given is reasonable." CAL. R. CT. 3.1203(b) (Deering  
3 2009). The notice given here was reasonable because:

4 [ ] The notice was reasonable because it was not possible to have given notice any earlier than  
5 it was given because:

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13 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
14 true to the best of my knowledge. Executed on the date of  
15 \_\_\_\_\_, \_\_\_\_\_, California.

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18 Declarant



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Defendant in Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

\_\_\_\_\_

Plaintiff,

vs.

\_\_\_\_\_

Defendant.

Case No.: \_\_\_\_\_

**[PROPOSED] ORDER RE EX PARTE APPLICATION**

This matter came before the court on \_\_\_\_\_, on Defendant's Motion. Defendant appeared. Plaintiff's attorney appeared/did not appear.

Defendant's Ex Parte Application is \_\_\_ granted \_\_\_ denied.

Based upon the papers filed herein, and any argument before the court, it is hereby ordered as follows: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Plaintiff /Defendant to give notice.

\_\_\_\_\_ Notice is waived.

Date: \_\_\_\_\_

Judge/Commissioner of the Superior Court

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Defendant in Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

\_\_\_\_\_,  
  
Plaintiff,  
  
vs.  
  
\_\_\_\_\_,  
  
Defendant.

) Case No.: \_\_\_\_\_

) **NOTICE OF MOTION AND MOTION  
FOR ORDER CONTINUING TRIAL  
DATE; MEMORANDUM OF POINTS  
AND AUTHORITIES; DECLARATION  
OF DEFENDANT; [PROPOSED] ORDER**

) DATE:  
TIME:  
DEPT:

TO PLAINTIFF AND TO ITS ATTORNEY OF RECORD, IF ANY:

**PLEASE TAKE NOTICE** that on the above-scheduled date and time, or as soon thereafter as the matter may be heard in the above-entitled court, Defendant will and hereby does move this court for an order continuing trial of the within unlawful detainer action. This motion is made on the ground that good cause exists for granting said motion.

This motion is based upon the attached declaration and memorandum of points and authorities, upon Code of Civil Procedure Section 595.4, Code of Civil Procedure Section 128(8), the inherent discretionary power of a court of general jurisdiction to grant a trial continuance in a proper case, and

1 upon all papers on file in this action and all evidence, both oral and documentary, that shall be submitted  
2 at the hearing on this motion.

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Dated:

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Defendant in Pro Per

**DECLARATION OF DEFENDANT**

The undersigned alleges:

3. I am the named defendant in this Unlawful Detainer action.

4. I am unable to attend the trial due to the following reason(s):

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at \_\_\_\_\_, California on \_\_\_\_\_.

\_\_\_\_\_  
Defendant in Pro Per

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I. **THE COURT SHOULD GRANT THE MOTION TO CONTINUE THE TRIAL DATE AS**  
3 **GOOD CAUSE EXISTS**

4 California Rules of Court section 3.1332 states that a motion for continuance of a trial date may  
5 be granted upon an “affirmative showing of good cause.” Defendant requests that the trial date be  
6 continued to a date that is mutually agreeable by the parties based on the good cause contained in  
7 Defendant’s Declaration.

8  
9 **CONCLUSION**

10 Defendant respectfully requests that this court continue this trial.

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14 Dated:

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15 Defendant in Pro Per

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Defendant in Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

\_\_\_\_\_,  
  
Plaintiff,  
  
vs.  
  
\_\_\_\_\_,  
  
Defendant.

) Case No.: \_\_\_\_\_

**[PROPOSED] ORDER RE  
CONTINUANCE OF TRIAL DATE**

This matter came before the court on \_\_\_\_\_, on Defendant's Motion. Defendant appeared. Plaintiff appeared/did not appear.

Defendant's Motion is \_\_\_granted\_\_\_ \_\_\_denied\_\_\_.

Based upon the papers filed herein, and any argument before the court, it is hereby ordered as follows: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ Plaintiff /Defendant to give notice.

\_\_\_\_\_ Notice is waived.

Date: \_\_\_\_\_

Judge/Commissioner of the Superior Court