

UNLAWFUL DETAINER MOTION TO CONTINUE THE TRIAL DATE



How to Guide 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.

1 **PRINT YOUR NAME**

2 **PRINT YOUR ADDRESS**

3 **PRINT YOUR PHONE NUMBER**

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6 Defendant in Pro Per

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

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11 **PRINT THE PLAINTIFF'S NAME**

12 Plaintiff,

13
14 vs.

15
16 **PRINT NAMES OF ALL OF THE DEFENDANTS**

17 Defendant.

Case No.: **PRINT THE CASE NUMBER**

**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: **PRINT THE HEARING DATE**

Time: **PRINT THE TIME**

Dept.: **PRINT THE DEPARTMENT NUMBER**

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

24 This application is made on the grounds that good cause exists for shortening time for service of
25 the attached motion in that trial is set for **PRINT THE CURRENT TRIAL DATE**. Also, without the order,
26 Defendant's motion will not be heard, and Defendant's ability to continue the trial date will be moot.

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This application is based upon the declarations and memorandum of points and authorities, 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 upon all papers on file in this action.

Dated: **PRINT THE DATE**

SIGN YOUR NAME _____

Defendant in Pro Per

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 **PRINT THE CURRENT TRIAL DATE**. 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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17 Dated: **PRINT THE DATE**

SIGN YOUR NAME

Defendant in Pro Per

1 DECLARATION OF DEFENDANT

2
3 The undersigned alleges:

- 4 1. I am the named defendant in this Unlawful Detainer action.
5 2. I am unable to attend the trial due to the following reason(s):
6

7 **Write down all of the reasons why you cannot attend the**
8 **trial on the date it has been currently scheduled.**

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10 **If you have documents to establish your reason (e.g.**
11 **hospitalization, another court hearing/trial on the same**
12 **date, etc.) you should attach it to your declaration.**
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21 I declare under penalty of perjury under the laws of the State of California that the foregoing is
22 true and correct.

23 Executed at PRINT THE CITY WHERE YOU
SIGNED THIS DOCUMENT, California on PRINT THE DATE.

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26 SIGN YOUR NAME
27 Defendant in Pro Per
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1 Check this box if you spoke with the landlord or
2 landlord's attorney when you gave notice and fill
3 in the relevant information.

OF NOTICE TO PLAINTIFF

4 [] I telephoned the landlord's attorney, PRINT THE ATTORNEY'S
5 PRINT THE ATTORNEY'S OR OR LANDLORD'S NAME, at the following number
6 LANDLORD'S PHONE NUMBER. I called at PRINT THE TIME YOU CALLED a.m./p.m. on the date of
7 PRINT THE DATE YOUR CALLED. I spoke to a person who said his/her name was
8 PRINT THE NAME OF THE PERSON YOU SPOKE WITH. I informed him/her that Defendant would be going into court
9 to seek an ex parte order shortening time on the notice of motion to continue the trial date in the case of
10 PRINT THE CASE NAME, case number # PRINT THE CASE NUMBER, on
11 PRINT THE DATE YOU PLAN TO GO TO COURT, PRINT THE TIME OF YOUR HEARING, PRINT THE DEPARTMENT
12 of the Los Angeles Superior Court, PRINT THE ADDRESS OF THE COURT, CA
13 PRINT THE ZIP CODE OF THE COURT

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

14 " PRINT WHAT THE OTHER PERSON SAID TO YOU ON THE PHONE "

15 [] I telephoned the landlord's attorney, PRINT THE ATTORNEY'S
16 PRINT THE ATTORNEY'S OR OR LANDLORD'S NAME, at the following number
PRINT THE TIME YOU CALLED a.m./p.m. on the date of
PRINT THE DATE YOUR CALLED. No one answered the following message on their

Check this box if you left a message with the attorney or landlord

PRINT THE DATE AND TIME YOU PLAN TO GO TO COURT

22 "This is PRINT YOUR NAME, PRINT THE CASE NAME # PRINT THE CASE NUMBER, The Defendant will go into
23 court on, at a.m./p.m. in Department #PRINT THE DEPARTMENT of the Los Angeles Superior Court,
24 PRINT THE ADDRESS OF THE COURT, CA. He/She
25 will ask for an ex parte order shortening time on the notice of motion to continue
26 the trial date. I can be reached at PRINT YOUR PHONE NUMBER."

27 Check this box if you gave notice before 10 AM the day before you plan to go to court.

28 [] "A party seeking an ex parte order must notify all parties no later than 10:00 a.m. the court day
before the hearing. In the presence of exceptional circumstances that justify a shorter time
for notice (see California Rules of Court, Rule 9.109). Here, the notice was given before 10:00 a.m. the day
before the hearing. This notice was valid notice under the California Rules of the Court.

Check this box if you gave notice before 10 AM the day before you plan to go to 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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If you gave notice after 10 AM, write down all the reasons why you could not give notice before 10AM and explain why it was reasonable to give notice after 10AM.

I declare under penalty of perjury under the laws of the State of California that the foregoing is
true to the best of my knowledge. Executed on the date of
PRINT THE DATE PRINT THE CITY WHERE YOU SIGNED THIS DOCUMENT California.

SIGN YOUR NAME

Declarant

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PRINT YOUR NAME _____

PRINT YOUR ADDRESS _____

PRINT YOUR PHONE NUMBER _____

Defendant in Pro Per

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

PRINT THE PLAINTIFF'S NAME _____

Case No.: PRINT THE CASE NUMBER _____

Plaintiff,

vs.

[PROPOSED] ORDER RE EX PARTE APPLICATION

PRINT ALL OF THE DEFENDANTS' NAMES _____

Defendant.



appear

Defendant

LEAVE THIS AREA BLANK

ordered as

follows

____ Notice is waived.

Date: _____

Judge/Commissioner of the Superior Court

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PRINT YOUR NAME _____

PRINT YOUR ADDRESS _____

PRINT YOUR PHONE NUMBER _____

Defendant in Pro Per

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

PRINT THE PLAINTIFF'S NAME _____,

Plaintiff,

vs.

PRINT ALL OF THE DEFENDANTS' NAMES _____

Defendant.

Case No.: PRINT THE CASE NUMBER _____

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: **PRINT THE DATE**

SIGN YOUR NAME

Defendant in Pro Per

1 DECLARATION OF DEFENDANT

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3 The undersigned alleges:

- 4 3. I am the named defendant in this Unlawful Detainer action.
5 4. I am unable to attend the trial due to the following reason(s):
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7 **Write down all of the reasons why you cannot**
8 **attend the trial on the date it has been currently**
9 **scheduled.**

10 **If you have documents to establish your reason**
11 **(e.g. hospitalization, another court hearing/trial on**
12 **the same date, etc.) you should attach it to your**
13 **declaration.**
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21 I declare under penalty of perjury under the laws of the State of California that the foregoing is
22 true and correct.

23 Executed at PRINT THE CITY WHERE YOU
SIGNED THIS DOCUMENT, California on PRINT THE DATE.

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26 SIGN YOUR NAME
27 Defendant in Pro Per
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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.

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9 **CONCLUSION**

10 Defendant respectfully requests that this court continue this trial.

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14 Dated: **PRINT THE DATE**

SIGN YOUR NAME

Defendant in Pro Per

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PRINT YOUR NAME _____

PRINT YOUR ADDRESS _____

PRINT YOUR PHONE NUMBER _____

Defendant in Pro Per

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

PRINT THE PLAINTIFF'S NAMES _____,

Case No.: PRINT THE CASE NUMBER _____

Plaintiff,

vs.

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

PRINT ALL OF THE DEFENDANTS' NAMES _____

Defendant.

This _____ Defendant

appeared.

Def

Bas

follows: _____

_____ Pla

_____ No

Date: _____

Judge/Commissioner of the Superior Court

