

RETENCION ILICITA MOCION PARA CONTINUAR LA FECHA DEL JUICIO



GUIA

Centro de Ayuda de Acceso Legal

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

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1 East Regent St.,
Room 107
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825 Maple Ave.,
Room 160
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Long Beach
275 Magnolia Ave.,
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Long Beach, CA 90802

Esta guía esta diseñada para ayudarle a que usted mismo llene los formularios. La intención no es proporcionarle asesoría legal ni estrategias en cuanto a la forma de completar el caso. La información proporcionada en este paquete solo representa opciones y ejemplos. Esto no sustituye el consejo de un profesional legal o de un abogado.

1 ESCRIBA SU NOMBRE

2 ESCRIBE SU DOMICILIO

3 ESCRIBA SU NUMERO DE TELEFONO

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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 ESCRIBA EL NOMBRE DEL DEMANDANTE

12 Plaintiff,

13
14 vs.

15
16 ESCRIBA EL NOMBRE DEL DEMANDADO

17 Defendant.

Case No.: ESCRIBA EL NUMERO DEL CASO

**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: ESCRIBA LA FECHA DE LA AUDENCIA
Time: ESCRIBA LA HORA
Dept.: ESCRIBA EL DEPARTAMENTO

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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 ESCRIBA LA FECHA DE JUICIO ACTUAL 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: **ESCRIBA LA FECHA**

SU FIRMA

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 **ESCRIBA LA FECHA DE** JUICIO ACTUAL. 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: **ESCRIBA LA FECHA**

SU FIRMA

Defendant in Pro Per

1 DECLARATION OF DEFENDANT

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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 **Anote todas las razones por las cuales usted no puede**
8 **asistir al juicio en la fecha que se ha programado en la**
9 **actualidad.**

10 **Si tiene documentos para establecer su razón (por**
11 **ejemplo, la hospitalización, otra audiencia / juicio en la**
12 **misma fecha, etc.) se debe adjuntar a su declaración.**
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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 ESCRIBA LA CIUDAD DONDE
USTED FIRMO EL DOCUMENTO, California on ESCRIBA LA FECHA.

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26 SU FIRMA
27 Defendant in Pro Per
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Marque esta casilla si usted habló con el propietario o el abogado del propietario cuando usted dio aviso y complete la información relevante.

NOTICE TO PLAINTIFF

I telephoned the landlord's attorney, IMPRIMA EL NOMBRE DEL ABOGADO O DEL PROPIETARIO, at the following number ESCRIBA EL NÚMERO DE TELÉFONO DEL ABOGADO O DEL PROPIETARIO I called at ESCRIBA LA HORA QUE LLAMO a.m./p.m. on the date of ESCRIBA LA FECHA QUE LLAMO. I spoke to a person who said his/her name was ESCRIBA EL NOMBRE DE LA PERSONA CON QUIEN HABLO. I informed him/her that Defendant would be going into court to seek an ex parte order shortening time on the notice of motion to continue the trial date in the case of ESCRIBA EL NOMBRE DEL CASO, case number # ESCRIBA EL NUMERO DEL CASO on ESCRIBIR LA FECHA QUE PLANEA IR A LA CORTE at ESCRIBIR LA HORA DE LA AUDIENCIA a.m./p.m. in Department ESCRIBA EL DEPARTAMENTO of the Los Angeles Superior Court, ESCRIBA EL DOMICILIO DE LA CORTE, CA ESCRIBA EL CODIGO POSTAL DE LA CORTE

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

" ESCRIBA LO QUE LA OTRA PERSONA LE DIJO EN EL TELÉFONO "

I telephoned the landlord's attorney, PRINT THE ATTORNEY'S OR LANDLORD'S NAME, at the following number ESCRIBA EL NÚMERO DE TELÉFONO DEL ABOGADO O DEL PROPIETARIO I called at ESCRIBA LA HORA QUE LLAMO a.m./p.m. on the date of ESCRIBA LA FECHA DE SU LLAMADA. No one answered the following message on their

ESCRIBIR LA FECHA Y HORA QUE PLANEA IR A LA CORTE

Marque esta casilla si usted dejó un mensaje con el abogado o el propietario

"This is ESCRIBA SU NOMBRE giving ex-parte notice in the case of ESCRIBA EL NOMBRE DEL CASO # ESCRIBA EL NUMERO DEL CASO The Defendant will go into court on ESCRIBA EL NÚMERO DE TELÉFONO, at ESCRIBA LA HORA QUE LLAMO a.m./p.m. in Department ESCRIBA EL DEPARTAMENTO of the Los Angeles Superior Court, ESCRIBA EL DOMICILIO DE LA CORTE, CA ESCRIBA EL CODIGO POSTAL DE LA CORTE. 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 ESCRIBA SU NUMERO DE TELEFONO

Marque esta casilla si usted dio aviso antes de las 10 am del día antes de que usted va a ir a los tribunales.

"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 (09). 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.

Marque esta casilla si usted dio aviso antes de las 10 am del día antes de que usted va a ir a los tribunales. .

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:

6 _____
7 _____
8 **Si usted dio aviso después de las 10 de la mañana, anote todas las**
9 **razones por las que no se podía dar aviso antes de las 10AM y explicar**
10 **por qué era razonable para dar aviso después de las 10AM. .**
11 _____

12
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.
16 **ESCRIBA LA FECHA** **ESCRIBA LA CIUDAD DONDE USTED**
FIRMO ESTE DOCUMENTO

17 **SU FIRMA**
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19 Declarant
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ESCRIBA SU NOMBRE _____

ESCRIBA SU DOMICILIO _____

ESCRIBA SU NUMERO DE TELEFONO _____

Defendant in Pro Per

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

ESCRIBA EL NOMBRE DEL DEMANDANTE, _____

Case No.: ESCRIBA EL NUMERO DEL CASO

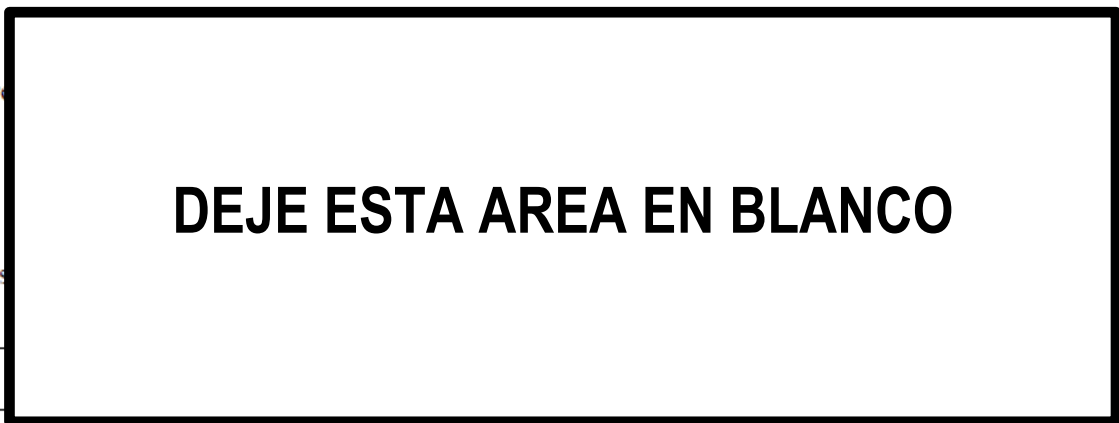
Plaintiff,

vs.

[PROPOSED] ORDER RE EX PARTE APPLICATION

ESCRIBA EL NOMBRE DEL DEMANDADO, _____

Defendant.



appear

Defendant

DEJE ESTA AREA EN BLANCO

ordered as

follows

_____ Notice is waived.

Date: _____

Judge/Commissioner of the Superior Court

1 ESCRIBA SU NOMBRE

2 ESCRIBA SU DOMICILIO

3 ESCRIBA SU NUMERO DEL TELEFONO

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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
10

11 ESCRIBA EL NOMBRE DEL DEMANDANTE

Case No.: ESCRIBA EL NUMERO DEL CASO

12
13 Plaintiff,

14 vs.

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

16 ESCRIBA EL NOMBRE DEL DEMANDADO

DATE:
TIME:
DEPT:

17
18 Defendant.
19 _____

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

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

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

SU FIRMA

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):
6

7 **Anote todas las razones por las cuales usted no**
8 **puede asistir al juicio en la fecha que se ha**
9 **programado en la actualidad.**

10 **Si tiene documentos para establecer su razón (por**
11 **ejemplo, la hospitalización, otra audiencia / juicio en**
12 **la misma fecha, etc.) que debe adjuntar a su**
13 **declaración.**
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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 ESCRIBA LA CIUDAD DONDE
USTED FIRMA ESTE DOCUMENTO, California on ESCRIBA LA FECHA.

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26 SU FIRMA

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.

8
9 **CONCLUSION**

10 Defendant respectfully requests that this court continue this trial.

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14 Dated: **ESCRIBA LA FECHA**

SU FIRMA

Defendant in Pro Per

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ESCRIBA SU NOMBRE _____

ESCRIBA SU DOMICILIO _____

ESCRIBA SU NUMERO DEL TELEFONO _____

Defendant in Pro Per

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

ESCRIBA EL NOMBRE DEL DEMANDANTE _____

Case No.: ESCRIBA EL NUMERO DEL CASO

Plaintiff,

vs.

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

ESCRIBA EL NOMBRE DEL DEMANDADO _____

Defendant.

This _____ Defendant

appeared.

Def

Bas

follows: _____

_____ Pla

_____ No

Date: _____

Judge/Commissioner of the Superior Court

