

UNLAWFUL DETAINER EX PARTE APPLICATION FOR STAY OF EXECUTION AND FOR ADDITIONAL TIME TO RELOCATE



Forms

Self-Help Legal Access Centers

Santa Monica

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Room 210
Santa Monica, CA 90401

Inglewood

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Room 107
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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 from an attorney.

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Defendant(s) in Pro Per

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

Plaintiff(s),
vs.

Defendant(s).

)
) Case No.: _____
)
) **EX PARTE APPLICATION FOR ORDER**
) **STAYING EXECUTION OF THE**
) **JUDGMENT AND GRANTING**
) **ADDITIONAL TIME TO RELOCATE;**
) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES AND DECLARATION IN**
) **SUPPORT THEREOF**
)
) **ASSIGNED JUDGE:** _____
) **DEPARTMENT:** _____
) **HEARING DATE:** _____
) **TIME:** _____
)
)

TO PLAINTIFF AND PLAINTIFF'S ATTORNEY, IF ANY:

Defendant(s), _____, requests an Order Staying Execution of the Judgment and Granting Additional Time to Relocate. The application is made on the ground that unless a stay is granted, Defendant(s) will suffer irreparable harm.

This application is based upon the declaration and memorandum of points and authorities attached hereto, and any oral argument.

Date: _____

Signed by: _____

Defendant(s) without Attorney

Print Name

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 A court of general jurisdiction has a statutory as well as an inherent duty and power to
3 control its own processes and orders so as to make them conform to justice, including the
4 granting a stay of execution. Code of Civil Procedure Section 128 states: “(a) Every court shall
5 have power:....(8) To amend and control its process and order so as to make them conform to
6 law and justice. CAL.CIV.PROC.CODE § 128(a) (Deering 2009). This was confirmed in
7 *Revolution Eyewear, Inc. v. Aspex Eyewear, Inc.* (2009) 2009 U.S. Dist. LEXIS 64749. The
8 court there stated that “The district court has the inherent power to control and manage its
9 docket, which includes the authority to order a stay pending the outcome of reexamination
10 proceedings.” *Id.* at 9.
11

12
13 Here, the court has authority to grant a short stay to prevent an injustice in that the
14 execution of the judgment by the sheriff will leave Defendant(s) homeless. Therefore, the stay
15 should be granted.
16

17
18 Date: _____

Signed by: _____
Defendant(s) without Attorney

Print Name

1 **DECLARATION OF DEFENDANT(S) IN SUPPORT OF EX PARTE APPLICATION**
2 **FOR STAY OF EXECUTION OF THE JUDGMENT**

3 I, _____, state and declare as follows:

- 4 1. I am the Defendant(s) in this action.
5 2. The statements in this declaration are true and if called as a witness in Court, I could and
6 would testify truthfully to them.
7 3. A Judgment against me was ordered by the Court on: ____/____/____
8 4. The Sheriff is scheduled to evict me on: ____/____/____
9 5. I am requesting that the court grant this application for a stay because I will suffer
10 irreparable harm without it. My hardship is: _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____

18 I declare under penalty of perjury under the laws of California that the foregoing is true
19 and correct to the best of my knowledge: Executed at _____, California on
20 _____/_____/_____
21 _____

22 _____
23 Defendant(s), Declarant

24 _____
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Defendant(s) in Pro Per

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

Plaintiff(s),
vs.

Defendant(s)(s).

)
) Case No.: _____

**DECLARATION OF NOTICE FOR
EX PARTE APPLICATION FOR ORDER
STAYING EXECUTION OF THE
JUDGMENT AND GRANTING
ADDITIONAL TIME TO RELOCATE**

) **ASSIGNED JUDGE:** _____
) **DEPARTMENT:** _____
) **HEARING DATE:** _____
) **TIME:** _____
)
)
)

I, _____, declare that I provided the following notice of the

Court hearing: "My name is: _____"

I am calling to give notice that I am going to the _____ Court on

_____/_____/_____ at _____ a.m./p.m. in Dept. #: _____ in the Los Angeles

Superior Court, located at _____, for an Ex Parte Application for an

Order Staying Execution of the Judgment and Granting Additional Time to Relocate in the Case

of _____ vs. _____,

Case #: _____

I can be reached at this phone #: _____."

1 A. I gave the notice mentioned above on this date and time: ___/___/___,

2 _____ a.m./p.m.

3 to: ___ the Plaintiff's attorney,

4 _____ a person at the Plaintiff's attorney's office, or

5 _____ the Plaintiff (the landlord without an attorney)

6 That person's name and phone number are: _____

7 _____

8 When I gave the notice, he/she said _____

9 B. I gave the notice mentioned above by leaving a message on voicemail on this date

10 and time: ___/___/___, ___ a.m./p.m. because no one answered the phone. The person I

11 called is: ___ Plaintiff's attorney or _____ the Plaintiff (the landlord without an attorney)

12 named: _____ at phone #: _____

13 C. I gave the notice by 10:00 a.m. at least one court day before the hearing date for the

14 stay as required by CAL.R.CT.3.1203(a)

15 D. This is an eviction case and I gave notice after 10:00 a.m. on the court day before the

16 hearing date for the stay as allowed by CAL.R.CT. 3.1203(b) if the notice is reasonable.

17 The notice given here was reasonable because:

18 I have seen the Sheriff's Notice to Vacate and I will be locked out on _____

19 I could not give the notice any earlier because: _____

20 _____

21 Other: _____

22 I could not give the notice any earlier because: _____

23 _____

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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 to the best of my knowledge. Executed on ___/___/___ at _____, California.

Defendant(s), Declarant

Print Name

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Defendant(s) in Pro Per

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

)
) Case No.: _____

vs. Plaintiff(s)

) **(PROPOSED) ORDER ON EX PARTE
) APPLICATION FOR ORDER STAYING
) EXECUTION OF THE JUDGMENT AND
) GRANTING ADDITIONAL TIME TO
) RELOCATE**

Defendant(s)

) **ASSIGNED JUDGE:** _____
) **DEPARTMENT:** _____
) **HEARING DATE:** _____
) **TIME:** _____

After consideration of Defendant(s)'s Ex Parte Application, all other pleadings and papers, any oral argument in this case, and upon good cause appearing, the Court orders:

Defendant(s)'s Ex Parte Application for Order Staying Execution of the Judgment and Granting Additional Time to Relocate is granted.

The judgment is stayed up to and including the following date: ___/___/___

Other: _____

It is so Ordered.

Date: _____

JUDGE OF THE SUPERIOR COURT