

Samples

These samples are specifically for the Motion for Injunction. See [Filing a Complaint to Start a Civil Case](https://saclaw.org/resource_library/filing-a-complaint-to-start-a-civil-lawsuit-in-california/) (https://saclaw.org/resource_library/filing-a-complaint-to-start-a-civil-lawsuit-in-california/) for information about summons and complaint.

Motion for Preliminary Injunction

<p>1 Patricia Plaintiff 2 4679 Oak Drive 3 Sacramento, CA 95814 4 916-555-9975</p> <p>5 Patricia Plaintiff 6 Plaintiff in Pro Per</p> <p>7</p> <p>8</p> <p>9 SUPERIOR COURT OF THE STATE OF CALIFORNIA</p> <p>10 FOR THE COUNTY OF SACRAMENTO</p> <p>11</p> <p>12</p> <p>13 PATRICIA PLAINTIFF,</p> <p>14 Plaintiff,</p> <p>15 vs.</p> <p>16 DAVID DEFENDANT; STATE OF CALIFORNIA DEPARTMENT OF MOTOR VEHICLES, STEVEN GORDON IN HIS/HER CAPACITY OF DIRECTOR OF DMV ONLY, and DOES 1-25,</p> <p>17 Defendants</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 To defendants David Defendant, Steven Gordon ("DMV DIRECTOR"), and State of California</p> <p>25 Department of Motor Vehicles ("DMV"), and to their attorney(s) of record:</p> <p>26 NOTICE IS HEREBY GIVEN that on August 1, 2016, at 9:00 a.m., or as soon thereafter as the</p> <p>27 matter may be heard, in Department 54 of this court, located at 813 6th Street, Sacramento,</p> <p>28</p> <p style="text-align: center;">- 1 -</p> <p style="text-align: center;">MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA PLAINTIFF, AND MEMORANDUM OF POINTS AND AUTHORITIES</p>	<div style="border: 2px solid red; padding: 5px; margin-bottom: 10px;"> <p>IMPORTANT: RED boxes and text are instructions, and are not part of your completed document. Erase them before finalizing.</p> <p>Text that appears in BLUE is text you will change to fit your case. When you print your document, be sure to use BLACK ink for your text. THE COURT WILL REJECT YOUR DOCUMENTS IF THEY HAVE BLUE TYPE!</p> </div> <p>Case No.: _____</p> <div style="border: 2px solid red; padding: 5px; margin-bottom: 10px;"> <p>You will receive a case number when you file your complaint (Step 4).</p> </div> <p>NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION; DECLARATION OF PATRICIA PLAINTIFF; AND MEMORANDUM OF POINTS AND AUTHORITIES</p> <p>Cal. Code of Civ. Proc. 526(a)</p> <p>Date: Aug 1, 2016 Time: 9:00 am Location: Dept. 54 Judge: Hon. Jeri Judge Date Action Filed: June 24, 2016</p> <p>Trial Date: Not Yet Set</p>
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Motion for Preliminary Injunction (page 1)



1 **PATRICIA PLAINTIFF** will, and hereby does, move for a preliminary injunction enjoining
 2 defendants DMV DIRECTOR and DMV, and any of their agents, servants, and employees, from
 3 transferring any right, title, or interest in or to the Vehicle during the pendency of this action. The
 4 motion will be made on the grounds that the plaintiff is entitled to the relief demanded, which
 5 consists of restraining the commission of the act complained of for a limited period; that the
 6 commission of the act during the litigation would produce waste, or great or irreparable injury, to the
 7 Plaintiff; that the act would violate the Plaintiff's rights, and would tend to render the judgment
 8 ineffectual; and that the restraint is necessary to prevent a multiplicity of judicial proceedings.(Cal.
 9 Code of Civil Procedure (CCP) 526(a)).
 10

11 The motion will be based on this notice of motion, on the declaration(s) of **PATRICIA**
 12 **PLAINTIFF**, and the supporting memorandum served and filed herewith, on the records and file
 13 herein, and on such evidence as may be presented at the hearing of the motion.
 14

15 Pursuant to Local Rule 1.06 (A) the court will make a tentative ruling on the merits of this matter
 16 by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for the
 17 department may be downloaded off the court's website. If the party does not have online access, they
 18 may call the dedicated phone number for the department as referenced in the local telephone
 19 directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and
 20 receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the court
 21 day before the hearing, no hearing will be held.
 22

23
 24
 25 Dated: June 25, 2016

26
 27 Signature
PATRICIA PLAINTIFF, In Pro Per

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 MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF **PATRICIA PLAINTIFF**
 AND MEMORANDUM OF POINTS AND AUTHORITIES

Motion for Preliminary Injunction (page 2)

In the memorandum of points and authorities, you identify the applicable law, show how it applies to your facts, and demonstrate that it supports your motion

MEMORANDUM OF POINTS AND AUTHORITIES

BACKGROUND

Defendant **David Defendant** is wrongfully refusing to return the personal property at issue in this case, **2002 Toyota Corolla**, license plate number **3TX8596**, Vehicle Identification Number (VIN) **7842084092307** ("the Vehicle"), to its owner, Plaintiff. (Plaintiff Decl. ¶¶ **No. 5-9**) Plaintiff is informed and believes that Defendant plans to sell or otherwise transfer the Vehicle to a third party. (Plaintiff Decl. ¶ **No. 10**) Plaintiff therefore requests a preliminary injunction preventing defendants **Shiomoto** and DMV, which have the authority and duty to officially record such transfers, from doing so until the resolution of this case.

THE COURT SHOULD ISSUE A PRELIMINARY INJUNCTION PREVENTING THE DMV FROM TRANSFERRING TITLE TO THE VEHICLE DURING THIS ACTION

A. Statutory Authority. Under Cal. Code of Civil Procedure (CCP) § 526(a)(1), an injunction may be granted when it appears by the complaint that the plaintiff is entitled to the relief demanded, and the relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.

In this case, Plaintiff's complaint alleges that Plaintiff is entitled to possession and control of the Vehicle (Complaint, ¶ **No. 17**); that Plaintiff is informed and believes that defendant **David Defendant** may attempt to sell or transfer the Vehicle at any time (Complaint, ¶ **No. 23**); and that the DMV's routine transfer of title would violate Plaintiff's right to possession and control of the Vehicle (Complaint, ¶ **No. 24**). The preliminary injunction requested in the **[Second]** Cause of Action against **Shiomoto** and the DMV (Complaint, ¶¶ **No. 22-25**) would prevent this transfer temporarily, preserving Plaintiff's rights until this lawsuit is resolved.

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MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA PLAINTIFF
AND MEMORANDUM OF POINTS AND AUTHORITIES

Motion for Preliminary Injunction (page 3)



1 An injunction is appropriate when the threatened act would produce waste, or great or
2 irreparable injury to a party to the action (CCP § 526(a)(1)); when it would tend to render the
3 judgment ineffectual (CCP § 526(a)(2)); or when the restraint is necessary to prevent a multiplicity of
4 judicial proceedings (CCP § 526(a)(6)).

5
6 "Irreparable injury" includes a wrong that constitutes an overbearing assumption by one
7 person of superiority and domination over the rights and property of others (Fretz v. Burke (1967)
8 247 Cal. App. 2d 741, 746, 55 Cal. Rptr. 879). In this case, defendant **David Defendant**'s wrongful
9 possession of the Vehicle is an assumption of dominion over Plaintiff's property, and transfer or sale
10 of the Vehicle would mean that assumption could not be repaired. Enjoining defendants **Shlomoto**
11 and DMV from completing such a transfer is therefore warranted.

12
13 Furthermore, unless enjoined, the transfer of the Vehicle would tend to render the prayed-for
14 judgment of possession in this case ineffectual, since Defendant **David Defendant** would no longer
15 be able to return the Vehicle, and result in a multiplicity of litigation to determine Plaintiff's rights
16 against a third party, the buyer.

17
18 B. Preservation of Status Quo. A preliminary injunction may be granted to preserve the status
19 quo until a final determination of the merits of the action (Continental Baking Co. v. Katz (1968) 68
20 Cal. 2d 512, 528, 67 Cal. Rptr. 761, 439 P.2d 889; O'ye v. Fox (2012) 211 Cal. App. 4th 1036, 1047-
21 1060, 151 Cal. Rptr. 3d 65). In this case, the injunction would serve the status quo by preventing
22 Defendant from transferring the Vehicle but permitting Defendant to retain possession until further
23 proceedings.

24
25 C. Likelihood that Plaintiff Will Prevail and the Balance of Hardships. In exercising its
26 discretion, the trial court must consider two interrelated factors: (1) the likelihood that the plaintiff
27 will prevail on the merits of the case at trial, and (2) the harm to be suffered by the plaintiff if the
28 injunction does not issue as compared to the harm to be suffered by the defendant if it does (People v.

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MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA PLAINTIFF
AND MEMORANDUM OF POINTS AND AUTHORITIES

Motion for Preliminary Injunction (page 4)

1 Grewal (2014) 224 Cal. App. 4th 527, 537–538, 168 Cal. Rptr. 3d 749; Take Me Home Rescue v.
2 Luri (2012) 208 Cal. App. 4th 1342, 1350–1353, 146 Cal. Rptr. 3d 461). The Complaint and
3 Declaration present solid grounds for finding that the Plaintiff is entitled to return of the Vehicle. The
4 granting of the injunction would be a significant benefit to the Plaintiff (preserving the right to
5 receive the Vehicle instead of a money judgment of dubious collectability) while imposing only a
6 minor burden on the Defendant. Even if the Defendant ultimately were to prevail, the injunction
7 would simply delay the Defendant’s ability to transfer the Vehicle.
8

9 For all of the above reasons, Plaintiff respectfully requests that the Court grant this motion for
10 a preliminary injunction enjoining defendants *Shomoto* and DMV, and any of their agents, servants,
11 and employees, from transferring any right, title, or interest in or to the Vehicle during the pendency
12 of this action.
13

14
15 Respectfully submitted,
16

17 Dated: Jun. 24, 2016
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20 Signature
21 Patricia Plaintiff, In Pro Per
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MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA PLAINTIFF
AND MEMORANDUM OF POINTS AND AUTHORITIES

Motion for Preliminary Injunction (page 5)

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DECLARATION OF PATRICIA PLAINTIFF IN SUPPORT OF MOTION
FOR PRELIMINARY INJUNCTION

I. Patricia Plaintiff, declare:

1. I am the plaintiff in this action and make this declaration in support of my motion for a preliminary injunction.

2. The facts stated in this declaration are true of my own personal knowledge, except as to any matters stated on information and belief, and as to those matters, I am informed and believe them to be true. If called as a witness in this matter, I could and would competently testify to the matters set forth below.

3. I am informed and believe, and thereon allege that defendant Steven Gordon ("DMV DIRECTOR"), in his/her official capacity only, is, and was at all times herein mentioned, the Director of the California Department of Motor Vehicles, and has, and had, official authority to accomplish all of the matters herein requested of the Court.

4. I am informed and believe, and thereon allege that Defendant State of California Department of Motor Vehicles ("DMV") is the official and duly constituted governmental entity with the exclusive authority and ability to record and effect the public record of transfers of title of motor vehicles in the State of California.

5. I am the true, [sole] and registered owner of a 2002 Toyota Corolla, license plate number JTXS596, Vehicle Identification Number (VIN) 7842084092307 ("the Vehicle"). A true and correct copy of the registration is attached hereto as Exhibit "A" and made a part of this declaration.

6. On April 26, 2016, David Defendant ("Defendant") told me that his car was broken down. He asked me to lend him my Vehicle until his car was fixed, which he said would be about two weeks, when he got paid. He agreed that when his car was fixed he would return the

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MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA PLAINTIFF
AND MEMORANDUM OF POINTS AND AUTHORITIES

Motion for Preliminary Injunction (page 6)

1 Vehicle. He also said that he would return the Vehicle earlier if I needed it. I agreed to lend
2 him the car and gave him the keys.

3 7. On May 18, 2016, I saw Defendant drive up to our local supermarket in his own car. I
4 tried to ask when he would return the Vehicle, but he drove away before I could speak to him.

5 8. I have called him several times and texted him asking him to drop the Vehicle off at
6 my house, but he has never responded. I left a note at his house asking him to return it to me on
7 May 21, and never heard back. A true and correct copy of the note is attached hereto as Exhibit
8 "B" and made a part of this declaration.

9 8. I became worried that the reason he won't communicate with me is because he plans
10 to sell the Vehicle to pay his debts. I looked on Craigslist.com and saw an advertisement that I
11 think refers to the Vehicle. I recognize it by its distinctive black and white paint. A true and
12 correct print-out of the advertisement is attached hereto as Exhibit "C" and made a part of this
13 declaration.

14 9. Up to now, defendant David Defendant has not returned the Vehicle to me.

15 10. Defendant David Defendant may sell the Vehicle at any time. Unless a preliminary
16 injunction is granted, I am informed and believe that upon presentation of specific documents,
17 defendants Shiomoto and DMV would be required to transfer the title to the Vehicle, in violation of
18 my rights to possession and control of the Vehicle.

19 11. The above facts are within my personal knowledge and I am competent to testify to their
20 truth if called as a witness.

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

23 Dated June 24, 2016

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26 _____
Signature

27 PATRICIA PLAINTIFF
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MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA PLAINTIFF,
AND MEMORANDUM OF POINTS AND AUTHORITIES

Motion for Preliminary Injunction (page 7)



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STATE OF CALIFORNIA
CERTIFICATE OF TITLE

VEHICLE HISTORY

VOID WITHOUT BEAR WATERMARK. HOLD TO LIGHT TO VIEW.

VEHICLE ID NUMBER: _____ VIN: _____ MAKE: _____ PLATE NUMBER: _____

BODY TYPE MODEL: _____ AX. HEIGHT: _____ PURCH DATE: _____ FEES PAID: _____ REGISTRATION EXPIRATION DATE: _____

MOTORCYCLE FINISH MARK: _____ CLASS: _____ MO. EQUIPMENT NAMES: _____ ISSUE DATE: _____

REGISTERS OWNER: _____ ODOMETER DATE: _____ ODOMETER READING: _____

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. SIGNATURE(S) BELOW RELEASES INTEREST IN THE VEHICLE.

By: _____ DATE: _____ X _____ (SELLER OF REGISTERED OWNER)

By: _____ DATE: _____ X _____ (BUYER/LESSEE)

Federal and State law requires that you file this statement with the Department of Motor Vehicles. Failure to complete or provide false information may result in fines and/or penalties.

The odometer now reads: _____ (miles) and to the best of my knowledge reflects the actual mileage unless one of the following:

WARNING: Odometer reading is not accurate. Mileage exceeds the authorized mechanical limit.

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

By: _____ DATE: _____ X _____

IMPORTANT READ CAREFULLY
Any change of lienholder (holder of security interest) must be reported to the Department of Motor Vehicles within 10 days.

LEASING: _____

_____ releases interest in vehicle. (Company name and be counterpart)
Date: _____

CA 000000000
REG. 17.2017 ONLY 10/03

KEEP IN A SAFE PLACE - VOID IF ALTERED

Exhibit A

MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF _____,
AND MEMORANDUM OF POINTS AND AUTHORITIES

Motion for Preliminary Injunction (page 8)

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May 19, 2016

Dear David,

When I loaned you my car you said you would return it after your car was fixed, or when I needed it back. I saw you driving your car yesterday, so it must be fixed.

Please drop the car off at my house Saturday, May 21. I will be home all day.

Thanks,

Patricia

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MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA THE PLAINTIFF
AND MEMORANDUM OF POINTS AND AUTHORITIES

Exhibit B

Motion for Preliminary Injunction (page 9)

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CL sacramento > for sale - cars & trucks - by owner

reply prohibited Posted 11 days ago print

* prev ▲ next *

2002 Toyota Corolla - \$1000

image 3 of 5



2002 toyota corolla
fuel: **gas**
title status: **clean**
transmission: **automatic**

- [safety tips](#)
- [prohibited items](#)
- [product recalls](#)
- [avoiding scams](#)

2002 Corolla runs good looking for \$1000 or best offer as is. moving out of state

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MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA PLAINTIFF,
AND MEMORANDUM OF POINTS AND AUTHORITIES **Exhibit C**

Motion for Preliminary Injunction (page 10)

Order for Preliminary Injunction

1	Patricia Plaintiff 4679 Oak Drive Sacramento, CA 95814 916-555-9975	IMPORTANT: RED boxes and text are instructions, and are not part of your completed document. Erase them before finalizing. Text that appears in BLUE is text you will change to fit your case. When you print your document, be sure to use BLACK ink for your text. THE COURT WILL REJECT YOUR DOCUMENTS IF THEY HAVE BLUE TYPE!
2	Patricia Plaintiff Plaintiff in Pro Per	
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11	PATRICIA PLAINTIFF,	Case No.:
12	Plaintiff,	[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION
13	vs.	Date: Aug 1, 2016 Time: 9:00 am Location: Dept. 54 Judge: Hon. Jeri Judge Date Action Filed: June 24, 2016
14	DAVID DEFENDANT; STATE OF CALIFORNIA DEPARTMENT OF MOTOR VEHICLES, STEVEN GORDON IN HIS/HER CAPACITY OF DIRECTOR OF DMV ONLY, and DOES 1-25,	Trial Date: Not Yet Set
15	Defendants	
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The motion of Plaintiff Patricia Plaintiff for a preliminary injunction preventing the State of California Department of Motor Vehicles (DMV) and Steven Gordon, in his/her capacity as the Director of DMV only, from transferring title to the vehicle at issue in this lawsuit came on regularly for hearing on August 1, 2016. Plaintiff Patricia Plaintiff appeared in pro per. defendant David Defendant appeared _____; Defendant DMV appeared by counsel _____.

On proof made to the satisfaction of the court that the motion ought to be granted:
IT IS ORDERED that during the pendency of this action the State of California Department of Motor Vehicles (DMV) and Steven Gordon, in his/her capacity as the Director of DMV only, and _____

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[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

Order for Preliminary Injunction (page 1)



1 each of them, and their officers, agents, employees, representatives, and all persons acting in concert
 2 or participating with them, are enjoined and restrained from engaging in, committing, or performing,
 3 directly or indirectly, by any means whatsoever, any of the following acts: transferring any right, title,
 4 or interest in or to the Vehicle during the pendency of this action.

5
6 Dated: _____

7
8 _____
9 Judge of the Superior Court

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