

Samples

Motion for Injunction with Instructions

1 PAUL SAMPLE
2 345 Oak St.
3 Sacramento, CA 95814
4 916-555-1212

5 PLAINTIFF, IN PRO PER

6

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8 FOR THE COUNTY OF SACRAMENTO

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11 PAUL SAMPLE,
12 Plaintiff,
13 vs.
14 DOUG DEFENDANT and DOES 1-10,
15 Defendants

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17 Case No.: 34-2019-0012345
18)
19) NOTICE OF MOTION AND MOTION FOR
20) PRELIMINARY INJUNCTION
21)
22) Date: July 10, 2019
23) Time: 2:00 pm
24) Location: Dept. 53
25) Judge: David I. Brown
26) Date Action Filed: July 1, 2019
27) Trial Date: Not Yet Set

28

Plaintiff Paul Sample moves for the issuance of a preliminary injunction pending the outcome of trial in this action, enjoining defendant(s) and their employees, agents, and persons acting with them, or on their behalf, from cutting down, destroying, killing, or in any other way harming the maple tree growing between the plaintiff's and defendant's houses, as well as an order directing the defendant to cease verbally and physically threatening to cut down the tree.

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NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Motion for Preliminary Injunction (page 1)

Print or type your name, address and phone number as shown on the left. These pleadings assume that the party requesting the injunction is the plaintiff. If that is not correct, you will need to change it. The party designation is followed by the words *In Pro Per*, which simply indicates that you are representing yourself.

The name of the court goes on line 8 of the first page. In the caption, identify the plaintiff and defendant, replacing PAUL SAMPLE with the name of the Plaintiff and DOUG DEFENDANT with the name of the Defendant.

Use your case number here

Set your date, time and department for the hearing. Be sure to read the detailed instructions (Step 4) on choosing a date.

Precisely specify actions to be restrained.

1 This motion is made pursuant to the provisions of Code of Civil Procedure section 527 on the ground
2 that the defendant intends to cut down the 25 foot maple tree between the houses of the plaintiff and
3 defendant, while it is disputed whether the tree falls onto the plaintiff or defendant's property, and
4 loss of this tree would constitute severe and irreparable damage to the plaintiff.
5
6 This motion is based upon the memorandum in support and declaration set forth below, and
7 the complaint in this action.
8
9 Pursuant to Local Rule 1.06 (A) the court will make a tentative ruling on the merits of this
10 matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings for
11 the department may be downloaded off the court's website. If the party does not have online access,
12 they may call the dedicated phone number for the department as referenced in the local telephone
13 directory between the hours of 2:00 p.m. and 4:00 p.m. on the court day before the hearing and
14 receive the tentative ruling. If you do not call the court and the opposing party by 4:00 p.m. the court
15 day before the hearing, no hearing will be held.
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19 DATED: July 10, 2019
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22 Date and sign motion
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Paul Sample

PAUL SAMPLE
In Pro Per

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NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Motion for Preliminary Injunction (page 2)

1 MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PRELIMINARY
2 INJUNCTION

3 Your points and authorities state the legal basis for your request, and explain how they
4 apply to the facts in your case. This points and authorities is only a sample. Your points
5 and authorities are likely to be more specific, and may contain more and/or different legal
6 arguments and citations.

7 INTRODUCTION

8 This lawsuit involves a dispute between two neighbors, the plaintiff and the defendant. The
9 defendant resides at 345 Oak St., Sacramento while the defendant resides next door at 347 Oak St.
10 Between the two houses is a maple tree, approximately 25 tall, and b
11 sixty years of age. On July 1, 2019, the plaintiff discovered the defen
12 maple tree with a chainsaw. The plaintiff demanded the defendant st
13 refused. In response, the plaintiff, or one of his family members has chained themselves to the tree to
14 prevent it from being cut down. (See Declaration of Paul Sample (Sample Decl.), ¶¶ 4-5.) The
15 plaintiff contends that the tree is on his property, whereas the defendant has alleged it is on his. (See
16 Sample Decl., ¶ 6, Ex. A.)

BRIEFLY explain the facts
of the case and what has
happened so far in court
(date complaint filed, etc.)

17 The tree is at least 50 years old, and effectively irreplaceable. The tree itself adds
18 approximately \$20,000 to the property value of the plaintiff, and provides a substantial amount of
19 shade for the house, reducing energy costs by about 10% during the Summer. (Sample Decl., ¶ 7.)
20 The plaintiff is now seeking a preliminary injunction to prevent the defendant from cutting down this
21 tree pending a final decision on the merits.

22 The Declaration is your evidence for your request. Refer back to it whenever you
23 state a fact that is in the Declaration. Do not cite facts that you have not attached
24 evidence for. In this example, the facts used in the motion come from the
25 Declaration (page 6) and the writer is pointing to the paragraphs (¶) where the
26 reader can cross-reference them. When a document or photo is attached to the
27 declaration, the reference includes its Exhibit letter or number (Ex. A.)

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NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Motion for Preliminary Injunction (page 3)

1 **C. Rendering Judgment Ineffectual.** An injunction may be granted when it appears, during the
2 litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering
3 to be Douge, some act in violation of the rights of another party to the action respecting the subject of
4 the action, and tending to render the judgment ineffectual (Code Civ. Proc. § 526(a)(3); *Heckmann v*
5 *Ahmanson* (1985) 168 Cal. App. 3d 119, 136; *Lenard v. Edmonds* (1957) 151 Cal. App. 2d 764, 769,
6 312 P.2d 308; *Rossi v. Rossi* (1955) 134 Cal. App. 2d 639, 641, 286 P.2d 563).

8
9 **D. Preservation of Status Quo.** A preliminary injunction may be granted to preserve the status quo
10 until a final determination of the merits of the action (*Continental Baking Co. v. Katz* (1968) 68 Cal.
11 2d 512, 528, 67 Cal. Rptr. 761, 439 P.2d 889; *People v. Black's Food Store* (1940) 16 Cal. 2d 59, 62,
12 105 P.2d 361; *Oiye v. Fox* (2012) 211 Cal. App. 4th 1036, 1047–1060, 151 Cal. Rptr. 3d 65;
13 *O'Connell v. Superior Court* (2006) 141 Cal. App. 4th 1452, 1471, 47 Cal. Rptr. 3d 147).

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15
16 Respectfully submitted,

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19 DATED: July 10, 20 13

20 Date and sign memorandum of
21 points and authorities.

Paul Sample

PAUL SAMPLE
In Pro Per

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NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Motion for Preliminary Injunction (page 5)

DECLARATION OF PAUL SAMPLE IN SUPPORT OF PRELIMINARY INJUNCTION

Paul Sample, declare:

1. I am the plaintiff in this action, and I have personal knowledge of each fact stated in this declaration.

2. I and the neighbors. I reside at 345 Oak St, Sacramento, and the defendant resides at 347 Oak St.

3. Between our houses is a grass lawn, with a 25 ft. maple tree in the middle. This tree is approximately 50 years old.

4. On July 2, 2019, I went outside and saw my neighbor preparing to cut down the maple tree with a chainsaw. I immediately demanded that he stop, and he refused, forcing me to block him with my body to prevent him from cutting down the tree.

5. Ever since then, I or one of my family members has been chained to the tree at all times to prevent him from cutting the tree down.

6. Based upon a recent survey I had done to determine the property line to place a fence in the back yard, I believe that the trunk of the tree falls completely on my side of the property line. A true and correct copy of this survey is attached as Exhibit A.

7. The tree is irreplaceable due to its size and age, so the loss of this tree from my property would cause irreparable harm. This tree provides shade across 30% of my house in the afternoon during summer. As a result, my house stays much cooler in the summertime, resulting in substantial utility savings, as well as greatly increasing the value of my property, as well as my enjoyment of it. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: July 8, 2019

Paul Sample
PAUL SAMPLE, Plaintiff, In Pro Per

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NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Motion for Preliminary Injunction (page 6)

Sample Proposed Order with Instructions

1	PAUL SAMPLE	
2	345 Oak St.	<div style="border: 1px solid red; padding: 5px;"> Print or type your name, address and phone number as shown on the left. These pleadings assume that the party requesting the injunction is the plaintiff. If that is not correct, you will need to change it. The party designation is followed by the words <i>In Pro Per</i>, which simply indicates that you are representing yourself. </div>
3	Sacramento, CA 95814	
4	916-555-1212	
5	PLAINTIFF, IN PRO PER	
6		
7		<div style="border: 1px solid red; padding: 5px;"> The name of the court goes on line 8 of the first page. In the caption, identify the plaintiff and defendant, replacing PAUL SAMPLE with the name of the Plaintiff and DOUG DEFENDANT with the name of the Defendant. </div>
8	FOR THE COUNTY OF SACRAMENTO	
9		
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12		<div style="border: 1px solid red; padding: 5px;"> Use your case number here </div>
13	PAUL SAMPLE,) Case No.: 34-2019-0012345
14	Plaintiff,)
15	vs.) [PROPOSED] ORDER FOR PRELIMINARY INJUNCTION
16	DOUG DEFENDANT and DOES 1-10,) Date: July 10, 2019
17	Defendants) Time: 2:00 pm
18) Location: Dept. 53
19) Judge: David I. Brown
20) Date Action Filed: July 1, 2019
21) Trial Date: Not Yet Set
22)
23	The motion of plaintiff for the preliminary injunction came on regularly for hearing by the court this	
24	date by noticed motion. Plaintiff, PAUL SAMPLE, appeared in pro per; defendant, DOUG	
25	DEFENDANT, appeared by counsel Larry Lawyer.	
26	On proof made to the court's satisfaction, and good cause appearing:	<div style="border: 1px solid red; padding: 5px;"> Identify the parties, and their attorneys. Self-represented persons appear "in pro per." </div>
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[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

Proposed Order for Preliminary Injunction (page 1)

1 **IT IS ORDERED** that during the pendency of this action the above-named defendants, and each of
2 them, and their officers, agents, employees, representatives, and all persons acting in concert or
3 participating with them, are enjoined and restrained from engaging in, committing, or performing,
4 directly or indirectly, by any means whatsoever, any of the following acts:

5 a. Cutting down, destroying, killing, or in any other way harming the maple tree growing
6 between the plaintiff's and defendant's houses located at 346 Oak St., Sacramento, California
7 and 348 Oak St., Sacramento, California, respectively.

8 b. Verbally and/or physically threatening to cut down the maple tree growing between the
9 plaintiff's and defendant's houses located at 346 Oak St., Sacramento, California and 348 Oak
10 St., Sacramento, California, respectively.

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12
13 Specify each act you are asking the court to order the other party not to do. If you are asking that the court order the
14 other party to do something, substitute or add another section beginning with:
"IT IS FURTHER ORDERED that the above-named defendants are required and ordered to:"

15
16 The court will usually require the plaintiff (or party seeking the injunction) to post a bond, money, or property with
the court to protect the defendant if the plaintiff loses the case.

17 **IT IS FURTHER ORDERED** that, before this order shall take effect, plaintiff must file a written
18 undertaking in the sum of \$ _____, as required by Code of Civil Procedure Section
19 529, for the purpose of indemnifying defendants for the damages as they may sustain by reason of
20 this preliminary injunction if the court finally decides that plaintiff is not entitled to it.

21 **IT IS FURTHER ORDERED** that the preliminary injunction as set forth above shall issue on
22 plaintiff's filing a written undertaking in the sum specified above.

23 The court reserves jurisdiction to modify this injunction as the ends of justice may require.

24 **IT IS SO ORDERED.**

25 Dated: _____

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28 Judge of the Superior Court

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[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

Proposed Order for Preliminary Injunction (page 2)