

Injunction Against the DMV: Prevent Transfer of Title to Your Car

If you are concerned someone will sell or give away your vehicle without permission, you can file a “[Courtesy Stop](https://www.dmv.ca.gov/portal/form/courtesy-stop-request-reg-500/)” request with the DMV to put a 60 day hold on transfers. Before you can do that, however, you must first start a lawsuit against the DMV and the person threatening to sell or give away your car. The DMV is only part of the case for the purpose of asking for an injunction preventing transfer.

Templates and Forms

- [Motion re Injunction vs DMV Template – RTF](https://saclaw.org/wp-content/uploads/2023/04/sbs-DMV-motion-template.rtf)
- [DMV Courtesy Stop Request \(REG 500\)](https://www.dmv.ca.gov/portal/uploads/2020/05/reg500.pdf)

If you need to start a case by filing a complaint:

- [Complaint Re Injunction vs DMV Template – RTF](https://saclaw.org/wp-content/uploads/2023/04/sbs-DMV-complaint-template.rtf)
- [Civil Case Cover Sheet](https://www.courts.ca.gov/documents/cm010.pdf)
- [Summons](https://www.courts.ca.gov/documents/sum100.pdf)

Related Guides

- [Filing a New Civil Lawsuit](https://saclaw.org/resource_library/filing-a-complaint-to-start-a-civil-lawsuit-in-california/)
- [Fee Waiver Guide](https://saclaw.org/resource_library/fee-waiver/)
- [Motion for Preliminary Injunction](https://www.saclaw.org/resource_library/injunction-by-noticed-motion/)

This Guide with templates provides you with instructions to write and file the *Complaint* and to file the Courtesy Stop request, and information about next steps.

Step-by-Step Instructions

1. Research and Write Your Complaint and Accompanying Papers

Write the Complaint. You must sue the person or people who are threatening to change the title to your car.

Often, the appropriate legal reason for the lawsuit is “conversion,” meaning someone has your vehicle and refuses to return it. You can find examples of a simple complaint for conversion in the self-help book *Win Your Lawsuit*, pages 88 and 89. However, there are many other possible causes of action (legal theories) that might apply in specific cases. There is a list of resources at the end of this Guide which can help you research the appropriate causes of action.

Whatever theory you use, *be sure to specifically request the return of the vehicle*, or the judge will assume that a monetary award is acceptable to you, and deny the injunction.

WARNING! As long as the car is in your name, you *must* keep it insured. Even if you are not driving the car, you may be named in a lawsuit over any accidents that take place.

Do not let your insurance lapse!

Include one cause of action for injunction against the director of the DMV: Whatever other causes of action you use, you must also include one cause of action for an injunction against the DMV director. A customizable template including this cause of action can be downloaded from the Law Library’s website, and a sample is attached at the end of this Guide. You will need to fill in any blanks (gray boxes) to fit the specific facts of your case. This cause of action is the part that allows you to get the Stop Notice.

You will also need to fill out two Judicial Council forms: [Summons \(SUM-100\)](http://courts.ca.gov/documents/sum100.pdf) (<http://courts.ca.gov/documents/sum100.pdf>) and [Civil Case Cover Sheet \(CM-010\)](http://courts.ca.gov/documents/cm010.pdf) (<http://courts.ca.gov/documents/cm010.pdf>). These are required in all cases.

2. File the Lawsuit and Pay the Filing Fee

Make three copies of the *Complaint*, *Summons*, and *Civil Case Cover Sheet*. Staple each of the copies, but leave the original unstapled so that it can easily be scanned by the clerk.

Filing Fee and Fee Waiver

If you qualify for a fee waiver, you can file without paying the fee by including a fee waiver request with your complaint. See our [Fee Waiver guide](https://saclaw.org/fee-waiver-guide) (<https://saclaw.org/fee-waiver-guide>) for more information.

Take them to the [Gordon D. Schaber Courthouse](http://www.saccourt.ca.gov/locations/downtown.aspx) (<http://www.saccourt.ca.gov/locations/downtown.aspx>) at 720 9th St., Sacramento, CA 95814. You will file them in the drop box along with the filing fee. Only an unlimited case can include an injunction, so you will have to pay unlimited case fee (at the time of this writing, it was \$435). You can check current fees at [Fees and Forms](http://www.saccourt.ca.gov/indexes/fees-forms.aspx). (<http://www.saccourt.ca.gov/indexes/fees-forms.aspx>)

3. Deliver a copy of the File-Stamped Complaint and the Courtesy Stop Request to the DMV

Once you have the file-stamped *Complaint*, you can attach it to a [Courtesy Stop Request \(REG-500\)](https://www.dmv.ca.gov/portal/uploads/2020/05/reg500.pdf) (<https://www.dmv.ca.gov/portal/uploads/2020/05/reg500.pdf>)

and send it to the DMV to prevent title from being transferred for 60 days. You can **fax it to 916-657-6056**, or mail or deliver it to:

Department of Motor Vehicles
Registration Operations Division
Field Office Support Unit
Attn: Courtesy Stops
2415 First Ave., MS C250
Sacramento CA 95818

This automatically stops the DMV from transferring title for 60 days. If you don't have your injunction by then, you can get a 60-day extension by submitting a new *Courtesy Stop Request* along with a file-stamped copy of your notice of motion showing the date of your upcoming injunction hearing (see Step 4, below).

You still need to officially serve the DMV with the *Complaint* in order to move the case forward. This step just gets the Courtesy Stop Request in effect right away.

4. Reserve a Hearing Date for your Motion for Preliminary Injunction

The *Complaint* gets the case started. However, you must also file a *Motion for Preliminary Injunction* with the court to get the injunction you need.

Determining the Department and the Time of the Motion

In Sacramento, most motions are heard in either Department 53 at 2:00 p.m. or Department 54 at 9:00 a.m. When you file the Complaint, the clerk will provide you with the department your case is assigned to.

Choose a date.

In Sacramento County, the party who files a motion reserves a date via the [court's Case Portal](https://prod-portal-sacramento-ca.journaltech.com/public-portal/?q=node/406).
(<https://prod-portal-sacramento-ca.journaltech.com/public-portal/?q=node/406>) There are two things you must get done before the hearing, and you must pick a date that gives you time to do both:

- File the papers in court sixteen court (business) days before the hearing date
- Serve the other party(s) sixteen court (business) days *plus five calendar days if you serve by mail* before the hearing date.

As long as you have time to do both, you can choose any date that works best for you.

An easy option is to choose a date at least 35 days away. This will give you plenty of time to prepare and get the papers served and filed.

If you need to have the Motion heard sooner than that, follow the instructions the Law Library's guide, to find the soonest date that gives you time to file and serve the papers.

Remember, you can get a 60-day Courtesy Stop as soon as you file the papers, so in most cases there should be no urgency for the hearing – as long as you set it up right away.

Filing Deadline: The Motion must be filed with the court at least sixteen *court* days prior to the motion date ([California Code of Civil Procedure \(CCP\) § 1005](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1005.&lawCode=CCP) (https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1005.&lawCode=CCP)). Court days are Monday through Friday, excluding court holidays. To determine whether a particular filing date will meet this deadline, start with your desired hearing date and count backward ([CCP § 12c](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12c.&lawCode=CCP) (https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12c.&lawCode=CCP)) sixteen court days. Day one is the court day prior to the hearing. The sixteenth court day prior to the hearing is the last possible date that the Motion can be filed with the court.

For example, suppose you wanted to have your Motion heard on June 18, 2012. You would start counting backward using June 15, 2012 as day one. Do not count weekends or court holidays (there is one court holiday in this example, which is Memorial Day, May 28). Your sixteenth court day before the hearing would be May 24, 2012, which would be the last day that the Motion could be filed.

MAY							JUNE						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5						1 Day 11	2
6	7	8	Day 5 falls on a weekend, so the last day for service by mail rolls over to the previous court day.			12	3	4 Day 10	5 Day 9	6 Day 8	7 Day 7	8 Day 6	9
13	14	15				18 Last day to serve by mail	10	11 Day 5	12 Day 4	13 Day 3	14 Day 2	15 Day 1	16
20 Day 4	21 Day 3	22 Day 2	23 Day 1	24 Day 16 Last day to file	25 Day 15	26	17	18 Hearing Date	19	20	21	22	23
27	28 Holiday	29 Day 14	30 Day 13	31 Day 12			24	25	26	27	28	29	30

Service Deadline: All attorneys or self-represented parties in a case must be served with a copy of the Motion. This means that someone over the age of 18 who is not a party in the case must either personally deliver a copy of the Motion and related documents to the attorney or self-represented party or mail a copy of the Motion and related documents to the party by first class mail.

If the Motion is personally served, the service must be at least sixteen *court* days prior to the date of the

Motion, the same as the minimum filing deadline.

What if my Motion date is after the 60-day DMV stop runs out?

Request an extension of the DMV's Courtesy Stop by submitting the request form a second time, with a copy of the notice of Motion showing the date your Motion is scheduled. The stop will be extended.

If the Motion is served by first-class mail, additional *calendar* days are added before the sixteen court days—an additional five calendar days if mailed within California, ten if mailed to an address in another state, and twenty if mailed to another country. ([CCP § 1005](#) (http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005)). Calendar days include weekends and holidays, but if the final day lands on a weekend or holiday, it is rolled over to the previous court day. So, if June 18, 2012 was the hearing date, the sixteenth court day before would be May 24, 2012, but counting back five more calendar days results in Saturday, May 19, 2012. Because the fifth day fell on a weekend (or holiday), the deadline for service rolls back to May 18, 2012, the last court day before the mailing deadline.

When choosing the date for your Motion, be sure that you have left enough time for the Motion to be both filed and served.

5. Research and Write Your Motion for Preliminary Injunction

The Motion consists of several required parts. A customizable template can be downloaded from the Law Library's website, and a sample is attached at the end of this Guide.

- **Notice of Motion and Motion for Preliminary Injunction.** In this part, you set the hearing date, explain briefly what you are requesting (the injunction), and include tentative ruling information.
- **Memorandum of Points and Authorities.** In this part, you explain the laws that cover injunctions and the facts which entitle you to an injunction in your particular case.
- **Declaration.** A *Declaration* is a sworn statement about the facts. You are asking the court to consider your *Declaration* as evidence in your case. It should state all of the facts necessary for the court to consider, and have attached all of the exhibits (photos, documents, and other evidence) that you wish the court to consider. Depending on the circumstances of your case, your *Declaration* may be short or long. Regardless of length, it must be sufficient to establish to the court's satisfaction that the injunction is necessary. If someone else knows the facts you need to prove your argument, have them fill out and sign their own *Declaration*.
- **[Proposed] Order.** Along with your Motion, you will need to submit a *[Proposed] Order* granting your preliminary injunction, so that the Judge can sign off on it easily.

Declaration Tips

Your Declaration should be consistent with the facts set forth in your Complaint, but is typically written in the first person, since it is the statement of the person signing the Declaration. Unlike the Complaint, which may contain facts for several causes of action, the Declaration supporting the Motion should focus on the specific facts that the court must consider in deciding whether to grant an injunction. You will sign it under penalty of perjury. Each separate fact should be explained in a numbered paragraph, so that you can easily refer to that

fact in other documents.

The Declaration is the most important part of the Motion. The judge generally makes a decision on the Motion the day before the hearing date, based only on the paperwork, so the Declaration(s) and exhibits must contain everything needed justify the injunction.

It is possible to have more than one supporting Declaration. If your Motion relies on statements by someone other than you, you should obtain a Declaration from the person who made those statements to avoid problems with “hearsay.” Chapter 16 of Nolo’s book *Represent Yourself in Court*, which is listed as a resource at the end of this Guide, has a good, plain-English description of the evidence rules regarding hearsay. If obtaining a Declaration from the person who made the statements is not possible, you will need to research whether there is an exception to the hearsay rule that will allow the court to consider your evidence.

Attaching Exhibits

Documents can be attached to a Declaration as exhibits. In the Declaration, identify the document with language such as:

I am the registered owner of a 2002 Toyota Corolla, license plate number 3TXS596, Vehicle Identification Number (VIN) 7842084092307 (“the Vehicle”). A true and correct copy of the registration certificate is attached as Exhibit “A.”

Photocopy the registration and write “Exhibit A” on the bottom of the first page. If an exhibit is longer than one page, number each page. If you have other documents to submit, use the same “true and correct” language to attach them as Exhibits B, C, and so forth. A number of rules of evidence govern whether the court may consider a document, typically requiring the declarant to set up a sufficient “foundation” for it to be considered within the declaration. Chapter 15 of *Represent Yourself in Court*, on exhibits, has a good explanation of what is necessary to establish to allow the court to consider different types of evidence.

6. Have the Complaint, the Motion, and Related Papers Personally Served on All Parties

Someone over the age of 18 – **NOT YOU**—needs to serve (personally deliver) copies of the following documents to the DMV and the other defendant(s) in the case:

- Complaint
- [Civil Case Cover Sheet \(CM-010\)](https://www.courts.ca.gov/documents/cm010.pdf) (<https://www.courts.ca.gov/documents/cm010.pdf>)
- [Summons \(SUM-100\)](https://www.courts.ca.gov/documents/sum100.pdf) (<https://www.courts.ca.gov/documents/sum100.pdf>))
- [Alternative Dispute Resolution Information Package \(CVE-100\)](https://www.saccourt.ca.gov/forms/docs/cv-adr-information-package.pdf) (<https://www.saccourt.ca.gov/forms/docs/cv-adr-information-package.pdf>) (information only)
- Unlimited cases in Sacramento only:
 - [Stipulation and Order to Mediation – Unlimited Civil \(CV-E-179\)](https://saccourt.ca.gov/forms/docs/cv-179.pdf) (<https://saccourt.ca.gov/forms/docs/cv-179.pdf>) (blank copy—do not fill out)
 - [Program Case Notice for Unlimited \(CVE-143U\)](http://www.saccourt.ca.gov/forms/docs/cv-143u.pdf) (<http://www.saccourt.ca.gov/forms/docs/cv-143u.pdf>) (information only)
- Motion for Preliminary Injunction and [Proposed] Order (you could have the Motion and Order served by

mail, but having them served along with the Summons and Complaint saves a step).

7. File the Proof of Service of Summons in Court

The server will need to fill out a [Proof of Service of Summons \(POS-010\)](https://www.courts.ca.gov/documents/pos010.pdf) (<https://www.courts.ca.gov/documents/pos010.pdf>) for each party, sign it, and return it to you. File these in court.

8. Review any Opposition to the Preliminary Injunction

The other parties have the opportunity to oppose the Preliminary Injunction. Their deadline is nine court days before the hearing (plus 5 calendar days if they serve you by mail). If you receive any opposition, read it carefully to understand their arguments. You are entitled to file a reply if you choose (deadline: five court days before hearing), but you are not required to do so.

The DMV's lawyer may contact you to offer a stipulation to the injunction. If so, you can sign it and submit it to the court for the judge to sign, then cancel the hearing. (Make sure to let all parties know it's canceled!)

9. Review the Tentative Ruling the Court Day before the Hearing and Schedule Argument by 4 p.m. if Necessary

Pursuant to [Local Rule 1.06](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf) (<http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf>), the judge in most departments, including 53 and 54, will make a tentative ruling on your motion by 2:00 p.m. the court day **before the hearing**. You then have two hours to request oral argument, if you choose to do so.

WARNING!

Your hearing will be canceled

If neither you nor the other party calls the court, the hearing will be canceled and you will not be permitted to talk to the judge.

You may read the tentative ruling online or call the assigned department to hear it. For more information, see the [Tentative Rulings Information](https://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx) (<https://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx>) on the Sacramento County Superior Court's website.

Closely review the tentative ruling. Since you are making the Motion, you are looking for your Motion to be "GRANTED." Sometimes the judge needs more information to decide, and will specifically order the parties to appear. Be sure to read the tentative ruling very carefully to make sure you understand each part of it.

If you are not happy with the tentative ruling, and wish to present oral argument in front of the judge, you must call all attorneys and/or self-represented parties, and the clerk for Department 53 (916-874-7858) or Department 54 (916-874-7848) no later than 4:00 p.m. the court day before your hearing and state that you are requesting oral argument on the Motion.

If you are happy with the tentative ruling, you **do not** need to do anything. You won't have to go to court unless the tentative ruling orders you to appear, or the other side calls before 4:00 p.m. If either of those happen, you should go to the court hearing and be prepared to explain your argument.

If neither party requests oral argument by 4:00 p.m., the court will simply make the tentative ruling official, and no oral argument will be permitted. If a party requests oral argument, the court will make its ruling after the oral argument, either in court or by mail a few days later.

10. Attend the Hearing, if Necessary

If you or the other party request oral argument, arrive early. There will probably be other cases scheduled at the same time; there is usually a list posted on the wall outside the courtroom showing the order in which cases will be heard. Go into the courtroom and check in with the bailiff or clerk.

When your name is called, be ready to speak and to answer any questions the judge has. You will only have a few minutes. After both sides speak, the judge may make a decision right away, or may "take it under consideration" and mail out the decision in a few days.

Department 53 and 54, where most Law and Motion cases are heard, are not in the main courthouse; they are at 813 6th St. (6th and H).

11. Next Steps

If your case involves a person wrongfully withholding physical possession of your vehicle from you, you can ask the judge to order them to give it back right away. This order is called a "writ of possession." The writ of possession is not covered in this Guide. Ask the Reference Librarian for information about writs of possession if you wish to request one.

The defendant or defendants, other than the DMV, must file a response to the Complaint within 30 days of being served. If they do not, you can request a default judgment (see our guides on "[Request a Default Judgment by Clerk](https://www.saclaw.org/resource_library/request-a-default-judgment-by-clerk-2/)" and "[Request a Default Judgment by Court](https://www.saclaw.org/resource_library/request-a-default-judgment-by-court/)"). If they do, the parties can begin discovery, the process by which you gather information to prove your case.

For More Information

On the Web

Sacramento County Superior Court

["Motions and Hearings" \(http://www.saccourt.ca.gov/civil/motions-hearings.aspx\)](http://www.saccourt.ca.gov/civil/motions-hearings.aspx) "

This page contains information on motions in Sacramento.

["Filing Instructions and Procedures: New Complaint, Petition, or Appeal of the Labor Commissioner" \(http://www.saccourt.ca.gov/civil/filing-instructions.aspx#complaint\)](http://www.saccourt.ca.gov/civil/filing-instructions.aspx#complaint) "

This page explains filing procedures for various types of papers, including new complaints.

At the Law Library

California Forms of Pleading and Practice KFC 1010 .A65 C3

Chapter 303, "Injunctions," has in-depth information on temporary restraining orders and injunctions. Other chapters have sample complaints for various causes of action which you may use to write your Complaint (Step 1), including:

- Chapter 119, "Claim and Delivery," includes a sample complaint for "possession of personal property."
- Chapter 140, "Contract," includes sample complaints for various breach of contract situations.
- Chapter 150, "Conversion," includes sample complaints for "conversion."

Electronic Access: On the Law Library's computers, using *LexisAdvance*.

Win Your Lawsuit KFC 968 .D86

This book does not cover restraining orders, but it can help you draft the underlying complaint. It contains sample filled-out forms for breach of contract, personal injury, and related causes of action.

Represent Yourself in Court KF 8841 .B47

This book contains information on preparing for and conducting hearings. Chapter 16 has a good, plain-English description of the evidence rules, including hearsay.

Electronic Access: From any computer (Library or home) via the Legal Information Reference Center.

Instructions are available on our website at [Nolo Ebooks](https://saclaw.org/nolo-ebooks) (https://saclaw.org/nolo-ebooks) .

California Causes of Action KFC 1003 .C35

This book describes many of the common causes of action. It comes with a CD-ROM with sample complaints that you can easily download and customize.

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

1	Patricia Plaintiff 4679 Oak Drive Sacramento, CA 95814 916-555-9975	<div>IMPORTANT: RED boxes and text are instructions, and are not part of your completed document. Erase them before finalizing.</div> <div>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!</div>
2	Patricia Plaintiff	
3	Plaintiff in Pro Per	
4		
5		
6		
7	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
8	FOR THE COUNTY OF SACRAMENTO	
9		
10		
11		
12		
13	PATRICIA PLAINTIFF,	Case No.: _____
14	Plaintiff,	<div>You will receive a case number when you file your complaint (Step 4).</div> <div>NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION; DECLARATION OF PATRICIA PLAINTIFF; AND MEMORANDUM OF POINTS AND AUTHORITIES</div> <div>Cal. Code of Civ. Proc. 526(a)</div> <div>Date: Aug 1, 2016 Time: 9:00 am Location: Dept. 54 Judge: Hon. Jeri Judge Date Action Filed: June 24, 2016</div> <div>Trial Date: Not Yet Set</div>
15	vs.	
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,	
17	Defendants	
18		
19		
20		
21		
22		
23		
24	To defendants David Defendant, Steven Gordon ("DMV DIRECTOR"), and State of California	
25	Department of Motor Vehicles ("DMV"), and to their attorney(s) of record:	
26	NOTICE IS HEREBY GIVEN that on August 1, 2016, at 9:00 a.m., or as soon thereafter as the	
27	matter may be heard, in Department 54 of this court, located at 813 6th Street, Sacramento,	
28		
	- 1 - MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF PATRICIA PLAINTIFF, AND MEMORANDUM OF POINTS AND AUTHORITIES	

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)).

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.

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.

24 Dated: **June 25, 2016**

26 Signature
27 **PATRICIA PLAINTIFF**, In Pro Per

28
- 2 -
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 **3TXS596**, 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.

- 8 -

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

11
12 Furthermore, unless enjoined, the transfer of the Vehicle would tend to render the prayed-for
13 judgment of possession in this case ineffectual, since Defendant **David Defendant** would no longer
14 be able to return the Vehicle, and result in a multiplicity of litigation to determine Plaintiff’s rights
15 against a third party, the buyer.

16
17 B. Preservation of Status Quo. A preliminary injunction may be granted to preserve the status
18 quo until a final determination of the merits of the action (Continental Baking Co. v. Katz (1968) 68
19 Cal. 2d 512, 528, 67 Cal. Rptr. 761, 439 P.2d 889; Oiyee v. Fox (2012) 211 Cal. App. 4th 1036, 1047–
20 1060, 151 Cal. Rptr. 3d 65). In this case, the injunction would serve the status quo by preventing
21 Defendant from transferring the Vehicle but permitting Defendant to retain possession until further
22 proceedings.

23
24 C. Likelihood that Plaintiff Will Prevail and the Balance of Hardships. In exercising its
25 discretion, the trial court must consider two interrelated factors: (1) the likelihood that the plaintiff
26 will prevail on the merits of the case at trial, and (2) the harm to be suffered by the plaintiff if the
27 injunction does not issue as compared to the harm to be suffered by the defendant if it does (People v.
28

- 9 -
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 **Shiomoto** 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**
18

19 Signature
20 **Patricia Plaintiff**, In Pro Per
21
22
23
24
25
26
27
28

- 10 -
MOTION FOR PRELIMINARY INJUNCTION, DECLARATION OF **PATRICIA PLAINTIFF**,
AND MEMORANDUM OF POINTS AND AUTHORITIES

Motion for Preliminary Injunction (page 5)

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 **3TXS596**, 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**

- 3 -
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

24
25
26 Signature

27 PATRICIA PLAINTIFF
28

- 4 -

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

Motion for Preliminary Injunction (page 7)

STATE OF CALIFORNIA
CERTIFICATE OF TITLE

VEHICLE HISTORY

VEHICLE ID NUMBER: [REDACTED] VIN: [REDACTED] MAKE: [REDACTED] PLATE NUMBER: [REDACTED]

BODY TYPE MODEL: [REDACTED] UNLADEN AX. WEIGHT: [REDACTED] EXPIRATION DATE: [REDACTED] FEES PAID: [REDACTED] REGISTRATION EXPIRATION DATE: [REDACTED]

CLASS: [REDACTED] YEAR: [REDACTED] MO: [REDACTED] EQUIPMT/TRUST NUMBER: [REDACTED] ISSUE DATE: [REDACTED]

MOTORCYCLE ENGINE NUMBER: [REDACTED] ODOMETER DATE: [REDACTED] ODOMETER READING: [REDACTED]

REGISTERED OWNER: [REDACTED]

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

SIGNATURE OF REGISTERED OWNER: [REDACTED] DATE: [REDACTED]

SIGNATURE OF REGISTERED OWNER: [REDACTED] DATE: [REDACTED]

Federal and State law requires that you complete this transfer of ownership. Failure to complete or provide a false statement may result in fines and/or imprisonment.

The odometer now reads [REDACTED] (words, miles and to the best of my knowledge reflects the actual mileage unless one of the following):

WARNING: ☐ Odometer reading is not correct. ☐ Mileage exceeds the odometer mechanical limit.

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

SIGNATURE OF LENDER: [REDACTED] DATE: [REDACTED]

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

LIENHOLDER(S): [REDACTED]

2. [REDACTED] releases interest in vehicle. (Company name must be countersigned)

Signature Date: [REDACTED]

CA 000000000 REG. 17-30FF (REV 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)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

- 6 -

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

Exhibit B

Motion for Preliminary Injunction (page 9)


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

[reply](#) [prohibited](#) [Posted: 18 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

- 7 -
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	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	4679 Oak Drive	
3	Sacramento, CA 95814	
4	916-555-9975	
5	Patricia Plaintiff	
6	Plaintiff in Pro Per	
7		
8		
9		
10		
11	PATRICIA PLAINTIFF,	Case No.:
12	Plaintiff,	[PROPOSED] ORDER FOR
13	vs.	PRELIMINARY INJUNCTION
14		Date: Aug 1, 2016
15	DAVID DEFENDANT; STATE OF	Time: 9:00 am
16	CALIFORNIA DEPARTMENT OF	Location: Dept. 54
17	MOTOR VEHICLES, STEVEN	Judge: Hon. Jeri Judge
18	GORDON IN HIS/HER CAPACITY OF	Date Action Filed: June 24, 2016
19	DIRECTOR OF DMV ONLY, and DOES	Trial Date: Not Yet Set
20	1-25,	
21	Defendants	
22		
23		
24		
25		
26		
27		
28		

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 _____

- 11 -
[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	_____ Judge of the Superior Court
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	

- 12 -
[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

Order for Preliminary Injunction (page 2)

Date Created
03/30/2023