
Injunction by Noticed Motion

If you believe that someone is likely to take an action that will violate your rights, you can ask a court to issue a *preliminary injunction* prohibiting (“enjoining”) the action until the case between you and the other party is over. It takes more than three weeks to get a preliminary injunction (sometimes much more). There are no fill-in-the-blanks forms for an injunction, and there are several steps involved.

Before requesting an injunction, you must start a lawsuit regarding the underlying problem or conflict. Unless you have already sued the party you want enjoined, the first step is to file a *Complaint* in court. This guide does not cover how to write the initial complaint, since it will need to fit your particular circumstances.

Templates and Forms

- [Complaint Supporting Injunction Template – RTF](https://saclaw.org/wp-content/uploads/2023/04/sbs-injunction-by-noticed-motion-complaint.rtf) (<https://saclaw.org/wp-content/uploads/2023/04/sbs-injunction-by-noticed-motion-complaint.rtf>) (if not yet filed)
- [Motion for Injunction Template – RTF](https://saclaw.org/wp-content/uploads/2023/04/sbs-injunction-by-noticed-motion-motion.rtf) (<https://saclaw.org/wp-content/uploads/2023/04/sbs-injunction-by-noticed-motion-motion.rtf>)
- [Order Granting Injunction \(Noticed Motion\) Template – RTF](https://saclaw.org/wp-content/uploads/2023/04/sbs-injunction-by-noticed-motion-order.rtf) (<https://saclaw.org/wp-content/uploads/2023/04/sbs-injunction-by-noticed-motion-order.rtf>)

Fee and fee waiver. There is a fee for filing a Complaint. For an unlimited civil case the fee is currently \$435. The fee for filing a Motion is \$60, but if you file your Motion along with the Complaint, this fee will be waived. Check the [current Sacramento County filing fees](http://www.saccourt.ca.gov/indexes/fees-forms.aspx) (<http://www.saccourt.ca.gov/indexes/fees-forms.aspx>) before filing. If you are low-income and/or receiving certain benefits, you may qualify for a fee waiver. See our [Fee Waiver guide](https://www.saclaw.org/resource_library/fee-waiver/) (https://www.saclaw.org/resource_library/fee-waiver/) for details.

Warning: This is a complicated procedure with several steps. You will be expected to follow all the same rules as a lawyer would. You will need to do extensive research and writing—we simply provide the format. You will probably have to go to court and speak in front of the judge, the other side, and an audience. If you cannot or prefer not to do these tasks, you will need to hire an attorney.

Notice: The judge may (in some cases, must) require you to post a bond that will be used to compensate the defendant for any losses if the judge later decides the injunction was improperly granted. You will need to obtain this bond from a surety bond company, which will require a deposit and a fee.

What if it's an emergency?

If your situation is a genuine emergency, you can request a temporary restraining order (TRO) within a few days. See our guide on “[Ex Parte Requests for TROs](https://www.saclaw.org/resource_library/tros-applying-for-a-temporary-restraining-order-in-a-civil-case/) (https://www.saclaw.org/resource_library/tros-applying-for-a-temporary-restraining-order-in-a-civil-case/)”

Before the Motion: Research and Write Your Complaint and Accompanying Papers

Skip to Step 1 if you have already started a lawsuit against the defendant.

Write the Complaint. You need to sue the person or people whose actions threaten to violate your rights. See

our guide “[Filing a New Civil Lawsuit](https://www.saclaw.org/resource_library/filing-a-complaint-to-start-a-civil-lawsuit-in-california/)” for more information and required forms. If you want a permanent injunction at the end of the case, you must file an unlimited civil case. *Include one cause of action for an injunction against the party or parties to be enjoined.*

This guide includes a [template complaint with cause of action for injunction](https://www.saclaw.org/resource_library/injunction-by-noticed-motion/). It will not fit your circumstances exactly and must be customized.

You can file the Complaint and Motion together if you file at the Hall of Justice, 813 Sixth Street, in downtown Sacramento. Usually the Complaint is filed at the main courthouse, at 720 Ninth Street, also in downtown Sacramento.

Step-by-Step Instructions

1. Schedule the Hearing

This information is for Sacramento. If your case is in a different county, do not follow these instructions. Instead, call the clerk or visit the court website in your county to find the correct information.

Determine the department and time of the motion

In Sacramento, most motions are heard in the “Law and Motion” departments. These are Department 53, which hears motions Tuesday-Thursday at 2 p.m.; and Department 54, which hears them Tuesday-Thursday at 9 a.m.

Your case is assigned to one or the other department when it is filed.

- For cases filed since about April 15, 2023: [check your case file online](https://prod-portal-sacramento-ca.journaltech.com/public-portal/) to find which department you are assigned to.
- For cases filed before then, if your case number is odd, it was assigned to Department 53. If it is even, it was assigned to Department 54.

Reserve the date for the hearing

In Departments 53 and 54, you must reserve a court date through the court’s online reservation system. For other departments, contact the department clerk to determine the procedure.

To use the online system, go to [the Sacramento Court Public Portal](https://prod-portal-sacramento-ca.journaltech.com/public-portal/) and choose “Reservation System (CRS).” You must have a free account on the system to use it.

Before you log on or call, figure out if there are any days you will *not* be available during the next couple of months. For instance, you don't want to pick a date when you know you will be out of town.

You must choose a date far enough in the future that you can both **file** and **serve** your motion on time. Scheduling it four weeks in advance generally gives a comfortable margin for most types of motions. Usually, the first available date will be further away than that.

Determine the legal deadline to file the motion in court

Disclaimer! Some motions have different time requirements. Check the rules for the motion you are filing.

Tip: File the motion as soon as possible. Your reservation is not final until the motion has been filed and any fees paid.

The last legal day to file with the court is at least sixteen *court* (business) days prior to the motion date ([CCP § 1005](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005) (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005)). “Court days” are Monday through Friday, excluding court holidays. To determine whether a particular filing date will meet this deadline, start counting backwards on the day before your hearing until you reach the sixteenth court day. ([CCP § 12c](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12c.&lawCode=CCP) (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12c.&lawCode=CCP))

For example, suppose your reservation is for Monday, June 18. You would start counting backward using the previous court day, Friday, June 15, as day one, as shown in the calendar below. Skip weekends and court holidays (there is one court holiday in this example, which is Memorial Day, May 28). The sixteenth court day before the hearing would be May 24, 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 | 16 | 17 | 18 Last day to serve by mail | 19 Day 5 | 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 |

Make a note on your calendar to file the motion by this date. Do not miss this deadline. The court will cancel the hearing and you will have to start over.

Determine the legal deadline to serve the motion on the other parties or their attorneys

You must have all other attorneys (or self-represented parties) served with a copy of the motion, then have the server fill out a Proof of Service which you file along with the motion. This means that someone over the age of 18 who is not a party in the case must either mail or personally deliver a copy of the motion and related documents to them. There is a strict deadline to do this (earlier is always fine).

Personal service: 16 **court** days before the hearing, the same as the minimum filing deadline. The server can fill out [Proof of Personal Service—Civil \(POS-020\)](https://www.courts.ca.gov/documents/pos020.pdf) (<https://www.courts.ca.gov/documents/pos020.pdf>).

Service by mail: 16 court days before hearing PLUS five **calendar** days before the hearing (more if the mailing address is outside California). ([CCP § 1005](#)

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005). The server can fill out [Proof of Service by First-Class Mail—Civil](https://www.courts.ca.gov/documents/pos030.pdf). (<https://www.courts.ca.gov/documents/pos030.pdf>)

“Calendar days” include weekends and holidays, but if the final day lands on a weekend or holiday, it is pushed back to the previous court day.

Make a note on your calendar to have the motion served by mail before the deadline. If you miss the mail deadline, you can still have the motion served by personal service up until 16 court days before the hearing. If you miss that deadline, you will have to cancel your court date and start over.

2. Research and write your declaration and memorandum

In your papers, you must explain the facts of your situation, explain the law, and demonstrate how the law applies to those facts. This usually requires original research, analysis, and writing. At the end of this guide, you will find a list of reference books with good starting points for civil motion research.

There are no Judicial Council forms for most civil motions. Instead, the relevant documents must be typed on 28-line pleading paper.

For tips and examples of how to write a declaration and what should be included, see our article "[Declaration Tips](https://saclaw.org/resource_library/declaration-tips/) (https://saclaw.org/resource_library/declaration-tips/)."

You will find forms and customizable templates linked at the tops of our guides.

Note: There is no pre-printed form for most motions for injunction. You will need to customize a motion on "pleading paper." Instructions and a sample motion are at the end of this guide.

Declaration Tips

[More Declaration Tips](https://www.saclaw.org/resource_library/declaration-tips/) (https://www.saclaw.org/resource_library/declaration-tips/).

Your declaration must contain only facts you personally know to be true.

If someone else knows facts or took pictures you need to prove your argument, have them fill out and sign their own *Declaration*. They can use our template or write or type it on the standard form [MC-030, Declaration](https://www.courts.ca.gov/documents/mc030.pdf) (<https://www.courts.ca.gov/documents/mc030.pdf>).

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](https://www.saclaw.org/glossary/perjury/) (<https://www.saclaw.org/glossary/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 and photos can be attached to a Declaration as exhibits. In the Declaration, identify the document with language such as:

14. 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.”

In the above example, you would then 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.

For each exhibit attached to your motion, you must place a page in front of the exhibit identifying it as Exhibit A, B, and so forth in alphabetical order.

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 you must include for the court to consider different types of evidence.

3. Assembling and copying papers

E-filing is now available in Sacramento. Self-represented parties can choose to file papers by electronic filing, but are not required to. Attorneys are required to use e-filing for most things. To use e-filing, you will need to [select a third-party provider](https://saccourt.ca.gov/efiling/efsp.aspx) (<https://saccourt.ca.gov/efiling/efsp.aspx>) and email your paperwork to them. For more information on this in Sacramento, visit the [Sacramento court’s e-filing information webpage](https://saccourt.ca.gov/civil/e-filing-faq.aspx). (<https://saccourt.ca.gov/civil/e-filing-faq.aspx>)

If you do not use e-filing, follow the instructions on this page.

Make four (4) copies of your Motion and any accompanying papers, such as a Proposed Order. Staple each of the copies, but leave the original unstapled so it can easily be scanned into the court’s file system.

One of these copies is to be served on the other party’s attorney (or the other party, if they do not have an attorney). The original and the other three copies are to be filed with the court. You should get one back after the clerk stamps (“endorses”) it. You can also download a stamped copy from the online portal within a few days.

Attaching Exhibits

For each exhibit attached to your motion, you must place a page in front of the exhibit identifying it as Exhibit A, B, and so forth in alphabetical order, or Exhibit 1, 2, and so forth in numerical order.

4. Have Your Documents Served on the Attorney or Self-Represented Party

You must serve your papers on the other attorney or self-represented party in the case. (If there are more than two parties, you must serve all parties, or their attorneys if they have one).

Service must be complete 16 court (business) days before the hearing date, plus five calendar days if you have it served by mail.

Tip: If the mailing deadline (16+5 days) has passed, but there are still more than 16 court days before the hearing, you can have it served by personal delivery. If you miss the service deadline entirely, you will need to re-schedule your motion.

Proof of Service form:

After service is done, you will need to file a Proof of Service signed by the server. If serving by mail, you can use [Proof of Service by Mail \(POS-030\)](https://www.courts.ca.gov/documents/pos030.pdf) (<https://www.courts.ca.gov/documents/pos030.pdf>). For personal service, use [Proof of Personal Service \(POS-020\)](https://www.courts.ca.gov/documents/pos020.pdf) (<https://www.courts.ca.gov/documents/pos020.pdf>). You can fill most of the Proof of Service out now, but it should not be signed. **Make a copy of the unsigned proof of service before proceeding** and include it with the motion papers when you have them served.

The server must serve a copy of the motion papers and a copy of the unsigned proof of service form, to the opposing attorney or self-represented litigant.

The person doing the serving then signs the Proof of Service form, and gives the signed Proof of Service to you.

Make three (3) copies of the signed Proof of Service. It is not necessary to copy the instruction page.

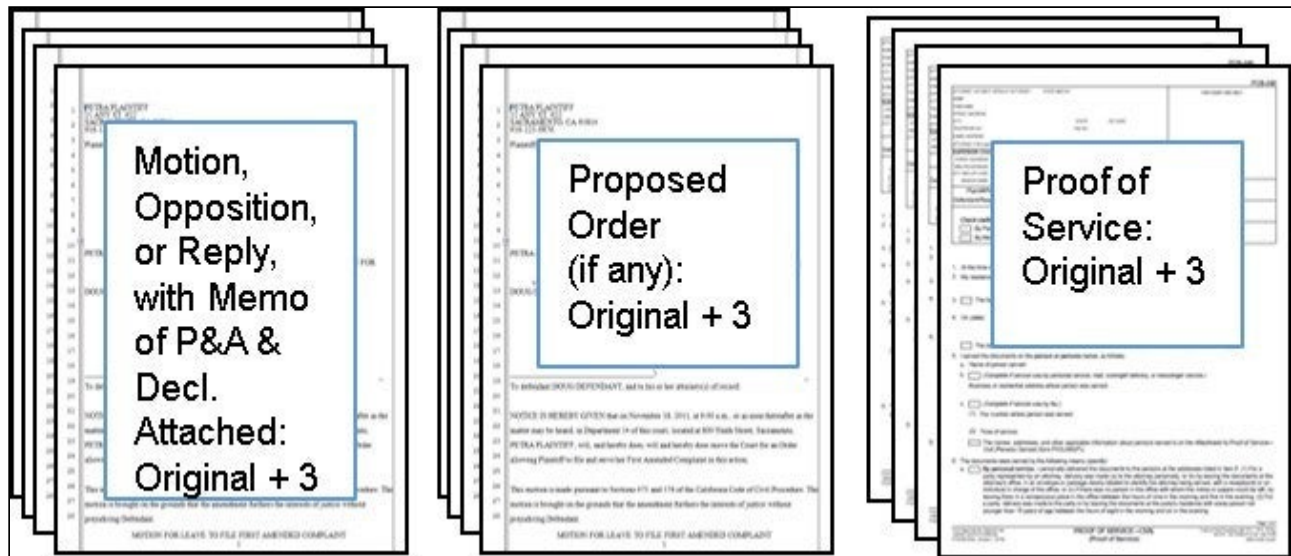
Attach the original signed Proof of Service to your original signed motion, and the copies of the signed Proof of Service to the copies of your motion.

Note: Serve Complaint Along with Motion if You Have Not Served it Yet

- If you have already served the Summons and Complaint, you can use [Proof of Service by First Class Mail \(POS-030\)](https://www.courts.ca.gov/documents/pos030.pdf) ([http://www.courts.ca.gov/documents/pos030.pdf](https://www.courts.ca.gov/documents/pos030.pdf)) or [Proof of Personal Service \(POS-020\)](https://www.courts.ca.gov/documents/pos020.pdf) ([http://www.courts.ca.gov/documents/pos020.pdf](https://www.courts.ca.gov/documents/pos020.pdf)) for the motion. For more information on these Proofs of Service, see our guides for [Serving Documents by Mail](https://www.saclaw.org/resource_library/serve-documents-by-mail/) (https://www.saclaw.org/resource_library/serve-documents-by-mail/) and [Service by Personal Delivery](https://www.saclaw.org/resource_library/personal-service/) (https://www.saclaw.org/resource_library/personal-service/).
- If you are also serving the Summons and Complaint, use [Proof of Service of Summons \(POS-010\)](https://www.courts.ca.gov/documents/pos010.pdf) (<https://www.courts.ca.gov/documents/pos010.pdf>) and list all the documents on that paper. The Summons and Complaint must be personally served; you can serve the Motion paperwork along with it.

5. Assemble your Documents for Filing

Assemble your packet for filing as follows. The original should be unstapled, while each copy is stapled.



- Motion, including Memorandum of Points and Authorities and Declaration with exhibits: original plus three (3) copies. One copy should have any exhibits separated by tabs.
- Proposed Order, if included, plus three (3) copies.
- Completed Proof of Service form: The original plus three (3) copies. This proof of service can be filed as its own document, or it can be attached as the last page of the Motion when filing. If it is attached, then attach the original signed Proof of Service to the original signed Motion.
- Any other documents, such as Request for Judicial Notice, should be treated the same way: create a stack of original plus three (3) copies and file along with the others.

If you are submitting them in the dropbox, you will find cover sheets and large binder clips to hold the whole package together near the box.

6. File at the Hall of Justice Building

File your motion, along with fees if needed, at at the Hall of Justice building, 813 6th St. (6th and H). Your options are:

- Wait in line to file with the clerk in Room 212.
- Drop your paperwork and payment (check or money order only) in the dropbox in the lobby. Your papers will be marked as filed on the day you place them in the box if they arrive before 5 p.m.
- Mail your paperwork and payment to: 720 9th St., Rm 102, Sacramento CA 95814. Payment must be by check or money order. Your papers must arrive by the due date; the postmark will be ignored.

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- Use the court's efilings system. This system is optional for self-represented litigants. Fees will be paid to the electronic filing service provider, which forwards them to the court.

At this time there is a \$60 filing fee for a motion, unless your fees were waived. Dropbox filings must include a check or money order/cashiers check, no credit cards. Credit cards can be accepted at the counter or used when efilings.

Fee Waiver: If you are receiving government benefits such as Medi-Cal or are otherwise qualified because of low income, you can apply for a fee waiver. If you do not yet have a fee waiver, turn the fee waiver request forms in with the motion instead of a fee payment. For more information, see our [Step-by-Step guide on Fee Waivers](https://www.saclaw.org/resource_library/fee-waiver/) (https://www.saclaw.org/resource_library/fee-waiver/).

First Appearance Fee: If you are filing the Summons and Complaint along with the Motion, the court will assess a first appearance fee of \$435 for an unlimited complaint. This fee sometimes changes. Check the [Statewide Fee Schedule](https://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf) (<https://www.saccourt.ca.gov/fees/docs/fee-schedule.pdf>) for current fees.

7. Opposition Papers and Your Optional Reply Papers

If any opposing counsel or self-represented party opposes your motion, he or she may serve and file an opposition at least **nine court days** prior to your motion. No fee is required to file an opposition. The opposition contains a memorandum of points and authorities and usually a declaration, but does not need the notice of motion or motion. Be sure to check your mail, and read any documents you receive carefully.

If the other attorney or party opposes your motion, you may choose to serve and file a reply to the opposition at least **five court days** prior to the motion. [CCP § 1005](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005) (http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005). It must be served by overnight mail to reach the opposing party no more than one day after it is filed.

The reply is optional and is usually used to address new issues your opponent raised in the opposition. No fee is required to file a reply. See the our guide on [Writing, Scheduling, and Opposing Motions](https://www.saclaw.org/resource_library/motions-in-civil-cases/) (https://www.saclaw.org/resource_library/motions-in-civil-cases/) for more information.

8. Review Tentative Ruling at 2 p.m. the Court Day before the Hearing; Schedule Argument by 4 p.m. if Necessary

Most California courts use the tentative ruling system. In Sacramento, 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>), Departments 53 and 54 issue tentative rulings on the 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. Other departments may have different times or may not use tentative rulings; check with the department clerk.

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 Sacramento County Superior Court's [Civil Tentative Rulings](http://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx) (<http://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx>) page.

Closely review the Tentative Ruling. If you are making the motion, you are looking for your motion to be "GRANTED." If you are opposing the motion, you are looking for the motion to be "DENIED." The motion may also be "GRANTED IN PART" and "DENIED IN PART." The judge sometimes orders the parties to appear, even if neither party requests oral argument.

Losing party: If you are not happy with the Tentative Ruling, and wish to present oral argument in front of the judge, you must call all opposing counsel 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. **Note:** carefully consider whether it is worth your time to request oral argument. It is very rare for judges to change their mind, but it does happen sometimes.

Winning party: If you are happy with the Tentative Ruling, you **do not** need to do anything unless the Tentative Ruling orders you to appear, or the other side calls you before 4:00 p.m. that day to request oral argument. If that happens, you should go to the court hearing and be prepared to argue your case.

If neither party requests oral argument by 4:00 p.m., the court will simply make the tentative ruling permanent, and no oral argument will be permitted.

9. Attend the Hearing, if Required

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

Zoom Hearings

For most types of motions, you can appear remotely by connecting on the Zoom app. The tentative ruling will explain how to connect.

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.

If you have questions about the order, you can ask them at the hearing. Make sure you understand if you are

expected to do something as a result of the order. Sometimes the judge will ask the winning party to write the order in proper format for the judge to sign.

Next Steps

The Lawsuit

The defendant(s) 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” and “Request a Default Judgment by Court”). If they do respond, the parties can begin discovery, the process by which you gather information to prove your case. Visit our [Discovery topic page](https://www.saclaw.org/legal_topic/discovery-process-to-get-evidence-from-other-side/) (https://www.saclaw.org/legal_topic/discovery-process-to-get-evidence-from-other-side/) for a series of videos and guides on discovery.

Enforcing the Injunction

If the judge grants the injunction, but the other party disobeys it, you can file a declaration requesting that the judge find them in contempt of court. [CCP §1211\(a\)](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1211.&lawCode=CCP) (https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1211.&lawCode=CCP). If you can prove the defendant guilty beyond a reasonable doubt, they may be fined up to \$1000, jailed for up to five days, or both. [CCP §1218\(a\)](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1218.&lawCode=CCP) (https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1218.&lawCode=CCP). You can find more information on that in some of the books listed below.

For more information

On the Web

Sacramento County Superior Court

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

[”](https://www.saccourt.ca.gov/civil/filing-instructions.aspx#complaint) (<https://www.saccourt.ca.gov/civil/filing-instructions.aspx#complaint>)”

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

[“Motions and Hearings](https://www.saccourt.ca.gov/civil/motions-hearings.aspx) (<https://www.saccourt.ca.gov/civil/motions-hearings.aspx>)”

This page contains information on motions in Sacramento.

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, including information and forms for enforcing injunctions via contempt. Other chapters have sample complaints for various causes of action which you may use to write your Complaint (Step 1).

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

California Civil Procedure before Trial (KFC995 .C34)

Chapter 32, “Injunctions and Other Provisional Remedies,” has in-depth information and includes a section on enforcing injunctions via contempt.

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

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 to access the LIRC](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 download and customize.

Samples

These samples are specifically for the Motion for Injunction. For more information about completing a summons and complaint, please use our guide on [Filing a Complaint to Start a Civil Case](#) (https://saclaw.org/resource_library/filing-a-complaint-to-start-a-civil-lawsuit-in-california/).

Motion for Injunction with Instructions

| | | |
|----|--|---|
| 1 | PAUL SAMPLE | |
| 2 | 345 Oak St. | 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. |
| 3 | Sacramento, CA 95814 | |
| 4 | 916-555-1212 | |
| 5 | PLAINTIFF, IN PRO PER | |
| 6 | | 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. |
| 7 | | |
| 8 | | |
| 9 | | FOR THE COUNTY OF SACRAMENTO |
| 10 | | Use your case number here |
| 11 | | |
| 12 | PAUL SAMPLE, |) Case No.: 34-2019-0012345 |
| 13 | |) |
| 14 | Plaintiff, |) NOTICE OF MOTION AND MOTION FOR |
| 15 | vs. |) PRELIMINARY INJUNCTION |
| 16 | DOUG DEFENDANT and DOES 1-10, |) Date: July 10, 2019 |
| 17 | |) Time: 2:00 pm |
| 18 | Defendants |) Location: Dept. 53 |
| 19 | |) Judge: David I. Brown |
| 20 | |) Date Action Filed: July 1, 2019 |
| 21 | |) Trial Date: Not Yet Set |
| 22 | Plaintiff Paul Sample moves for the issuance of a preliminary injunction pending the outcome | |
| 23 | of trial in this action, enjoining defendant(s) and their employees, agents, and persons acting with | |
| 24 | them, or on their behalf, from cutting down, destroying, killing, or in any other way harming the | |
| 25 | maple tree growing between the plaintiff's and defendant's houses, as well as an order directing the | |
| 26 | defendant to cease verbally and physically threatening to cut down the tree. | |
| 27 | | Precisely specify actions to be restrained. |
| 28 | | |

- 1 -
NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Motion for Preliminary Injunction (page 1)

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.
16
17
18
19 DATED: July 10, 2019
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28

State the basis of your motion.

Date and sign motion

Paul Sample
PAUL SAMPLE
In Pro Per

- 2 -
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
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)

II.

LEGAL ARGUMENT

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A. Restraining Commission or Continuance of Act. An injunction may be granted when it appears

Each of the lettered paragraphs below are sample authorities for some of the most common reasons a preliminary injunction might be granted. They are not a complete list. You may add new authorities that you find, and may delete items that are not applicable to your situation. In either case, be sure to re-letter the paragraphs when making changes.

to the relief demanded and the relief, or any part thereof, continuance of the act complained of, either for a limited § 526(a)(1); *People ex rel. Herrera v. Stender* (2012) 212 Cal. Dingley v. Buckner (1909) 11 Cal. App. 181, 183–184, 104

P. 478; see *Southern Christian Leadership Conference v. Al Malaikah Auditorium Co.* (1991) 230 Cal. App. 3d 207, 223, 281 Cal. Rptr. 216).

B. Court Must Consider Likelihood That Plaintiff Will Prevail and Balance Hardships of

Parties. In exercising its discretion, the trial court must consider two interrelated factors: (1) the likelihood that the plaintiff will prevail on the merits of the case at trial, and (2) the harm to be suffered by the plaintiff if the injunction does not issue as compared to the harm to be suffered by the defendant if it does (*Take Me Home Rescue v. Luri* (2012) 208 Cal. App. 4th 1342, 1350–1353, 146 Cal. Rptr. 3d 461).

In the present case, the plaintiff will almost certainly prevail if the tree is found by the court to be on his property. Denying the injunction would cause the irreparable loss of a 50 year-old shade tree that greatly enhances the plaintiff's home, whereas the harm in granting the injunction is minimal- the defendant would simply need to put up with having a beautiful shade tree in between the two houses.

B. Great or Irreparable Injury or Waste. An injunction may be granted when it appears by the complaint or affidavits (or declarations) that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury to a party to the action (Code Civ. Proc. §§ 526(a)(2), 2015.5; *Volpicelli v. Jared Sydney Torrance Memorial Hosp.* (1980) 109 Cal. App. 3d

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).

15
16 Respectfully submitted,

17
18 DATED: July 10, 20 13

19
20 Date and sign memorandum of
points and authorities.

21
22 *Paul Sample*
23 _____
24 PAUL SAMPLE
25 In Pro Per

26
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- 5-

NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Motion for Preliminary Injunction (page 5)

DECLARATION OF PAUL SAMPLE IN SUPPORT OF PRELIMINARY INJUNCTION

1 Paul Sample, declare:

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

4 2. I and the State capacity of declarant neighbors. I reside at 345 Oak St, Sacramento, and the defendant
5 resides at 347 Oak St.

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

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

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

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

16 7. The tree is irreplaceable due to its size and age, so the loss of this tree from my property
17 would cause irreparable harm. This tree provides shade across 30% of my house in the afternoon
18 during summer. As a result, my house stays much cooler in the summertime, resulting in substantial
19 utility savings, as well as greatly increasing the value of my property, as well as my enjoyment of it. I
20 declare under penalty of perjury under the laws of the State of California that the foregoing is true and
21 correct.
22
23
24
25
26 Dated: July 8, 2019

Declarant dates and signs
declaration

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 | <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> |
| 2 | 345 Oak St. | |
| 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 | | |
| 9 | | FOR THE COUNTY OF SACRAMENTO |
| 10 | | |
| 11 | | |
| 12 | | Use your case number here |
| 13 | PAUL SAMPLE, |) Case No.: 34-2019-0012345 |
| 14 | Plaintiff, |) |
| 15 | vs. |) [PROPOSED] ORDER FOR PRELIMINARY INJUNCTION |
| 16 | |) |
| 17 | DOUG DEFENDANT and DOES 1-10, |) Date: July 10, 2019 |
| 18 | |) Time: 2:00 pm |
| 19 | Defendants |) Location: Dept. 53 |
| 20 | |) Judge: David I. Brown |
| 21 | |) Date Action Filed: July 1, 2019 |
| 22 | |) Trial Date: Not Yet Set |
| 23 | |) |
| 24 | |) |
| 25 | |) |
| 26 | |) |
| 27 | |) |
| 28 | |) |

The motion of plaintiff for the preliminary injunction came on regularly for hearing by the court this date by noticed motion. Plaintiff, PAUL SAMPLE, appeared in pro per; defendant, DOUG DEFENDANT, appeared by counsel Larry Lawyer.

On proof made to the court's satisfaction, and good cause appearing:

Identify the parties, and their attorneys. Self-represented persons appear "in pro per."

- 1 -
[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
6 a. Cutting down, destroying, killing, or in any other way harming the maple tree growing
7 between the plaintiff's and defendant's houses located at 346 Oak St., Sacramento, California
8 and 348 Oak St., Sacramento, California, respectively.
9
10 b. Verbally and/or physically threatening to cut down the maple tree growing between the
11 plaintiff's and defendant's houses located at 346 Oak St., Sacramento, California and 348 Oak
12 St., Sacramento, California, respectively.

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 The court will usually require the plaintiff (or party seeking the injunction) to post a bond, money, or property with
16 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
22 **IT IS FURTHER ORDERED** that the preliminary injunction as set forth above shall issue on
23 plaintiff's filing a written undertaking in the sum specified above.
24
25 The court reserves jurisdiction to modify this injunction as the ends of justice may require.
26
27 **IT IS SO ORDERED.**
28 Dated: _____

Judge of the Superior Court

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[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

Proposed Order for Preliminary Injunction (page 2)

Date Created
03/30/2023