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 (DOCX) (https://saclaw.org/wp-content/uploads/2026/02/sbs-injunction-by-noticed-motion-complaint.docx) (if not yet filed)
- Motion for Injunction Template (DOCX) (https://saclaw.org/wp-content/uploads/2026/02/sbs-injunction-by-noticed-motion-motion-1.docx)
- Order Granting Injunction (Noticed Motion) Template (DOCX) (https://saclaw.org/wp-content/uploads/2026/02/sbs-injunction-by-noticed-motion-order.docx)

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 (https://www.saccourt.ca.gov/forms-fees) 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/) 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/)"

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. Note: The filled-out samples in this guide 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/).

You can file the Complaint and Motion together, but it must be filed with or before the motion for injunction.

Step-by-Step Instructions

1 Schedule the Hearing

Determine the department and time of the motion

In Sacramento, most motions are heard in the "Civil Home Court" department assigned to the case, which will be either department 8C, 8D, 16C, or 16D. Check your case file online (https://prod-portal-sacramento-ca.journaltech.com/public-portal/) to find which department your case is assigned to.

Effective April 13, 2026: Department 25 changed Department 8D; Department 28 changed to Department 8C; Department 53 changed to Department 16D; and Department 54 changed to Department 16C of the Tani G. Cantil-Sakauye Courthouse (500 G Street). If your case was filed before that date, **its assigned department has changed**, so check before scheduling a hearing.

More information about Civil Home Court department transition (https://saclaw.org/resource_library/new-civil-home-court-system-in-sacramento/)

A few types of motions are heard in other departments. Filing Guidelines and Department Information (https://www.saccourt.ca.gov/divisions/civil/filing-guidelines-department-information)

Reserve the date for the hearing

In the Civil Home Departments, for most motions, you must reserve a court date through the court's online reservation system. (Exceptions are discovery-related motions to compel, which must be reserved in advance by calling the clerk of the assigned department.)

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&sectionNum=1005.)). "Court days" are Monday through Friday, excluding court holidays.

NOTE: the court must receive the documents by that day. Postmark will not count.

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))

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.



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 a copy of the motion served on all other attorneys (or self-represented parties) by a strict deadline set by law. Earlier is always fine.

Personal service: 16 ***court*** days before the hearing, the same as the minimum filing deadline. The server should fill out Proof of Personal Service—Civil (POS-020 (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&sectionNum=1005.)). The server should fill out Proof of Service by First-Class Mail—Civil. (https://www.courts.ca.gov/documents/pos030.pdf)

“Court days” are business days – Monday – Friday, except holidays.

“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 mail 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

There is no pre-printed form for this motion. You will need to customize a motion on “pleading paper.” You can download a template from the list above. Instructions and a sample motion are at the end of this guide.

A request to deem an opposing party’s admissions true is made through a **motion**.

A motion is a request to the judge to issue an order of some sort. A written motion consists of four parts (the Notice of Motion and Motion are combined):

- Notice of Motion and Motion;
- Memorandum of Points and Authorities; and
- Declaration

These parts can be filed as separate documents or combined into one document, as in our template motion.

The Notice of Motion lets the opposing party know when and where the motion is scheduled to be heard, while the Motion lets the court and the opposing party know what is being requested. The Memorandum of Points and Authorities explains to the court and the opposing party the legal basis of the motion, while the Declaration provides evidence, sworn under penalty of perjury, supporting the motion.

The Declaration must contain the evidence you need to prove the facts you are asserting. Usually this will be by someone stating the facts under penalty of perjury. Often, it will also include photographs or documents that support your assertions. In most cases, the person making the motion will make the declaration. If someone else has personal knowledge of important facts, that person should also be asked for a declaration.

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/) .”

In some cases, you may need to file an additional document, such as a Request for Judicial Notice.

In your Memorandum, 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

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.

3 Assembling and copying papers for service

Put the motion and any other papers into proper order and format to serve the other side.

Before serving the documents, be sure that they include everything necessary, including the Notice of Motion and Motion, the Memorandum, supporting declaration(s) with exhibits attached, and any other documents such as request for judicial notice.

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. These are then attached at the end of your declaration.

Make enough copies of your papers to serve one set on each other party in the case, plus an optional one for you to keep. Staple the copies, but leave the original unstapled so it can easily be scanned into the court's file system.

In a later step, you will either e-file the documents or file the original and your optional copy in the court.

4 Have Your Documents Served on the Attorney(s) or Self-Represented Party(s)

You must serve one copy on each other party in the case, and have the server sign the Proof of Service form.

You must have someone 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)). For personal service, use Proof of Personal Service (POS-020) (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.

After serving the papers, your server will sign the Proof of Service form, and give it to you.

Attach the original signed Proof of Service to your original signed motion. If you are using an optional copy for yourself, attach a copy of the Proof of Services to that.

You can also file it as a separate document, without attaching it to your motion papers.

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) (http://www.courts.ca.gov/documents/pos030.pdf) or *Proof of Personal Service* (POS-020) (http://www.courts.ca.gov/documents/pos020.pdf) for the motion. F
- 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) 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

If you are e-filing, you will simply email the documents to the efiling provider of your choice.

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

- Motion, including Memorandum of Points and Authorities and Declaration with exhibits: original plus one optional copy to be returned to you.
- Proposed Order, if included, plus one optional copy.
- Completed Proof of Service form: The original plus plus one optional copy. This proof of service can 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 one optional copy and file along with the others.

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

6 File Your Motion Papers by the Deadline

In Sacramento, all civil moving papers, oppositions, and replies can be e-filed, mailed to the court, or filed in person.

Related: Filing Papers in Civil Court in Sacramento Superior Court (https://saclaw.org/resource_library/filing-papers-in-civil-cases-in-sacramento-superior-court/)

Your options are:

- Wait in line to file with the clerk at the filing counter (Tani G. Cantil-Sakauye Courthouse, 500 G St., 2nd Fl., Sacramento, CA 95814).
- Drop your paperwork and payment in the dropbox on the second floor. Payment **must** be by check or money order. 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: to the Tani G. Cantil-Sakauye Courthouse, 500 G St., 2nd Fl., Sacramento, CA 95814. Payment **must** be by check or money order. Your papers must **arrive** by the due date; the postmark will be ignored.
- Use the court's efiling 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 efiling.

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/).

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/home/showpublisheddocument/219/639084032985130000) for current fees.

7 Opposition Papers and the Moving Party's Optional Reply Papers

The opposing party must file written opposition or risk losing automatically. The moving party may file and serve a Reply, but it is optional.

If any opposing counsel or self-represented party opposes the motion, they may serve and file an opposition at least **nine court days** prior to the hearing. No fee is required to file an opposition.

Written Opposition is required. Going to the hearing is not sufficient. If you do not file a written Opposition on time, the judge will probably grant the Motion and cancel the hearing.

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.

The moving party may choose to serve and file a reply to the opposition at least **five court days** prior to the motion. CCP § 1005 (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP&sectionNum=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 the opponent raised in the opposition. No fee is required to file a reply. See our guide on Writing, Scheduling, and Opposing Motions (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

Before the hearing, the judge reads the papers and decides how they plan to rule. They post the decision on the court's website the day before the hearing. If a party wants a chance to speak to the judge to change their mind, they must notify the other party and the court by 4 p.m.

Most California courts use the tentative ruling system. In Sacramento, pursuant to Local Rule 1.06 (https://www.saccourt.ca.gov/general-information/local-rules-standing-orders) , the Civil Home Court departments 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 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 (https://www.saccourt.ca.gov/online-services/case-search) or call 916-874-7858 or 916-874-7848 to have a clerk read the ruling to you. For more information, see the Sacramento County Superior Court's Civil Tentative Rulings (https://www.saccourt.ca.gov/home/showpublisheddocument/1208/639184911463700000) 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 ("APPEARANCE REQUIRED"), 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 right away. Let them know that that you are appearing, and that they can appear via Zoom. Leaving a message is fine.

Then call the Law and Motion Oral Argument Request Line before 4:00 p.m.:

Department 8C: 916-874-8380
Department 8D: 916-874-7719
Department 16C: 916-874-1475
Department 16D: 916-874-3056

Leave a message with the following information: 1. Your name, and that you want to appear; 2. the item number (to the left of your case number on the Tentative Ruling); and 3. that you have let the other parties know you are appearing, and that they can appear via Zoom.

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 in person or by Zoom 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 neither party calls the court and opposing party to request oral argument, the hearing will be cancelled, and the tentative ruling will become final.

If you or the other party request oral argument, arrive in court 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.

In Person
All Law and Motion hearings will take place at 500 G St., Sacramento (the new Railyard area courthouse).

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. For instance, if you are ordered to file an amended complaint or serve responses, make sure you know the deadline and what is expected.

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/) 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.legislature.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.legislature.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

Judicial Council of California Self-Help Site

“Steps to Sue Someone” (https://selfhelp.courts.ca.gov/civil-lawsuit/plaintiff)
This page explains the procedures needed to start a lawsuit.

Sacramento County Public Law Library Free Video

“See You In Court (https://www.saccourt.ca.gov/civil/motions-hearings.aspx)”
How to start a lawsuit in Sacramento Superior Court.

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.

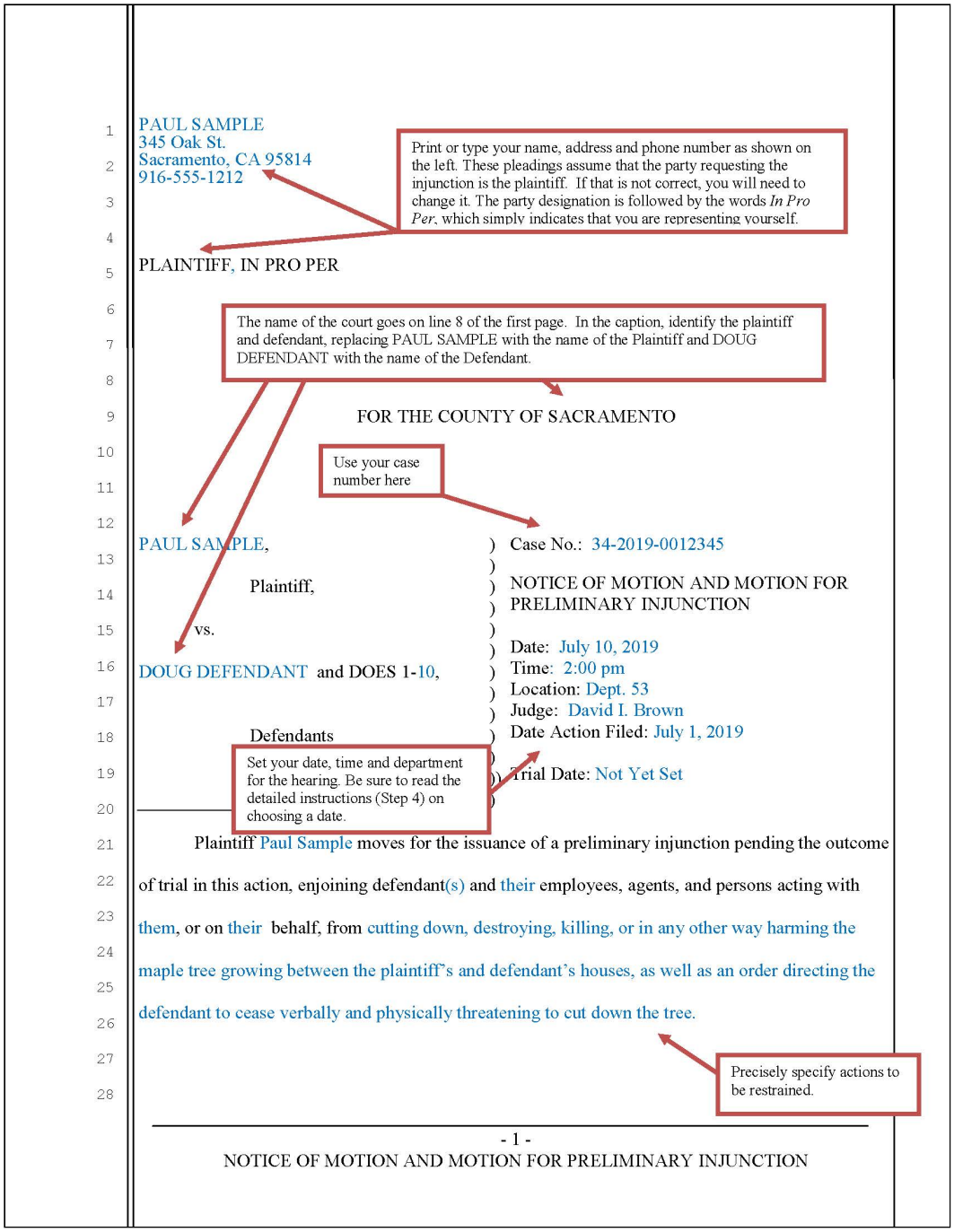
Win Your Lawsuit (KFC 968 .D86)
This book does not cover restraining orders, but it can help you draft the underlying complaint. It contains sample filled-out forms for breach of contract, personal injury, and related causes of action.

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/updated-nolo-instructions2025/)

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.h

Samples

Motion for Injunction with Instructions



PAUL SAMPLE
345 Oak St.
Sacramento, CA 95814
916-555-1212

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.

PLAINTIFF, IN PRO PER

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.

FOR THE COUNTY OF SACRAMENTO

Use your case number here

PAUL SAMPLE,

Plaintiff,

vs.

DOUG DEFENDANT and DOES 1-10,

Defendants

Case No.: 34-2019-0012345

NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Date: July 10, 2019
Time: 2:00 pm
Location: Dept. 53
Judge: David I. Brown
Date Action Filed: July 1, 2019
Trial Date: Not Yet Set

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

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.

Precisely specify actions to be restrained.

- 1 -
NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

State the basis of your motion.

This motion is made pursuant to the provisions of Code of Civil Procedure section 527 on the ground that the defendant intends to cut down the 25 foot maple tree between the houses of the plaintiff and defendant, while it is disputed whether the tree falls onto the plaintiff or defendant's property, and loss of this tree would constitute severe and irreparable damage to the plaintiff.

This motion is based upon the memorandum in support and declaration set forth below, and the complaint in this action.

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

DATED: July 10, 2019

Date and sign motion

Paul Sample
PAUL SAMPLE
In Pro Per

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PRELIMINARY INJUNCTION

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

INTRODUCTION

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

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

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

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

II.

LEGAL ARGUMENT

A. Restraining Commission or Continuance of Act. An injunction may be granted when it appears [illegible] ed to the relief demanded and the relief, or any part thereof, [illegible] continuance of the act complained of, either for a limited [illegible] 526(a)(1); *People ex rel. Herrera v. Stender* (2012) 212 Cal. [illegible] 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).

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.

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

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

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

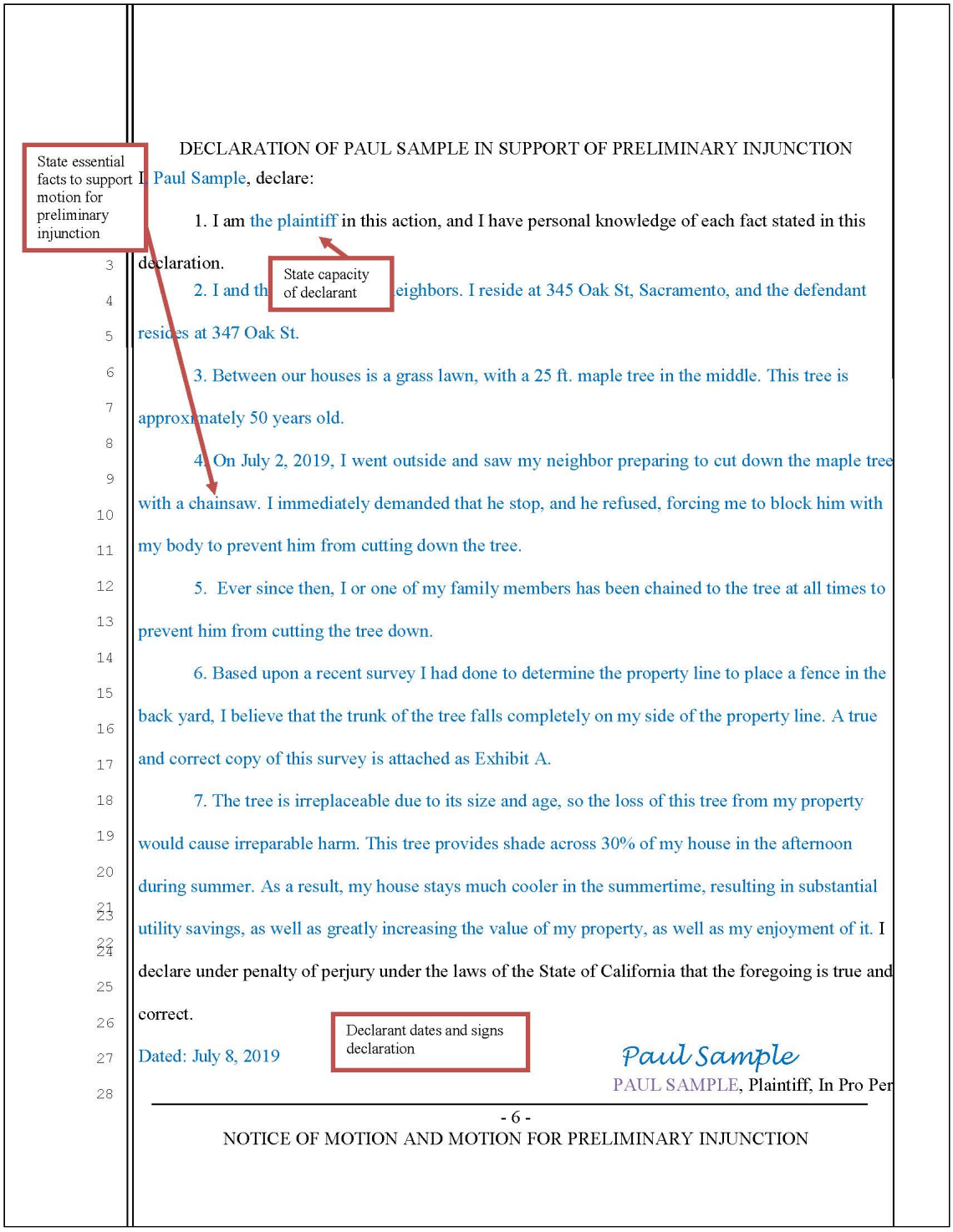
Respectfully submitted,

DATED: July 10, 20 13

Paul Sample

PAUL SAMPLE
In Pro Per

Date and sign memorandum of points and authorities.



DECLARATION OF PAUL SAMPLE IN SUPPORT OF PRELIMINARY INJUNCTION

State essential facts to support motion for preliminary injunction

I, Paul Sample, declare:

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

State capacity of declarant

2. I and th eighbors. 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.

Declarant dates and signs declaration

Dated: July 8, 2019

Paul Sample

PAUL SAMPLE, Plaintiff, In Pro Per

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NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION

Sample Proposed Order with Instructions

PAUL SAMPLE
345 Oak St.
Sacramento, CA 95814
916-555-1212

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.

PLAINTIFF, IN PRO PER

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.

FOR THE COUNTY OF SACRAMENTO

Use your case number here

PAUL SAMPLE,

Plaintiff,

vs.

DOUG DEFENDANT and DOES 1-10,

Defendants

Case No.: 34-2019-0012345

[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

Date: July 10, 2019
Time: 2:00 pm
Location: Dept. 53
Judge: David I. Brown
Date Action Filed: July 1, 2019

This is the same date as used on all prior documents.

Trial Date: Not Yet Set

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

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

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

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

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 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:"

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.

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

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

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

IT IS SO ORDERED.

Dated: _____. _____

Judge of the Superior Court

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