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MOTIONS IN CIVIL CASES

Writing, Scheduling, and Opposing or Replying to Motions

This Guide includes instructions and sample forms. Links to download the fillable forms are at the end of this Guide. Additional copies of this Guide can be downloaded from: ***saclaw.org/motions-general***

BACKGROUND

This Guide describes the process of making and opposing motions in a case in Sacramento County Superior Court. This can be complex and requires very specific paperwork. If you still have questions after reading this guide, come in to the Law Library to research your questions or talk to a lawyer.

Terms to Know

Motions: papers filed to ask the judge to make a court order in an existing case, to explain why the moving party is legally entitled to the order, and to set up a hearing date for oral argument and the decision**. Minimum advance notice**: 16+5: sixteen *court* (business) days before hearing plus five *calendar* days for mail service on other party.

Opposition: papers filed by the opposing party to object to a motion. Deadline to file: nine *court* (business) days before hearing. Service must be by personal service or overnight mail on the day you file.

Reply: optional papers to respond to the Opposition. Deadline to file: five *court* (business) days before hearing. Service must be by personal service or overnight mail on the day you file.

Oral Argument: On the hearing date, the parties go to court to make their arguments and answer questions from the judge. In most departments, the judge makes a *tentative ruling* on the court day before the hearing, and the oral argument is canceled unless one of the parties calls the court to confirm that they want to appear and argue their case.

Guides for Particular Motions

This guide should be useful for most types of civil motions, but the Law Library has prepared guides for many specific situations. Some popular ones are:

Motion to Vacate or Set Aside (Relief from Default Judgment)
saclaw.org/relief-default-judgment

Motion to Pay Judgment in Installments
saclaw.org/motion-installments

Peremptory Challenge (Dismissing Judge)
saclaw.org/peremptory-challenge-judge

Discovery Motions
saclaw.org/law-101/discovery-topic/#research

For more, visit our "Law 101" page
Click on your topic of interest, then scroll down to "Research Guides."

Warning

Do not use this guide for Demurrers or Summary Judgment/Adjudication motions. They are very complex and follow different rules and deadlines.

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

Tentative Ruling: at 2 p.m. on the court day before the hearing, the judge posts a preliminary decision ("tentative ruling") on the Sacramento Court's website. Each party must read it and decide whether to appear for oral argument. The oral argument is canceled unless one of the parties calls the court to confirm between 2 p.m. and 4 p.m. on the court day before the hearing. If no call is made, the Tentative Ruling becomes the order of the court. Sacramento Local Rule (Local Rule) 1.06.

Court Order: If no oral argument is held, the Tentative Ruling becomes the official court order. If oral argument is held, the court order may be issued at the end of the hearing or may be mailed out some time later.

Required Parts of Motions, Oppositions, & Replies

Since there are no pre-printed Judicial Council forms for most civil motions, you must draft them yourself. Motions must follow a very specific format.

A ***Motion*** has three required parts, and an optional fourth:

- *Notice of Motion and Motion* (date, time, and location of hearing, and a brief statement of the request);
- *Memorandum of Points and Authorities* (legal argument);
- *Declaration(s)* (evidence); and
- *Proposed Order* (usually optional, but recommended.)

The *Notice of Motion and Motion, Memorandum of Points and Authorities,* and *Declaration(s)* may be filed as separate documents or combined together into the same document. The template and samples in this Guide combine them into one. The *Proposed Order* (if included) is always filed as a separate document. California Rule of Court (CRC) 3.1112 (www.courts.ca.gov/cms/rules/index.cfm).

Opposition and ***Reply*** papers usually have two parts:

- *Memorandum of Points and Authorities* (legal argument); and
- *Declaration(s)* (evidence), if needed.

Occasionally a Motion, Opposition, or Reply will require additional sections, such as a Request for Judicial Notice, a Separate Statement of Undisputed Facts, or a copy of a proposed pleading.

For examples, see our **Request for Judicial Notice** form (saclaw.org/request-for-judicial-notice) and our **Relief from Default Judgment** guide (saclaw.org/relief-default-judgment).

Oppositions and Replies do not include a *Notice of Motion and Motion* or a *Proposed Order*. The *Memorandum of Points and Authorities* and *Declaration(s)* may be filed as separate documents or combined together into the same document. The template and samples in this Guide combine them into one.

Required Format: Court papers must be written on 28-line "pleading paper," in the format required by CRC 2.100-2.119. The first page must display a caption containing specific information. Each line must be numbered. Each page must have a footer with the page number and title of the document. Type style and size, margins, and line spacing are all specified. The templates accompanying this guide satisfy these requirements.

Notice of Motion and Motion: The *Notice of Motion and Motion* specifies the date, time, and location where the hearing will take place, spells out what the party is requesting, and gives a *very brief* citation to the law supporting the request. In Sacramento, the *Notice of Motion and Motion* **must**

include the paragraph from Local Rule 1.06 (D) (www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf) informing the parties of the tentative ruling system.

Memorandum of Points and Authorities: The phrase "Points and Authorities" refers to legal arguments and the cases, statutes, or regulations supporting them (also called "authorities"). The parties must explain the law and how it applies to the facts of their case. This portion of the Motion, Opposition, or Reply usually requires original research, analysis, and writing, although the Law Library has many resources to get you started. Particularly good starting places are listed at the end of this guide.

There is a page limit of 15 pages for Motions and Oppositions, and 10 pages for Replies. These limits do not count declarations, exhibits, or proofs of service. (CRC 3.1113(d)). Any memorandum over 10 pages must have a table of contents and table of authorities; these are not covered in this Guide. (CRC 3.1113(f)).

Declaration: The parties must provide some factual basis (evidence) for their arguments. This is generally done by attaching a *Declaration,* written by someone with first-hand knowledge of the facts, explaining the facts in numbered paragraphs. The facts are usually cited by paragraph number in the *Memorandum of Points and Authorities*. For example, in his *Declaration*, defendant David Jones might write:

> 13. On July 3, 2013, I purchased a 2010 Toyota Camry, VIN 2894320, from plaintiff Smith's Used Car Lot.

In the *Memorandum of Points and Authorities*, Jones would write:

> On July 3, 2013, defendant purchased a 2010 Toyota Camry, VIN 2894320, from plaintiff Smith's Used Car Lot. (Jones Decl., Para. 13.)

Documents, photographs, and other attachments can be used as evidence. Attach such documents to a *Declaration* as **exhibits**. In the *Declaration*, identify the attachment with language such as "On July 3, 2013, I signed a Vehicle Purchase Contract. A true and correct copy of the contract is attached as Exhibit "A" to this Declaration." Photocopy the attachment and write "Exhibit A" on the bottom of the page. (The second exhibit is "Exhibit B," and so on.) If the exhibit is longer than one page, number each page A-1, A-2, A-3, and so forth. Attach the exhibits to the end of the *Declaration*.

Important: Sacramento County Superior Court requires that you turn in one copy of your Motion in which has the *Exhibits* are separated by a rigid sheet of card stock with a lettered tab on the bottom. Exhibits for the original and the other copies should be separated by a blank piece of pleading paper with their exhibit letter or number (for instance, "Exhibit A") typed or written on the bottom of the page.

Note: The Law Library sells card stock with tabs at the Circulation Desk.

Note: Declarations and exhibits must meet legal requirements to be admitted in court, which are not covered in this Guide. For information about the requirements for different types of evidence, see "A Short Course in the Rules of Evidence," in Chapter 13 of the self-help book *Win Your Lawsuit.* A useful discussion of the types of evidence that can be used to support motions and applications can be found at 14:490-498 of *California Pretrial Practice & Forms* from James Publishing.

Proposed Order: While usually not required, it is advisable to include a *Proposed Order* with most Motions. If the order is served along with the motion, the judge can sign it immediately after making a decision. Oppositions and Replies do not need a Proposed Order.

STEP-BY-STEP INSTRUCTIONS

Step 1: Schedule the Hearing (Moving Party Only—Opposing Party Go to Step 2)

Only the moving party completes this step. The opposing party, who learns of the hearing when the moving party serves paperwork on them, starts at Step 2. After receiving the Opposition, the moving party may start at Step 2 to prepare a Reply.

1.1 Choose the Date for the Hearing

In Sacramento, the party making the motion is responsible for setting the date for hearing the motion. You must schedule it far enough in the future that you can both ***file*** and ***serve*** it on time.

Filing Deadline: The motion must be filed with the court at least sixteen *court* (business) days prior to the motion date (CCP § 1005). 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) 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. (Earlier is fine.)

Shortcut: 35+ Days

If you choose a date at least thirty-five days after you plan to file the Motion, you should have plenty of time.

If you need to have the Motion heard sooner than 35 days, follow the instructions in Section 1.1 to find the earliest date that gives you time to file and serve the papers.

MAY						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8				12
13	14	15	16	17	18 Last day to serve by mail	19 Day 5
20 Day 4	21 Day 3	22 Day 2	23 Day 1	24 Day 16 Last day to file	25 Day 15	26
27	28 Holiday	29 Day 14	30 Day 13	31 Day 12		

Day 5 falls on a weekend, so the last day for service by mail rolls over to the previous court day.

JUNE						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1 Day 11	2
3	4 Day 10	5 Day 9	6 Day 8	7 Day 7	8 Day 6	9
10	11 Day 5	12 Day 4	13 Day 3	14 Day 2	15 Day 1	16
17	18 Hearing Date	19	20	21	22	23
24	25	26	27	28	29	30

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 latest that the motion could be filed.

Service Deadline: Before you file the motion, you must have all other attorneys (or self-represented parties) 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 mail or personally deliver a copy of the motion and related documents to them.

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.

If the motion is served by mail, five *calendar* days are added before the sixteen court days (more if they are mailed outside California). (CCP § 1005). 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. 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 moves back to May 18, 2012, the last court day before the deadline. (Earlier is fine.)

When choosing the date of your motion, be sure that you have left enough time for the motion to be both served and filed in a timely fashion. Scheduling it four weeks in advance usually gives a comfortable margin.

Warning! Some motions have different time requirements. Check the rules for the motion you are filing. The Sacramento County Superior Court has prepared a "Quick Motion Checklist" noting the deadlines for filing and service for most motions. The Checklist is available on the Court's website at www.saccourt.ca.gov/civil/docs/motion-quick-reference-list.pdf.

1.2 Determine the Department to Hear and the Time of the Motion

In Sacramento, most civil cases are assigned to Department 53 or Department 54 for the purpose of hearing motions. To determine whether your motion is in Department 53 or 54:

- For **cases filed after January 1, 2013:** If your case number ends in an odd number, then your motions are heard in Department 53 at 2:00 p.m. If it ends in an even number, your motions are heard in Department 54 at 9:00 a.m.
- For **cases filed before January 1, 2013,** motions are heard in the department which was assigned when the case was filed.

A few types of motions are heard in other departments:

- **The Presiding Judge** (Dept. 47) hears all motions for consolidation, severance, bifurcation, intervention, pretrial conference, coordination, change of venue, or to advance or continue trial.
- **Case Management Program (CMP) judges** (Depts. 30 and 36) hear all case-management related motions in cases assigned to the Case Management Program (mostly unlimited civil cases). Motions regarding judicial arbitration, redesignation of a case, for extension of time to answer a complaint, for relief from CMP rules, or any motion pertaining to the certificate for short cause matters are heard in the CMP departments.
- **If a judge has been assigned to a case for all purposes**, that judge hears all motions for the case.
- **Motions for reconsideration, motions regarding sanctions, and motions to tax costs** are heard in the department that issued the underlying order, sanctions, or cost determination.
- **The trial judge** hears motions *in limine* (pretrial) and all motions after trial begins.

These assignments change from time to time, so check the "Quick Motion Checklist" at www.saccourt.ca.gov/civil/docs/motion-quick-reference-list.pdf for a current list of which department hears which types of motions.

Step 2: Research and Write the Motion, Opposition, or Reply

Moving parties continue here. Begin here if you are preparing an Opposition or a Reply.

The requirements for Replies and Oppositions are identical, so this guide covers them together.

In your papers, you must explain the law, demonstrate how it applies to your case, and (in Oppositions and Replies) show why the other party's argument is wrong. 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, oppositions, or replies. Instead, the relevant documents must be typed on 28-line pleading paper. Customizable templates may be downloaded from these links:

- *Motion*
  saclaw.org/sbs-motions-in-civil-cases-motion.rtf
- *Proposed Order*
  saclaw.org/sbs-motions-in-civil-cases-order.rtf

or

- *Opposition to Motion/Reply to Opposition*
  saclaw.org/sbs-motions-in-civil-cases-opposition-reply.rtf

Although this guide is printed double-sided to save paper, you must print your documents single-sided; the court will not accept double-sided documents.

At the end of this Guide are a sample Motion and a sample Opposition, completed by the hypothetical parties "Petra Plaintiff" and "Doug Defendant."

Information for Opposing Parties

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.

What if you can't attend on the hearing date? Call the other party RIGHT AWAY and ask them to re-schedule. If they refuse, you can file a motion or ex parte application asking the judge to postpone ("continue") the hearing, but you must have a very good reason, like pre-paid plane tickets.

What if you agree with the Motion? Call the other party and offer to sign a stipulation. Usually the Motion can then be canceled ("taken off calendar").

Step 3: Make Copies

Make four (4) copies of your Motion, Opposition, or Reply and your Proposed Order, if any. Use exhibit tabs in *one* of the copies (you can purchase the tabs at the Circulation Desk in the Law Library). 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.

Step 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 by specified deadlines.

- **Motions: 16 court days before hearing (+5 calendar days for mailing).** 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.
- **Oppositions and Replies: serve on the day you file, using a form of service that will get the papers to the other party by end of business the next day.** For example, you can have them served via overnight delivery, messenger, or personal delivery. If the parties have agreed in writing to accept service by fax or email, you can use those methods.

For detailed instructions, see our Step by Step Guides on service:

- **Serving Documents by Mail**
- **Personal Service**

Your server can use the Judicial Council form *Proof of Service – Civil* (POS-040), which has checkboxes for all of these methods, or any other appropriate Proof of Service form. The form should be completely filled out at this point, but not signed. **Make a copy of the unsigned proof of service before proceeding.**

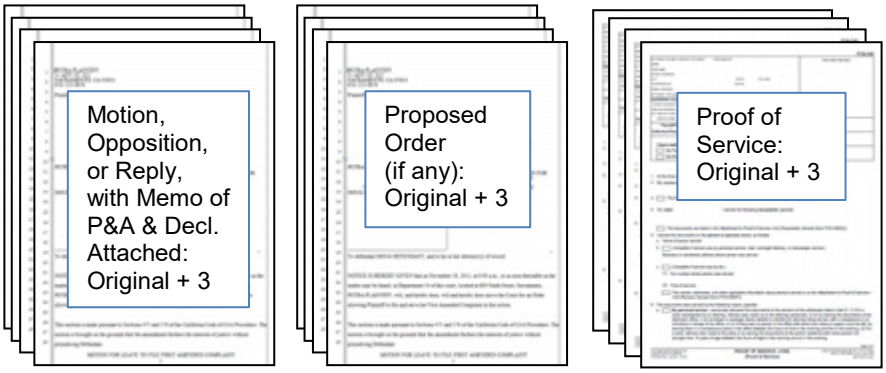
The server must serve a copy of the papers, along with a copy of the unsigned proof of service form, to the opposing attorney or self-represented litigant. The unsigned proof of service form can be attached as the last page of the Motion, Opposition, or Reply.

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.

Step 5: Assemble Your Documents for Filing

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



- ❑ Motion, Opposition or Reply, 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 filed as its own document, or it can be attached as the last page of the Motion, Opposition or Reply when filing. If it is attached, then attach the original Proof of Service to the original Motion, Opposition or Reply, and the copies of the Proof of Service should be attached to the copies of the Motion, Opposition or Reply.
- ❑ 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.

Step 6: File at 813 6th St. Room 212; Moving Party Pays Fee

Most Motions, Oppositions, and Replies are filed at the Hall of Justice building, 813 6th St. (6th and H). See the "Quick Motion Checklist" available on the Sacramento County Superior Court's website at www.saccourt.ca.gov/civil/docs/motion-quick-reference-list.pdf to see if your motion needs to be filed elsewhere.

At this time there is a $60 filing fee for a motion, unless your fees were waived. There is no fee for filing an opposition or reply.

Filing deadlines:

- **Motion:** sixteen court days before the hearing date.
- **Opposition:** nine court days before the hearing date.

- **Optional Reply:** five court days before the hearing date.

Step 7: Review Tentative Ruling at 2 p.m. the Court Day before the Hearing; Schedule Argument by 4 p.m. if necessary

Pursuant to Local Rule 1.06, the court in most departments makes a tentative ruling 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.

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 website at www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx.

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.

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.

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 and the court 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.

Step 8: Attend the Hearing, if Required

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 that lists 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 many motions are heard, are not in the main courthouse; they are now in the Hall of Justice building, 813 6th St. (6th and H).

>>Home >>Law 101

FOR MORE INFORMATION

On the Web:

For information about the Sacramento County Superior Court's motion requirements, visit www.saccourt.ca.gov/civil/motions-hearings-general.aspx.

At the Law Library:

California Civil Procedure Before Trial KFC 995 .C34
Chap. 12, "Noticed Motions"
Electronic Access: On the Law Library's computers, using *OnLaw*.

California Forms of Pleading and Practice KFC 1010 .B4 (Ready Reference)
Chap. 372, "Motions and Orders," and various chapters on specific types of motions.
Electronic Access: On the Law Library's computers, using *Lexis Advance*.

California Points and Authorities KFC 1010 .B4 (Ready Reference)
Provides sample Points and Authorities on hundreds of topics.
Electronic Access: On the Law Library's computers, using *Lexis Advance*.

California Practice Guide: California Law & Motion Model Forms
KFC 1012 .A65 P37
Electronic Access: On the Law Library's computers, using *Westlaw*.

California Practice Guide: Opposing California Civil Motions: Model Opposition Briefs
KFC 1012 .O6 P37
These guides from the Rutter Group contain excellent starting points for points and authorities on a wide range of California civil matters.
Electronic Access: On the Law Library's computers, using *Westlaw.*

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

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ATTACHMENTS: FORMS AND INSTRUCTIONS

There is no Judicial Council form for most civil motions. Instead, the relevant documents must be typed on 28-line pleading paper. Customizable templates may be downloaded these links:

- *Notice of Motion and Motion*
  saclaw.org/sbs-motions-in-civil-cases-motion.rtf
- *Proposed Order*
  saclaw.org/sbs-motions-in-civil-cases-order.rtf

or

- *Opposition to Motion or Reply to Opposition*
  saclaw.org/sbs-motions-in-civil-cases-opposition-reply.rtf

Sample filled-in forms with instructions are available at the end of this Guide.

MOVING PARTY

Petra Plaintiff
123 Any St.
Sacramento, CA 95828

IMPORTANT: Text that appears in **BLUE** is text you will change to fit your case. On the customizable templates, these are represented by gray boxes. **RED** boxes are instructions, and not part of your completed document.

This motion is presented as a sample only. You will have to research the appropriate law and make extensive changes to use it as a template for your own motion. You can download the customizable template from www.saclaw.org/motions-general.

SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO

Petra Plaintiff, Plaintiff, vs. Doug Defendant and DOES 1 to 10, Defendants	Case No.: 34-2015-01234567 NOTICE OF MOTION AND MOTION FOR ORDER PERMITTING THE FILING OF A FIRST AMENDED COMPLAINT (CCP §473(a)); POINTS AND AUTHORITIES; DECLARATION Date: July 18, 2016 Dept: 53 Time: 2:00 p.m.

To defendant DOUG DEFENDANT, and to his or her attorney(s) of record:

NOTICE IS HEREBY GIVEN that on July 18, 2016, at 9:00 a.m., or as soon thereafter as the matter may be heard, in Department 53 of this court, located at 813 Sixth Street, Sacramento, PETRA PLAINTIFF, will, and hereby does, will and hereby does move the Court for an Order allowing Plaintiff to file and serve her First Amended Complaint in this action.

This motion is made pursuant to Sections 473 and 576 of the California Code of Civil Procedure. The motion is brought on the grounds that the amendment furthers the interests of justice without prejudicing Defendant.

The motion will be based on this notice of motion, on the declaration of Petra Plaintiff, and the supporting memorandum served and filed herewith, on the records and file herein, and on such evidence as may be presented at the hearing of the motion. This motion is further based on the proposed First Amended Complaint filed concurrently herewith as Exhibit A.

This language is required in Sacramento. If you are not in Sacramento, erase it. Check with your court whether they use a tentative ruling system and if so, if there is required language you must include.

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 from the Court's public access site. If you do not have online access, you 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 listen to 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: June 30, 2016

Petra Plaintiff
Plaintiff, In Pro Per

Memorandum of Points and Authorities

I. Background

On 4/21/2015, Plaintiff filed a Complaint in this court. The defendant's response to the

In the Memorandum of Points and Authorities, you provide the factual background for what you are requesting (based on the evidence in your declaration), and the statutes, cases, and/or regulations that support your request. You will need to research and write these for your particular circumstances. There is a 10-page page limit.

and for products liability.

II. LEGAL ARGUMENT

A. Pursuant to California Code of Civil Procedure 473(a), the Court May Permit Parties to Amend their Pleadings

California Code of Civil Procedure §473(a)(1) permits the court, in furtherance of justice, and upon any terms as may be proper, to allow any party to amend their pleadings.

In the present case, causes of action existed as to Acme, but as described in the attached declaration this remained unknown until after the other named defendant responded to the Complaint. Unfortunately, the liability of this new defendant cannot be properly alleged without new causes of action specific to the defendant.

For these reasons, and the reasons expressed in the attached Declaration, Plaintiff requests leave of this court to file a First Amended Complaint.

Dated: March 8, 2016

Petra Plaintiff
Plaintiff, In Pro Per

DECLARATION

I, Petra Plaintiff, am the plaintiff in this matter, and I declare the following in support of my motion for leave to file a First Amended Complaint:

1. This lawsuit arises from the installation of a water heater at my place of business, Petra's Boutique, and the damages and loss of business arising from that installation.
2. On September 23, 2009, I signed a contract with Doug Defendant to supply and install a water heater. A true and correct copy of this contract is attached as Exhibit A.

[Continue with facts relevant to your motion.]

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

Dated: June 30, 2011

Petra Plaintiff

You can attach a document as an exhibit by photocopying the document and writing "Exhibit A" on the bottom of the first page. If the exhibit is longer than one page, number each page.

To use a document as evidence, you must verify under penalty of perjury that it is a "true and correct copy" using the language above.

Important: Sacramento County Superior Court requires each of the *Exhibits* in one of your sets of copies be separated by a rigid sheet of card stock with a tab identifying the letter of the exhibit on the bottom. Exhibits for the original and other copies should be separated by a blank piece of pleading paper with their exhibit letter or number (for instance, "Exhibit A") typed or written on the bottom of the page.

Note: The Law Library sells card stock with tabs at the Circulation Desk.

EXHIBIT A

11 ANY ST. #22
SACRAMENTO, CA 95814
916-123-9876

Plaintiff, In Pro Per

SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO

PETRA PLAINTIFF, Plaintiff, vs. DOUG DEFENDANT, Defendant	Case No.: 34-2009-00012345 [PROPOSED] ORDER GRANTING LEAVE TO FILE FIRST AMENDED COMPLAINT Date: November 19, 2011 Dept: 53 Time: 2:00 p.m. Mandatory Settlement: December 14, 2011 Trial Date: January 13, 2012

The motion of plaintiff for an order allowing amendment of the complaint came on regularly for hearing by the court this date. Plaintiff appeared representing herself; defendant appeared by counsel _____. On proof made to the satisfaction of the court that the motion ought, in furtherance of justice, to be granted,

IT IS ORDERED that the motion be, and hereby is, granted and that plaintiff be allowed to file the first amended complaint, a copy of which is attached to the notice of motion herein.

Dated: _____

_____
Judge of the Superior Court

DIMITRI DEFENDANT
23
SA
916

Pla

OPPOSITION OR REPLY

IMPORTANT: Text that appears in **BLUE** is text you will change to fit your case. On the customizable templates, these are represented by gray boxes. RED boxes are instructions, and not part of your completed document.

This template is generic. It is presented as a sample only. You will have to research the appropriate law and make extensive changes to use it as a template for your own motion. You can download the customizable template at www.saclaw.org/motions-general.

PLACIDO PLAINTIFF, Plaintiff, vs. DIMITRI DEFENDANT, Defendant	Case No.: 34-2010-0019876 OPPOSITION TO MOTION FOR ORDER CONTINUING TRIAL AND MANDATORY SETTLEMENT CONFERENCE; DECLARATION OF DIMITRI DEFENDANT Date: November 19, 2011 Dept.: 53 Time: 2:00 p.m. Mandatory Settlement: December 14, 2011 Trial Date: January 13, 2012

I. BACKGROUND

This lawsuit arises from $15,000 that was loaned by the plaintiff to the defendant. *[Continue with factual background for your opposition or reply.]*

II. LEGAL ARGUMENT

NO GOOD CAUSE EXISTS FOR CONTINUANCE IN THAT ……

A. Good Cause. A court may grant a… *[Continue with legal argument for your opposition or reply.]*

Respectfully submitted,

Dated: October 18, 2011

By:_____
DIMITRI DEFENDANT

Defendant, In Pro Per

DECLARATION OF DIMITRI DEFENDANT

I, DIMITRI DEFENDANT, am the Defendant in this matter, and I declare the following in support of my opposition to the motion for continuance:

1. On August 12, 2011, plaintiff Placido Plaintiff's attorney, Laura Lawyer, withdrew from the case.
2. On August 23, 2011, Plaintiff wrote to me, requesting a postponement of his deposition, because he was trying to replace his attorney. A true and correct copy of this letter is attached as Exhibit A.

[Continue with facts relevant to your motion.]

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

Dated: October 27, 2012

By:_____
DIMITRI DEFENDANT
Defendant, In Pro Per

You can attach a document as an exhibit by photocopying the document and writing "Exhibit A" on the bottom of the first page. If the exhibit is longer than one page, number each page.

To use a document as evidence, you must verify under penalty of perjury that it is a "true and correct copy" using the language above.

Important: Sacramento County Superior Court requires each of the *Exhibits* in one of your sets of copies be separated by a rigid sheet of card stock with a tab identifying the letter of the exhibit on the bottom. Exhibits for the original and other copies should be separated by a blank piece of pleading paper with their exhibit letter or number (for instance, "Exhibit A") typed or written on the bottom of the page.

Note: The Law Library sells card stock with tabs at the Circulation Desk.

EXHIBIT A