

REQUESTING A PRELIMINARY INJUNCTION BY NOTICED MOTION

How to Ask the Court to Prohibit an Action

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 accessed at saclaw.org/prelim-inj-guide.

BACKGROUND

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 the parties is over. It takes more than three weeks to get a preliminary injunction. There are no fill-in-the-blanks forms for an injunction, and there are several steps involved.

Before requesting a preliminary injunction, you must start a lawsuit regarding the underlying problem or conflict, so unless you have already sued the party you want enjoined, the first step is to file a *Complaint* in court. This guide does not go into detail about drafting the initial complaint, since it will need to fit your particular circumstances.

Warning: This is a complicated procedure with several steps, and 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 bonding service, and the company 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). See our guide on “[Ex Parte Requests for TROs](http://saclaw.org/tro-guide)” (saclaw.org/tro-guide).

STEP-BY-STEP INSTRUCTIONS

Step 1: Research and Write Your Complaint and Accompanying Papers

Skip to Step 2 if you have already started a lawsuit with 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](http://saclaw.org/filing-new-civil-case)” on our website at saclaw.org/filing-new-civil-case 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.*

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.

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You can download a [skeletal complaint with cause of action for injunction](#) from our website (saclaw.org/complaint-injunctive-relief).

2: Schedule, Research and Write Your Motion for Preliminary Injunction

The Complaint gets the case started. However, you must also file a Motion with the court to get the injunction. Choose a date for the hearing that gives you enough time to research, write, file, and serve the papers sixteen or more court (business) days ahead of the hearing.

Department and Time Depend on Your Case Number

In Sacramento, “Law and Motion” hearings such as preliminary injunctions are held in Department 53 at 9 a.m. for odd-numbered cases, or Department 54 at 2 p.m. for even-numbered cases. If you are filing the Complaint at the same time as the Motion, leave this blank until you get your case number from the clerk, then write in the hearing department and time on the original and all copies.

2a. Choose a date.

In Sacramento County, the party who files a motion chooses the date for the hearing. There are two things you must get done before the hearing, and you must pick a date that gives you time to do both:

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

As long as you have time to do both, you can choose any date that works best for you. Remember to make arrangements (child care, time off work, transportation, etc.) to be in court 30 minutes before the hearing.

Shortcut: 35+ Days

If you choose a hearing date at least thirty-five days away, you should have plenty of time.

If you need the Motion to be heard sooner than that, follow the instructions in Section 2a to find the earliest date that gives you time to file and serve the papers.

Choosing a Hearing Date in Sacramento County Superior Court

Calculating Your Filing Deadline: The Motion must be filed with the court at least sixteen *court 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.

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

Notice: California recognizes more holidays than the Federal government. Cesar Chavez Day and

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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

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

Personal Service: 16 court days. 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 you are filing the Motion at the same time as the underlying Complaint, you will probably have the Complaint personally served, so you may as well have the Motion personally served along with it.

Service by mail: 16 court + 5 calendar days. If the Motion is served by first-class mail, additional *calendar days* are added before the sixteen court days—an additional five calendar days if mailed within California, ten if mailed to an address in another state, and twenty if mailed to another country. ([CCP § 1005](#)). Calendar days include weekends and holidays, but if the final day lands on a weekend or holiday, it is rolled over to the previous court day. So, if June 18, 2012 was the hearing date, the sixteenth court day before would be May 24, 2012, but counting back five more calendar days results in Saturday, May 19, 2012. Because the fifth day fell on a weekend (or holiday), the deadline for service rolls back to May 18, 2012, the last court day before the mailing deadline.

2b. Write the Motion.

The Motion consists of several required parts. You can download a customizable template from the link at the end of this Guide, and a sample is attached at the end of this Guide.

- **Notice of Motion and Motion for Preliminary Injunction.** In this part, you set the hearing date, explain briefly what you are requesting (the injunction), and include a required paragraph about Sacramento’s tentative ruling system.
- **Memorandum of Points and Authorities.** In this part, you explain the laws that cover injunctions and the facts which entitle you to an injunction in your particular case. This portion

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will likely require you to do legal research and demonstrate how your situation fits in with existing law.

- ***Declaration or Declarations.*** A *Declaration* is a sworn statement about the facts, which the judge considers as evidence in your case. It should state all of the facts necessary for the court to rule in your favor. Attach all of the exhibits (photos, documents, and other evidence) that you wish the court to consider. Depending on the circumstances of your case, your *Declaration* may be short or long. Regardless of length, it must be sufficient to establish to the court's satisfaction that the injunction is necessary.

Your declaration must contain only facts you personally know to be true. If someone else knows the facts you need to prove your argument, have them fill out and sign their own *Declaration*.

- ***[Proposed] Order.*** Along with your Motion, you will need to submit a *[Proposed] Order* granting your preliminary injunction, so that the Judge can sign off on it easily.

Declaration Tips

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

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

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

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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."

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

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.



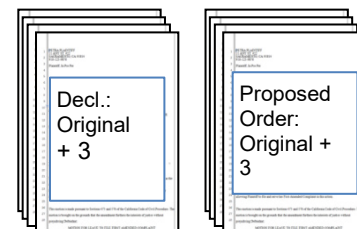
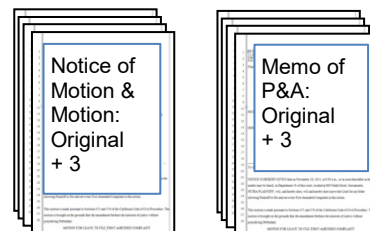
Step 3: File the Lawsuit (if Needed) and Motion, and Pay the Filing Fee

Make three copies of your Motion and all related papers. Staple each of the copies, but leave the original unstapled for ease of scanning. Include exhibit tabs in one of the stapled copies.

If you are also filing a Summons, Complaint, and Civil Case Cover Sheet, make two copies of each. Staple the copies, but leave the original unstapled for ease of scanning

The Sacramento Superior Court requires documents to be filed in a very specific way. For each document, they want the original and copies in a stack.

For this Motion, you will hand the clerk four stacks: a stack of your original "Motion" and three copies, a stack of your original "Declaration" and three copies, a stack of your original "Memorandum of Points and Authorities" and three copies, and a stack of your original "[Proposed] Order" and three copies.



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If you are also filing the Complaint, Summons, and Civil Case Cover Sheet, you will hand the clerk three stacks of original plus two copies: a stack of your “Complaint,” a stack of your “Summons,” and a stack of your “Civil Case Cover Sheet.”

Remember, if any document has exhibits, then one of the copies (*not the original*) needs the exhibit tabs from Step 2.

Take them to the Law and Motion courthouse, 813 Sixth St. (Hall of Justice) in downtown Sacramento, and file them in Room 212. Pay the filing fee. As of the date of this document, the filing fee for an unlimited civil case is \$435; the fee for a limited civil case varies based on how much you are requesting in damages. The fee for filing a Motion is \$60, but if you file your Motion along with the Complaint, this fee will be waived. Follow this link for [current Sacramento County filing fees](#).

Fee Waivers

If you qualify for a fee waiver, you may file a request with the court at the same time. For more information, see our [Fee Waiver guide](#).

Do not use the drop box. Take your Motion papers to the filing window along with the Summons and Complaint, if any. If you are also filing the Complaint, file it first. The clerk will give you a case number, which determines at what department and time of day your motion will be heard. Motions in odd-numbered cases are heard in Department 53 at 2:00 p.m., and motions in even-numbered cases are heard in Department 54 at 9:00 a.m. After you get the case number, and before you file the Motion, write the department and time on the *original and all copies*.

Step 4: Have the Motion and Related Papers Served on All Parties

Someone over the age of 18—**NOT YOU**—needs to serve (personally deliver or by mail) copies of the following documents to the defendant(s) in the case:

- *Motion for Preliminary Injunction*
- *Memorandum of Points and Authorities*
- *Declaration*
- *[Proposed] Order*

In addition, the Summons and Complaint and related papers must be served *personally* (if they have not yet been served).

The person who is serving the papers for you must complete a proof of service form. If they are also serving the summons and complaint, use [Proof of Service of Summons \(POS-010\)](#). If not, use either a [Proof of Personal Service \(POS-020\)](#) or a [Proof of Service by First Class Mail \(POS-030\)](#). For more information on these Proofs of Service, see our Guides on [Personal Service](#) and [Service by Mail](#).

The server then signs the Proof(s) of Service. You or the server must then file the Proof(s) in court.

Note: If you already have a case number and thus know which department and time the motion will be heard, you can serve the papers prior to filing and take the proofs of service with you when you file, saving a trip.

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Step 5: Review Any Opposition to the Preliminary Injunction

The other party(ies) have the opportunity to oppose the Preliminary Injunction. Their deadline is nine court days before the hearing (and they must serve you by personal service or overnight delivery). If you receive any opposition, read it carefully to understand their arguments.

You are entitled, but not required, to file a reply to the opposition (deadline: five court days before hearing; serve by personal service or overnight delivery). If you choose to do so, use the same format as the original motion, but leave out the “Notice of Motion” portion. The title of your reply papers will be something like “REPLY TO OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION: MEMORANDUM OF POINTS AND AUTHORITIES” and “DECLARATION OF [NAME] IN SUPPORT OF REPLY TO OPPOSITION,” if a declaration is needed.

Step 6: Review the Tentative Ruling the Court Day before the Hearing; Request Argument by 4 p.m. if Necessary

Pursuant to [Local Rule 1.06](#), the judge in most departments, including 53 and 54, will post a tentative ruling online 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](#) (bit.ly/sac-tent-ruling) or call the assigned department to hear it. For more information, visit the Tentative Rulings Information page on the Sacramento County Superior Court’s website (www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx).

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

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

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

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

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.

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Step 7: Attend the Hearing, if Necessary

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

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

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, the parties can begin discovery, the process by which you gather information to prove your case. [Visit our Discovery Law 101 page 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\(a\)](#). 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\(a\)](#). You can find more information on that in some of the books listed below.

FOR HELP

Sacramento County Public Law Library Civil Self Help Center

609 9th Street, Sacramento 95814

saclaw.org/self-help/civil-self-help-center/

Services Provided: The Sacramento County Public Law Library Civil Self Help Center provides general information and basic assistance to self-represented litigants on a variety of civil legal issues. The Self-Help Center cannot assist with injunctions, but they may be able to assist with the underlying case between you and the defendant.

Appointments are Monday-Friday beginning at 8:30 a.m. Patrons who are present at 8:30 a.m. will be entered into a random drawing to determine the order their case will be evaluated. If an appointment is appropriate, it will be made for later in the day. You are encouraged to arrive by 8:25 a.m. to participate in the appointment-setting drawing.

Eligibility: Must be a Sacramento County resident or have a [qualifying](#) case in the Sacramento County Superior Court.

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FOR MORE INFORMATION

On the Web

Sacramento County Superior Court

“Filing Instructions and Procedures: New Complaint, Petition, or Appeal of the Labor Commissioner”

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”

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 (CEB) [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.

Electronic Access: From any computer (Library or home) via the Legal Information Reference Center. Instructions are available on our website at saclaw.org/nolo-ebooks.

Represent Yourself in Court [KF 8841 .B47](#)

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

Electronic Access: From any computer (Library or home) via the Legal Information Reference Center. Instructions are available on our website at 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.

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

FORMS

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

- *Notice of Motion and Motion for Preliminary Injunction*
saclaw.org/sbs-preliminary-injunction-motion
- *Memorandum of Points and Authorities*
saclaw.org/preliminary-injunction-memo
- *Declaration*
saclaw.org/sbs-preliminary-injunction-declaration
- *[Proposed] Order*
saclaw.org/sbs-preliminary-injunction-order

Download the blank forms from these links.

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

COMPLAINT

In addition, if you are filing a complaint at the same time, you will need the following forms:

- *Complaint for Injunction*
saclaw.org/complaint-injunctive-relief
- *Summons* (SUM-100)
www.courts.ca.gov/documents/sum100.pdf
- *Civil Case Cover Sheet* (CM-010)
www.courts.ca.gov/documents/cm010.pdf

If you are filing a complaint at the same time, and if the case is in Sacramento, include (but do not fill out):

- *Alternative Dispute Resolution Information Package* (CV-E-100)
www.saccourt.ca.gov/forms/docs/cv-adr-information-package.pdf
- Unlimited cases only:
 - *Stipulation and Order to Mediation - Unlimited Civil* (CV-E-179)
www.saccourt.ca.gov/forms/docs/cv-179.pdf
 - *Program Case Notice for Unlimited* (CV-E-143U)
www.saccourt.ca.gov/forms/docs/cv-143u.pdf

See our Guide on [Filing a New Civil Case](#) (saclaw.org/filing-new-civil-case) for more information.

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

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.

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
7 and defendant, replacing PAUL SAMPLE with the name of the Plaintiff and DOUG
8 DEFENDANT with the name of the Defendant.

9 FOR THE COUNTY OF SACRAMENTO

10 Use your case
11 number here

12 PAUL SAMPLE,

13 Plaintiff,

14 vs.

15 DOUG DEFENDANT and DOES 1-10,

16 Defendants

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

) Case No.: 34-2019-0012345

) NOTICE OF MOTION AND MOTION FOR
21 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

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
28 be restrained.

State the basis of your motion.

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

20
21
22 Date and sign motion

21 *Paul Sample*
22 PAUL SAMPLE
23 In Pro Per

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

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.

5 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.

6
7
8
9 FOR THE COUNTY OF SACRAMENTO

10
11
12 PAUL SAMPLE,

Use your case number here

) Case No.: 34-2019-0012345

13 Plaintiff,

Be sure to use the name of the person giving the declaration here.

)
) DECLARATION OF PAUL SAMPLE IN
) SUPPORT OF PRELIMINARY
) INJUNCTION

14 vs.

15 DOUG DEFENDANT and DOES 1-10,

) 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.

16 Defendants

17
18
19
20
21 Type your name

22
23 I, Paul Sample, declare:

24
25 1. I am the plaintiff in this action, and I have personal knowledge of each fact stated in this
26 declaration.

State capacity of declarant

Be sure to include a footer with the name of the document and page numbers.

State essential facts to support motion for preliminary injunction

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

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

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

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

6. Based upon a recent survey I had done to determine the property line to place a fence in the back yard, I believe that the trunk of the tree falls completely on my side of the property line.

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

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

Dated: July 8, 2019

Declarant dates and signs declaration

Paul Sample
PAUL SAMPLE, Plaintiff, In Pro Per

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

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.

5 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.

6
7
8 FOR THE COUNTY OF SACRAMENTO

9
10
11 PAUL SAMPLE,

Use your case number here

) Case No.: 34-2019-0012345

12 Plaintiff,

) MEMORANDUM OF POINTS AND
13) AUTHORITIES IN SUPPORT OF
14) PRELIMINARY INJUNCTION

15 vs.

) (Code Civ. Proc. §§ 525 et seq.; Cal. Rules of
16) Court, rule 3.1150 and Cal. Rules of Court,
17) rules 3.1200 to 3.1207)

18 DOUG DEFENDANT and DOES 1-10,

) Date: July 10, 2019
19) Time: 2:00 pm
20) Location: Dept. 53
21) Judge: David I. Brown
22) Date Action Filed: July 1, 2019
23)
24) Trial Date: Not Yet Set

25 Defendants

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

26 I.

27 INTRODUCTION

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

This lawsuit involves a dispute between two neighbors, the plaintiff and the defendant. The plaintiff resides at 345 Oak St., Sacramento while the defendant resides next door at 347 Oak St. The plaintiff's house is a maple tree, approximately 25 tall, and believed to be a hazard to the defendant's property.

Be sure to include a footer with the name of the document and page numbers.

1 sixty years of age. On July 1, 2019, the plaintiff discovered the defendant about to cut down the
2 maple tree with a chainsaw. The plaintiff demanded the defendant stop, but the defendant has
3 refused. In response, the plaintiff, or one of his family members has chained themselves to the tree to
4 prevent it from being cut down. The plaintiff contends that the tree is on his property, whereas the
5 defendant has alleged it is on his.
6

7 The tree is at least 50 years old, and effectively irreplaceable. The tree itself adds
8 approximately \$20,000 to the property value of the plaintiff, and provides a substantial amount of
9 shade for the house, reducing energy costs by about 10% during the Summer. The plaintiff is now
10 seeking a preliminary injunction to prevent the defendant from cutting down this tree pending a final
11 decision on the merits.
12

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.

II. LEGAL ARGUMENT

17 **A. Restraining Commission or Continuance of Act.** An injunction may be granted when it appears
18 by the complaint that the plaintiff is entitled to the relief demanded and the relief, or any part thereof,
19 consists in restraining the commission or continuance of the act complained of, either for a limited
20 period or perpetually (Code Civ. Proc. § 526(a)(1); *People ex rel. Herrera v. Stender* (2012) 212 Cal.
21 App. 4th 614, 629, 152 Cal. Rptr. 3d 16; *Dingley v. Buckner* (1909) 11 Cal. App. 181, 183–184, 104
22 P. 478; see *Southern Christian Leadership Conference v. Al Malaikah Auditorium Co.* (1991) 230
23 Cal. App. 3d 207, 223, 281 Cal. Rptr. 216).
24
25
26
27
28

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

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

7
8 In the present case, the plaintiff will almost certainly prevail if the tree is found by the court to
9 be on his property. Denying the injunction would cause the irreparable loss of a 50 year-old shade
10 tree that greatly enhances the plaintiff’s home, whereas the harm in granting the injunction is
11 minimal- the defendant would simply need to put up with having a beautiful shade tree in between
12 the two houses.

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.

13
14
15 **B. Great or Irreparable Injury or Waste.** An injunction may be granted when it appears by the
16 complaint or affidavits (or declarations) that the commission or continuance of some act during the
17 litigation would produce waste, or great or irreparable injury to a party to the action (Code Civ. Proc.
18 §§ 526(a)(2), 2015.5; *Volpicelli v. Jared Sydney Torrance Memorial Hosp.* (1980) 109 Cal. App. 3d
19 242, 167 Cal. Rptr. 610; *Smith v. Smith* (1942) 49 Cal. App. 2d 716, 718–719, 122 P.2d 346). The
20 term “irreparable injury” means that species of damages, whether great or small, that ought not to be
21 submitted to on the one hand or inflicted on the other (*Wind v. Herbert* (1960) 186 Cal. App. 2d 276,
22 285, 8 Cal. Rptr. 817). This definition warrants the use of the injunctive power of the court against a
23 wrong that a trial judge deems insufferable because it constitutes an overbearing assumption by one
24 person of superiority and domination over the rights and property of others (*Fretz v. Burke* (1967)
25 247 Cal. App. 2d 741, 746, 55 Cal. Rptr. 879).

1
2 **C. Rendering Judgment Ineffectual.** An injunction may be granted when it appears, during the
3 litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering
4 to be Douge, some act in violation of the rights of another party to the action respecting the subject of
5 the action, and tending to render the judgment ineffectual (Code Civ. Proc. § 526(a)(3); *Heckmann v.*
6 *Ahmanson* (1985) 168 Cal. App. 3d 119, 136; *Lenard v. Edmonds* (1957) 151 Cal. App. 2d 764, 769,
7 312 P.2d 308; *Rossi v. Rossi* (1955) 134 Cal. App. 2d 639, 641, 286 P.2d 563).

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

15
16
17
18 Respectfully submitted,

19
20 DATED: July 10, 20 13

Paul Sample

PAUL SAMPLE
In Pro Per



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

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.

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9 FOR THE COUNTY OF SACRAMENTO

12 Use your case number here

13 PAUL SAMPLE,

14 Plaintiff,

15 vs.

16 DOUG DEFENDANT and DOES 1-10,

17 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

) Trial Date: Not Yet Set

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

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

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

12

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

15

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

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

21

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

25 **IT IS SO ORDERED.**

26

27 Dated: _____.

28 _____
Judge of the Superior Court