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## 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 [www.saclaw.org/prelim-inj-guide](http://www.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.

## STEP-BY-STEP INSTRUCTIONS

### Step 1: Research and Write Your Complaint and Accompanying Papers

*Skip to Step 2 if you have already started the lawsuit.*

**Write the Complaint.** You need to sue the person or people whose actions threaten to violate your rights. There are a wide variety of possible *causes of action* (legal theories) that might apply in specific cases. You will find a list of resources at the end of this Guide which you can use to research the appropriate causes of action. For information on researching and writing a complaint, see our Guide “[Filing a New Civil Lawsuit](#)” on our website at [www.saclaw.org/filing-new-civil-case](http://www.saclaw.org/filing-new-civil-case)

### When you can't wait

If you need court order right away, you can apply for a *temporary restraining order* with only a few days' notice. See our Guide on [Requesting a Temporary Restraining Order](#) for more information.

These other Law Library guides may also be helpful:

- [Filing a New Civil Lawsuit](#)
- [Fee Waiver Guide](#)

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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Include one cause of action for an injunction against the party or parties to be enjoined. You can download a **Error! Hyperlink reference not valid.** from our website

([www.saclaw.org/complaint-injunctive-relief](http://www.saclaw.org/complaint-injunctive-relief)).

You will also need to fill out the standard Judicial Council forms [Summons](#) (SUM-100) and [Civil Case Cover Sheet](#) (CM-010). In Sacramento, you must include [Alternative Dispute Resolution Information Package](#) (CV\E-100) and, in unlimited cases, [Stipulation and Order to Mediation - Unlimited Civil](#) (CV-E-179) and [Program Case Notice -Unlimited Civil Case](#) (CV\E-143U).

## 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 Motion, then research and write it with enough time to file and serve the papers before the date you chose.

### **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.

When you file your Complaint, the clerk assigns you a case number. If you are filing the Complaint at the same time as the Motion, get your case number from the clerk, then write in the hearing department and time on the original and all copies of the Motion before filing them. (If you have already filed the Complaint, you can fill this in before going to court to file.)

### **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 plus five calendar days* *if you serve by mail* before the hearing date.

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

If you want a *permanent injunction* at the end of the case, you *must* file an *unlimited civil case* even if you are not requesting \$25,000 or more in damages. A judge in a limited civil case can only issue TROs and preliminary injunction, not permanent injunctions. [Cal. Code of Civil Procedure § 86\(a\)\(8\)](#).

If you already filed a limited case, you must amend your complaint if you want a permanent injunction.

### **Shortcut: 35+ Days**

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

If you need to have the Motion heard sooner than 35 days, follow the instructions in Section 2a to find the earliest date that gives you time to file and serve the papers.

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**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.

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

**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.

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([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 will likely require you to do legal research and demonstrate how your situation fits in with existing law.
- **Declaration.** 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.

### Attaching Exhibits

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

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

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

**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

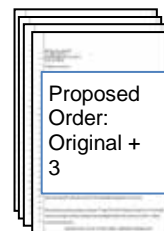
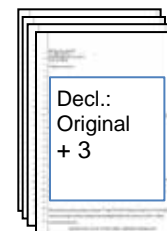
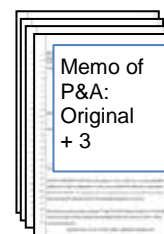
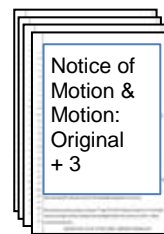
### Step 3: File the Lawsuit (if Needed) and Motion, and Pay the Filing Fee

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



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Authorities” and three copies, and a stack of your original “[Proposed] Order” and three copies.

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 at 813 Sixth<sup>th</sup> St., Sacramento, CA 95814 and file them at the counter 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.** The Motion should be presented at the filing window along with the Summons and Complaint, if any. If you are also filing the Complaint, 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. 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, typically, 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](#). If they are also serving the Summons and Complaint, use [Proof of Service of Summons \(POS-010\)](#).

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

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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 (plus 5 calendar days if they serve you by mail). If you receive any opposition, read it carefully to understand their arguments.

You are entitled to file a reply if you choose (deadline: five court days before hearing), but you are not required to do so. 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 will be something like “REPLY TO OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION: MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION OF [YOUR NAME].”

### 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](#) 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](http://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. You don’t have to go to court unless the tentative ruling orders you to appear, or the other side calls before 4:00 p.m. If either of those happen, you should go to the court hearing and be prepared to explain your argument.

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

#### **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 consideration” and mail out the decision in a few days.

Department 53 and 54, where most Law and Motion cases are heard, are not in the main courthouse; they are in the old Hall of Justice building, 813 6<sup>th</sup> St. (6th and H).

### NEXT STEPS

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.](#)

### FOR HELP

#### ***Sacramento County Public Law Library Civil Self Help Center***

609 9th Street, Sacramento 95814

[www.saclaw.org/self-help/civil-self-help-center/](http://www.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](http://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](http://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. 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 the *Matthew Bender CD* or *LexisAdvance*.

#### **Win Your Lawsuit** [KFC 968 .D86](#)

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

**Electronic Access:** From any computer (Library or home) via the Legal Information Reference Center. Instructions are available on our website at [www.saclaw.org/nolo-ebooks](http://www.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 [www.saclaw.org/nolo-ebooks](http://www.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*  
[www.saclaw.org/sbs-preliminary-injunction-motion](http://www.saclaw.org/sbs-preliminary-injunction-motion)
- *Memorandum of Points and Authorities*  
[www.saclaw.org/preliminary-injunction-memo](http://www.saclaw.org/preliminary-injunction-memo)
- *Declaration*  
[www.saclaw.org/sbs-preliminary-injunction-declaration](http://www.saclaw.org/sbs-preliminary-injunction-declaration)
- *[Proposed] Order*  
[www.saclaw.org/sbs-preliminary-injunction-order](http://www.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.

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

- *Complaint for Injunction*  
[www.saclaw.org/complaint-injunctive-relief](http://www.saclaw.org/complaint-injunctive-relief)
- *Summons* (SUM-100)  
[www.courts.ca.gov/documents/sum100.pdf](http://www.courts.ca.gov/documents/sum100.pdf)
- *Civil Case Cover Sheet* (CM-010)  
[www.courts.ca.gov/documents/cm010.pdf](http://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](http://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](http://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](http://www.saccourt.ca.gov/forms/docs/cv-143u.pdf)

See our Guide on [Filing a New Civil Case](http://www.saclaw.org/filing-new-civil-case) ([www.saclaw.org/filing-new-civil-case](http://www.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 Leave blank. The  
11 court will assign a  
12 case number and  
13 stamp it on the  
14 complaint.

13 PAUL SAMPLE,

14 Plaintiff,

15 vs.

16 DOUG DEFENDANT and DOES 1-10,

17 Defendants

) Case No.:

)  
) COMPLAINT FOR PRELIMINARY AND  
) PERMANENT INJUNCTIONS, AND  
) DAMAGES

19 Plaintiff alleges:

20 Identify yourself and legal capacity.  
21 Only natural persons may be self-  
22 represented.

21 1. Plaintiff, PAUL SAMPLE is, and at all times mentioned in this complaint was, a natural  
22 person residing in Sacramento County.

23 Allege the facts showing that you have a personal or  
24 property right, or other interest of the kind injunctive relief  
25 is available to protect.

25 2. At all times alleged herein, PAUL SAMPLE was the owner of a house located at 346 Oak  
26 St., Sacramento, CA 95814, and is entitled to immediate and exclusive possession and control over  
27 the house, the plot of land the house rests upon, and any property located on this lot.  
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3. Defendant DOUG DEFENDANT is a natural person residing in Sacramento County, and at all times mentioned in this complaint was, the owner or occupant of the property at 348, located adjacent to the plaintiff's property.

Allege the facts showing that allege the defendant's status and relationship to the controversy, and any duties, if any, owed to the plaintiff.

Does are unknown defendants. It is customary to name some unknown defendants in the complaint in the event it becomes necessary to add other defendants to the suit later.

4. Defendants Doe 1 through Doe 10, inclusive, are sued in this complaint under fictitious names. Their true names and capacities are unknown to plaintiff. When their true names and capacities are ascertained, plaintiff will amend this complaint by inserting their true names and capacities herein. (Plaintiff is informed and believes and thereon alleges, that each of the fictitiously named defendants is responsible in some manner for the occurrences alleged in this complaint, and that plaintiff's damages as alleged in this complaint were proximately caused by the same.)

Each Cause of Action should be numbered and prefaced by a heading.

FIRST CAUSE OF ACTION FOR INJUNCTIVE RELIEF

State the facts showing what the defendant(s) are doing, threatening to do, refusing to do, or are causing or permitting that harms your rights.

5. Beginning on or about July 2, 2013, and continuing to the present time, defendants, and each of them, wrongfully and unlawfully threatened to cut down a 25 ft. tall maple tree located between the plaintiff and defendant's houses. The plaintiff believes this tree to be on his side of the property line, however the defendant insists it is on his side of the property line.

If you have demanded that the plaintiff to stop the behavior giving rise to the lawsuit, state the facts of the demand(s).

6. Beginning on or about July 2, 2013, and continuing to the present, the plaintiff and his family have demanded verbally that the defendant cease threatening to cut down the tree, but he has refused, only stopping when the plaintiff or members of his family have physically blocked him by placing themselves between him and the tree.

Insert "threatened" if the wrong act is threatened, otherwise omit.

1 7. Defendants' **threatened** wrongful conduct, unless and until enjoined and restrained by order  
2 of this court, will cause great and irreparable injury to plaintiff as **the tree that is threatened is**  
3 **approximately 50 years old, 25 feet tall, and provides substantial shade to the plaintiff's property. In**  
4 **addition, this tree is unique in its appearance, and adds approximately \$20,000 to the value of the**  
5 **plaintiff's property. If the tree is removed, there is no practicable way to replace it other than by**  
6 **planting another tree and waiting for 50 years.**

8 Specify that the acts are "threatened" or "currently being suffered."

State how the defendants' action will cause great and irreparable injury.

9 8. Plaintiff has no adequate remedy at law for the injuries **threatened** as an award of monetary  
10 damages would not provide an adequate remedy **as the harm that will be suffered by the plaintiff**  
11 **cannot be readily calculated, as it includes not only diminishment of property value, but indefinite**  
12 **increases in utility bills, loss of enjoyment of the tree, and other long-term and intangible benefits.**

14 State facts showing why awarding money or another remedy is inadequate.

15 If you have experienced monetary damages as a result of the defendants' acts or threatened acts,  
16 add another paragraph to allege the damages, and indicate whether you will continue to incur  
17 damages until an injunction is issued. This occurs frequently when the injunction involves a  
18 business, for example "9. As a proximate result of the defendant's actions, the plaintiff has been  
19 unable to open his business since July 2, 2014, at a loss of \$1,280 each day. These damages will  
20 continue until such time that the defendant ceases his behavior." Each cause of action should be  
21 numbered and prefaced by a heading, e.g., "SECOND CAUSE OF ACTION FOR DAMAGES."

22 If you have any additional causes of action, be sure to also include them in the complaint. Keep in  
23 mind that this is only a sample, and your complaint may be substantially different.

24 WHEREFORE, plaintiff prays judgment against defendants, and each of them, as follows:

25 1. For an order requiring defendants to show cause, if any they have, why they should not be  
26 enjoined as set forth in this complaint, during the pendency of this action;

1           2. For a preliminary injunction, and a permanent injunction, all enjoining defendants, and  
2 each of them, and their agents, servants, and employees, and all persons acting under, in concert with,  
3 or for them:

State what, if anything, the defendants should be ordered not to do. Delete if not seeking the defendant to be prevented from doing something.

4  
5  
6           a. From cutting down or harming in any way the maple tree that rests between the two houses  
7 located at 745 Oak St. and 747 Oak St. in Sacramento, California.

State what, if anything, the defendants should be ordered to do. Delete if not seeking the defendants to be ordered to do something.

8  
9           b. To cease making verbal or physical threats of harm to the tree that rests between the two  
10 houses located at 745 Oak St. and 747 Oak St. in Sacramento, California, including but not limited to  
11 approaching within 20 feet of the tree with a chainsaw, bow saw, or other implement used for cutting  
12 down or killing trees.

State what monetary damages, if any, are being sought. Delete if not claiming monetary damages.

13  
14  
15           3. For damages in the sum of \$1,280 per day from July 2, 2014 to the date of injunction, plus  
16 damages in such further sums as may be sustained and as are ascertained before final judgment in this  
17 action;

If your complaint contains more than one cause of action, your prayer for relief should specify the damages sought by each cause of action, as different causes of action may have different damages that might be awarded.

18  
19  
20           4. For costs of suit incurred in this action; and

21  
22           5. For such other and further relief as the court deems proper.

23  
24  
25 DATED: July 10, 2013

26  
27  
28           Date and sign complaint

*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.

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.: 34-2013-0012345

) NOTICE OF MOTION AND MOTION FOR  
21 PRELIMINARY INJUNCTION

) Date: July 10, 2013

) Time: 2:00 pm

) Location: Dept. 53

) Judge: David I. Brown

) Date Action Filed: July 1, 2013

) 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, 2013

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 FOR THE COUNTY OF SACRAMENTO

7  
8  
9  
10  
11  
12 PAUL SAMPLE,

Use your case number here

) Case No.: 34-2013-0012345

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,

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

) Date: July 10, 2013  
) Time: 2:00 pm  
) Location: Dept. 53  
) Judge: David I. Brown  
) Date Action Filed: July 1, 2013

16 Defendants

) Trial Date: Not Yet Set

17  
18  
19  
20  
21 Type your name

22  
23 I, Paul Sample, declare:

24 1. I am the plaintiff in this action and make this declaration in support of my motion for a preliminary  
25 injunction.

State capacity of declarant

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

26 2. The facts stated in this declaration are true of my own personal knowledge, except as to any matters  
27 stated on information and belief, and as to those matters, I am informed and believe them to be true. If  
28 called as a witness in this matter, I could and would competently testify to the matters set forth below.

State essential facts to support motion for preliminary injunction

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

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

5. On July 2, 2013, 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.

6. 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.

7. 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.

8. 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, 2013

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.: 34-2013-0012345

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, 2013  
19 ) Time: 2:00 pm  
20 ) Location: Dept. 53  
21 ) Judge: David I. Brown  
22 ) Date Action Filed: July 1, 2013  
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 house.

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

1 sixty years of age. On July 1, 2013, 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  
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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 **C. 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 **D. 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 **E. 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 Respectfully submitted,

17 DATED: July 10, 2013

18  
19  
20  
21 

Date and sign memorandum of  
points and authorities.

22  
23  
24  
25  
26  
27  
28  
  

---

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.

5 PLAINTIFF, IN PRO PER

7 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.

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.: 34-2013-0012345

) [PROPOSED] ORDER FOR PRELIMINARY INJUNCTION

) Date: July 10, 2013

) Time: 2:00 pm

) Location: Dept. 53

) Judge: David I. Brown

) Date Action Filed: July 1, 2013

) 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."

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**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:

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