

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)	Telephone Number	FOR COURT USE ONLY
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		<input type="checkbox"/> LIMITED CIVIL CASE
NOTICE OF MOTION AND MOTION FOR ORDER		CASE NUMBER: _____
<input type="checkbox"/> SETTING ASIDE DEFAULT <input type="checkbox"/> VACATING DEFAULT JUDGMENT <input type="checkbox"/> STAYING EXECUTION OF JUDGMENT <input type="checkbox"/> EXPARTE		HEARING DATE: _____ TIME: _____ COURTROOM: _____ COMPLAINT DATE: _____

MOTION FOR ORDER SETTING ASIDE DEFAULT/VACATING DEFAULT JUDGMENT

1. Defendant _____ does hereby move the court, pursuant to Section 473 of Code of Civil Procedure, for an order:

setting aside the default entered in this action on _____

vacating default judgment entered in this action on _____

2. Defendant further moves for an order permitting defendant to:

file an Answer, a true and correct copy of which is attached to this motion and incorporated by reference.

appear at a trial on the merits.

3. This motion is brought because default default judgment was/were taken against defendant:

Defendant was mistaken as to some material fact or law relating to defendant's duty to respond.

Through inadvertence and/or oversight defendant failed to timely respond.

Defendant was prevented from responding due to an unexpected condition or situation which arose, without any default or negligence on his /her part, and which ordinary care could not have prevented.

Other _____

4. Defendant possesses a meritorious defense against the unlawful detainer or other civil action.

Short Title:	Case Number:
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MOTION FOR ORDER STAYING EXECUTION

5. Defendant, _____, respectfully applies under Section 918 of the Code of Civil Procedure, for an order from this court directed to the Sheriff of Kern County, to plaintiff, and to any other persons acting on behalf of or together with plaintiff, staying execution of the judgment entered in this action on the grounds that:

- Defendant would suffer hardship if the judgment were to be executed at this time.
- The judgment may be set aside or modified as requested in defendant's motion to vacate default judgment.
- The judgment may be set aside or modified in accordance with defendant's motion for a new trial.
- The judgment may be set aside or modified in accordance with defendant's motion for judgment notwithstanding the verdict.
- The judgment may be set aside or modified in accordance with defendant's motion for relief from forfeiture and restoration of the tenancy under Section 1179 of the Code of Civil Procedure.

6. The motion filed above is filed with this application, and is now pending before this Court.

DECLARATION

7. I am the defendant in this action. I am asking the court to set aside default default judgment in this case.

8. I did not file a response to the summons and complaint appear at the trial in the case

because I did not receive the summons and complaint until _____.

I was unable to come to the court because of the following medical emergency:

Other:

9. I have the following defense to eviction civil complaint for damages

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

Date: _____

Signature of Defendant

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4 SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN

5 Mojave Branch

6) CASE NO. _____
7)
8)

9 PLAINTIFF

10 VS

13 DEFENDANT

8) DECLARATION OF
9) REGARDING TWENTY-FOUR HOUR NOTICE
10) TO PLAINTIFF OF EX PARTE APPLICATION
11) TO STAY EXECUTION OF JUDGMENT AND
12) MOTION TO SET ASIDE/VACATE DEFAULT
13) JUDGMENT
14)

15 The undersigned declares as follows:

16 My names and address and telephone number are listed above on the
17 caption. I am over the age of 18 and not a party to this action.

18 On _____ at _____, I gave the Plaintiff notice by
19 telephoning _____, whose name was listed as the
20 Plaintiff or as his or her counsel, if any at the telephone number
21 given on the caption of the complaint, which the telephone number is
22 _____ . The name of the person I called was _____.

23 I stated that the Defendant would be going to court to seek an Ex
24 PARTE Order Re: stay of execution of judgment and a motion to set
25 aside/vacate default judgment in this case. I stated that the date and
26 time of the hearing of that Ex Parte application was _____
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1 and that the name and address of the the court was

2 _____
3 _____

4 I made the following attempt to determine whether the Plaintiff
5 would appear to oppose the application and learned the following:

6 _____
7 _____
8 _____

9 I declare under penalty of perjury under the laws of the State of
10 California that the foregoing is true and correct and that this
11 declaration was made on _____ in _____, CA.

12 Dated: _____

13 _____
(SIGNATURE OF PERSON GIVING NOTICE)

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CASE NUMBER: _____

3. AFFIRMATIVE DEFENSES (cont'd)

- k. Facts supporting affirmative defenses checked above (identify facts for each item by its letter from page 1 below or on form MC-025):
 - Description of facts is on MC-025, titled as Attachment 3k.

4. OTHER STATEMENTS

- a. Defendant vacated the premises on (date):
- b. The fair rental value of the premises alleged in the complaint is excessive (explain below or on form MC-025):
 - Explanation is on MC-025, titled as Attachment 4b.
- c. Other (specify below or on form MC-025 in attachment):
 - Other statements are on MC-025, titled as Attachment 4c.

5. DEFENDANT REQUESTS

- a. that plaintiff take nothing requested in the complaint.
- b. costs incurred in this proceeding.
- c. reasonable attorney fees.
- d. that plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.
- e. Other (specify below or on form MC-025):
 - All other requests are stated on MC-025, titled as Attachment 5e.

6. Number of pages attached: _____

UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code §§ 6400-6415)

7. (Must be completed in all cases.) An unlawful detainer assistant did not did for compensation give advice or assistance with this form. (If defendant has received any help or advice for pay from an unlawful detainer assistant, state):

- a. Assistant's name:
- b. Telephone No.:
- c. Street address, city, and zip code:
- d. County of registration:
- e. Registration No.:
- f. Expires on (date):

(Each defendant for whom this answer is filed must be named in item 1 and must sign this answer unless his or her attorney signs.)

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT OR ATTORNEY)
(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT OR ATTORNEY)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF DEFENDANT)
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INFORMATION SHEET FOR PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL

(This information sheet is not part of the Proof of Service and does not need to be copied, served, or filed.)

NOTE: This form should **not** be used for proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Use these instructions to complete the *Proof of Service by First-Class Mail - Civil* (form POS-030).

A person over 18 years of age must serve the documents. There are two main ways to serve documents: (1) by personal delivery and (2) by mail. Certain documents must be personally served. You must determine whether personal service is required for a document. Use the *Proof of Personal Service - Civil* (form POS-020) if the documents were personally served.

The person who served the documents by mail must complete a proof of service form for the documents served. **You cannot serve documents if you are a party to the action.**

INSTRUCTIONS FOR THE PERSON WHO SERVED THE DOCUMENTS

The proof of service should be printed or typed. If you have Internet access, a fillable version of the Proof of Service form is available at www.courtinfo.ca.gov/forms.

Complete the top section of the proof of service form as follows:

First box, left side : In this box print the name, address, and telephone number of the person *for* whom you served the documents.

Second box, left side : Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as on the documents that you served.

Third box, left side: Print the names of the Petitioner/Plaintiff and Respondent/Defendant in this box. Use the same names as are on the documents that you served.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Complete items 1-5 as follows:

1. You are stating that you are over the age of 18 and that you are not a party to this action. You are also stating that you either live in or are employed in the county where the mailing took place.
2. Print your home or business address.
3. Provide the date and place of the mailing and list the name of each document that you mailed. If you need more space to list the documents, check the box in item 3, complete the *Attachment to Proof of Service by First-Class Mail - Civil (Documents Served)* (form POS-030(D)), and attach it to form POS-030.
4. For item 4:
Check box a if you personally put the documents in the regular U.S. mail.
Check box b if you put the documents in the mail at your place of business.
5. Provide the name and address of each person to whom you mailed the documents. If you mailed the documents to more than one person, check the box in item 5, complete the *Attachment to Proof of Service by First-Class Mail - Civil (Persons Served)*(form POS-030(P)), and attach it to form POS-030.

At the bottom, fill in the date on which you signed the form, print your name, and sign the form. By signing, you are stating under penalty of perjury that all the information you have provided on form POS-030 is true and correct.