YOUR NAME

Street Address

City, State, Zip

Phone:

Fax Number:

Email:

YOUR NAME, Plaintiff (or Defendant)

In Pro Per

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN MATEO**

|  |  |  |
| --- | --- | --- |
| NAME OF PLAINTIFF(S),  Plaintiff(s),  vs.  NAME OF DEFENDANT(S),  Defendant(s). | )  )  )  )  )  )  )  )  )  )  )  )  )  )  )  ) | Case No.:  **EX PARTE APPLICATION FOR…**    Date:  Time:  Judge:  Dept:  Action Filed:  Trial Date: |

TO THE COURT:

I, (your name), declare as follows:

1. I am the Plaintiff (or Defendant) in this action.
2. I hereby apply *ex parte* to the Court for an Order….
3. There is good cause for granting the application, because…
4. This application is based on the attached Memorandum of Points and Authorities and all papers

on file in this action.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Application was executed (date) at (location), California.

Dated:

|  |  |  |
| --- | --- | --- |
|  | *Your signature* |  |
|  | YOUR NAME, Plaintiff (or Defendant) |  |

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**

**EX PARTE APPLICATION FOR ORDER COMPELLING…**

**INTRODUCTION**

This Ex Parte Application arises out of (explain what happened)

This Ex Parte Application is made in accordance with the local rule of court 3.19 that

outlines the following court rules:

**CRC Rule 3.1200. Application**

The rules in this chapter govern ex parte applications and orders in civil cases, unless otherwise provided by a statute or a rule. These rules may be referred to as "the ex parte rules."

*Rule 3.1200 adopted effective January 1, 2007.*

**CRC Rule 3.1201. Required documents**

A request for ex parte relief must be in writing and must include all of the following:

(1) An application containing the case caption and stating the relief requested;

(2) A declaration in support of the application making the factual showing required under rule 3.1202(c);

(3) A declaration based on personal knowledge of the notice given under rule 3.1204;

(4) A memorandum; and

(5) A proposed order.

*Rule 3.1201 adopted effective January 1, 2007.*

**CRC Rule 3.1202. Contents of application**

(a) Identification of attorney or party

An ex parte application must state the name, address, e-mail address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, e-mail address, and telephone number of the party if known to the applicant.

(Subd (a) amended effective January 1, 2016.)

(b) Disclosure of previous applications

If an ex parte application has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, must include a full disclosure of all previous applications and of the court's actions.

(c) Affirmative factual showing required

An applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte.

(Subd (c) amended effective January 1, 2007.)

*Rule 3.1202 amended effective January 1, 2016; adopted effective January 1, 2007; previously amended effective January 1, 2007.*

**CRC Rule 3.1203. Time of notice to other parties**

(a) Time of notice

A party seeking an ex parte order must notify all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice.

(Subd (a) amended effective January 1, 2008.)

(b) Time of notice in unlawful detainer proceedings

A party seeking an ex parte order in an unlawful detainer proceeding may provide shorter notice than required under (a) provided that the notice given is reasonable.

*Rule 3.1203 amended effective January 1, 2008; adopted effective January 1, 2007.*

**CRC Rule 3.1204. Contents of notice and declaration regarding notice**

(a) Contents of notice

When notice of an ex parte application is given, the person giving notice must:

(1) State with specificity the nature of the relief to be requested and the date, time, and place for the presentation of the application; and

(2) Attempt to determine whether the opposing party will appear to oppose the application.

(b) Declaration regarding notice

An ex parte application must be accompanied by a declaration regarding notice stating:

(1) The notice given, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected and that, within the applicable time under rule 3.1203, the applicant informed the opposing party where and when the application would be made;

(2) That the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party; or

(3) That, for reasons specified, the applicant should not be required to inform the opposing party.

(c) Explanation for shorter notice

If notice was provided later than 10:00 a.m. the court day before the ex parte appearance, the declaration regarding notice must explain:

(1) The exceptional circumstances that justify the shorter notice; or

(2) In unlawful detainer proceedings, why the notice given is reasonable.

*Rule 3.1204 adopted effective January 1, 2007*.

**CRC Rule 3.1205. Filing and presentation of the ex parte application**

Notwithstanding the failure of an applicant to comply with the requirements of rule 3.1203, the clerk must not reject an ex parte application for filing and must promptly present the application to the appropriate judicial officer for consideration.

Rule 3.1205 adopted effective January 1, 2007.

Rule 3.1206. Service of papers

Parties appearing at the ex parte hearing must serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing may be conducted unless such service has been made.

Rule 3.1206 adopted effective January 1, 2007.

Rule 3.1207. Appearance requirements

An applicant for an ex parte order must appear, either in person or by telephone under rule 3.670, except in the following cases:

(1) Applications to file a memorandum in excess of the applicable page limit;

(2) Applications for extensions of time to serve pleadings;

(3) Setting of hearing dates on alternative writs and orders to show cause; and

(4) Stipulations by the parties for an order.

*Rule 3.1207 amended effective January 1, 2014; adopted effective January 1, 2007; previously amended effective January 1, 2008.*

**CRC Rule 2.306. Service of papers by fax transmission**

(a) Service by fax

(1) Agreement of parties required

Service by fax transmission is permitted only if the parties agree and a written confirmation of that agreement is made.

(2) Service on last-given fax number

Any notice or other document to be served must be transmitted to a fax machine maintained by the person on whom it is served at the fax machine telephone number as last given by that person on any document that the party has filed in the case and served on the party making service.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of subd (b) effective March 1, 1992.)

(b) Service lists

(1) Duties of first-named plaintiff or petitioner

In a case in which the parties have agreed to service by fax, the plaintiff or petitioner named first in the complaint or petition, in addition to its responsibilities under rule 3.254, must:

(A) Maintain a current list of the parties that includes their fax numbers for service of notice on each party; and

(B) Furnish a copy of the list on request to any party or the court.

(2) Duties of each party

In a case in which the parties have agreed to service by fax, each party, in addition to its responsibilities under rule 3.254, must:

(A) Furnish the first-named plaintiff or petitioner with the party's current fax number for service of notice when it first appears in the action; and

(B) If the party serves an order, notice, or pleading on a party that has not yet appeared in the action, serve a copy of the service list under (1) at the same time that the order, notice, or pleading is served.

(Subd (b) adopted effective January 1, 2008.)

(c) Transmission of papers by court

A court may serve any notice by fax in the same manner that parties may serve papers by fax.

(Subd (c) relettered effective January 1, 2008; adopted as subd (b) effective January 1, 2007.)

(d) Notice period extended

Except as provided in (e), any prescribed period of notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the service of a document served by fax transmission is extended by two court days.

(Subd (d) amended effective July 1, 2008; adopted as part of subd (b) effective March 1, 1992; previously amended and lettered as subd (c) effective January 1, 2007; previously relettered as subd (d) effective January 1, 2008.)

(e) Extension inapplicable to certain motions

The extension provided in (d) does not apply to extend the time for the filing of:

(1) A notice of intent to move for new trial;

(2) A notice of intent to move to vacate a judgment under Code of Civil Procedure section 663; or

(3) A notice of appeal.

(Subd (e) amended effective July 1, 2008; adopted as part of subd (b) effective March 1, 1992; previously amended and lettered as subd (d) effective January 1, 2007; previously relettered as subd (e) effective January 1, 2007.)

(f) Availability of fax

A party or attorney agreeing to accept service by fax must make his or her fax machine generally available for receipt of served documents between the hours of 9 a.m. and 5 p.m. on days that are not court holidays under Code of Civil Procedure section 136. This provision does not prevent the party or attorney from sending other documents by means of the fax machine or providing for normal repair and maintenance of the fax machine during these hours.

(Subd (f) relettered effective January 1, 2008; adopted as subd (c) effective March 1, 1992; previously amended and relettered as subd (e) effective January 1, 2007.)

(g) When service complete

Service by fax is complete on transmission of the entire document to the receiving party's fax machine. Service that is completed after 5 p.m. is deemed to have occurred on the next court day. Time is extended as provided by this rule.

(Subd (g) relettered effective January 1, 2008; adopted as subd (d) effective March 1, 1992; previously amended effective July 1, 1997; previously amended and relettered as subd (f) effective January 1, 2007.)

(h) Proof of service by fax

Proof of service by fax may be made by any of the methods provided in Code of Civil Procedure section 1013(a), except that:

(1) The date and sending fax machine telephone number must be used instead of the date and place of deposit in the mail;

(2) The name and fax machine telephone number of the person served must be used instead of the name and address of the person served as shown on the envelope;

(3) A statement that the document was sent by fax transmission and that the transmission was reported as complete and without error must be used instead of the statement that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid;

(4) A copy of the transmission report must be attached to the proof of service and the proof of service must declare that the transmission report was properly issued by the sending fax machine; and

(5) Service of papers by fax is ineffective if the transmission does not fully conform to these provisions.

*(Subd (h) amended effective January 1, 2017; adopted as subd (e) effective March 1, 1992; previously amended effective July 1, 1997, and May 1, 1998; previously amended and relettered as subd (g) effective January 1, 2007; previously relettered as subd (h) effective January 1, 2008.)*

*Rule 2.306 amended effective January 1, 2017; adopted as rule 2008 effective March 1, 1992; previously amended and renumbered effective January 1, 2007; previously amended effective July 1, 1997, May 1, 1998, January 1, 2008, and July 1, 2008.*