

ATTORNEY OR PARTY WITHOUT ATTORNEY: NO: NAME: STREET ADDRESS: CODE CITY: TELEPHONE NO: E-MAIL ADDRESS:	STATE BAR STATE: ZIP	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TULARE <input type="checkbox"/> Visalia - 11200 Ave. 368, Rm. 201 Visalia, CA 93291 <input type="checkbox"/> South County Justice Center - 300 E. Olive Ave., Porterville, CA 93257		
PETITIONER: RESPONDENT:		
NOTICE OF MOTION AND MOTION FOR <input type="checkbox"/> EX PARTE ORDER <input type="checkbox"/> SETTING ASIDE DEFAULT <input type="checkbox"/> VACATING DEFAULT JUDGMENT <input type="checkbox"/> VACATING JUDGMENT <input type="checkbox"/> STAYING EXECUTION OF JUDGMENT		CASE NUMBER: Hearing Date: _____ Time: _____ Department: _____

EX PARTE MOTION FOR ORDER SETTING ASIDE DEFAULT/VACATING DEFAULT JUDGMENT

1. Defendant _____ does hereby move the court, pursuant to Section 473 of the 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 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(s) possess(es) the following meritorious defense against the eviction civil complaint for damages:
 - _____
 - _____

EX PARTE 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 Tulare 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(s) 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 the Defendant's motion for relief from forfeiture and restoration of the tenancy under section 1179 of the Code of Civil Procedure.

6. The motion listed above is filed with this application.

DECLARATION

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

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

- I did not receive the summons and complaint until _____, and by that time it was too late to file a response.
- I did not understand that I had to respond to the Plaintiff's papers in five days. I thought weekends and holidays did not count in computing time. When I tried to file my response at the court, I was told it was too late.
- I was unable to come to court because of the following medical emergency:

Other:

Mark this box, if you need additional space. You may use Judicial Council Attachment form (MC-025)

9. NOTICE:

- I gave notice to plaintiff plaintiff's attorney that the ex parte hearing was scheduled for (date) _____ and (time) _____ in Courtroom _____ of this court on this motion.
- I gave notice personally by telephone by voicemail on (date) _____ at _____ a.m./p.m.
- I gave notice by 10 a.m. the court day before this hearing
- I gave notice after 10 a.m. the court day before this hearing because of the following exceptional circumstances:

The person I called responded as follows: _____.

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

Date:

PRINT NAME HERE

SIGNATURE

NOTICE OF MOTION/MOTION FOR ORDER SETTING ASIDE DEFAULT/JUDGMENT/STAY