

## INSTRUCTIONS FOR PREPARING AN APPLICATION FOR TEMPORARY STAY OF EVICTION

After calling the landlord or landlords attorney (if the landlord is represented by an attorney), to inform him/her where and when you will be filing your papers, go to the court clerk's office that issued the Notice to Vacate and Writ of Execution. Ask the clerk to file your papers and present them to the judge. In most cases, the judge will base his/her decision on the information contained in the papers alone. Because you will not appear before the judge, you must ask the clerk when and how you can find out the judge's decision. You should follow-up with the court the following day to confirm whether the stay was granted.

The initial filing fee is \$225.00 for the first defendant and \$225.00 for each additional defendant. If the stay is not your first filing, then the filing fee is \$60.00. If you previously filed a fee waiver, you will not need to file a new one. If you have not filed a fee waiver in your case before and you qualify for a fee waiver, fill it out and submit it along with your papers, and if your fee waiver is approved, you will not be charged the filing fees. **THE FEE WAIVER ONLY COVERS THE COURT FEES AND COSTS.**

**Note #1 Remember that whether or not a stay of execution is granted is entirely within the discretion of the judge. The judge's power to stay the eviction is generally limited to 40 days after the date of the judgment. This means that if you ask for a stay of more than 40 days past the date of judgment your stay will be denied. So. For example, if the eviction is not scheduled until 20 days after the judgment, the judge can only stay the eviction for another 20 days.**

**Note#2 If your stay of execution is granted, the judge may order you to post payment for the amount of time that the judge grants you. If the stay is granted on condition that you post payment and you do not, your stay will not be granted. Said amount will be determine by the judge and should be paid in cash or money order only, to the Clerk's Office. After payment of the money to the clerk, a copy of the payment receipt shall be provided to the Sheriff's Department by you **NO LATER THAN 5:00 P.M. THE DAY PRIOR TO THE SCHEDULED LOCK-OUT.** The fee waiver does not cover this amount.**

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Stockton Branch  
180 E. Weber Ave.  
Stockton, CA 95202  
(209) 992-5702  
8:00a.m.- 5:00p.m.

Manteca Branch  
315 E. Center St.  
Manteca, CA 95336  
(209) 239-9188  
8:00a.m. – 5:00p.m.

Lodi Branch  
315 W. Elm St.  
Lodi, CA 95240  
(209) 992-5522  
8:00a.m. – 5:00p.m.

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**ADDITIONAL OPTIONS:** there are other things that you may also be able to do, depending upon whether or not you filed an answer to the lawsuit or whether or not you went to your trial. Please note this is not an exhaustive list. There may be other options available.

- An appeal
- A motion for new trial
- A motion to set aside a default judgement
- A petition for relief from forfeiture

Some of these have filing deadlines as short as 15 days from the date from the date that a Notice of Entry of Judgment was mailed to you. Others have longer deadlines. You will need to consult a private attorney about these. If you do not know a private attorney to call, you may call the Lawyer Referral Service at (209) 948-4620 to arrange for a consultation. You should be aware, however, that using any of the proceedings listed above will not stop your eviction without an order from a judge staying the eviction.

1 \_\_\_\_\_  
**YOUR NAME**

2 \_\_\_\_\_  
**YOUR ADDRESS**

3 \_\_\_\_\_  
**CITY, STATE AND ZIP CODE**

4 \_\_\_\_\_  
**YOUR PHONE NUMBER**

5  
6 In Pro Per Defendant

7  
8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**  
9 **COPY FROM PAPERS SERVED ON YOU** \_\_\_\_\_ **BRANCH**

10  
11 **COPY FROM PAPERS SERVED ON YOU**

12 \_\_\_\_\_ )  
13 Plaintiff, )  
14 vs. )  
15 **COPY FROM PAPERS SERVED ON YOU** )  
16 Defendant. )  
17 \_\_\_\_\_ )

Case No.: **COPY FROM PAPERS SERVED**  
**ON YOU**

**EX PARTE APPLICATION FOR  
TEMPORARY STAY OF EXECUTION OF  
JUDGMENT**

18 Defendant, **(YOUR NAME)**, hereby moves the court for an ex parte temporary order  
19 staying execution of the judgment in the above-entitled matter, which was entered on **(DATE OF**  
20 **JUDGMENT)**, 2020, for restitution and possession of the premises located at and commonly  
21 known as **(COMPLETE ADDRESS), (CITY)** \_\_\_\_\_, California.

22 This motion is made on the ground that a temporary stay of execution until **(DATE YOU ARE**  
23 **REQUESTING)**, 2020, is necessary to avoid irreparable harm to defendant. Defendant has been  
24 unable to secure alternative housing.

25 This motion is made and based on this motion, on the declaration of defendant attached hereto,  
26 on the attached memorandum of points and authorities, and on the records on file herein.

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Date: (PUT DATE HERE), 2020

(SIGN YOUR NAME)

\_\_\_\_\_  
Signature

(PRINT YOUR NAME)

\_\_\_\_\_  
Defendant [Print Name]

POINTS AND AUTHORITIES IN SUPPORT OF  
APPLICATION FOR TEMPORARY STAY ORDER

1. The court, or any judge thereof, may stay the execution of any judgment. Code of Civil Procedure § 918.
2. Code of Civil Procedure § 918 does not require a bond to stay execution of a judgment.
3. Special circumstances such as hardship, which exist in this case, should be considered in granting a temporary of execution in an unlawful detainer case. Kaiser v. Hancock, (1914) 25 Cal.App.323, 328; 143 P. 614.
4. A stay of execution granted under CCP § 918 is used to allow the judgment debtor time to gather his or her resources so that the judgment may be satisfied without unnecessary hardship. See Industrial Indemnity Co. v. Levine, (1975) 49 Cal.App.3d 698, 700; 122 Cal. Rptr. 712.

(PUT DATE HERE)

Respectfully submitted,  
(SIGN YOUR NAME)

Date: \_\_\_\_\_, 2020

\_\_\_\_\_  
Signature

(PRINT YOUR NAME)

\_\_\_\_\_  
Defendant [Print Name]

1 **YOUR NAME**

2 \_\_\_\_\_  
Name

3 **YOUR ADDRESS**

4 \_\_\_\_\_  
Street

5 \_\_\_\_\_  
City, State and Zip Code

6 **YOUR PHONE NUMBER**

7 \_\_\_\_\_  
Phone No.

8 In Pro Per Defendant

9  
10 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

11 **(COPY FROM PAPERS SERVED ON YOU)** \_\_\_\_\_ **BRANCH**

12  
13 **(COPY FROM PAPERS SERVED ON YOU)**

14 \_\_\_\_\_ )  
15 Plaintiff, )

Case No.: **(COPY FROM PAPERS SERVED ON YOU)**

16 vs. )  
17 **(COPY FROM PAPERS SERVED ON YOU)** )

**DECLARATION IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY STAY OF EXECUTION OF JUDGMENT**

18 \_\_\_\_\_ )  
19 Defendant. )

I, **(YOUR NAME)**, declare:

- 20 1. I am the defendant in the above-referenced matter, and this declaration in support of my
- 21 application for a stay of execution of the judgment entered on **(DATE OF JUDGMENT)**,
- 22 2020, in the above unlawful detainer.
- 23 2. I have lived at the subject premises for **(YEARS AND MONTHS)**. I have residing with me
- 24 **(LIST ALL WHO LIVE WITH YOU. FOR EXAMPLE: "My three minor children.")**. My
- 25 present source of income is **(SOURCE OF INCOME)**, and totals \$ **(AMOUNT)**
- 26 per month.
- 27 3. I have not had an opportunity to secure alternative housing as of this date. I do not have
- 28 friends or relatives in this area with whom I can stay while I continue my search for alternative housing.

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4. The writ of possession was posted by the Sheriff on or about (DATE OF POSTING), 2020. Since I have not found other housing as yet and do not have friends or relatives in the area to reside with, I will have no place to go if I am evicted. I must have time to relocate and make arrangements to move my personal property.

5. In order to avoid irreparable harm to me and to allow additional time to relocate, I request that the judgment be stayed at least until (DATE YOU ARE REQUESTING), 2020.

6. Because I do not have the resources to find immediate temporary housing, it would be a severe hardship to be evicted on the date indicated in the writ of possession, (DATE OF EVICTION), 2020. The circumstances surrounding my need for a temporary stay of execution judgment are as follows:

(EXPLAIN THE HARSHIP YOU WOULD SUFFER IF RFORCED TO MOVE OUT BY THE DATE OF EVICION)

(TELL THE JUDGE ABOUT YOUR DIFFICULT SITUATION AND WHY YOU ARE REQUESTING A TEMPOARY STAY). (YOU MAY ALSO ATTACH OTHER DOCUMENTS SUCH AS A LETTER FROM A DOCTOR OR ANYTHING ELSE THAT WOULD HELP YOUR REQUEST. IF YOU DO THIS, WRITE "SEE ATTACHED DOCUMENT(S)")

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7. For these reasons, I submit that in order to avoid extreme hardship, this Court should grant a stay of execution until (DATE YOU ARE REQUESTING), 2020.

8. On (TODAY'S DATE), 2020, I telephoned plaintiff (or plaintiff's attorney) to inform plaintiff where and when I would be applying for a stay of execution. I also informed her/him that I could not arrange for personal service of this motion, but that it would be sent by mail. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on (TODAY'S DATE), 2020 at (CITY), California.

(SIGN YOUR NAME)  
Signature

(PRINT YOUR NAME)  
Defendant [Print Name]

NOTE: The person serving must NOT be a party to this case

## PROOF OF SERVICE

I, (THE NAME OF THE PERSON SERVING), declare:

That at the time of service I was at least 18 years of age and not a party to this action. My business address is \_\_\_\_\_, \_\_\_\_\_, CA, \_\_\_\_\_.

That on (DATE SERVICE WAS DONE), I served the following documents:

**(1) EX PARTE APPLICATION FOR TEMPORARY STAY OF EXECUTION OF JUDGMENT**

**(2) DECLARATION IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY OF EXECUTION OF JUDGMENT**

**(3) ORDER FOR TEMPORARY STAY (PROPOSED)**

By Transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.

By personal delivery of the documents listed above to the address of the person set forth below.

By mailing a copy of the documents listed above to the address of the person set forth below and by placing the documents in a sealed envelope with the postage fully prepaid and depositing the envelope in the United States mail.

By emailing a copy of documents to the email below.

(INFO OF PERSON YOU WILL BE SERVING IS LOCATED ON SECOND PAGE OF NOTICE TO VACATE)

Name of person served

Address of person served

Fax number or email of person served

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on (DATE SERVICE WAS DONE), at Stockton, California.

(NAME AND SIGNATURE OF PERSON SERVING)

*Print name (of who placed Envelope in mailbox)*

*Signature of person serving*

Mark the type of service you will be using

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN</b>	RESERVED FOR CLERK'S FILE STAMP
<input type="checkbox"/> STOCKTON BRANCH 180 E Weber Ave., Ste 200 Stockton, CA 95202 (209) 992-5702	<input type="checkbox"/> LODI BRANCH 315 W. Elm St., Dept. L-2 Lodi, CA 95240 (209) 992-5522
<input type="checkbox"/> MANTECA BRANCH 315 E. Center St. Manteca, CA 95336 (209) 239-9188	PLAINTIFF:  DEFENDANT:
<b>ORDER ON REQUEST FOR TEMPORARY STAY</b>	CASE NUMBER:
For Application for Temporary Stay of Execution of Judgment filed by:	<u>FOR COURT USE ONLY</u>
Name: _____  Address: _____  _____	For Judgment entered on: _____  Daily Rental Value: \$ _____

**IT IS SO ORDERED:**

**Temporary Stay of Execution of Judgment is ordered DENIED.**

**Temporary Stay of Execution of Judgment is ordered GRANTED on the following conditions:**

Upon payment of \$ \_\_\_\_\_, in cash or money order only, to the Clerk's Office at the above address.

Defendant shall then provide the San Joaquin County Sheriff's Department a copy of the payment receipt **no later than 5:00 P.M. the day prior to the scheduled lock-out**. Once the receipt has been provided the San Joaquin County Sheriff is hereby instructed and ordered to take no action whatsoever to enforce said judgment or execute writ of possession until after the stay date listed below.

Stay is ordered granted up to and including: 12:01 a.m. on \_\_\_\_\_.

Funds deposited with the Court are to be disbursed following the current court policy, to the plaintiff/plaintiff's attorney.

**IT IS FURTHER ORDERED that the above payment and notification to the Sheriff's Office of the receipt thereof must occur BEFORE 5:00 P.M. the business day before the scheduled lock-out. If the lock-out has already occurred, this Order is null and void.**

Date: \_\_\_\_\_

\_\_\_\_\_  
 Judge/Commissioner of the Superior Court



1 \_\_\_\_\_  
Name

2 \_\_\_\_\_  
Street

3 \_\_\_\_\_  
4 City, State and Zip Code

5 \_\_\_\_\_  
Phone No.

6 In Pro Per Defendant

7  
8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**  
9 \_\_\_\_\_ **BRANCH**

	Case No.: _____-CV-LUDR-2020 _____
Plaintiff,	<b>EX PARTE APPLICATION FOR TEMPORARY STAY OF EXECUTION OF JUDGMENT</b>
vs.	
Defendant.	

16  
17 Defendant, \_\_\_\_\_, hereby moves the court for an ex parte  
18 temporary order staying execution of the judgment in the above-entitled matter, which was entered on  
19 \_\_\_\_\_, 2020, for restitution and possession of the premises located at and commonly  
20 known as \_\_\_\_\_, \_\_\_\_\_, California.

21 This motion is made on the ground that a temporary stay of execution until  
22 \_\_\_\_\_, 2020, is necessary to avoid irreparable harm to defendant. Defendant has been  
23 unable to secure alternative housing.

24 This motion is made and based on this motion, on the declaration of defendant attached hereto,  
25 on the attached memorandum of points and authorities, and on the records on file herein.

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28 //

1 Date: \_\_\_\_\_, 2020

2 \_\_\_\_\_  
3 Signature

4 \_\_\_\_\_  
5 Defendant [Print Name]

6  
7 POINTS AND AUTHORITIES IN SUPPORT OF  
8 APPLICATION FOR TEMPORARY STAY ORDER

- 9 1. The court, or any judge thereof, may stay the execution of any judgment. Code of Civil
- 10 Procedure § 918.
- 11 2. Code of Civil Procedure § 918 does not require a bond to stay execution of a judgment.
- 12 3. Special circumstances such as hardship, which exist in this case, should be considered in
- 13 granting a temporary of execution in an unlawful detainer case. Kaiser v. Hancock,
- 14 (1914) 25 Cal.App.323, 328; 143 P. 614.
- 15 4. A stay of execution granted under CCP § 918 is used to allow the judgment debtor time to
- 16 gather his or her resources so that the judgment may be satisfied without unnecessary
- 17 hardship. See Industrial Indemnity Co. v. Levine, (1975) 49 Cal.App.3d 698, 700; 122 Cal.
- 18 Rptr. 712.

19  
20 Respectfully submitted,

21  
22 Date: \_\_\_\_\_, 2020

23 \_\_\_\_\_  
24 Signature

25 \_\_\_\_\_  
26 Defendant [Print Name]

1 \_\_\_\_\_  
Name  
2 \_\_\_\_\_  
Street  
3 \_\_\_\_\_  
4 City, State and Zip Code  
5 \_\_\_\_\_  
Phone No.  
6 In Pro Per Defendant  
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9 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**  
10 \_\_\_\_\_ **BRANCH**

11  
12 \_\_\_\_\_ ) Case No.: -CV-LUDR-2020-\_\_\_\_\_  
Plaintiff, )  
13 vs. ) **DECLARATION IN SUPPORT**  
14 ) **OF EX PARTE APPLICATION**  
15 Defendant. ) **FOR TEMPORARY STAY OF**  
16 ) **EXECUTION OF JUDGMENT**

17 I, \_\_\_\_\_, declare:

- 18 1. I am the defendant in the above-referenced matter, and this declaration in support of my  
19 application for a stay of execution of the judgment entered on \_\_\_\_\_, 2020, in the  
20 above unlawful detainer.
- 21 2. I have lived at the subject premises for \_\_\_\_\_. I have residing with me  
22 \_\_\_\_\_ . My present  
23 source of income is \_\_\_\_\_, and totals  
24 \$ \_\_\_\_\_ per month.
- 25 3. I have not had an opportunity to secure alternative housing as of this date. I do not have  
26 friends or relatives in this area with whom I can stay while I continue my search for alternative  
27 housing.

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1 4. The writ of possession was posted by the Sheriff on or about \_\_\_\_\_, 2020.

2 Since I have not found other housing as yet and do not have friends or relatives in the area to  
3 reside with, I will have no place to go if I am evicted. I must have time to relocate and make  
4 arrangements to move my personal property.

5 5. In order to avoid irreparable harm to me and to allow additional time to relocate, I request that  
6 the judgment be stayed at least until \_\_\_\_\_, 2020.

7 6. Because I do not have the resources to find immediate temporary housing, it would be a severe  
8 hardship to be evicted on the date indicated in the writ of possession, \_\_\_\_\_, 2020.

9 The circumstances surrounding my need for a temporary stay of execution judgment are as  
10 follows:

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26 7. For these reasons, I submit that in order to avoid extreme hardship, this Court should grant  
27 a stay of execution until \_\_\_\_\_, 2020.

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8. On \_\_\_\_\_, 2020, I telephoned plaintiff (or plaintiff's attorney) to inform plaintiff where and when I would be applying for a stay of execution. I also informed her/him that I could not arrange for personal service of this motion, but that it would be sent by mail.

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

Executed on \_\_\_\_\_, 2020 at \_\_\_\_\_, California.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Defendant [Print Name]

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN</b>	RESERVED FOR CLERK'S FILE STAMP
<input type="checkbox"/> STOCKTON BRANCH 180 E Weber Ave., Ste 200 Stockton, CA 95202 (209) 992-5702	<input type="checkbox"/> LODI BRANCH 315 W. Elm St., Dept. L-2 Lodi, CA 95240 (209) 992-5522
<input type="checkbox"/> MANTECA BRANCH 315 E. Center St. Manteca, CA 95336 (209) 239-9188	PLAINTIFF:  DEFENDANT:
<b>ORDER ON REQUEST FOR TEMPORARY STAY</b>	CASE NUMBER:
For Application for Temporary Stay of Execution of Judgment filed by:	<u>FOR COURT USE ONLY</u>
Name: _____	For Judgment entered on: _____
Address: _____	Daily Rental Value: \$ _____
_____	

**IT IS SO ORDERED:**

**Temporary Stay of Execution of Judgment is ordered DENIED.**

**Temporary Stay of Execution of Judgment is ordered GRANTED on the following conditions:**

Upon payment of \$ \_\_\_\_\_, in cash or money order only, to the Clerk's Office at the above address.

Defendant shall then provide the San Joaquin County Sheriff's Department a copy of the payment receipt **no later than 5:00 P.M. the day prior to the scheduled lock-out.** Once the receipt has been provided the San Joaquin County Sheriff is hereby instructed and ordered to take no action whatsoever to enforce said judgment or execute writ of possession until after the stay date listed below.

Stay is ordered granted up to and including: 12:01 a.m. on \_\_\_\_\_.

Funds deposited with the Court are to be disbursed following the current court policy, to the plaintiff/plaintiff's attorney.

**IT IS FURTHER ORDERED that the above payment and notification to the Sheriff's Office of the receipt thereof must occur BEFORE 5:00 P.M. the business day before the scheduled lock-out. If the lock-out has already occurred, this Order is null and void.**

Date: \_\_\_\_\_

\_\_\_\_\_  
 Judge/Commissioner of the Superior Court

1 **PROOF OF SERVICE**

2 I, \_\_\_\_\_, declare:

3 That at the time of service I was at least 18 years of age and not a party to this action. My  
4 residence address is: \_\_\_\_\_, \_\_\_\_\_, CA, \_\_\_\_\_.

5 That on \_\_\_\_\_, 2020, I served the following documents:  
6 *Date*

7 **(1) EX PARTE APPLICATION FOR TEMPORARY STAY OF EXECUTION  
8 OF JUDGMENT**

9 **(2) DECLARATION IN SUPPORT OF EX PARTE APPLICATION FOR  
10 TEMPORARY OF EXECUTION OF JUDGMENT**

11 **(3) ORDER FOR TEMPORARY STAY (PROPOSED)**

12 [ ] By Transmitting via facsimile the document(s) listed above to the fax number(s) below on this  
13 date before 5:00 p.m.

14 [ ] By personal delivery of the documents listed above to the address of the person below.

15 [ ] By mailing a copy of the documents listed above to the address of the person below and by  
16 placing the documents in a sealed envelope with the postage fully prepaid and depositing the envelope  
in the United States mail.

17 [ ] By emailing a copy of documents to the email below.  
18

19 \_\_\_\_\_  
*Name of person served*

20 \_\_\_\_\_  
*Address of person served*

21 \_\_\_\_\_  
*Fax number or email of person served*

22  
23  
24 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
25 true and correct. Executed on \_\_\_\_\_, 2020 at \_\_\_\_\_, California.  
*Date*

26  
27 \_\_\_\_\_  
*Print name (of person who placed  
28 Envelope in mailbox)*

\_\_\_\_\_  
*Signature of person serving*