SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT
CIVIL DIVISION
Phone Number: 707-445-7256
Hours Available: 9:00 a.m. to 2:00 p.m.

Ex Parte Stay of Execution
Unlawful Detainer

This packet includes the necessary forms to request a Temporary Stay of Execution of a judgment in an unlawful detainer or eviction case.

Judicial Council forms, local forms and information are available in the Clerk's Office, the Humboldt County Law Library located at 812 4th St, Eureka, CA 95501, and on the following Websites:

Humboldt County Superior Court
https://www.humboldt.courts.ca.gov/
Judicial Council's Self-Help website
http://www.courts.ca.gov/selfhelp
For more information on Libraries, Websites, or Self-Help Legal Books
https://www.humboldt.courts.ca.gov/sh/index.htm

PROVIDING ASSISTANCE TO PARTIES REPRESENTING THEMSELVES
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STAY OF EXECUTION

This packet of forms is to request a temporary stay of the execution of a judgment for eviction and allows you to request an extension of time before you are permanently locked out of the premises. **You should begin this request no later than 48 hours before your lockout date/time.**

> **NOTE:** The granting of this application is not automatic and will be up to the Judge to decide. If you are not prepared to **deposit rent with the court for each day you request for the extension of time to move out** your request may be denied.

1. GIVE 24-HOUR NOTICE: You must call the Landlord/Plaintiff's attorney by 10:00 a.m. the Court day before you file your papers in Court. (You may give notice to the landlord directly only if he or she is not represented by an attorney.) You must tell them you are requesting an:
   "Ex Parte Application for a Stay of Execution of the Judgment and an Order Shortening Time for Service and Hearing on a Motion to Set Aside the Judgment.
   NOTE: Remember the name of the person you spoke with, the **DATE & TIME** of the call and the **RESPONSE (if any)** received from the Plaintiff or his or her attorney, because this information is required for the request.

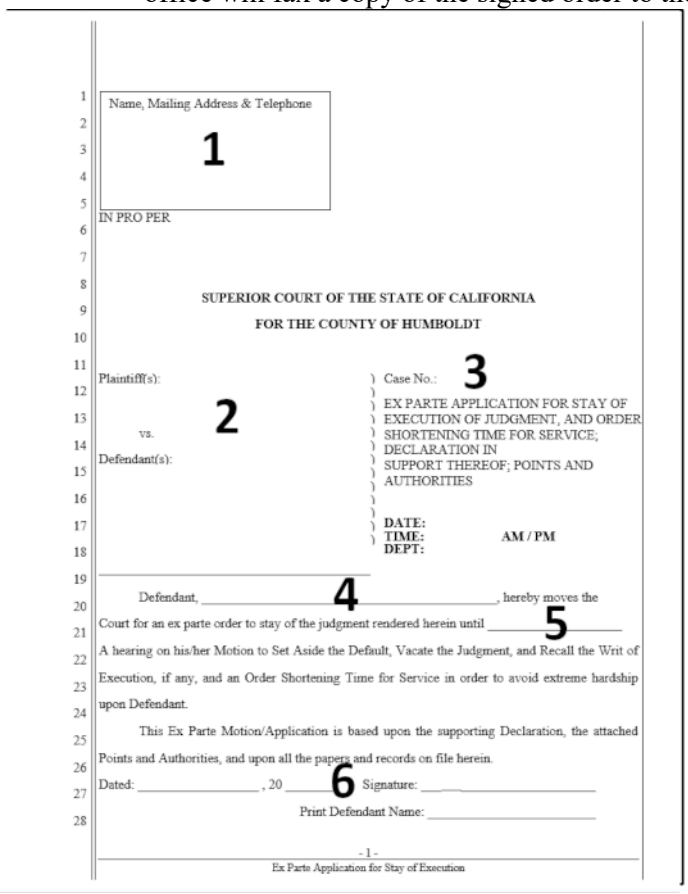
2. PREPARE THE DOCUMENTS: Complete on pleading paper:
   a. Ex Parte Application for Stay of Execution of the Judgment Declaration and Points and Authorities, along with the Order on Ex Parte Application as explained in the pages that follow. Due to the time constraints for hearing motions, this application should also include an Order Shortening Time for Service;
   b. Motion to Set Aside the Judgment (necessary if you want the Court to determine whether to set aside the judgment in addition to staying its execution). This Motion asks the Court to "re-open" your case, but this Motion on its own takes almost 3 weeks to be held in Court. An Order Shortening Time can speed up that timeline. If your Motion is heard, and no Answer was previously filed, the Defendant should prepare an Answer on form UD-105 and UD-104 Coversheet for Declaration of COVID.

3. FILING YOUR DOCUMENTS: Take the originals and 2 copies (copies will be made for you if you have a fee waiver on file) to the Clerk's office for filing. The Clerk will file-mark the documents **and set the HEARING DATE as detailed on the application.** Ex Parte applications are typically set the next day at 1:30 p.m. in Courtroom 4. There will be a filing fee due at the time of filing unless you qualify for a fee waiver, or there is already one on file. You can get a fee waiver packet from the Clerk's Office or the Self Help Center. If you qualify for a fee waiver, the Clerk's Office will make the copies of your documents for you.

4. SERVING DOCUMENTS: A copy of the documents must be given to the plaintiff or the plaintiff's attorney, prior to the time of the hearing. Someone other than you must HAND DELIVER a copy of the DOCUMENTS to the plaintiff or the plaintiff's attorney. The person hand delivering the copy of the documents must be over 18 years old and CANNOT be you or anyone else living in the residence at issue or anyone named as a defendant in the lawsuit. Once they deliver a copy of the documents to the plaintiff or the plaintiff's attorney have the person delivering the documents complete, date, and sign a PROOF OF SERVICE.

FILE the Proof of Service with the Clerk's Office, if possible, otherwise bring it with you to the hearing. Be sure to attend the hearing.

5. ORDER: If the Judge grants the stay, the courtroom clerk will notify the Sheriff's Office and the Clerk's office will fax a copy of the signed order to the Sheriff's office once signed by the Judge.



Name, Mailing Address & Telephone

1

IN PRO PER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF HUMBOLDT

Plaintiff(s):

2

vs.

Defendant(s):

Case No.: 3

EX PARTE APPLICATION FOR STAY OF EXECUTION OF JUDGMENT, AND ORDER SHORTENING TIME FOR SERVICE; DECLARATION IN SUPPORT THEREOF; POINTS AND AUTHORITIES

DATE:
TIME: AM / PM
DEPT:

Defendant, 4, hereby moves the Court for an ex parte order to stay of the judgment rendered herein until 5 A hearing on his/her Motion to Set Aside the Default, Vacate the Judgment, and Recall the Writ of Execution, if any, and an Order Shortening Time for Service in order to avoid extreme hardship upon Defendant.

This Ex Parte Motion/Application is based upon the supporting Declaration, the attached Points and Authorities, and upon all the papers and records on file herein.

Dated: _____, 20 6 Signature: _____

Print Defendant Name: _____

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Ex Parte Application for Stay of Execution

Ex Parte Stay of Execution

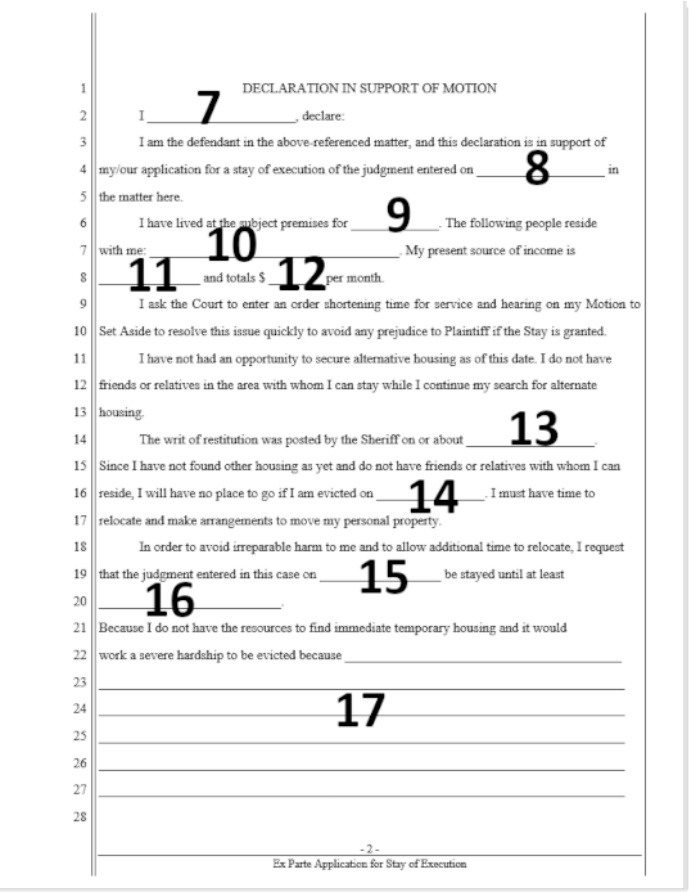
Directions

- Find the number on the sample form. *Example: **1***
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink. DO NOT USE GEL PENS.

1. Write your name, mailing address, and phone number.
2. Write the name of the plaintiff and the defendant as they appear on the Complaint.
3. Write in your case number as it appears on the Complaint.
4. Write in your name.
5. Write in the date to which you are requesting the Court temporary stay the lockout. Generally, you can ask for up to 40 days from the date of entry of the judgment.

NOTE: You will be required to pay rent for each day you request for the extension of time to move out.

6. Write in the date, print your name, and sign.



DECLARATION IN SUPPORT OF MOTION

I 7, declare:

I am the defendant in the above-referenced matter, and this declaration is in support of my/our application for a stay of execution of the judgment entered on 8 in the matter here.

I have lived at the subject premises for 9. The following people reside with me: 10. My present source of income is 11 and totals $ 12 per month.

I ask the Court to enter an order shortening time for service and hearing on my Motion to Set Aside to resolve this issue quickly to avoid any prejudice to Plaintiff if the Stay is granted.

I have not had an opportunity to secure alternative housing as of this date. I do not have friends or relatives in the area with whom I can stay while I continue my search for alternate housing.

The writ of restitution was posted by the Sheriff on or about 13. Since I have not found other housing as yet and do not have friends or relatives with whom I can reside, I will have no place to go if I am evicted on 14. I must have time to relocate and make arrangements to move my personal property.

In order to avoid irreparable harm to me and to allow additional time to relocate, I request that the judgment entered in this case on 15 be stayed until at least 16.

Because I do not have the resources to find immediate temporary housing and it would work a severe hardship to be evicted because 17

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Ex Parte Application for Stay of Execution

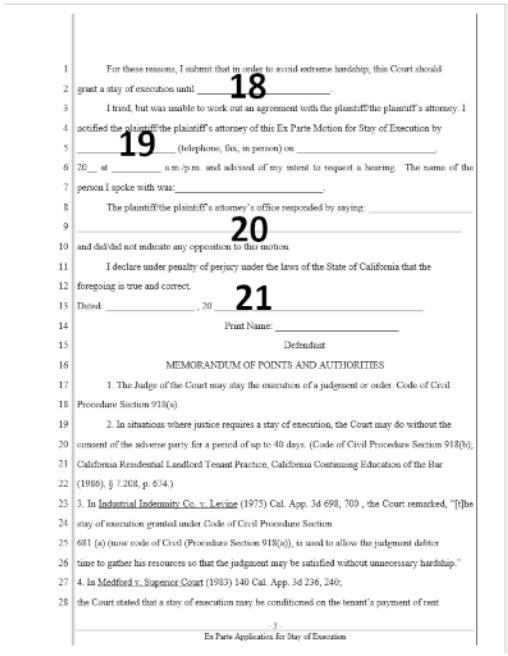
Ex Parte Stay of Execution

Page 2

Directions

- Find the number on the sample form. *Example: **1***
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink. DO NOT USE GEL PENS.

7. Write in your name.
8. Write in the date the Judgment was entered.
9. Write the length of time you have lived at the residence.
10. Write in who else resides there with you. (Example: my two children or my boyfriend, etc.)
11. Write in from what source you earn your monthly income. (Example: employment or unemployment or social security, etc.
12. Write in the amount of your monthly income.
13. Write in the date the Sheriff posted the lockout notice.
14. Write in the date scheduled for the lockout. (You can find this on the lockout notice.)
15. Write in the date the Judgment was entered. (Same as Item No. 8 above.)
16. Write in the date to which you are requesting the lockout be extended. (Same as Item No. 5 on previous page.)
17. You must tell the court what hardship you would suffer. (Example: You are elderly, a single parent with children, very low income, disabled, or ill.)



For these reasons, I submit that in order to avoid extreme hardship, this Court should grant a stay of execution until ____18____.

I tried, but was unable to work out an agreement with the plaintiff/the plaintiff's attorney. I notified the plaintiff/the plaintiff's attorney of this Ex Parte Motion for Stay of Execution by ____19____ (telephone, fax, in person) on _____, 20__ at _____ a.m./p.m. and advised of my intent to request a hearing. The name of the person I spoke with was:_____.

The plaintiff/the plaintiff's attorney's office responded by saying: _____ ____20____ and did/did not indicate any opposition to this motion.

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

Dated: _____, 20____21_____

Print Name: _____

Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

1. The Judge of the Court may stay the execution of a judgment or order. Code of Civil Procedure Section 918(a).

2. In situations where justice requires a stay of execution, the Court may do without the consent of the adverse party for a period of up to 40 days. (Code of Civil Procedure Section 918(b); California Residential Landlord Tenant Practice, California Continuing Education of the Bar (1986), § 7.208, p. 674.)

3. In Industrial Indemnity Co. v. Levine (1975) Cal. App. 3d 698, 700 , the Court remarked, "[t]he stay of execution granted under Code of Civil Procedure Section 681 (a) (now code of Civil (Procedure Section 918(a)), is used to allow the judgment debtor time to gather his resources so that the judgment may be satisfied without unnecessary hardship."

4. In Medford v. Superior Court (1983) 140 Cal. App. 3d 236, 240; the Court stated that a stay of execution may be conditioned on the tenant's payment of rent

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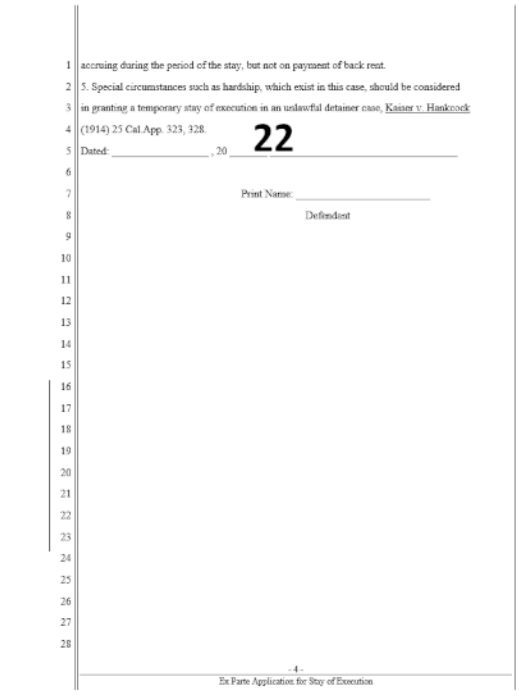
Ex Parte Application for Stay of Execution

Ex Parte Stay of Execution
Page 3

Directions

- Find the number on the sample form. *Example: **1***
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink. DO NOT USE GEL PENS.

18. Write in the date to which you are requesting the extension.
19. Write in how you contacted the plaintiff or the plaintiff's attorney, along with the date and time you contacted the plaintiff or the plaintiff's attorney.
20. Write in any responses made by the plaintiff or the plaintiff's attorney and circle whether they did or did not indicate any opposition to this motion.
21. Write in the date, print your name and sign.



accruing during the period of the stay, but not on payment of back rent.

5. Special circumstances such as hardship, which exist in this case, should be considered in granting a temporary stay of execution in an unlawful detainer case, Kaiser v. Hankrock (1914) 25 Cal.App. 323, 328.

Dated: _____, 20____22_____

Print Name: _____

Defendant

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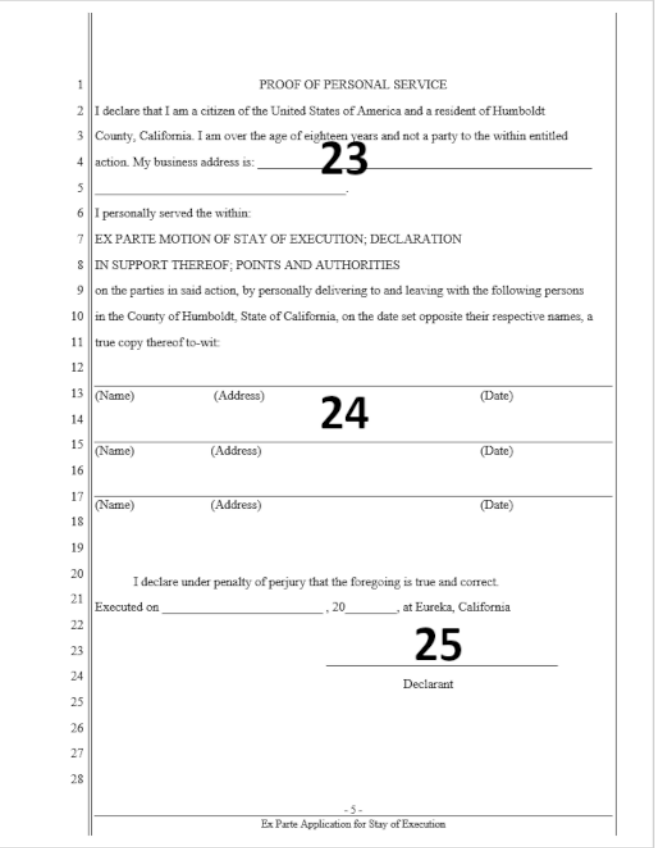
Ex Parte Application for Stay of Execution

Ex Parte Stay of Execution
Page 4

Directions

- Find the number on the sample form. *Example: **1***
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink. DO NOT USE GEL PENS.

22. Write in the date, print your name, and sign.



PROOF OF PERSONAL SERVICE

I declare that I am a citizen of the United States of America and a resident of Humboldt County, California. I am over the age of eighteen years and not a party to the within entitled action. My business address is: _____ **23** _____

_____.

I personally served the within:

EX PARTE MOTION OF STAY OF EXECUTION; DECLARATION IN SUPPORT THEREOF; POINTS AND AUTHORITIES

on the parties in said action, by personally delivering to and leaving with the following persons in the County of Humboldt, State of California, on the date set opposite their respective names, a true copy thereof to-wit:

(Name) (Address) **24** (Date)

(Name) (Address) (Date)

(Name) (Address) (Date)

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

Executed on _____, 20_____, at Eureka, California

25

Declarant

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Ex Parte Application for Stay of Execution

Ex Parte Stay of Execution

Page 5

Directions

- Find the number on the sample form. *Example:* ***1***
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink. DO NOT USE GEL PENS.

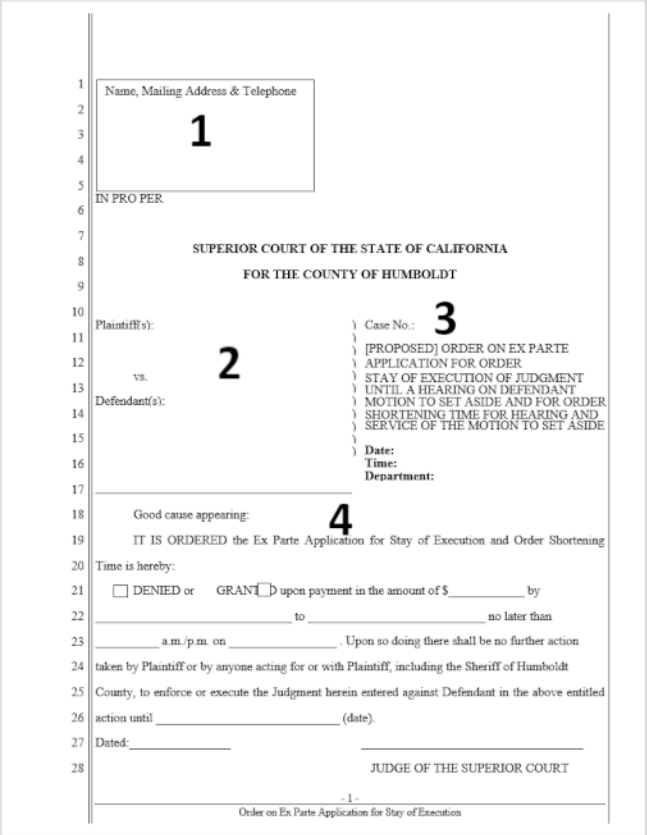
A copy of all documents must be hand delivered to the plaintiff or plaintiff's attorney. The person hand delivering the copy of the documents must be over 18 years old and CANNOT be you or anyone else living in the residence at issue or anyone named as a defendant in the lawsuit.

23. Write in the address of the person who will be hand delivering a copy of the documents to the plaintiff or plaintiff's attorney.

24. Write in the name and address of the plaintiff or plaintiff's attorney where the documents are to be delivered.

25. Have the person who will be delivering the copy date and sign. Make a complete 2 copies and have the person deliver one copy to the plaintiff or the plaintiff's attorney.

    Take the originals of all documents and one copy of each to the Clerk's office for filing.



Name, Mailing Address & Telephone

1

IN PRO PER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF HUMBOLDT

Plaintiff(s):

2

vs.

Defendant(s):

Case No.: 3

[PROPOSED] ORDER ON EX PARTE APPLICATION FOR ORDER STAY OF EXECUTION OF JUDGMENT UNTIL A HEARING ON DEFENDANT MOTION TO SET ASIDE AND FOR ORDER SHORTENING TIME FOR HEARING AND SERVICE OF THE MOTION TO SET ASIDE

Date:
Time:
Department:

Good cause appearing: 4

IT IS ORDERED the Ex Parte Application for Stay of Execution and Order Shortening Time is hereby:

☐ DENIED or GRANTED upon payment in the amount of $_____ by _____ to _____ no later than _____ a.m./p.m. on _____. Upon so doing there shall be no further action taken by Plaintiff or by anyone acting for or with Plaintiff, including the Sheriff of Humboldt County, to enforce or execute the Judgment herein entered against Defendant in the above entitled action until _____ (date).

Dated:_____

_____
JUDGE OF THE SUPERIOR COURT

- 1 -

Order on Ex Parte Application for Stay of Execution

Order on Ex Parte Stay of Execution

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Directions

- Find the number on the sample form. *Example:* ***1***
- Go to the same number below to find out how to fill out the form.
- Type or print legibly in **blue** or **black** ink. DO NOT USE GEL PENS.

1. Write in your name, mailing address, and telephone number.
2. Write the name of the plaintiff and the defendant as they appear on the Complaint.
3. Write in your case number as it appears on the Complaint.
4. Leave blank and the Court will complete the rest on the date of the hearing.

Name, Mailing Address & Telephone

IN PRO PER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF HUMBOLDT

Plaintiff(s): vs. Defendant(s):	Case No.: EX PARTE APPLICATION FOR STAY OF EXECUTION OF JUDGMENT, AND ORDER SHORTENING TIME FOR SERVICE; DECLARATION IN SUPPORT THEREOF; POINTS AND AUTHORITIES **DATE:** **TIME:** **AM / PM** **DEPT:**

Defendant, _____, hereby moves the Court for an ex parte order to stay of the judgment rendered herein until _____ A hearing on his/her Motion to Set Aside the Default, Vacate the Judgment, and Recall the Writ of Execution, if any, and an Order Shortening Time for Service in order to avoid extreme hardship upon Defendant.

This Ex Parte Motion/Application is based upon the supporting Declaration, the Points and Authorities, and upon all the papers and records on file herein.

Dated: _____ , 20 _____ Signature: _____

Print Defendant Name: _____

DECLARATION IN SUPPORT OF MOTION

I _____, declare:

I am the defendant in the above-referenced matter, and this declaration is in support of my/our application for a stay of execution of the judgment entered on _____ in the matter here.

I have lived at the subject premises for _____. The following people reside with me: _____. My present source of income is _____ and totals $ _____ per month.

I ask the Court to enter an order shortening time for service and hearing on my Motion to Set Aside to resolve this issue quickly to avoid any prejudice to Plaintiff if the Stay is granted.

I have not had an opportunity to secure alternative housing as of this date. I do not have friends or relatives in the area with whom I can stay while I continue my search for alternate housing.

The writ of restitution was posted by the Sheriff on or about _____. Since I have not found other housing as yet and do not have friends or relatives with whom I can reside, I will have no place to go if I am evicted on _____. I must have time to relocate and make arrangements to move my personal property.

In order to avoid irreparable harm to me and to allow additional time to relocate, I request that the judgment entered in this case on _____ be stayed until at least _____.

Because I do not have the resources to find immediate temporary housing and it would work a severe hardship to be evicted because _____

_____

_____

_____

_____

_____

_____

_____

For these reasons, I submit that in order to avoid extreme hardship; this Court should grant a stay of execution until _____.

I tried, but was unable to work out an agreement with the plaintiff/the plaintiff's attorney. I notified the plaintiff/the plaintiff's attorney of this Ex Parte Motion for Stay of Execution by _____ (telephone, fax, in person) on _____, 20__ at _____ a.m./p.m. and advised of my intent to request a hearing. The name of the person I spoke with was:_____.

The plaintiff/the plaintiff's attorney's office responded by saying: _____ _____ and did/did not indicate any opposition to this motion.

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

Dated: _____ , 20 _____ _____

Print Name: _____

Defendant

Dated: _____ , 20 _____ _____

Print Name: _____

Defendant

PROOF OF PERSONAL SERVICE

I declare that I am a citizen of the United States of America and a resident of Humboldt County, California. I am over the age of eighteen years and not a party to the within entitled action. My business address is: _____

_____.

I personally served the within:

EX PARTE MOTION OF STAY OF EXECUTION; DECLARATION

IN SUPPORT THEREOF; POINTS AND AUTHORITIES

on the parties in said action, by personally delivering to and leaving with the following persons in the County of Humboldt, State of California, on the date set opposite their respective names, a true copy thereof to-wit:

(Name)	(Address)	(Date)
(Name)	(Address)	(Date)
(Name)	(Address)	(Date)

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

Executed on _____ , 20_____, at _____, California

_____

Declarant

Name, Mailing Address & Telephone

IN PRO PER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF HUMBOLDT

Plaintiff(s):	Case No.:
vs.	[PROPOSED] ORDER ON EX PARTE APPLICATION FOR ORDER STAY OF EXECUTION OF JUDGMENT UNTIL A HEARING ON DEFENDANT MOTION TO SET ASIDE AND FOR ORDER SHORTENING TIME FOR HEARING AND SERVICE OF THE MOTION TO SET ASIDE
Defendant(s):	**Date:** **Time:** **Department:**

Good cause appearing:

IT IS ORDERED the Ex Parte Application for Stay of Execution and Order Shortening Time is hereby:

☐ DENIED or ☐ GRANTED upon payment in the amount of $_____ by _____ to _____ no later than _____ a.m./p.m. on _____ . Upon so doing there shall be no further action taken by Plaintiff or by anyone acting for or with Plaintiff, including the Sheriff of Humboldt County, to enforce or execute the Judgment herein entered against Defendant in the above entitled action until _____ (date).

Dated:_____ _____

JUDGE OF THE SUPERIOR COURT

Name, Mailing Address & Telephone

IN PRO PER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF HUMBOLDT

Plaintiff(s):	Case No.:
	MEMORANDUM OF POINTS AND AUTHORITIES
vs.	
	Date:
Defendant(s):	**Time:**
	Department:

1. The Judge of the Court may stay the execution of a judgment or order. Code of Civil Procedure Section 918(a).

2. In situations where justice requires a stay of execution, the Court may do without the consent of the adverse party for a period of up to 40 days. (Code of Civil Procedure Section 918(b); California Residential Landlord Tenant Practice, California Continuing Education of the Bar (1986), § 7.208, p. 674.)

3. In Industrial Indemnity Co. v. Levine (1975) Cal. App. 3d 698, 700 , the Court remarked, "[t]he stay of execution granted under Code of Civil Procedure Section 681 (a) (now code of Civil (Procedure Section 918(a)), is used to allow the judgment debtor time to gather his resources so that the judgment may be satisfied without unnecessary hardship."

4. In Medford v. Superior Court (1983) 140 Cal. App. 3d 236, 240; the Court stated that a stay of execution may be conditioned on the tenant's payment of rent accruing during the period of the stay, but not on payment of back rent.

5. Special circumstances such as hardship, which exist in this case, should be considered in granting a temporary stay of execution in an unlawful detainer case, Kaiser v. Hankcock (1914) 25 Cal.App. 323, 328.