

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