



Federal *Pro Se* Clinic

CENTRAL DISTRICT OF CALIFORNIA: WESTERN DIVISION

▣ How to Submit an Ex Parte Application ▣

Ex Parte Applications are Generally Disfavored

Ex parte applications should be used only if there is a **genuine emergency**. Most courts do not like ex parte applications because they create a risk that the opposing party will not have an adequate opportunity to present his or her arguments to the judge. As a result, most ex parte applications are denied. If you are asking the Court to decide an issue that is not time-sensitive, you should file a noticed motion and set a hearing date. This will give all the parties in your lawsuit an opportunity to file briefs and argue the issue. If you want to file a motion, please see Public Counsel’s guide on “How to Submit a Motion.”

What is an Ex Parte Application?

An ex parte application is an urgent request to the Court. “Ex parte” means “by one party.” An ex parte application differs from a motion because it does not require you to set a hearing date.

What Do You Need to Do *BEFORE* You File an Ex Parte Application?

Before filing an ex parte application, you must make a reasonable, good faith effort to call the attorneys for all the other parties in your lawsuit – or, if the parties are not represented, you must try to call the parties themselves. In your phone call, you must discuss the following:

- 1) You must tell the opposing attorney (or unrepresented party) three things:
 - a. That you will file an ex parte application with the Court,
 - b. The date on which you intend to file the ex parte application, and
 - c. The issue you will raise in your ex parte application.

- 2) You must also ask the opposing attorney (or unrepresented party) if he or she objects to your ex parte application. If he objects, you must ask him why he is objecting so that you can tell the Court this information.

- 3) You should confirm you have the opposing attorney’s (or unrepresented party’s) name, address, telephone number and e-mail address. You will need to provide those to the Court in a declaration.

Remember: The Local Rules require you to make a “reasonable, good faith effort” to call opposing counsel (or unrepresented parties) and discuss the points listed on this page. Make sure to take notes on any conversations you have so that you can fill out your declaration form accurately.

Federal Pro Se Clinic • Roybal Courthouse • 255 East Temple Street, Suite 170 • Los Angeles, CA 90012 • (213) 385-2977 ext. 270
Open on most Mondays, Wednesdays, and Fridays. By appointment only.

THE FEDERAL *PRO SE* CLINIC IS A PROJECT OF PUBLIC COUNSEL, A NON-PROFIT PUBLIC INTEREST LAW FIRM.

How Do You File an Ex Parte Application?

To file an ex parte application in the U.S. District Court for the Central District of California, you will need to prepare the following documents:

- 1) Ex Parte Application
- 2) Memorandum of Points and Authorities in Support of Ex Parte Application
- 3) Declaration in Support of Ex Parte Application
- 4) (Proposed) Order Granting Ex Parte Application
- 5) Proof of Service by Mail

A sample of each document is included in this packet.

Description of Each Document

1) Ex Parte Application

The ex parte application explains to the Court what you are asking the Court to do and why the Court needs to act on an emergency basis. In your application, you must state that you contacted all the opposing attorneys (or unrepresented parties) and notified them that you would be filing an ex parte application.

2) Memorandum of Points and Authorities in Support of Ex Parte Application

The memorandum of points and authorities includes any legal authorities and arguments that support your ex parte application. The memorandum of points and authorities must not exceed **25 pages**.

3) Declaration in Support of Ex Parte Application

A declaration is a sworn statement to the Court where you write the facts that support your ex parte application.

4) (Proposed) Order Granting Ex Parte Application

This is an order for the judge to sign if he or she wants to grant your ex parte application. You write this order as if you were the judge. You do not sign the proposed order—instead, you leave a space for the judge's signature.

5) Proof of Service by Mail

In this document, you or someone else will swear to the Court that you have mailed a copy of the ex parte application to the opposing counsel or unrepresented party.

Formatting Your Ex Parte Application

By following the instructions below, you will comply with the format requirements of the Local Rules for the Central District of California:

- 1) **Pleading Paper**: Ex parte applications must be written on pleading paper. “Pleading paper” is letter-sized (8.5” x 11”) paper that has the numbers 1-28 typed down the left-hand side. You can download a template for pleading paper in Microsoft Word format from Public Counsel’s website:
 - Go to <http://www.publiccounsel.org/featured?id=0003>
 - Find “MS Word Pleading Paper” in the list of forms. You can also download a caption page by clicking “MS Word Pleading Paper Caption Page.”

- 2) **Font and Margins**: 14 pt size font (suggested fonts: Times New Roman or Arial); 1-inch margins.
- 3) **Name and Contact Information**: Starting on Line 1, write your name, address, and phone number. Write “Plaintiff in Pro Per” or “Defendant in Pro Per” underneath your personal information.
- 4) **Line 8 or below**: Type the name of the court (UNITED STATES DISTRICT COURT). On the next line, write the district name (CENTRAL DISTRICT OF CALIFORNIA).
- 5) **Party Names**: Below the name of the court and district, write the names of the plaintiff and the defendant(s).
- 6) **Case Number**: Your case number goes to the right of the party names. Be sure to include all of the letters that make up the judges’ initials.

1	Name	
2	Address Line 1	
3	Address Line 2	
4	Phone Number	
5	Plaintiff in Pro Per	
6		
7		
8	UNITED STATES DISTRICT COURT	
9	CENTRAL DISTRICT OF CALIFORNIA	
10	Plaintiff's Name,	Case No.: CV 1-1 PA (SSx)
11	Plaintiff,	
12	vs.	Ex Parte Application for
13	Defendant's Name,	Continuance of Hearing on
14	Defendant.	Motion to Dismiss
15		
16		
17	John Doe, the Plaintiff in this case, hereby asks this court	
18	ex parte to continue the hearing on Defendant's Motion to	
19	Dismiss, currently set for June 1, 2006 at 10:00 a.m.	
20		
21	Plaintiff contacted opposing counsel and informed her of	
22	this ex parte request. (See Decl. ¶ 3.) Opposing counsel	
23	indicated that she would not oppose Plaintiff's application.	
24		
25		
26		
27		
28		
	Ex Parte Application	1

- 7) **Title of Document**: Under the Case Number, write the title of your document. For example, if you are asking the Court to move a hearing date for a motion to dismiss, your title would be, “Ex Parte Application for Continuance of Hearing on Motion to Dismiss.”
- 8) **Date and Signature**: When you have finished writing your ex parte application or supporting document, write the date, your signature and your name.

- 9) **Footer and Page Numbers:** Type the title of your document in the footer. Be sure to number every page.

Filing and Serving Your Ex Parte Application

When you have completed your ex parte application, you must file it with the Civil Intake Division of the courthouse in which the judge who is hearing your ex parte application is located. File **1 original** and **2 copies** of each document with the Civil Intake Division. In addition, send **1 copy** of each document to the opposing counsel or unrepresented party by mail on the same day that you file.

You may file your ex parte application with the Court in person or by mail. Keep in mind that mailing your ex parte application may delay the date on which it is filed. The addresses for the Civil Intake Division for the Central District of California courthouses are as follows:

LOS ANGELES

United States Courthouse
Central District of California
255 East Temple St., Ste TS-134
Los Angeles, CA 90012

SANTA ANA

United States Courthouse
Central District of California
Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701-4516

RIVERSIDE

United States Courthouse
Central District of California
Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(Full Name)

(Email Address)

(Address Line 1)

(Address Line 2)

(Phone Number)

_____ in Pro Per
(indicate Plaintiff or Defendant)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

_____,
Plaintiff,
vs.

_____,
Defendant(s).

Case No.: _____
_____'s
(indicate Plaintiff or Defendant)
EX PARTE APPLICATION FOR

TO THE HONORABLE COURT:

I, (name) _____, the Plaintiff Defendant
in this case, hereby apply to the Court ex parte for (*describe your urgent request*):

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I contacted the opposing counsel/unrepresented party and informed him or her of this ex parte request. (See Decl. ¶ 3.) Opposing counsel/unrepresented party:

indicated that he or she would oppose the ex parte application.

Opposing counsel/unrepresented party said that his or her reasons for opposing the ex parte application are:

indicated that he or she would not oppose the ex parte application.

was unreachable. I made the following unsuccessful attempts to reach opposing counsel/unrepresented party: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

other. (*Explain.*) _____

This ex parte application is based upon a Memorandum of Points and Authorities, Declaration in Support, the complete files and records in this action, and upon such oral and documentary evidence as may be allowed at the hearing of this motion.

DATED: _____

By: _____
(sign)

(print name)

_____ in Pro Per
(indicate Plaintiff or Defendant)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(Full Name)

(Email Address)

(Address Line 1)

(Address Line 2)

(Phone Number)

_____ in Pro Per
(indicate Plaintiff or Defendant)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

_____,
Plaintiff,
vs.

_____,
Defendant(s).

Case No.: _____
**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
EX PARTE APPLICATION FOR**

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

(Include a brief summary of what you are asking the Court to do in this ex parte application and why. Be sure to tell the Court why this request is urgent and cannot be dealt with in a regularly noticed motion.)

1 **III. Argument**

2 *(Explain the legal basis for the ruling you are asking the Court to make, with citations to relevant law, such as the*
3 *Federal Rules of Civil Procedure, statutes, case law, and local rules, where applicable. The argument should show*
4 *the Court how these legal authorities, when applied to the facts of your case, indicate that the Court should rule in*
5 *your favor.)*

6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____
26 _____
27 _____
28 _____

1 **IV. Conclusion**

2
3 For the reasons stated above, this Court should grant the ex parte
4 application.

5
6 DATED: _____

7
8 Respectfully submitted,

9
10 By: _____
11 (signature)

12 _____
13 (name)

14 _____ in Pro Per
15 (indicate Plaintiff or Defendant)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(Full Name)

(Email Address)

(Address Line 1)

(Address Line 2)

(Phone Number)

_____ in Pro Per
(indicate Plaintiff or Defendant)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Plaintiff,
vs.

Defendant(s).

Case No.: _____

**DECLARATION IN SUPPORT OF
EX PARTE APPLICATION FOR**

I, (*name*) _____, declare as follows:

- 1. I am the Plaintiff Defendant in the above-entitled case.
- 2. I have personal knowledge of the following facts, and, if called as a witness, I could and would competently testify thereto.
- 3. I contacted the opposing counsel/unrepresented party on

_____ (*date*) to give notice that I would be filing this ex parte application.

1 4. The contact information of the opposing counsel/unrepresented party
2
3 is as follows:

4 **Opposing Counsel/Unrepresented Party 1**

5 Name: _____

6 Phone number: _____

7 Address: _____

8 _____

9 Email address: _____

10 **Opposing Counsel/Unrepresented Party 2**

11 Name: _____

12 Phone number: _____

13 Address: _____

14 _____

15 Email address: _____

16
17 5. Opposing counsel/unrepresented party informed me that he or she:
18
19 will oppose the ex parte application. Opposing counsel/unrepresented
20 party said that his or her reasons for opposing the ex parte application
21 are:

22 _____

23 _____

24 _____

25 _____

26 _____

27 _____

28 _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

will not oppose the ex parte application.

was unreachable. I made the following unsuccessful attempts to reach the opposing counsel/unrepresented party: _____

____.

____.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

¶#____. _____

¶#____. _____

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

Executed on _____, in _____.
(date of signing) (city, state of signing)

(signature)

(name)

_____ in Pro Per
(indicate Plaintiff or Defendant)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

_____,
Plaintiff,
vs.

_____,
Defendant(s).

Case No.: _____

**(PROPOSED) ORDER GRANTING
EX PARTE APPLICATION FOR**

Having considered the Plaintiff's Defendant's Ex Parte
Application and finding good cause therefore,

IT IS HEREBY ORDERED that the Ex Parte Application for

is GRANTED.

Dated: _____

Signed: _____

Hon. _____
(Judge's name)

*Revised: April 2012
Form prepared by Public Counsel
© 2012 Public Counsel. All Rights Reserved.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(Full Name)

(Address Line 1)

(Address Line 1)

(Address Line 2)

(Phone Number)

_____ in Pro Per
(indicate Plaintiff or Defendant)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No.: _____

_____,
Plaintiff,
vs.

_____,
Defendant(s).

PROOF OF SERVICE BY MAIL

I, _____, declare as follows:
(name of person serving documents)

My address is _____,
_____, which is located in the
county where the mailing described below took place.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

On _____, I served the document(s) described as:
(date of mailing)

- 1) Ex Parte Application for _____
- 2) Memorandum of Points and Authorities
- 3) Declaration in Support of Ex Parte Application
- 4) (Proposed) Order

on all interested parties in this action by placing a true and correct copy thereof in a sealed envelope, with first-class postage prepaid thereon, and deposited said envelope in the United States mail at or in _____,
(city and state of mailing)

addressed to:

_____ (name)	_____ (name)
_____ (address)	_____ (address)
_____ (address)	_____ (address)
_____ (address)	_____ (address)

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

Executed on _____ at _____.
(date) (city and state of signing)

(sign)

(print name)

DO NOT USE THIS PAGE