# Your Court of Appeal Case Number

IN THE COURT OF APPEAL OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION p

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Your name]

Petitioner and Appellant,

vs.

[Opposing party]

Respondent and Respondent

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

APPEAL FROM THE SUPERIOR COURT FOR LOS ANGELES COUNTY

The Hon. , Judge (Case No)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

#### MOTION TO VACATE DISMISSAL OF APPEAL AND UNDERLYING DEFAULT; MEMORANDUM OF POINTS & AUTHORITIES; DECLARATION OF [You and whoever has anything to say that can help]; EXHIBIT 1; PROPOSED ORDER

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Your name

Address

Phone Number

### & Appellant

### Self Represented

Appellant hereby moves to vacate (1) this Court’s order of [DATE] dismissing [HIS/HER] appeal and (2) the underlying default. The Court dismissed the appeal on the ground that ­ .

[*SUMMARIZE* THE REASON THE DISMISSAL SHOULD BE VACATED, AND CITE THE DETAILED EXPLANATION IN YOUR DECLARATION. USE THE FOLLOWING FORM TO CITE THE DECLARATION: “(See Declaration of [YOU], ¶[whichever paragraph or paragraphs apply])”.

This motion is based on the Declaration of [YOU] and the Memorandum of Points and Authorities attached hereto.

Dated:

Respectfully submitted,

By:

Appellant, Self Represented

**MEMORANDUM OF POINTS AND AUTHORITIES**

**THIS COURT SHOULD VACATE THE DEFAULT AND THE DISMISSAL OF THE APPEAL.**

The court may, relieve a party from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. (Code Civ. Proc. 473(b).) Application for this relief must, if at all possible, be accompanied by a copy of the answer or other pleading proposed to be filed to correct the default. (*Ibid.*)

[EXPLAIN IN DETAIL WHY WHATEVER YOU DID TO CAUSE THE DEFAULT AND DISMISSAL AMOUNTED TO “MISTAKE, INADVERTENCE, SURPRISE, OR EXCUSABLE NEGLECT.” IN SUPPORT OF YOUR EXPLANATION, CITE STATEMENTS IN YOUR DECLARATION, BECAUSE THEY’RE MADE UNDER PENALTY OF PERJURY, AND THIS MEMO IS NOT.]

[STATE EITHER (1) THAT A PROPOSED DOCUMENT CORRECTING THE DEFAULT IS ATTACHED, OR (2) IF YOU CANNOT ATTACH A PROPOSED DOCUMENT, EXPLAIN WHAT YOU HAVE DONE OR PLAN TO DO THAT WILL CURE THE DEFAULT, AND STATE WHEN YOU DID IT, OR WILL DO IT.]

In the interest of justice, this Court should vacate the order dismissing Appellant’s appeal, and the underlying default, and should permit Appellant to pursue [HIS/HER] appeal on the merits.

Dated: Respectfully submitted,

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Appellant, Self Represented

**DECLARATION OF**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ declares:

1. I am the appellant in this appeal. I am representing myself and I have a fee waiver. I have personal knowledge of the following facts and, if called as a witness, I could and would competently testify thereto. I am self-represented in the matter

2. [GIVE A DETAILED EXPLANATION, DIVIDED INTO NUMBERED PARAGRAPHS, OF HOW THE DEFAULT CAME ABOUT, WHY YOU HAVE A GOOD EXCUSE, AND WHY THE APPEAL SHOULD BE REINSTATED]

X. For the foregoing reason, I respectfully request that the dismissal of my appeal and the underlying default be vacated

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

Executed on .\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[YOUR NAME]

# B281398

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SECOND APPELLATE DISTRICT

DIVISION \_p\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Your name]

Petitioner and Appellant,

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_

**[PROPOSED] ORDER**

IT IS HEREBY ORDERED THAT the order dismissing Court of Appeal Case No. [YOUR CASE NUMBER] and the underlying default are vacated.

Within thirty days, Appellant shall [INSERT STEPS THAT NEED TO BE TAKEN TO CORRECT ANY DEFAULTS THAT EITHER LED DIRECTLY TO THE DISMISSAL, CONTRIBUTED TO IT, OR *WILL* RESULT IN A SECOND DISMISSAL IF NOT CORRECTED]

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Presiding Justice

[ADD A PROOF OF SERVICE]