

NUHA SAYEGH
5634 Noel Drive
Temple City, CA 91780
(626) 348-3039
Defendant In Pro Per

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – PASADENA COURTHOUSE**

GARY W. KEARNEY, an individual,) Case No.: 26PDUD00325
Plaintiff,)
vs.) DEMURRER TO COMPLAINT FOR
ERIC BRAKEBILL JONES, et al.,) UNLAWFUL DETAINER
Defendants.) [CCP §§ 1170, 430.10(e), 430.10(c)]
) Date: _____
) Time: _____
) Dept: _____
) Action Filed: January 28, 2026

TO PLAINTIFF GARY W. KEARNEY AND TO HIS ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that on the date and time assigned by the Court Clerk in the Department to be assigned, Defendant NUHA SAYEGH (“Defendant”) will, and hereby does, demur to the Complaint for Unlawful Detainer filed by Plaintiff GARY W. KEARNEY (“Plaintiff”).

This Demurrer is based on the following grounds pursuant to CCP § 430.10:

1 **1. FAILURE TO STATE FACTS SUFFICIENT TO CONSTITUTE A CAUSE OF ACTION**
2 **(CCP § 430.10(e))**

3 The Complaint fails to state a cause of action for Unlawful Detainer because the
4 underlying lease agreement is void *ab initio* as a matter of law. The subject
5 premises (5634 Noel Drive) is an unpermitted dwelling unit maintained in violation
6 of Temple City Municipal Code (TCMC) density and zoning ordinances. Under
7 *Espinoza v. Calva* (2008) 169 Cal.App.4th 1393, a landlord cannot recover
8 possession or rent based on a lease for an illegal unit. Because the lease is void,
9 the 3-Day Notice to Pay Rent or Quit is fatally defective.

10 ~~11~~ **2. ANOTHER ACTION PENDING (CCP § 430.10(c))**

12 There is another action pending between the same parties on the same cause of
13 action. Defendant filed a Verified Complaint for Damages and Rescission against
14 Plaintiff on **January 21, 2026** (Case No. **26NNCV00412**), seven days *prior* to the
15 filing of this Unlawful Detainer action. The prior pending action ("The First
16 Action") challenges the validity of the lease and seeks rescission. The determination
17 of the lease's validity in the First Action is a prerequisite to any adjudication of
18 possession in this summary proceeding. A "Notice of Related Case" linking these
19 matters was filed on February 3, 2026.

20 ~~21~~ **PRAAYER**

22 WHEREFORE, Defendant prays for judgment as follows:

- 23 1. That this Demurrer be sustained without leave to amend;
- 24 2. That the Unlawful Detainer Complaint be dismissed with prejudice;
- 25 3. For costs of suit; and
- 26 4. For such other and further relief as the Court deems just and proper.

27 ~~28~~ DATED: February 3, 2026

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2 **NUHA SAYEGH**

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5 Defendant in Pro Per

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8 **MEMORANDUM OF POINTS AND AUTHORITIES**

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11 **I. INTRODUCTION**

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13 This Unlawful Detainer action is a retaliatory attempt to enforce a void lease on an
14 illegal dwelling. Plaintiff filed this action on January 28, 2026. However, Defendant
15 had already filed a unlimited civil action against Plaintiff on January 21, 2026
(*Sayegh v. Kearney*, Case No. 26NNCV00412), alleging Fraud and seeking
16 Rescission. Because the First Action challenges the existence of the landlord-tenant
17 relationship and was filed first, this Court should sustain the demurrer.

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20 **II. THE LEASE IS VOID AB INITIO (CCP § 430.10(e))**

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22 A contract for an illegal purpose is void (Civil Code § 1598). A lease for a unit that
23 violates local zoning or building codes is void and unenforceable (*Espinosa v.*
24 *Calva*). Here, the premises violate Temple City Municipal Code regarding density
25 and mandatory access width. A 3-Day Notice that demands rent for an illegal unit
is invalid on its face.

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27 **III. FIRST-IN-TIME PRIORITY (CCP § 430.10(c))**

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Under CCP § 430.10(c), a party may demur when "there is another action pending
between the same parties on the same cause of action." The validity of the Lease
is the subject of the prior pending unlimited civil action (*Case No. 26NNCV00412*).

DATED: February 3, 2026

NUHA SAYEGH
Defendant in Pro Per