

1 NUHA SAYEGH
2 5634 Noel Drive
3 Temple City, CA 91780
4 (626) 348-3039
5 Defendant In Pro Per
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES – PASADENA COURTHOUSE**
10

11 GARY W. KEARNEY, an individual,
12

13 Plaintiff,
14

15 vs.
16

17 ERIC BRAKEBILL JONES, et al.,
18

19 Defendants.
20
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22

Case No.: 26PDUD00325

**DEMURRER TO COMPLAINT FOR
UNLAWFUL DETAINER**

[CCP §§ 1170, 430.10(e), 430.10(c)]

Date: _____

Time: _____

Dept: _____

Action Filed: January 28, 2026

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

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

28 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
15 *prior* to the filing of this Unlawful Detainer action. The prior pending action
16 ("The First Action") challenges the validity of the lease and seeks
17 rescission. The determination of the lease's validity in the First Action
18 is a prerequisite to any adjudication of possession in this summary
19 proceeding. A "Notice of Related Case" linking these matters was filed
20 on February 3, 2026.

21
22 **PRAYER**

23 WHEREFORE, Defendant prays for judgment as follows:

- 24 1. That this Demurrer be sustained without leave to amend;
- 25 2. That the Unlawful Detainer Complaint be dismissed with prejudice;
- 26 3. For costs of suit; and
- 27 4. For such other and further relief as the Court deems just and proper.
- 28

1 DATED: February 3, 2026

2
3 **NUHA SAYEGH**

4 Defendant in Pro Per

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

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7 **I. INTRODUCTION**

8 This retaliatory Unlawful Detainer attempts to enforce a void lease on an illegal dwelling.
9 Defendant previously filed *Sayegh v. Kearney* (Case No. 26NNCV00412) on January
10 21, 2026, alleging Fraud and seeking Rescission. Because the First Action challenges the
11 lease's validity and was filed first, this Court must sustain the demurrer.

12
13 **II. THE LEASE IS VOID AB INITIO (CCP § 430.10(e))**

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

19
20 **III. FIRST-IN-TIME PRIORITY (CCP § 430.10(c))**

21 Under CCP § 430.10(c), grounds for demurrer exist when another action is pending.
22 The Lease's validity is decided in the prior civil action (Case No. 26NNCV00412).

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24
25 DATED: February 3, 2026

26
27 **NUHA SAYEGH**

28 Defendant in Pro Per