

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**

11 GARY W. KEARNEY, an individual,  12 Plaintiff,  13 vs.  14 ERIC BRAKEBILL JONES, et al.,  15 Defendants.	Case No.: <b>26PDUD00325</b>  <b>DEMURRER TO COMPLAINT FOR</b> <b>UNLAWFUL DETAINER</b> <b>[CCP §§ 1170, 430.10(e), 430.10(c)]</b>  Date: _____ Time: _____ Dept: _____ Action Filed: January 28, 2026
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22                   **TO PLAINTIFF GARY W. KEARNEY AND TO HIS ATTORNEY OF RECORD:**

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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 rescission.  
17           The determination of the lease's validity in the First Action is a prerequisite  
18           to any adjudication of possession in this summary proceeding. A "Notice of  
19           Related Case" linking these 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.

1 DATED: February 3, 2026

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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 21,  
10 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.

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

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

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

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25 DATED: February 3, 2026

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27 **NUHA SAYEGH**

28 Defendant in Pro Per