

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,)Case No.: 26PDUD00325
12)
13 Plaintiff,)DEMURRER TO COMPLAINT FOR
14)UNLAWFUL DETAINER
15 vs.)[CCP §§ 1170, 430.10(e), 430.10(c)]
16)
17 ERIC BRAKEBILL JONES, et al.,)Date: [Leave Blank]
18)Time: [Leave Blank]
19 Defendants.)Dept: [Leave Blank]
20)Action Filed: January 28, 2026
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22 **TO PLAINTIFF GARY W. KEARNEY AND TO HIS ATTORNEY OF**
23 **RECORD:**
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25 PLEASE TAKE NOTICE that on the date and time assigned by the Court Clerk in the
26 Department to be assigned, Defendant NUHA SAYEGH (“Defendant”) will, and
27 hereby does, demur to the Complaint for Unlawful Detainer filed by Plaintiff GARY
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1 W. KEARNEY (“Plaintiff”). This Demurrer is based on the following grounds
2 pursuant to CCP § 430.10:
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1 **1. FAILURE TO STATE FACTS SUFFICIENT TO CONSTITUTE A CAUSE**
2 **OF ACTION**

3 **(CCP § 430.10(e))**

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

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12 **2. ANOTHER ACTION PENDING (CCP § 430.10(c))**

13 There is another action pending between the same parties on the same cause of action.
14 Defendant filed a Verified Complaint for Damages and Rescission against Plaintiff on
15 **January 21, 2026** (Case No. **26NNCV00412**), seven days *prior* to the filing of this
16 Unlawful Detainer action. The prior pending action (“The First Action”) challenges the
17 validity of the lease and seeks rescission. The determination of the lease’s validity in
18 the First Action is a prerequisite to any adjudication of possession in this summary
19 proceeding. A "Notice of Related Case" linking these matters was filed on February 3,
20 2026.

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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.
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DATED: February 3, 2026

NUHA SAYEGH

Defendant in Pro Per

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

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

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

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

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

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