

1 JUSTICE COURT, TOWNSHIP OF \_\_\_\_\_  
2 CLARK COUNTY, NEVADA

3 Owner's  
Name: \_\_\_\_\_

4 Address: \_\_\_\_\_

5 City, State, Zip: \_\_\_\_\_

6 Phone: \_\_\_\_\_

7 E-Mail: \_\_\_\_\_

Case No.: \_\_\_\_\_

Dept No.: \_\_\_\_\_

8 Plaintiff,

9 vs.

10 Occupant's  
Name: \_\_\_\_\_

11 Defendant.

12 EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE WHY A  
13 TEMPORARY WRIT OF RESTITUTION SHOULD NOT ISSUE AND  
14 ORDER SHORTENING TIME TO ANSWER COMPLAINT

15 (NOTICE TO QUIT SERVED PURSUANT TO NRS 40.255 FOLLOWING SALE)

16 Pursuant to NRS 40.300(3) and JCRCP 107-108, Plaintiff ("Owner"), appearing in proper person,  
17 asks the Court to issue an order setting a "show cause" hearing, at which Owner can seek a temporary  
18 writ of restitution to remove Defendant ("Occupant") from the property. Owner also asks the Court to  
19 shorten Occupant's time to file an answer to the complaint in this case. A proposed order is attached to  
20 this application as Exhibit 3.

21 Owner's application is based upon the following Memorandum of Points and Authorities, the  
22 attached exhibits, and the facts and circumstances stated in this application, which Owner declares under  
23 penalty of perjury.

24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **I. STATEMENT OF FACTS**

26 1. I am the owner of the real property located at (insert address of property) \_\_\_\_\_  
27 \_\_\_\_\_, in the Township of  
28 (insert name of township) \_\_\_\_\_, Clark County, Nevada (the "property").

29 2. I purchased the property on or about (insert date) \_\_\_\_\_ (check one  
30 box) ☐ from the former owner, ☐ at a trustee's sale after foreclosure, ☐ at a sheriff's sale after  
31 execution, ☐ other (explain) \_\_\_\_\_

32 3. Based upon Occupant's failure to comply with an eviction notice and refusal to vacate the  
33 property, I filed a Complaint for Unlawful Detainer against Occupant on (insert date) \_\_\_\_\_

\_\_\_\_\_, a copy of which is attached to this application as Exhibit 1.

4. I restate and incorporate here the allegations and arguments that I stated, under penalty of perjury, in my verified Complaint for Unlawful Detainer (Exhibit 1), which includes for the Court's review a copy of the deed I recorded with the Clark County Recorder and a copy of the eviction notice served on Occupant, along with proof of service.

5. I caused a Summons to be issued for Occupant on (*insert date*) \_\_\_\_\_, a copy of which is attached to this application as Exhibit 2.

6. As of today, Occupant has failed to comply with the eviction notice served, and Occupant continues to remain in possession of the property unlawfully and without my consent or permission, resulting in damage to me.

## **II. STATEMENT OF LAW**

Section 40.300(3) of the Nevada Revised Statutes states that, at any time after a complaint for unlawful detainer is filed and a summons issued, an owner can apply for a temporary writ of restitution to remove an occupant from property and regain possession. The court can issue the temporary writ only after the occupant has been served with an order to show cause and has had the opportunity to oppose the issuance of the writ. (NRS 40.300(3)(a).) The hearing on the order to show cause must be scheduled at least eleven calendar days after the occupant is served with the summons and complaint. (JCRCP 107(a).)

The occupant must be served with the summons, complaint, and any orders issued by the court, but the time for the occupant to file an answer and defend the case can be shortened by court order to not less than ten days. (NRS 40.300(2); JCRCP 108.)

The court can issue a temporary writ of restitution if the owner can show (by competent, relevant, and material evidence) the existence of sufficient facts to establish, at least at first appearance, the clear right to immediate possession of the property. (*Farnow v. Eighth Judicial Dist. Court*, 64 Nev. 109, 126, 178 P.2d 371, 379 (1947).)

If the court grants a temporary writ of restitution, it must require the owner to post a bond in an amount to be set by the court. (NRS 40.300(3)(c).) The court sets the bond amount based on the occupant's probable loss from being wrongfully evicted pending trial. (NRS 40.300(3)(b).)

## **III. LEGAL ARGUMENT**

I properly served Occupant with an eviction notice, a copy of which is attached to my Complaint

1 for Unlawful Detainer (Exhibit 1). The time for Occupant to take action in response to that eviction  
2 notice has expired.

3 Occupant has failed to comply with the eviction notice and has failed to vacate the property. As  
4 of today, Occupant is still occupying the property. Occupant's failure to comply with the eviction notice  
5 and continued occupancy of the property is causing, and will continue to cause, damage to me.

6 As a result of Occupant's failure to comply with the eviction notice, I filed a Complaint for  
7 Unlawful Detainer against Occupant (Exhibit 1). I also caused a Summons to be issued against Occupant  
8 (Exhibit 2).

9 I have, therefore, fulfilled the requirements of NRS 40.300(3) and ask the Court to set a "show  
10 cause" hearing, at which I am prepared to show (by competent, relevant, and material evidence) a clear  
11 right to immediate possession of the property in order to obtain a temporary writ of restitution. I am also  
12 prepared to post a bond to protect Occupant against any wrongful eviction pending trial.

#### 13 **IV. CONCLUSION**

14 Based upon the facts and legal arguments above, Owner requests the Court issue an Order to  
15 Show Cause Why a Temporary Writ of Restitution Should Not Issue and Shortening Time to Answer. A  
16 proposed order is attached to this application as Exhibit 3.

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

19 \_\_\_\_\_  
(Date)

20 \_\_\_\_\_  
(Type or print name)

21 \_\_\_\_\_  
(Signature)

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**EXHIBIT 1**  
**(COMPLAINT FOR UNLAWFUL DETAINER AGAINST OCCUPANT)**

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**EXHIBIT 2**  
**(SUMMONS ISSUED FOR OCCUPANT)**

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**EXHIBIT 3**  
**(PROPOSED ORDER TO SHOW CAUSE)**

JUSTICE COURT, TOWNSHIP OF \_\_\_\_\_  
CLARK COUNTY, NEVADA

Owner's  
Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Case No.: \_\_\_\_\_

Dept No.: \_\_\_\_\_

Plaintiff,

vs.

Occupant's  
Name: \_\_\_\_\_

Defendant.

**ORDER TO SHOW CAUSE  
WHY A TEMPORARY WRIT OF RESTITUTION SHOULD NOT ISSUE, AND  
ORDER SHORTENING TIME TO ANSWER COMPLAINT**

(NOTICE TO QUIT SERVED PURSUANT TO NRS 40.255 FOLLOWING SALE)

Having considered the Plaintiff/Owner's Application for Order to Show Cause Why a Temporary Writ of Restitution Should Not Issue and Order Shortening Time to Answer Complaint, and finding that good and sufficient cause appears,

**IT IS HEREBY ORDERED** that Defendant/Occupant (*insert Occupant's name*) \_\_\_\_\_  
\_\_\_\_\_ appear before this Court  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_ .M., in Department  
No. \_\_\_\_ of the Justice Court for the Township of (*insert township's name*) \_\_\_\_\_ at  
the following address (*insert justice court's address*):

\_\_\_\_\_  
to show cause, if any, why the Court should not issue a Temporary Writ of Restitution, allowing  
Plaintiff/Owner to remove Defendant/Occupant from the real property located at (*insert property's  
complete address*) \_\_\_\_\_  
\_\_\_\_\_ and recover possession of that property  
pending a final judgment in this case should one be entered.

The hearing on this Order to Show Cause is not the trial on the merits. Plaintiff/Owner may  
request at a later date that a trial be set, but the trial may be set no earlier than twenty (20) calendar days  
after service of the Summons and Complaint for Unlawful Detainer.

1           **IT IS FURTHER ORDERED** that the time period for Defendant/Occupant to file an answer or  
2 other response to the Complaint for Unlawful Detainer filed in this case is hereby shortened to ten (10)  
3 calendar days from the day the Summons and Complaint for Unlawful Detainer are served on  
4 Defendant/Occupant (not counting the day of service).

5           DATED: \_\_\_\_\_

6  
7 \_\_\_\_\_  
8 JUSTICE OF THE PEACE

9 Issued at the request of:

10 I declare under penalty of perjury under the law of the  
11 State of Nevada that the foregoing is true and correct.

12 \_\_\_\_\_ (*Plaintiff's Signature*)  
13 (*Insert Plaintiff's name, address, phone, and e-mail:*)

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16 Plaintiff, In Proper Person  
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