

## **6 California Procedure (5th), Provisional Remedies**

### **I. INTRODUCTION**

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  - (b) [§258] Determination.
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  - (b) [§260] Procedure.
- 4. Writ and Order.
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- (c) [§276] Jurisdiction.
- (d) [§277] Extraordinary Writs Compared.

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- (a) Prohibitory Injunction.
  - (1) [§278] In General.
  - (2) [§279] Prohibitory Despite Incidental Mandatory Aspect.
- (b) Mandatory Injunction.
  - (1) [§280] In General.
  - (2) Mandatory Though Prohibitory in Form.
    - (aa) [§281] Compelling Surrender of Property or Office.
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    - (cc) [§283] Changing Relative Positions or Rights.

**3. Procedural Classification.**

- (a) [§284] Temporary Restraining Order.
- (b) Preliminary Injunction.
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  - (2) [§286] Duration.
  - (3) [§287] Granting Permanent Relief at Hearing.
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- (a) Statutory Framework.
  - (1) [§289] Conditions.
  - (2) [§290] Nature and Scope.
  - (3) [§291] Special Statutes.
- (b) [§292] Torts Restatement Analysis.
- (c) [§293] Probable Success and Relative Harm.
- (d) [§294] Inadequacy of Other Remedies.
- (e) [§295] Irreparable Injury.
- (f) [§296] Multiplicity of Actions.
- (g) Act Rendering Judgment Ineffective.
  - (1) [§297] In General.
  - (2) [§298] Injunction in Lieu of Attachment Is Prohibited.

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- (a) Injuries Involving Land.

- (1) [§299] Waste.
- (2) [§300] Taking From Realty.
- (3) [§301] Interference With Water Rights.
- (4) [§302] Repeated Acts of Trespass.
- (5) [§303] Withholding Possession.
- (6) [§304] Private Nuisance.
- (b) **Contract Rights.**
  - (1) [§305] In General.
  - (2) [§306] Unique Personal Services.
  - (3) [§307] Covenant Not To Compete.
  - (4) [§308] Other Contracts.
- (c) [§309] Business and Personal Property Interests.
- (d) [§310] Consumer Protection Action.
- (e) [§311] Action or Cross-Complaint by Victim of Identity Theft.
- (f) [§312] Taxpayer's Action.
- (g) [§313] Labor Dispute.
- (h) [§314] Invasion of Personal Rights.
- (i) [§315] Domestic Violence.
- (i-1) [§315A] Abuse of Elder or Dependent Adult.
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  - (2) [§317] Definitions.
  - (3) [§318] Constitutionally Protected Activity.
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  - (5) [§320] Judicial Council Forms.
  - (6) [§321] Petition, Service, and Response.
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  - (3) [§325] Hearing and Order.
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  - (3) [§328] Judicial Council Forms.
  - (4) [§329] Petition, Service, and Response.
  - (5) [§330] Hearing, Determination, and Enforcement.
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  - (1) [§330A] Nature and Scope of Statute.
  - (2) [§330B] Definitions.
  - (3) [§330C] Judicial Council Forms.
  - (4) [§330D] Petition, Service, and Response.
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- (1) [§331] Injunction Against Enforcement.
        - (2) [§332] Injunction Against Enactment.
      - (n) [§333] Judicial Proceeding.
      - (o) [§334] Arbitration Proceeding.
      - (p) [§335] Crime That Is Enjoinable Tort.
      - (q) [§336] Criminal Investigation or Prosecution.
    - 3. Reasons for Denying Injunction.
      - (a) Other Remedies Are Adequate.
        - (1) [§337] Damages.
        - (2) [§338] Judicial Remedy.
        - (3) [§339] Administrative Remedy.
        - (4) [§340] Federal Executive Remedy.
      - (b) [§341] Plaintiff's Unclean Hands.
      - (c) [§342] Laches.
      - (d) [§343] Change in Circumstances.
      - (e) [§344] Public Interest.
      - (f) Relative Hardship.
        - (1) [§345] In General.
        - (2) [§346] Doctrine Applied.
        - (3) [§347] Defense Rejected.
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        - (1) [§350] General Rule.
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    - 4. Discretion To Grant or Deny Preliminary Injunction.
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      - (b) Discretion To Deny.
        - (1) [§355] Denial Upheld.
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          - (aa) [§357] Grant Upheld.
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      - (b) [§364] Order To Show Cause and Restraining Order.
      - (c) [§365] Return Date.

- (d) [§366] Undertaking.
- (e) [§367] Duration of Restraining Order.

**2. Preliminary Injunction.**

- (a) Application and Notice.
  - (1) [§368] In General.
  - (2) [§369] Waiver of Notice.
- (b) Service of Supporting Papers.
  - (1) [§370] In General.
  - (2) [§371] Waiver of Service.
- (c) Hearing.
  - (1) [§372] Time.
  - (2) Continuance.
    - (aa) [§373] To Defendant.
    - (bb) [§374] To Plaintiff.
    - (cc) [§375] On Court's Own Motion.
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    - (bb) [§377] Showing by Verified Complaint.
    - (cc) [§378] Showing by Affidavit.
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    - (aa) [§379] Showing by Verified Answer.
    - (bb) [§380] Showing by Affidavit.
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  - (3) [§384] Amount and Form.
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  - (5) [§386] Insufficient Undertaking.
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- 1. [§389] Service of Writ.
- 2. [§390] Notice Without Service.
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  - (a) [§391] In General.
  - (b) [§392] Corporations and Associations.
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- 4. [§396] Punishment of Violation as Contempt.
- 5. [§397] Civil Damages for Violation.
- 6. [§398] Sister State Injunction.

**E. Modification by Trial Court.**

- 1. [§399] Statutory Authority and Inherent Power.

2. [§400] Who May Seek Modification.
3. [§401] Service of Motion To Modify Permanent Injunction.

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2. [§403] Stay of Injunction Pending Appeal.
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  - (b) [§407] Service of Motion To Dissolve Permanent Injunction.
2. [§408] Review of Injunction Order.
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  - (b) Deliberate Violation as Basis for Review.
    - (1) [§410] Effect of Violation of Void Injunction.
    - (2) [§411] Advantages of Deliberate Violation.
    - (3) [§412] Illustration: Injunction Is Void.
    - (4) [§413] Distinction: Injunction Is Not Wholly Unenforceable.
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  - (a) [§414] Nature of Liability.
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  - (c) [§416] Measure of Damages.
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    - (1) [§417] Services in Attacking Injunction.
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**V. RECEIVERS**

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3. [§426] Action by Secured Lender.
4. [§427] Action by Office of Statewide Health Planning and Development.
5. [§428] Action Between Partners or Joint Owners.
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  - (a) [§429] Statutory Authorization.
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9. [§433] Unlawful Detainer.
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  - (a) [§436] Insolvency.
  - (b) [§437] Fraud or Mismanagement.
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  - (b) [§442] Showing of Grounds.
2. Appointment and Qualification of Receiver.
  - (a) [§443] Appointment.
  - (b) [§444] Qualification and Undertaking.
3. Ex Parte Order and Confirmation.
  - (a) [§445] Nature of Power.
  - (b) [§446] Showing Required.
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  - (d) [§448] Confirmation of Appointment.
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  - (a) [§449] Motion, Appeal, and Prohibition.
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1. Powers and Duties of Receiver.
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  - (b) [§452] Right To Sue and Be Sued.
  - (c) [§453] Liability.
  - (d) [§454] Possession and Control of Property.
  - (e) [§455] Sale of Property.
  - (f) [§456] Distinction: Rents and Profits Receiver.
  - (g) [§457] Contracts.
2. [§458] Accounts.
3. [§459] Compensation.
4. [§460] Discharge.

**VI. DEPOSIT IN COURT**

- A. [§461] Nature of Remedy.
- B. [§462] Limitations.
- C. [§463] Procedure.