

COMPLAINT TO SET ASIDE A FRAUDULENT TRANSFER

Sample Only
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INSTRUCTIONS: The following is a “cause of action” to be inserted after the heading of the complaint and common allegations. Include as many other causes of action as you have claims such as fraud, accounting, etc. Your “prayer” (request for relief) comes after your causes of action and must describe the relief you are seeking for each cause of action.

_____ CAUSE OF ACTION

(Set Aside Fraudulent Transfer Against _____)

Plaintiff complains and for causes of action alleges as follows:

1. Plaintiff _____ [name] is, and at all times mentioned in this complaint was, a resident of _____ County, California.

2. Defendant _____ [name of transferor] is, and at all times mentioned in this complaint was, a resident of _____ County, California.

3 . Defendant _____ [name of transferee] is, and at all times mentioned in this complaint was, a resident of _____ County, California.

4. Plaintiff does not know the true names of defendants DOES 1 through 25, inclusive, and therefore sues them by those fictitious names. The names, capacities and relationships of DOES 1 through 25 will be alleged by amendment to this complaint when they are known. _____ [Optionally, in addition to language in charging allegations that includes fictitiously named defendants: Plaintiff is informed and believes, and on the basis of that information and belief alleges, that each of those defendants was in some manner legally responsible for the events alleged in this complaint and for plaintiff's injuries and damages.]

5. Plaintiff is informed and believes and on that basis alleges, that at all times mentioned in this complaint, defendants were the agents and employees of their

codefendants, and in doing the things alleged in this complaint were acting within the course and scope of that agency and employment.

6. On _____ [date], plaintiff obtained a final money judgment for the sum of \$_____ against defendant _____ [name of transferor] in the _____ [name of court], in an action entitled _____ [name of action and case number]. On _____ [date], an abstract of the final money judgment was recorded in the office of the County Recorder of _____ County, California at _____ [book and page number].

7. By virtue of that judgment, plaintiff acquired a judgment lien on all of the right, title, and interest of defendant _____ [name of transferor], in and to all of defendant's real property, including but not limited to real property located in _____ County, California and described as follows: _____ [set forth legal description].

8. _____ [Set forth facts establishing transferor's ownership of real property, such as: On and after _____ (date), defendant _____ (name of transferor), was the executor of the last will and testament of _____ (name), deceased. The real property described in paragraph 7 of this complaint was part of the property owned by testator at the time of _____ (his or her) death, was inventoried in and was a part of _____ (his or her) estate, and by that will was devised to defendant _____ (transferor).]

9. Prior to _____ [date], defendant _____ [name of transferor], and defendant _____ [name of transferee], fraudulently and unlawfully agreed and conspired together to conceal the true ownership of the real property with intent to defraud creditors of defendant _____ [name of transferor], and especially plaintiff, by _____ [set forth facts establishing intent to defraud]. By virtue of the conspiracy and the acts in pursuit of it, the real property as of _____ [date], was recorded in the name of defendant _____ [name of transferee], but the property

was in fact owned by defendant _____ [name of transferor]. Defendant _____ [name of transferee], paid no consideration for the real property and title is vested in defendant _____ [name of transferee], as trustee for defendant _____ [name of transferor], and subject to the judgment lien of plaintiff.

WHEREFORE, plaintiff demands judgment against defendants as follows:

1. For an order from this court that the transfer from defendant _____ [name of transferor], to defendant _____ [name of transferee], be set aside and voided to the extent necessary to satisfy plaintiff's claim in the amount of \$_____ plus interest at the legal rate;

2. For an order enjoining defendant _____ [name of transferee] from selling, encumbering, or disposing of the real property described in paragraph 7 of this complaint;

3. For costs of suit; and

4. For such further relief as the court considers proper.

Date: _____

[Plaintiff's name]
Plaintiff *In Pro Per*

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