

## COMPLIANT AGAINST BROKER FOR FRAUD

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.

Plaintiff complains and for causes of action alleges as follows:

### COMMON ALLEGATIONS

1. Plaintiff, \_\_\_\_\_ [name], is an individual residing in \_\_\_\_\_ County, California.
2. Defendant, \_\_\_\_\_ [name of broker] ("broker"), is now, and at all times mentioned in this complaint was, a California real estate broker license number \_\_\_\_\_.
3. Defendant, \_\_\_\_\_ [name of agent] ("agent"), is now, and at all times relevant to this action was, a duly licensed real estate agent, licensed under the laws of the State of California, license number \_\_\_\_\_, and an employee of broker.
4. Defendant, \_\_\_\_\_ [name of seller] ("seller"), is now, and at all times mentioned in this complaint was, an individual residing in \_\_\_\_\_ County, California.

5. Plaintiff does not know the true names of defendants DOES 1 through 25, and therefore sues them by those fictitious names. 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 and happenings alleged in this complaint and for plaintiff's injuries and damages. The names, capacities and relationships of DOES 1 through 25 will be alleged by amendment to this complaint when they are known.

6. 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.

7. On or about \_\_\_\_\_ [date], broker and agent represented seller in seller's effort to sell real property described in paragraph 9 of this complaint.

### **FIRST CAUSE OF ACTION**

(Breach of Contract Against \_\_\_\_\_)

8. Plaintiff incorporates by this reference paragraphs 1 through 7 of this complaint.

9. On or about \_\_\_\_\_ [date], plaintiff and seller entered into a written agreement in which plaintiff agreed to purchase and seller agreed to sell real property located at \_\_\_\_\_ [location and address of property, if any] ("the real property"), more particularly described as

\_\_\_\_\_ [set forth legal description]. A copy of the written purchase and sale agreement ("the agreement") is attached to this complaint as Exhibit \_\_\_\_\_ and is incorporated by this reference. The agreement includes a provision for recovery of attorney fees by the prevailing party in the event an action is brought under the agreement.

10. Prior to plaintiff's execution of the agreement, seller, broker, and agent presented plaintiff with a Real Estate Transfer Disclosure Statement dated \_\_\_\_\_ [date] that was prepared by these defendants and signed by them. A copy of the Real Estate Transfer Disclosure Statement ("the disclosure statement") is attached to this complaint as Exhibit \_\_\_\_\_ and is incorporated by this reference.

11. Plaintiff relied on the representations set forth in the disclosure statement in entering into the agreement and the statement was incorporated into the agreement.

12. Plaintiff performed all conditions, covenants, and promises on plaintiff's part to be performed in accordance with the terms and conditions of the agreement.

13. Plaintiff closed escrow and took possession of the real property on \_\_\_\_\_ [date].

14. Plaintiff is informed and believes, and on that basis alleges, that seller breached the agreement by failing to disclose material and important information regarding the condition of the real property that was within seller's knowledge as follows: \_\_\_\_\_ [set forth specific details as to disclosure failure].

15. In the disclosure statement, seller, broker, and agent state that \_\_\_\_\_ [set forth erroneous statements made in the disclosure statement].

16. Plaintiff relied on the seller's, broker's, and agent's representations as set forth in the disclosure statement and that reliance was reasonable.

17. Plaintiff would not have entered into the agreement had plaintiff known the true facts.

18. As a result of seller's breach of the agreement, plaintiff has been damaged in that \_\_\_\_\_ [set forth specific details as to damage, such as: plaintiff has been forced to incur the cost and expense of correcting the defects and problems on the real property.]

## **SECOND CAUSE OF ACTION**

(Violation of Civil Code sections 1102 et seq. Against \_\_\_\_\_)

19. Plaintiff incorporates by this reference paragraphs 1 through 18 of this complaint.

20. Seller, broker, and agent owed plaintiff a duty under Civil Code sections 1102 et seq. to inspect and to disclose fully and fairly all facts that materially affect or relate to the condition of the real property and to disclose truthful and complete, rather than misleading, information.

21. Plaintiff is informed and believes, and on that basis alleges, that broker and agent failed to undertake an inquiry of seller as to the condition of the property or to undertake a reasonably competent and diligent visual

inspection of the real property to determine whether the items set forth in the disclosure statement were true in that \_\_\_\_\_ [state specific basis for failure of reasonable investigation].

22. Seller, broker, and agent failed to comply with the requirements of Civil Code sections 1102 et seq. by failing to supply required material information as to the condition of real property, and by instead supplying information that did not meet the requirements of these provisions, and these actions were not in good faith.

23. As a result of the failures of seller, broker, and agent to comply with Civil Code sections 1102 et seq., they are each liable in the amount of actual damages sustained by plaintiff as set forth in this complaint.

### **THIRD CAUSE OF ACTION**

(Fraudulent Concealment Against \_\_\_\_\_)

24. Plaintiff incorporates by this reference paragraphs 1 through 23 of this complaint.

25. Seller deliberately concealed the true facts regarding the real property from plaintiff, and broker and agent either deliberately concealed the true facts known to them or failed to make any reasonable investigation to determine the true facts from which representations were made as to the condition of the real property to determine whether they were true or false, and without having any sufficient basis on which to make any representations, knowingly made false representations, concealing the true condition of the

real property as set forth in this complaint.

26. Seller, broker, and agent concealed the facts when they each knew the true and correct facts regarding the real property.

27. The concealment of the true facts from plaintiff was done with the intent to induce plaintiff to enter into the agreement.

28. Plaintiff's reliance on statements made by seller, broker, and agent was justified in that \_\_\_\_\_ [state basis for reliance, such as: the seller had owned the real property for a number of years and the broker and agent had access to information known to the seller or could ascertain it by a reasonably competent and diligent investigation and inspection].

29. As a proximate result of the fraud and deceit alleged, plaintiff was induced to purchase the real property. Plaintiff has been damaged in the amount set forth in the demand for relief.

30. Plaintiff's damages include out-of-pocket costs and expenses and loss of use of the real property.

31. In doing the acts alleged in this complaint, seller, broker, and agent acted with oppression, fraud, and malice as defined in Civil Code section 3294, and plaintiff is entitled to punitive damages to make an example of and to punish these defendants in addition to actual damages.

WHEREFORE, plaintiff demands judgment against defendants for the following:

1. For compensatory damages against seller in the amount of \$\_\_\_\_\_

2. For compensatory damages against broker and agent in the amount of \$\_\_\_\_\_;

3. For interest at the rate of \_\_\_\_\_ percent per annum;

4. For punitive damages;

5. For reasonable attorney fees according to proof;

6. For costs of suit incurred in this action; and

7. For such other and further relief as this court may deem just and proper.

Date: \_\_\_\_\_  
\_\_\_\_\_ [Plaintiff's name]  
Plaintiff *In Pro Per*

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