

Vacant Possession of Property

1. Civil Procedure Rule 72.09 provides that a judge may grant an order for the removal of a person who does not leave the property in compliance with the order for foreclosure, sale and possession. This is called a Vacant Possession Order.
2. A Vacant Possession Motion is made on an ex parte basis.
3. Read the attached Ex Parte Motion (Form 23.14) carefully and retype the Ex Parte Motion with your own information paying particular attention to the areas you must complete:
 - a) description of the motion
 - b) details of the affidavit filed in support of motion
 - c) identify the legislation, rules, points of law you are relying on to bring your motion
 - d) set out reasons for making this on a Ex Parte basis
 - e) set the date for the hearing
4. You must file the following:
 - a) an original and one copy of the Ex Parte Motion (Form 23.14)
 - b) supporting affidavit (Form 39.08)
 - c) three copies of a Draft Order (Form 78.05)
 - d) Brief (Civil Procedure Rule 40) in duplicate
5. These documents must be filed two days in advance of the hearing. Time is calculated in accordance with Rule 94. You do not count the day you file your documents nor the day of the hearing, but rather you count 2 days between the two events excluding a Saturday, Sunday or a day on which the Prothonotary's Office is closed.
6. The motion must be set for 9:30 a.m. in Chambers on Monday, Tuesday, Wednesday, Thursday or Friday.
7. The court filing fee for an Ex Parte Motion is \$60.60.

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