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Any Attorney or Party
Any Street
Any Town, CA 55555

714-555-5555

Any Attorney or Specially Appearing Defendant

Superior Court of the State of California
For the County of _____

Any Plaintiff,

Plaintiff,

vs.

Any Defendant, and DOES 1-5

Defendants.

) Case No.
)
) **NOTICE OF MOTION AND MOTION TO QUASH**
) **SERVICE; MEMORANDUM OF POINTS AND**
) **AUTHORITIES; DECLARATION OF _____**
)
) **DATE:**
) **TIME:**
) **DEPT:**
)
)
)

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TO PLAINTIFF, _____ AND THEIR
ATTORNEYS OF RECORD:

1 PLEASE TAKE NOTICE that on _____, at _____ M., or as soon after
2 that as the matter can be heard, in Department _____ of the above-entitled court located at
3 _____, specially appearing defendant,
4 _____ will appear specially and move the Court for an order quashing
5 plaintiff's purported service of summons and complaint on defendant. This motion is made under
6 section 418.10 of the Code of Civil Procedure on the grounds that the summons and complaint were
7 not properly served on defendant in that Defendant, _____ was not personally
8 served with the summons and complaint, instead they were posted on their front door. Therefore the
9 purported service on Defendant was not valid and should be quashed.
10

11 This motion will be based on this notice of motion, the memorandum of points and
12 authorities; the Declaration of _____, the pleadings, documents, records and files
13 in this action, and such oral and documentary evidence as may be presented at the hearing.
14

15
16 Dated: _____

_____ Specially Appearing Defendant
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **STATEMENT OF FACTS**

4 On _____, Plaintiff, (“Plaintiff”) filed their complaint against the specially
5 appearing Defendant, _____, (“Defendant”).

6
7 The proof of service filed by Plaintiff alleges that Defendant was personally served on
8 _____ with the summons and complaint. Defendant denies being personally served
9 and alleges that she had no knowledge of the summons and complaint, nor that anyone was
10 attempting to serve her until _____ when they opened their front door and noticed the
11 summons and complaint was posted on the front door.
12

13 Defendant contends that the service on them was improper and the Court should quash the
14 purported service and require Plaintiff to properly serve them.

15 **You need to state the facts that pertain to your particular case. Do**
16 **NOT just use the wording here unless it applies to your situation.**

17 **II.**

18 **LEGAL ARGUMENT**

19 **A. THE PURPORTED SERVICE OF THE SUMMONS AND COMPLAINT IS**
20 **NOT VALID AND SHOULD BE QUASHED**

21 *Code of Civil Procedure* § 418.10 states in part:

22
23 “A defendant, on or before the last day of his or her time to plead or within any further time
24 that the court may for good cause allow, may serve and file a notice of motion for one or more of the
25 following purposes: (1) To quash service of summons on the ground of lack of jurisdiction of the
26 court over him or her”.
27
28

1 *Code of Civil Procedure* § 415.10 states in part:

2 “A summons may be served by personal delivery of a copy of the summons and of the
3 complaint to the person to be served. Service of a summons in this manner is deemed complete at the
4 time of such delivery.”
5

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