

Application For Contingency Fee Services

- Real Property Partition -

What's a Partition Action?

When a parcel of real property is jointly owned by two or more parties and the request of one of the owners to divide the interests of the parties is opposed, the party desiring the division of interests may do so by bringing an action for "Partition" in Superior Court against the other owners. Partition does not create a new title in real property, but divides up the existing interests of the owners. Partition is ordinarily available as a matter of right, but the right may be waived. Once a partition action is filed either the parties come to an agreement between them or the court will order the property sold and the proceeds split *pro rata*.

Contingency Fee Agreement

Kinsey Law Offices takes a limited number of real property partition cases in a contingency fee basis. Our contingency fee agreement for partition cases provides that we will advance all costs of the litigation and will take only a percentage of your "net recovery". If there is no recovery, the client pays nothing.

The fees to be paid Attorney will be a percentage of the "net recovery," depending on the stage at which settlement or judgment is reached. The term "net recovery" means (a) the total amounts received by settlement, arbitration award or judgment, including any award of attorney fees (b) minus all costs and disbursements advanced by Attorney. "Net recovery" also includes the reasonable net value of any nonmonetary recovery including, but not limited to the value of any real property obtained by Attorney for Client by way of resolution of disputes concerning the Property, the resolution of the Lawsuits, and/or the resolution of any other lawsuits filed by Attorney on behalf of Client

Attorney fees are calculated as follows:

- (a) If a Claim or Lawsuit is resolved before filing of an arbitration, lawsuit or other formal proceeding, the fee shall be twenty-five percent (25%) of the net recovery.
- (b) If a Claim or Lawsuit is resolved after the initiation of an arbitration, lawsuit, or other formal proceedings, the fee shall be thirty-three and one-third (33.33%) of the net recovery.
- (c) If the matter is resolved on or before sixty (60) days before the date initially set for the trial of a Lawsuit or arbitration hearing, the fee shall be forty percent (40%) of the net recovery.
- (d) If the matter is resolved after trial of a Lawsuit or arbitration of a Claim, the fee shall be fifty percent (50%) of the net recovery.

LotBook Report Required

After you have filled out the questionnaire below, if we think we might be able to help you on a contingency basis, we will contact you and ask you to obtain a "LotBook Report" on your property. You can obtain one online from <http://lotbook.com/>.

Don't order it before we have contacted you.

Depending on the information you provide in the questionnaire below and the contents of the LotBook Report, we may ask you to order copies of certain deeds in the chain of title. We will then make the final decision as to whether we will take your case.

Date:

CLIENT'S PERSONAL INFORMATION:

| | | | | | |
|-----------------------|-----------|--------|----------|------|--|
| Your Full Legal Name: | | | | | |
| Address: | Street 1: | | | | |
| | Street 2: | | | | |
| | Street 3: | | | | |
| City: | | State: | | Zip: | |
| Phones: | Home: | | Bus. #1: | | |
| | Cell: | | Bus. #2: | | |
| | Other: | | Bus. #3: | | |
| Email Addresses: | | | | | |
| | | | | | |
| | | | | | |
| Further Information: | | | | | |

THE SUBJECT PROPERTY:

| | | | | | |
|---------------------------------|-----------|--------|--|------|--|
| Address: | Street 1: | | | | |
| | Street 2: | | | | |
| | Street 3: | | | | |
| City: | | State: | | Zip: | |
| County: | | | | | |
| Assessor's Parcel Number (APN): | | | | | |
| Further Information: | | | | | |

LIST FULL LEGAL NAMES AND ADDRESSES OF ALL OWNERS OF RECORD WHO AGREE TO PARTITION: (Names, Addresses, Phone Numbers, and Email Addresses)

| | |
|----------------------|--|
| Owner #1: | |
| Owner #2: | |
| Owner #3: | |
| Owner #4: | |
| Owner #5: | |
| Owner #6: | |
| Further Information: | |

LIST FULL LEGAL NAMES AND ADDRESSES OF ALL OWNERS OF RECORD WHO DO NOT AGREE TO PARTITION: (Names, Addresses, Phone Numbers, and Email Addresses)

| | |
|----------------------|--|
| Owner #1: | |
| Owner #2: | |
| Owner #3: | |
| Owner #4: | |
| Owner #5: | |
| Owner #6: | |
| Further Information: | |

AGREEMENTS WAIVING RIGHT TO PARTITION: Note: The right to partition real property in California is virtually absolute. However the parties may enter into enforceable agreements between themselves waiving their rights to partition. If there are any such agreements, we will not take your case.

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| Are There Any Agreements Between The Parties Waving The Right To Partition The Property? | |
| Further Information: | |

TYPE OF JOINT INTERESTS: Note: The ownership of property by several persons is either: 1. Joint Tenancy; 2. Partnership; 3. Tenants In Common; 4. Community interest of husband and wife. (C.C. 682.)

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| How Do The Owners Hold Title? | |
| Further Information: | |

OTHER INTERESTS IN THE PROPERTY: *Note: Persons having or claiming interests "in the estate as to which partition is sought" must be joined as defendants if the interest is of record or is actually known to the plaintiff. (C.C.P. 872.510.) "Interests" includes mortgages and judgment liens.*

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| Are There Liens Or Other Interests In The Property Other Than The Ownership Interests Described Above? (Yes or No) | |
| If Yes, Describe Each Such Interest: | |
| | |
| | |
| Further Information: | |

PENDING LITIGATION

| | |
|---|----------------------------------|
| Has A Lawsuit For Partition Already Been Filed? (Yes or No) | |
| If Yes, State:: | Date Of Filing: |
| | Court Location (State & County): |
| | Case Number: |
| Plaintiff's Attorney Information: | Name: |
| | State Bar Number (SBN): |
| | Firm Name: |
| | Street #1: |
| | Street # 2: |
| | Street # 3: |
| | City: |
| | State: |
| | Zip: |
| | Phone: |
| | Other Information: |
| Further Information: | |

NOTE: Please transmit copies of all documents filed in the previous lawsuit to us. You can scan and email them to kinseye@ix.netcom.com or fax them to 562 596-0298. Email is preferred.

NOTICE OF PENDING ACTION (LIS PENDENS):

| | |
|--|--------------------------------------|
| Has A Notice Of Pending Action Been Filed? (Yes or No) | |
| If Yes, State:: | Date Of Filing With Court: |
| | Date of Filing With County Recorder: |
| | Date Of Service On You: |
| Further Information: | |

POSSESSION OF THE PROPERTY: Note: Each cotenant is equally entitled to share in the possession of the entire property, and neither can exclude the other from any part of it. One who is ousted by another may, after demand for entry and refusal, recover possession and damages, the damages ordinarily consisting of his share of the value of the use and occupation from the time of the ouster.

| | |
|---|--|
| Names Of All Persons In Possession Of The Property: | |
| Further Information: | |

CLAIMS TO REIMBURSEMENT FOR CONTRIBUTIONS: Note: One who pays taxes, interest or other charges against the property is entitled to contribution from the other.

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|--|-------|--|------------------|--|---------|
| Does Any Owner Make A Claim For Contribution ? (Yes or No) | | | | | |
| If Yes, State:: | Name: | | Nature Of Claim: | | Amount: |
| | Name: | | Nature Of Claim: | | Amount: |
| | Name: | | Nature Of Claim: | | Amount: |
| Further Information: | | | | | |

CLAIMS TO COMPENSATION: Note: In the absence of an agreement, a cotenant, like a partner, is ordinarily not entitled to compensation for services rendered in care and management of the property, e.g., leasing it, collecting rentals, supervising repairs, or making minor repairs. However, he may become entitled to compensation by implied contract where he makes repairs or improvements, or furnishes other services or materials, with the acquiescence of the other cotenants.

| | | | | | |
|---|-------|--|------------------|--|---------|
| Does Any Owner Make A Claim For Compensation ?(Yes or No) | | | | | |
| If Yes, State:: | Name: | | Nature Of Claim: | | Amount: |
| | Name: | | Nature Of Claim: | | Amount: |
| | Name: | | Nature Of Claim: | | Amount: |
| Further Information: | | | | | |

ACCOUNTING FOR RENTS AND PROFITS: Note: Where the tenant in possession leases the property to a third person, other tenants may bring suit to require him to account for rents collected from such third person. However, if one tenant in common or joint tenant is in sole possession of the property, the other tenant cannot recover rent for his occupancy, or profits derived from the property by the occupant's own labor, nor can he have an accounting thereof.

| | | | | | |
|--|-------|--|------------------|--|---------|
| Does Any Owner Make A Claim For Accounting?(Yes or No) | | | | | |
| If Yes, State:: | Name: | | Nature Of Claim: | | Amount: |
| | Name: | | Nature Of Claim: | | Amount: |
| | Name: | | Nature Of Claim: | | Amount: |
| Further Information: | | | | | |

QUESTIONS, COMMENTS, FURTHER INFORMATION:

Insert any questions, comments, and/or further information here.