

STATE OF MINNESOTA  
COUNTY OF \_\_\_\_\_

DISTRICT COURT  
JUDICIAL DISTRICT  
\_\_\_\_\_  
DIVISION: \_\_\_\_\_  
CASE TYPE: UNLAWFUL DETAINER  
(EVICTION)

\_\_\_\_\_  
\_\_\_\_\_  
Plaintiff (Landlord),

v.

\_\_\_\_\_  
\_\_\_\_\_  
Defendant (Tenant).

NOTICE OF MOTION AND  
ORDER FOR EXPUNGEMENT  
OF EVICTION RECORD

Pov. Law Form No. Exp-1  
(April 2019)

Case No. \_\_\_\_\_

NOTICE OF MOTION

PLEASE TAKE NOTICE that at \_\_\_\_\_ a.m./p.m. on \_\_\_\_\_, the Defendant will bring the following motion on for hearing before the Honorable \_\_\_\_\_, Referee or Judge of District Court, at the following location: \_\_\_\_\_.

MOTION

1. Defendant asks the Court for the immediate expungement of this eviction case court file.

2.  The Court may order expungement upon finding that “the plaintiff’s case is sufficiently without basis in fact or law . . . that expungement is clearly in the interests of justice and those interests are not outweighed by the public’s interest in knowing about the record.” Minn. Stat. § 484.014, subd. 2.

a. The Plaintiff’s case is sufficiently without basis in fact or law:

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b. Expungement is clearly in the interests of justice:

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c. The interests of justice are not outweighed by the public's interest in knowing about the record:

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3  Expungement is mandatory for an eviction case commenced solely on the grounds provided in Minn. Stat. § 504B.285, subdivision 1, clause (1), if the court finds that the defendant occupied real property that was subject to contract for deed cancellation or mortgage foreclosure and (1) the time for contract cancellation or foreclosure redemption has expired and the defendant vacated the property prior to commencement of the eviction action; or (2) the defendant was a tenant during the contract cancellation or foreclosure redemption period and did not receive a notice under Minn. Stat. § 504B.285, subdivision 1, clause (1), to vacate on a date prior to commencement of the eviction case. Minn. Stat. § 484.014, subd. 3.

- a.  I moved on \_\_\_\_\_ before Plaintiff filed this case, or
- b.  I am a tenant and did not receive a proper lease termination notice under Minn. Stat. § 504B.285.

4.  Courts have inherent authority to perform a judicial action when the relief requested "is necessary to the performance of a judicial function as contemplated in [the] state constitution." *In re: Clerk of Court's Compensation for Lyon County v. Lyon County Commissioners*, 241 N.W.2d 781, 786 (Minn. 1976). Minn. Const. Art. 1 § 8 provides "Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive to his person, property or character, and to obtain justice freely and without purchase, completely and without denial, promptly and without delay, conformable to the laws."

Courts also have inherent authority to control their own records, along with the equitable power to prevent unfairness to individuals. *State v. C.A.*, 304 N.W.2d 353, 358 (Minn. 1981). The court "must decide whether expungement will yield a benefit to the petitioner commensurate with the disadvantages to the public from the elimination of the record and the burden on the court in issuing, enforcing and monitoring an expungement order." *Id.*

A *non-exclusive* list of factors were stated by Judge Connolly in his concurring opinion in *At Home Apts., LLC v. D. B.*, No. A18-0512, 2019 Minn. App. Unpub. LEXIS 47 at \*10-11, 2019 WL 178509 at \*4 (Minn. Ct. App. Jan. 14, 2019) (Unpublished):

(1) whether any back-rent is owed, how much is owed, and if there is a payment plan in place—although I do not believe that an expungement should be automatically denied solely because any rent owing has not been paid; (2) a petitioner's eviction history; (3) the cause for the nonpayment of rent—whether it was due to economic hardship or a mere willful refusal; (4) the length of time since the petitioner's last eviction; (5) whether the eviction was for a material breach of the lease other than nonpayment of rent (e.g., conducting illegal activity on the leased premises); (6) the number of evictions with the same landlord as opposed to different landlords; and (7) the term of the lease. *See State v.*



- a.  No money judgment was ordered in this case and
  - (1)  the case file was closed over one year ago, *id.* at 9, ***or***
  - (2)  following final disposition of the case, there was financial

activity in the case, and it has been three years since the fiscal year of the final disposition. *Id.*

b.  A money judgment was ordered in this case, there are no outstanding debts, and the case is over ten years old. *Id.*

6. Under Minn. R. Civ. P. 11, I certify that, to the best of my knowledge:

- (a) this document is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (b) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (c) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;
- (d) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief; and
- (e) this document does not include any restricted identifiers and that all restricted identifiers have been submitted in a confidential manner as required by Minn. R. Gen. Prac. 11.

I know that I may be fined or sanctioned by the court if this certification is false.

7. Under Minn. Stat. § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

Date	Signature
County and State Where Document Is Signed	Name: _____
County: _____	Address: _____
State: _____	City, State, Zip: _____
	Telephone: _____