

Declaration in Support of Finding of Public Use and Necessity

The declaration that accompanies a memorandum on public use and necessity will be highly fact dependent. When using the sample in this form book keep in mind that certain paragraphs may not be applicable in every case. And, other paragraphs may need to be added.

In uncontested cases, the court will usually enter an order based upon the public use and necessity memorandum and declaration, without any live testimony. It is always easier, of course, to obtain a stipulation from all parties. But if certain parties have not responded in a timely manner to a stipulation request, the filing of a memorandum and declaration will be necessary.

In a case where public use and necessity is going to be vigorously contested, it may be necessary to depose the respondents witnesses to fully understand the basis for the opposition and be able to counteract it.