



Superior Court of the State of California

County of Kings

Nocona Soboleski
Court Executive Officer
and
Clerk of the Court

NOTICE OF PROPOSED ADOPTION OR AMENDMENT OF LOCAL RULES (Pursuant to Cal. R. Ct., rule 10.613)

To:

- The State Bar of California
- The Attorney General, State of California
- Local Bar Associations, Kings and Adjoining Counties
- Office of the District Attorney, Kings and Adjoining Counties
- Office of the County Counsel, Kings and Adjoining Counties
- Contracted Defense Counsel of Kings County
- Office of the Public Defender in Adjoining Counties
- Interested Others

Please be advised that on or before May 17, 2024, the Judges of the Kings County Superior Court will adopt additions and/or amendments to the official Local Rules of Court, to be effective on July 1, 2024.

On or before April 1, 2024, copies of all rules proposed for adoption and/or amendment will be posted on the Court's website (<http://www.kings.courts.ca.gov>) for review in conformity with Rule 10.613 of the California Rules of Court. In addition, paper copies of the Rules will be available for review in the Clerk's Office of each Division of the Kings County Superior Court.

The Court specifically invites any comments you may desire to make regarding the Court's proposed Rule changes. Requests for paper copies of the proposed changes to the Rules, and any comments on the proposed rules must be addressed as follows:

Nocona Soboleski, Executive Officer and Clerk of the Court
Superior Court of California, Kings County
1640 Kings County Drive
Hanford, California 93230

Comments must be received before 9:00 a.m. on May 16, 2024.

Thank you for your continuing assistance to us in maintaining and improving the administration and effectiveness of our local trial court rules.

NOCONA SOBOLESKI
Superior Court Executive Officer and Clerk of the Court
Publisher of Trial Court Rules

PROPOSED LOCAL RULES
(Effective 7/1/2024)

The Kings County Superior Court proposes to add or amend the following Local Rules to become effective on July 1, 2024

1. LOCAL RULE 131 – APPELLATE DIVISION, ELECTRONIC DELIVERY OF RECORD ON APPEAL

For appeals filed to the Appellate Division of the Kings County Superior Court, the record on appeal will be provided to the parties electronically via email after the notice of appeal has been filed. Parties to an appeal in the Appellate Division are directed to have a valid email address on file with the court to be able to receive the record on appeal via email.

If a party to the appeal is unable to receive the record on appeal through email, a paper copy of the record on appeal will be provided after a written request has been made to the court. Incarcerated persons will receive paper copies of the record on appeal.

(Eff. 7/1/24)

2. LOCAL RULE 202 – SERVICE OF SUMMONS AND FILING OF PROOF OF SERVICE

- A. A plaintiff shall serve all named defendants, return and file the original summons and proof of service within sixty (60) days from the date the complaint is filed. Notice of Judicial Assignment must be served along with the Complaint and Summons and such service reflected in the proof of service filed with the court.
- B. The court may extend any time requirement for service of process or for filing a proof of service or responsive pleadings upon a showing of good cause on noticed motion or by ex parte application. The motion or application must be filed before the expiration of the initial period within which the act is required to be done. When a request for an extension is filed, the court may deny the request, grant an extension of time to a specified date, or conduct a hearing on the matter.
- C. When applying to the court to extend time to file the return of the summons and proof of service based upon the conditions stated in Code of Civil Procedure section 583.240, the plaintiff shall set forth in the motion the earliest date within which service may reasonably be achieved so that the court may set a date certain for service and filing of a proof of service.

- D. In personal injury cases, “good cause” for an extension of time to serve a named defendant may be established where the plaintiff’s declaration affirmatively shows that the defendant’s insurance carrier has been advised that an action has been filed and that settlement negotiations are in progress which are likely to resolve the case without further litigation. Upon such showing, the court may extend the time for service of the complaint to a date certain within which time it appears reasonable that negotiations can be concluded.

(Eff. 1/1/99; amended 7/1/08; amended 7/1/21; amended 7/1/24)

3. LOCAL RULE 210 – CIVIL MEDIATION PROGRAM

- A. Parties subject to Local Rule 209 regarding mandatory mediation, where the demand does not exceed \$500,000, and other parties as ordered by the court to attend mediation, are eligible to participate in the Kings County Superior Court Civil Mediation Program at no additional cost to the parties.
- B. Mediation must be completed prior to the date of the Mandatory Settlement Conference. Remote appearances are not authorized for mediation sessions and will be conducted in person at the Kings County Superior Court. Case Management Conferences will not occur while the case is placed in mediation status.
- C. Eligible litigants seeking to participate in the Civil Mediation Program are instructed to complete and file the necessary forms as set forth in the Civil Mediation Program Information Packet. The forms and Information Packet can be found on the court’s website at www.kings.courts.ca.gov.

(Eff. 7/1/24)

4. LOCAL RULE 536 – APPOINTMENT OF COUNSEL IN MISDEMEANOR APPEALS

There is no right to self-representation in a misdemeanor appeal. A defendant appealing a misdemeanor conviction is entitled to appointed counsel on appeal when the defendant was appointed counsel in the trial court. (California Rules of Court, Rule 8.851(a).) The court will appoint counsel to represent the defendant unless the Notice of Appeal is filed by privately retained counsel.

(Eff. 7/1/24)

5. LOCAL RULE 543 – ABILITY TO PAY – DETERMINATIONS BY CLERK OF THE COURT

- A. The clerk of the court is authorized to make ability to pay determinations pursuant to Government Code §68645.3(e) when the following criteria has been met:
 - a. The litigant submits information that they receive public benefits, including those listed in Government Code §68632(a); or,
 - b. The litigant submits information showing their household income is equal to or below 250% of the federal poverty level.
- B. The clerk of the court shall not modify the reduction rate recommended by the MyCitation online tool consistent with Court-established administrative settings for calculating reduction rates.
- C. The defendant has the right to a review of the decision by a judicial officer in the trial court if the clerk of the court denies the reduction portion of the request.
- D. Criteria for reductions made by the clerk of the court are posted on the court’s website.
- E. In addition to requests for the reduction of fines, litigants may also make the following requests through an ability to pay determination:
 - a. Placement on a payment plan.
 - b. Additional time to pay.
 - c. Community service in lieu of paying monetary fines.

(Eff. 7/1/24)

6. LOCAL RULE 207 – MANDATORY SETTLEMENT CONFERENCE

- A. In all general civil matters, at the time the court sets the case for trial, a settlement conference shall also be set at least fifteen (15) calendar days prior to the trial date.
- B. Unless the assigned Judicial Officer for good cause shown orders otherwise, all parties, except those under the custody of the California Department of Corrections and Rehabilitation, shall be personally present at the settlement conference except that an insured party is not required to appear where that party's insurance carrier admits coverage for all causes of action alleged against that party, full authority has been granted by such insured party to the carrier and attorney to settle within policy limits, and the highest demand for settlement is within policy limits. A party who is not an individual shall appear by a representative who shall be fully familiar with the facts of the case and have full authority to settle.
- C. Unless the assigned judicial officer for good cause shown orders otherwise, a party who is under the custody of the California Department of Corrections and Rehabilitation shall appear by telephone. When a non-custodial litigant is represented by the Office of the Attorney General in the litigation, the Attorney General is to arrange for the inmate's telephonic appearance at least five (5) days before the settlement conference. When the Office of the Attorney General does not represent any of the parties to the matter, the Clerk of the Court shall issue an order for telephonic appearance upon request made by any litigant at least five (5) days before the settlement conference.
- D. In any case which requires consent of an insurance carrier to settle, an employee of the insurance carrier who is fully familiar with the case and who has full authority to settle shall be personally present at the settlement conference. A claims adjuster retained only for the purpose of attending the settlement conference will not be deemed to comply with this rule.
- E. To ensure a meaningful settlement conference prior to trial, the court may set the matter for further settlement conferences prior to the date set for trial or may remove the case from the trial calendar and order the parties to obtain a new settlement conference and trial date.
- F. Unless otherwise ordered, the settlement conference will be conducted by the judicial officer assigned to hear the case for all purposes, including trial. Any party's objection to the settlement conference being conducted by the regularly assigned judicial officer must be filed and served at least fifteen (15) days before the date set for the settlement conference. Failure to file a timely objection shall waive the objection for all purposes.

- G. A party's failure to comply with one or more of the state or local court rules pertaining to settlement conferences and settlement conference statements may result in an order for a further settlement conference with the offending party being required to pay the costs and attorney fees incurred by other parties due to the non-adherence to the rules.
- H. Notification of any settlement shall be given in the manner provided for in California Rules of Court, rule 3.1385.

(Eff. 1/1/99 Rules 207-211; amended and renumbered 7/1/08; amended 7/1/24)

7. RULE 409 – DECLARATION IN SUPPORT OF POST-JUDGEMENT INTEREST CALCULATIONS

A judgment creditor adding accrued post-judgment interest to the enforceable amount owed on a Writ of Execution or Application for Renewal of Judgment must file and serve *Memorandum of Costs After Judgment* (form MC-012). The judgment creditor must also submit to the court a declaration in support of the post-judgment interest which provides the calculations performed, including any applicable dates and amounts for adjustments related to costs or credits. (*See Information Sheet for Calculating Interest and Amount Owed on a Judgment* (form MC-013-INFO) for additional information.)

(Eff. 7/1/24)

In addition, the Kings County Superior Court proposes to amend the following local form for use beginning on July 1, 2024

1. **KCLF CRM 10 - Advisement of Rights, Waiver, Plea Form – Proposition 36 (Pen. Code § 1210.1 et seq.)**

SUPERIOR COURT OF CALIFORNIA	<i>RESERVED FOR CLERK'S FILE STAMP</i>	
COUNTY: COUNTY OF KINGS		
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT:		
ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM - PROPOSITION 36 (Penal Code § 1210.1 et seq.)	CASE NUMBER:	DEPARTMENT:

INSTRUCTIONS

Fill out this form if you wish to plead guilty or no contest to the charges against you in order to be placed on probation pursuant to Penal Code § 1210.1 et seq. ("Proposition 36 -- the Substance Abuse and Crime Prevention Act of 2000"). If you successfully complete the requirements of your probationary sentence as directed by the Court, you may petition the sentencing Court to set aside the conviction and dismiss the charges. If you do not successfully complete these requirements, the Court will revoke your probation and sentence you according to the otherwise applicable law, which may include a period of incarceration.

Initial the box for each applicable item only if you understand it, and **sign and date the form on page 4**. If you have questions about your case, the possible sentence, or the information on this form, ask your attorney or the judge.

RIGHT TO AN ATTORNEY

1. I understand that I have the right to be represented by an attorney throughout the proceedings. I understand that the Court will appoint a free attorney for me if I cannot afford to hire one, but at the end of the case, I may be asked to pay all or part of the cost of that attorney, if I can afford it. I understand that there are dangers and disadvantages to giving up my right to an attorney, and that it is almost always unwise to represent myself.

INITIALS ↓
1.
2.
3.
4.
5.
6.
7.

NATURE OF THE CHARGES (Complete all items you are charged with.)

2. I understand that I am charged with the following offense(s):

TYPE OF OFFENSE(S) AND SECTION NUMBER(S)
3. **If applicable** - I understand that I am also charged with having the following prior conviction(s):

LIST OFFENSE(S), CASE NUMBER(S) AND DATE(S)
4. **If applicable** - I understand that I am charged with violating the probation order(s) in the following case(s):

CASE NUMBER(S) AND DATE(S)
5. I understand the charge(s) against me, and the possible pleas and defenses.

CONSTITUTIONAL RIGHTS

6. **RIGHT TO A JURY TRIAL** - I understand that I have the right to a speedy, public jury trial. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt.
7. **RIGHT TO CONFRONT AND CROSS-EXAMINE WITNESSES** - I understand that I have the right to confront and cross-examine all witnesses testifying against me.

See Reverse Side

CONSTITUTIONAL RIGHTS (Continued)

INITIALS ↓
8.
9.
10.
11.
12.
13.
14.
15.
16.
17.
18.
19.
20.

8. **RIGHT AGAINST SELF-INCRIMINATION** - I understand that I have the right to remain silent and not incriminate myself, and the right to testify on my own behalf. I understand that by pleading guilty, or admitting other conviction(s) or probation violation(s), I am incriminating myself.

9. **RIGHT TO PRODUCE EVIDENCE** - I understand that I have the right to present evidence and to have the Court issue subpoenas to bring into court all witnesses and evidence favorable to me, at no cost to me.

PRIOR CONVICTIONS AND PROBATION VIOLATIONS

10. **If applicable** - I understand that I have all of the above constitutional rights for **all** of the charges against me, including any charged prior convictions or probation violations. However, for a charge of violating probation, I do not have the right to a jury trial, although I do have the right to a hearing before a judge. (Note - Please complete No. 30 on page 3.)

SPEEDY PRELIMINARY HEARING (For charged felony offenses only)

11. **If applicable** - I understand that if I am charged with a felony, I have a statutory right to a preliminary hearing, and a right that this hearing be held within a specified period of time. I would also have all of the above constitutional rights at the hearing, except that it would be conducted before a judge, rather than before a jury. (Note - Please complete No. 17 below.)

WAIVER OF RIGHTS

Understanding all of the above, for all of the charges in this case, including any prior convictions or probation violations, which may be presented against me at my trial (and preliminary hearing):

12. I give up my right to an attorney, and I choose to represent myself. (Does not apply if you have an attorney.)

13. I give up my right to a jury trial. (Does not apply to charged probation violations)

14. I give up my right to confront and cross-examine witnesses.

15. I give up my right to remain silent and to not incriminate myself.

16. I give up my right to produce evidence and witnesses on my own behalf.

17. **If applicable** - I give up my right to a preliminary hearing before a judge as to any felony offenses. I also give up my right to have that hearing held within the specified period.

PARTICIPATION IN PROBATION UNDER PROPOSITION 36

18. I understand that conditions of my probation will require me to successfully complete a drug treatment program for a period of up to one year, as determined by the Court based upon the severity of my addiction and my criminal history. The treatment program may consist of out-patient treatment, in-patient residential treatment, narcotic replacement therapy, drug education or prevention courses, or a combination thereof.

19. I understand that I may also be required as a further condition of probation to complete community service hours and supplemental drug treatment services, including but not limited to vocational training, family counseling and literacy training. The court may also require me to participate in additional aftercare services for up to six months following completion of my drug treatment program.

20. I understand that I may be ordered to make restitution and to pay a restitution fine of \$120 to \$1,000 for a misdemeanor, or \$240 to \$10,000 for a felony, unless the Court finds compelling and extraordinary reasons not to impose the fine. Depending upon my ability to pay, I will also be required to pay for the cost of my placement in treatment and supervision services in a minimum amount of \$200. If these fees and costs are not waived by the Court, I will not be able to have my case dismissed until both the restitution and placement fees are paid.

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PARTICIPATION IN PROBATION UNDER PROPOSITION 36 (Continued)

INITIALS ↓

21. I understand that I must register with the police as a controlled substance offender. Failure to do so would constitute a misdemeanor.

21.

22. I understand that I may be required to undergo testing for the presence of drugs or alcohol, as directed by the Court.

22.

23. I understand that if I successfully complete all of the conditions of my probation, I may petition the sentencing court to set aside the conviction and dismiss the charges. If the Court finds that I have completed all aspects of my drug treatment program, including aftercare and supplemental services, and finds that there is reasonable cause to believe that I will not abuse controlled substances in the future, then the conviction will be set aside and the charges dismissed.

23.

24. I understand that if the charges are dismissed as indicated above, I must still:

(A) disclose my arrest and conviction upon any application for a position as a peace officer, for public office, or for a license by a state or local agency.

(B) refrain from owning or possessing any firearm, including a concealable firearm; failure to comply will result in my conviction of PC § 29800 (felon or addict in possession of a firearm); and

(C) disclose the arrest and conviction when contracting with the California State Lottery and for purposes of serving on a jury.

24.

25. **FUTURE NON DRUG-RELATED OFFENSE OR VIOLATION OF CONDITION OF PROBATION**
I understand that the Court may revoke my grant of probation if I am arrested for any non drug-related offense or violate any non drug-related condition of probation, and that I may thereafter be sentenced pursuant to otherwise applicable law.

25.

26. **FUTURE DRUG-RELATED OFFENSE OR VIOLATION OF CONDITION OF PROBATION**
I understand that on a:

(A) **first violation** of probation based on drug-related behavior, the Court shall revoke my probation if the alleged violation is proved and I am found to pose a danger to the safety of others.

(B) **second such violation**, the Court shall revoke my probation if the violation is proved and either I am found to pose a danger to others or I am found to be unamenable to drug treatment.

Note - Under (A) and (B) above, if the Court does not revoke probation, my required drug treatment may be intensified.

(C) **third such violation**, my probation will be revoked if the violation is proved, and I will be sentenced under the otherwise applicable law.

26.

27. I understand that if I am not a citizen, my guilty or no contest plea will result in my deportation (removal), exclusion from admission to the United States, or denial of naturalization.

27.

28. I understand that my guilty plea in this case may be grounds for violating probation or parole which has previously been granted to me in any other case.

28.

29. I understand that I have a right to be sentenced by the judge who accepts my guilty or no contest plea in this case. I freely and voluntarily give up this right.

29.

30. **If applicable** - I freely and voluntarily admit any prior convictions and probation violations that I listed on this form, and I give up my right to a hearing before a judge regarding any probation violations. I understand that these admissions will increase the penalties in my case.

30.

See Reverse Side

CONSEQUENCES OF REVOCATION OF PROPOSITION 36 PROBATION

INITIALS ↓

31. I understand that if my Proposition 36 probation is revoked for any reason, the minimum and maximum sentences for the charged offenses are as follows:

- _____
SECTION NUMBER CUSTODY - MIN. MAX. FINE - MIN. MAX.
OTHER CONSEQUENCES: _____
- _____
SECTION NUMBER CUSTODY - MIN. MAX. FINE - MIN. MAX.
OTHER CONSEQUENCES: _____
- _____
SECTION NUMBER CUSTODY - MIN. MAX. FINE - MIN. MAX.
OTHER CONSEQUENCES: _____
- _____
SECTION NUMBER JAIL - MIN. MAX. FINE - MIN. MAX.
OTHER CONSEQUENCES: _____

31.

32. I understand that in addition to the fine, the Court will add **assessments** which will significantly increase the amount I must pay. _____

32.

OTHER ADVISEMENTS

33. **If applicable** - I understand that if I am convicted of a felony, I have the right to be sentenced within 20 judicial days. If I am convicted of a misdemeanor, I have a right to be sentenced no sooner than 6 hours and no longer than 5 days from the time I enter my plea. I give up this right. _____

33.

34. I understand that a plea of no contest (*nolo contendere*) will have exactly the same effect in this case as a plea of guilty, and it can be used against me in a civil lawsuit unless the offense is punishable only as a misdemeanor. _____

34.

32. **If applicable** - I understand that I have the right to enter my plea before, and to be sentenced by, a judge. I give up this right and agree to enter my plea before, and to be sentenced by:

35.

JUDGE'S NAME

PLEA

36. I hereby freely and voluntarily plead: _____
GUILTY OR NO CONTEST

36.

to: _____
LIST CHARGE(S)

****DEFENDANT'S SIGNATURE:** _____ **DATE:** _____

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ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed the form and any addenda with my client. I have explained each of the defendant's rights to the defendant and answered all of the defendant's questions with regard to this plea. I have also discussed the facts of the defendant's case with the defendant, and explained the consequences of this plea, the elements of the offense(s), and the possible defenses. I concur in this plea and in the defendant's decision to waive his or her constitutional rights, and I stipulate that there is a factual basis for this plea.

SIGNATURE OF DEFENDANT'S ATTORNEY

DATE

INTERPRETER'S STATEMENT (if applicable)

I, having been sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language indicated below. The defendant stated that (s)he understood the contents of the form, and then (s)he initialed and signed the form.

Language: Spanish Other (specify): _____

COURT INTERPRETER'S SIGNATURE

TYPE OR PRINT NAME

DATE

COURT'S FINDINGS AND ORDER

The Court, having reviewed this form and any addenda, and having questioned the defendant, or his or her attorney, concerning the defendant's constitutional rights and the defendant's admission of prior conviction(s) and probation violation(s), if any, finds that the defendant has expressly, knowingly, understandingly and intelligently waived his or her constitutional rights. The Court finds that the defendant's plea(s) and admission(s) are freely and voluntarily made with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea. The Court accepts the defendant's plea(s), the defendant's admission of prior conviction(s) and probation violation(s), if any, and orders this form filed and incorporated in the docket by reference as though fully set forth therein.

 Judge of the Superior Court

DATE