

SUPERIOR COURT OF CALIFORNIA COUNTY OF KINGS



Local Rules of Court (July 1, 2021)

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KINGS COUNTY SUPERIOR COURT – LOCAL RULES

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CHAPTER 1: GENERAL AND ADMINISTRATIVE RULES

RULE 100 – Citation of Rules

These rules shall be known and cited as the “Kings County Local Rules of Court.”

(Eff. 1/1/99)

RULE 101 – Construction, Scope and Effect of Rules

These rules shall govern all proceedings in the Superior Court of the State of California, County of Kings. These rules are designed to promote efficient conduct of judicial business in the Kings County Superior Court and facilitate the administration of justice.

The rules are supplementary to and shall be construed and applied to be compatible with, California statutes, the California Rules of Court or other rules adopted by the Judicial Council of California. When a specific rule or code section referred to in these rules is amended or renumbered, the successor rule or code section shall apply.

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

RULE 102 – Definitions

The definitions set forth in the California Rules of Court and other rules adopted by the Judicial Council shall apply with equal force and for all purposes to these rules unless the context or subject matter herein otherwise requires.

Alternative Dispute Resolution: "Alternative Dispute Resolution" or "ADR" means a process, other than formal litigation, in which a neutral person or persons resolve a dispute or assist parties in resolving their dispute. Examples include mediation, arbitration, neutral evaluation, and mini-trial.

CASA: “CASA” shall refer to any Court Appointed Special Advocate Program established in Kings County in accord with the requirements of California Rules of Court, rule 5.665.

Clerk: “Clerk” means the Clerk of the Court and any deputy clerks.

Complex Litigation: “Complex litigation” means cases that meet the definition of "complex case" found in Rule 3.400 of the California Rules of Court.

Court: “Court” means the Superior Court of the State of California, County of Kings and includes and applies to any duly appointed or elected judge, to any duly appointed commissioner or referee, to any judge or retired judge who has been assigned by the Chairperson of the Judicial Council to serve, and is serving, as a judge of the court, and to any attorney who is a member of the State Bar of

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California designated by the Presiding Judge or any other judge as a temporary judge, while the attorney is serving as a judge.

Court's Website: The court's website is <http://www.kings.courts.ca.gov>.

CPS: “CPS” means the Child Protective Services Division of the Kings County Human Services Agency.

Day or Days: “Day” or “days,” unless otherwise specified, shall mean calendar day or days.

Department: “Department” means either a numbered courtroom or an administrative unit of a division.

Elisor: “Elisor” means any judicial officer appointed to act in the stead of a sheriff when the sheriff and any other authorized official are unable or unqualified to act.

Ex Parte: “Ex parte” means from or on one side only, with the other side absent or unrepresented.

General Civil Case: “General civil case” means a limited or unlimited civil case, except probate, guardianship, conservatorship, family law, juvenile proceeding, other civil petition, complex litigation, unlawful detainer, and small claims cases.

Judgment: “Judgment” includes and applies to any judgment and to any other order or decree from which an appeal lies.

Judicial Council Rules: “Judicial Council Rules” mean any rules heretofore or hereafter adopted by the Judicial Council of the State of California for Superior Courts.

Judicial Officer: “Judicial officer” means any duly appointed or elected judge of the court, any duly appointed commissioner or referee, any judge or retired judge assigned by the Chairperson of the Judicial Council to serve as a judge of the court, and any attorney designated to serve as a temporary judge, while so serving.

Limited Civil Cases: “Limited civil case” means limited civil cases as defined in Code of Civil Procedure section 86.

Meet and Confer: “Meet and confer” means a telephone conference between opposing parties or, whenever reasonably possible, a face-to-face meeting. A meet and confer obligation is not satisfied [only](#) by an exchange of letters.

Paper: “Paper” includes all pleadings, notices, and other documents.

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Party: Unless otherwise indicated, “party” means the party litigant, but if the litigant is represented by an attorney, then “party” means the attorney.

Person: "Person" shall include and apply to corporations, partnerships, proprietorships, associations, and all other entities, as well as natural persons.

Plaintiff: "Plaintiff" means a plaintiff or petitioner; it also means cross complainant in those cases where the plaintiff is no longer an active party.

Presiding Judge: “Presiding Judge” means the elected Presiding Judge of the Court, or the Presiding Judge’s designee.

Short Cause Case: “Short cause case” means any case in which the time estimated for trial by all parties is five (5) hours or less.

Subordinate Judicial Officer: “Subordinate Judicial Officer” refers to court commissioners, referees, and hearing officers.

Unlimited Civil Case: “Unlimited civil case” means a civil action or proceeding other than a limited civil case.

User: “User” refers to any party or non-party to a designated case who has not been excluded.

Vendor: “Vendor” means a private entity approved by the court to provide electronic filing and service. The court is not a vendor. Vendors provide E-Service. The court does not provide E-service.

(Eff. 1/1/99; amended 7/1/11)

RULE 103 – Failure to Comply with Rules

The failure of any person to comply with these rules, unless good cause is shown, or the failure of any person to participate in good faith in any hearing or conference required by these rules, is an unlawful interference with the proceedings of the court. The court may order the person at fault to pay the opposing party’s reasonable expenses and counsel fees, to reimburse or make payment to the county, may order an appropriate change in the calendar status of the case, and impose any other sanctions authorized by law, including dismissal of a pending action. To the extent permitted by law, sanctions may be imposed upon a party, the party’s attorney, or both, as the court deems appropriate under the circumstances.

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

RULE 104 – Court Attire, Conduct, Gang-Related Clothing and Personal Property

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- A. No person shall appear in court barefoot, shirtless, wearing a tank top, wearing sunglasses or dress in any manner reflecting poorly upon the dignity of the court and its decorum. The bailiffs of the court are to remove any person violating this rule. This rule does not limit any judge from additionally prescribing appropriate attire or conduct rules in the courtroom.

No person shall wear gang-affiliated clothing or possess gang-affiliated personal property while inside the courthouse. This includes gang insignias, monikers, color patterns, bandannas, hats, jewelry, clothing, belts, or any item deemed gang-affiliated by court security personnel or law enforcement. Any person identified by court security personnel or law enforcement as wearing or possessing any item in violation of this rule will not be permitted inside the courthouse. Violation of this rule is punishable as contempt pursuant to Penal Code section 166, as well as additional remedies and/or penalties allowed by law.

- B. For reasons of safety and security, all persons appearing before the court are asked to keep their hands in plain sight.
- C. All persons entering the court, Family Court Services Division, or Jury Services area, will be subject to a search. No weapons are allowed within ~~any~~ this court facility, except those legally possessed by judicial officers. Peace officers who are engaged in the duties of their employment while at a court facility will be allowed to possess employer approved firearms and other weapons in a manner consistent with their employment duties, requirements, and limitations.

(Eff. 1/1/99; amended 7/1/08; amended 7/1/19)

RULE 105 – Appearance and Conduct of Counsel

An attorney who appears for another attorney is representing the party before the court. As provided by the California Rules of Professional Conduct such attorney is required to do so competently and is expected to be prepared to perform any duties required by the court, to have authority to make appropriate dispositions or calendar settings, and to communicate any orders the court may issue to the attorney of record.

An attorney shall not accept representation of a client if the attorney does not have sufficient time to adequately prepare before the next scheduled court appearance and shall comply with all applicable case disposition standards unless otherwise ordered by the court.

(Eff. 1/1/99)

RULE 106 – Payment of Fees and Fines

A personal check, bank cashier's check or draft, money order or traveler's check offered in payment of any fee, fine or bail deposit may be accepted by the clerk as follows:

- A. Personal checks must be drawn on a banking institution located in the United States.

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- B. Cashier's checks or money orders may be drawn on any issuing institution located in the United States.
- C. The amount must be the exact amount of the fee, fine, or bail. Change will not be given. The date on the check must not be over one month before the date presented; post-dated checks will not be accepted.
- D. The original payee must be the Clerk of the Kings County Superior Court or its practical equivalent.
- E. Two-party checks are not acceptable.
- F. The numeric figures must agree with the amount written in words. The amount must be designated in U.S. currency.
- G. Any check or money order, which appears irregular on its face, may be refused.
- H. Personal checks from persons known to have previously tendered dishonored checks may be refused.
- I. Checks returned to the court are subject to applicable fees.
- J. Coinage of more than \$50.00 shall be counted and rolled.

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

RULE 107 – Custody of Court Files

- A. No papers, exhibits, or evidence on file with the clerk in any civil or criminal case shall be taken from the clerk's office, except by order of the court or in response to a subpoena duces tecum.
- B. Except as otherwise required by law or order of the court, original documents filed with the Court after November 4, 2014 will be destroyed following their entry into the court's electronic case management system. The electronic record created by the court's electronic maintenance of pleadings and other documents, along with any documents and/or exhibits conventionally maintained by the court, shall constitute the official record of the court for all purposes.

(Eff. 1/1/99; amended 7/1/15)

RULE 108 – Exhibits/Dangerous Evidence

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- A. Evidence admitted in any case before the court will be only those items required in the case and will be retained by the court for the minimum time required by law, unless good cause is shown to retain the evidence. No exhibit will be received by the court if the exhibit poses a security storage, safety, or health problem. A photographic record shall be substituted for said exhibit.
- B. Exhibits which will not be received include, but are not limited to:
1. Any type of explosive powder;
 2. Explosive chemicals, toluene, ethane;
 3. Explosive devices, such as grenades or pipe bombs;
 4. Flammable liquids such as gasoline, kerosene, lighter fluid, paint thinner, ethyl-ether;
 5. Canisters containing tear gas or mace;
 6. Rags which have been soaked with flammable liquids;
 7. Liquid drugs such as phencyclidine (PCP), methamphetamine, corrosive liquids; pyrrolidine, morpholine or piperidine;
 8. Samples of blood, urine, human or animal tissue or other items requiring refrigeration and/or humidity-controlled storage; and
 9. Any controlled substance that requires special destruction under the State of California as being a hazardous material, which would include any cocaine, methamphetamine, or heroin; or any other controlled substance currently being accepted.

All such substances will be returned to the District Attorney's Office or the agency that confiscated the controlled substance and who has presented it as evidence in court in a criminal action or proceeding. It shall be returned by stipulation of counsel as provided in Penal Code section 1417.2.

- C. Unless specifically ordered by the court, all exhibits marked, identified and/or admitted into evidence in a civil case must be retrieved by the offering party at the conclusion of trial. The party introducing the exhibits is responsible for maintaining and preserving the exhibit pending any post-verdict proceedings and appeals, until there is a final disposition of the action or proceeding. All exhibit tags and other identifying markings or information concerning each exhibit must remain in place and not be disturbed.

Each exhibit must remain intact and in the same condition as during trial. In the event further proceedings, or any court having jurisdiction of the matter, require the presence of any exhibit, the

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party introducing the exhibit must promptly deliver the exhibit to the court, with notice to all parties.

(Eff. 1/1/99 as Rule 109; amended and renumbered 7/1/08)

RULE 109 – Sound Recording Evidence/Transcripts to be Offered as Exhibits

Prior to the commencement of any trial or hearing, a typed transcription of any sound recording which counsel expects to offer into evidence as an exhibit shall be prepared at the direction and expense of the proponent of the evidence and shall be certified by the preparer as containing a true transcription of such recorded statement. The proponent of such recording shall prepare enough copies of such transcript for each of the following persons to have a copy: each juror and alternate juror, the judge, each opposing party, each opposing counsel, the court clerk, and the court reporter.

(Eff. 1/1/99 as Rule 110; amended and renumbered 7/1/08)

RULE 110 – Judicial Notice

- A. In addition to complying with the requirements set forth in Rule 3.1306, subdivision (c) of the California Rules of Court, any party requesting that judicial notice be taken of documents in a file in a case in the Kings County Superior Court other than the case in which the motion is brought, shall, at the time of the filing of the motion, notify the clerk of the request and of the name and case number of the file containing the documents requested to be noticed.
- B. Family law matters scheduled to be heard in Department 4 of the Kings County Superior Court are governed by Local Rule 730.

(Eff. 1/1/99; amended 1/1/07)

RULE 111 – Time for Filing

Public service demands upon staff are high and, therefore, all documents must be filed with the court in a timely manner.

All standard filings – All documents will be filed with the date they are submitted or deposited in the court's drop box when received before 4:00 p.m. that day. All documents submitted after 4:00 p.m. will be filed on the next court day.

All filings in connection with next day appearances – All documents in connection with a next day appearance must be submitted to the court no later than 3:00 p.m. the day before the hearing is scheduled.

Criminal filings for *in-custody defendants* approaching a 48-hour deadline for an arraignment and/or probable cause hearing – Hearings scheduled on Monday through Thursday: All documents

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must be submitted to the court no later than 1:00 p.m. Hearings scheduled on Friday: All documents must be submitted to the court no later than 11:00 a.m.

The failure to include sufficient fees, required case-identification information, adequate number of copies and/or supporting documentation with any filing, may result in the court's good cause delay of the filing of the document(s) to the next court day or the date on which the missing information, copies, and/or fees are received. Conformed copies of a filing will not be returned via mail to any individual failing to provide a return envelope with adequate postage thereon.

(Eff. 7/1/08; amended and renumbered 1/1/13; amended 7/1/15; amended 1/1/2021)

RULE 112 – Facsimile Machine (Fax) Filing

The Kings County Superior Court does *not* accept direct facsimile filing of documents.

(Eff. 1/1/08; amended 7/1/08; amended 7/1/19)

RULE 113 – Filing Exhibits to Documents with the Court

- A. All documents filed with the court are entered by staff into its electronic case management system. To facilitate the easy cross-referencing of exhibits, all pleadings, motions, declarations, and other documents filed with the court must individually designate and separate each exhibit through the use of a single 8 1/2" by 11" page with the exhibit designation set forth thereon in type not smaller than 12 points. *For example:* EXHIBIT 1
- B. All pleadings, motions, declarations, and other documents filed with the court which include attached exhibits must be numbered sequentially beginning on page 1 of the motion, declaration or pleading, and continuing in order until the last page of the last exhibit attached thereto. Exhibit designation pages shall be included in the sequential numbering.
- C. Exhibit stamps should not be used to create the exhibit designation. Exhibit designators must be typewritten or handwritten, as stamps are not able to be searched by optical character recognition (OCR).
- D. Since they cannot be easily scanned into the court's electronic case management system, exhibit tabs should not be used to separate exhibits from pleadings, motions, declarations or other documents.
- E. All pleadings, motions, declarations, and other documents filed with the court which include more than one attached exhibit must include an index which sets forth a description of the exhibit, its exhibit designation, and its page number. *For example:*

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Description	Location	Page
Contract	Exhibit 1 to Declaration by John Doe	23
Statement	Exhibit 2 to Declaration by John Doe	25

The index should be located immediately before the first exhibit designation page and included in the sequential numbering provided for in paragraph (B).

(Eff. 7/1/15)

RULE 114 – Stipulation or Objection to Superior Court Commissioner

- A. General civil, probate, ex parte orders and writs, bonds and undertakings, arraignments, bench warrants, conservatorships, juvenile, civil petitions, unlawful detainer, traffic and/or small claims matters are routinely assigned to a Superior Court Commissioner. As to those matters where the commissioner will be acting as a temporary judge, the parties must stipulate to the assignment. Any failure to object to the assignment of a commissioner acting as a temporary judge prior to the beginning of the proceeding is deemed a stipulation to the assignment until final determination of the cause. Once given in writing, implied by conduct or orally stated on the record, a stipulation can only be withdrawn as set forth in California Rules of Court, rule 2.816(e).
- B. If a party objects to having a proceeding heard by a commissioner acting as a temporary judge, the matter will be re-assigned and continued to the next available calendar date. To avoid the undue consumption of judicial resources and to minimize the inconvenience to the litigants, parties are advised to file and serve any objection to the assignment of a commissioner acting as a temporary judge, at least five (5) court days before the scheduled proceeding.

(Eff. 7/1/08)

RULE 115 – Filing of Documents for Ex Parte Hearings

Parties wishing to obtain an ex parte order from the court in any civil, criminal, or other matter should file all documents at least two (2) court days prior to the scheduled hearing, but no later than 9:00 a.m. on the court day prior to the intended hearing. Late submitted ex parte papers will be accepted for filing and presentation to the appropriate judicial officer. However, parties are advised that the late submittal of documents, especially in matters to be heard in a division different from the location of filing, may cause the hearing and/or decision thereon to be delayed to the next court day. For filing of ex parte requests in family law matters, reference Local Rule 707.

(Eff. 7/1/08; amended 7/1/20)

RULE 116 – News and Media

The court has adopted a Media Plan for High Profile Cases at the Kings County Superior Court. All media personnel are expected to comply with the rules, requirements, and limitations set forth therein.

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A copy of the Media Plan is available on the court's website at:
<https://www.kings.courts.ca.gov/documents/kings/MediaPlan2018.pdf>.

(Eff. 1/1/09; amended 7/1/21)

RULE 117 – Use of Computers, Electronic Equipment, and Recording Devices

- A. This rule is for the protection of the public, all parties, and court personnel to facilitate the fair and orderly resolution of cases. This rule is subject to modification based upon the specific circumstances and the discretion of an individual judicial officer in the judicial officer's courtroom, the supervising judge of a division, or the Assistant Presiding Judge in the event of the unavailability of the Presiding Judge.
- B. All personal computers, tablets, cellular phones, pagers, wearable electronic devices, digital cameras, wearable cameras, recording devices, and all other electronic devices capable of visual and/or audio recording, forwarding of communications to other electronic devices and/or the transmission of information through the internet or by other digital means ("electronic device"), must be turned off and stored prior to entering the courtroom and must remain turned off at all times while inside the courtroom. Any electronic device that disrupts the proceedings or is used/possessed in violation of the rule, shall be subject to confiscation by the bailiffs of the court.
- C. No one may engage in photographing, recording, broadcasting, or activating any camera, microphone, recorder, or broadcasting device in the courtroom or court except as permitted by California Rules of Court, rule 1.150, or as authorized by judicial order or security personnel. For purposes of this subdivision, "court" includes all entrances, exits, lobbies, security checkpoints, hallways, elevators, stairwells, [jury assembly rooms](#), [Family Court Services](#), [self-help center](#), [file viewing rooms](#), and [customer service windows](#).
- D. Those individuals who are parties to a hearing, trial or other court proceeding who require the use of electronic devices during their matter, including those individuals wishing to utilize the court's wireless internet connection system, must be granted permission by the presiding judicial officer or his/her agent. Where permission has been given in connection with a specific action or proceeding, electronic devices must be turned off and stored immediately upon completion of the relevant matter. Except as allowed by the presiding judicial officer or his/her agent, electronic equipment may not be used to create a visual or audio recording or record of the proceedings before the court.
- E. Individuals selected to serve as jurors in a civil or criminal trial may not utilize electronic devices inside the courtroom and jury deliberation room. Consistent with the individual preference and policy of each presiding judicial officer, cell phones, and other electronic equipment may be subject to collection from jurors prior to their entry into the courtroom and jury deliberation room. Any juror found to be operating electronic equipment in violation of this rule and/or the advisements of the court, is subject to exclusion and those additional remedies and penalties allowed by law.

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- F. Any individual failing to comply with this rule and/or otherwise determined by the presiding judicial officer to be acting in a manner that is disruptive of the proceedings, may be subject to additional use restrictions, those penalties set forth in Kings County Local Rule 103, exclusion/removal from the courtroom until their individual matter is called, and/or confiscation of electronic devices by the bailiffs of the court. Electronic devices confiscated by a bailiff will not be released until completion of the court's calendar.
- G. This rule does not prohibit law enforcement personnel from the wearing and use of department-issued dispatch radios of the type commonly worn by on-duty corrections, police, and sheriff department officers during appearances before the court.
- H. This rule shall not preclude any law enforcement officer from taking appropriate steps to ensure the orderly and peaceable conduct of court business, including the recording of criminal activity in progress. A law enforcement officer's use of a body camera for passive recording is allowed provided it is in conformity with agency policies and the camera is set to automatically overwrite data within the timeframe prescribed by the officer's department standards.
- I. This rule does not prohibit the use of portable scanners, cameras, or copiers, provided such devices are used solely for the permissive purpose of imaging documents consistent with these rules or by order of a judicial officer.
- J. Where such procedures conflict with this rule, media personnel shall be governed by the terms and conditions of the courthouse and Courtroom Media Plan for the Kings County Superior Court.
- K. This rule shall not apply to court employees as directed by the Presiding Judicial Officer and/or the Executive Officer of the Court.

(Eff. 7/1/09; amended 7/1/19)

RULE 118 – Color of Print/Original Signatures

- A. Handwriting and hand printing on all papers filed with the court must be in black or blue-black ink. (Cal. R. Ct., rule 2.106)
- B. To avoid uncertainty as to the original nature of any signature on a document presented for filing, it is the preference of the court and its judicial officers that signatures be scribed in blue ink of a permanent nature. It is also the preference of the court and its judicial officers that signatures be written using non-gel pens.
- C. Although the clerk may not reject for filing any document which fails to comply with this rule (Cal. R. Ct., rules 2.118, 2.135), the clerk reserves the right to reject the filing of any document that is rendered illegible by the color of ink used. The clerk may delay, pending confirmation from

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the submitting party, the filing of any document where the original character of a signature is in doubt.

(Eff. 1/1/10; amended 7/1/20)

RULE 119 – Notice of Unavailability of Counsel

- A. Notices of unavailability pursuant to *Tenderloin Housing Clinic, Inc. v. Sparks* (1992) 8 Cal.App.4th 299 are not statutorily binding on the court. Although *Tenderloin* compliant notices may provide recourse against a party to whom the provisions of the case are intended to apply, they do not preclude an otherwise calendared court proceeding. Therefore, absent a modifying order, all parties shall appear on all dates for which their presence has been noticed via order of the court.
- B. Any party causing a *Tenderloin Housing Clinic* notice to be filed with the court must include thereon the case number of *each* active case to which it is intended to apply.

(Eff. 7/1/10)

RULE 120 – Record on Appeals to the Appellate Division

California Rules of Court allow a superior court in its local rules to provide that the original trial court file may be used instead of a clerk's transcript on appeals to the appellate division of the superior court in limited civil appeals [8.830(a)(1)(B); 8.833], in appeals from a misdemeanor conviction [8.860(a)(1)(B); 8.863] and in appeals from infractions [8.910(a)(1)(B); 8.914]. Pursuant to the forgoing Rules of Court, the court elects to use the original trial court file instead of the clerk's transcript as the record of the written documents from the trial court proceedings in appeals to the appellate division of the superior court.

(Eff. 7/1/10)

RULE 121 – Complaints Concerning Subordinate Judicial Officers

- A. All complaints against Subordinate Judicial Officers ("SJOs") and Temporary Judges ("Pro Tems") shall be submitted in writing. The court has adopted local procedures for the processing of complaints against SJOs and Pro Tems for conduct that does not fall within the jurisdiction of the Commission on Judicial Performance. A copy of such local procedures and an optional complaint form may be obtained from the Administrative Office of the Kings County Superior Court, 1640 Kings County Drive, Hanford, California 93230.
- B. Complaints must include the name, mailing address and contact information for the Complainant. Complaints should be addressed as follows:

Kings County Superior Court

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Attn: SJO/Pro Tem Program
1640 Kings County Drive
Hanford, California 93230

- C. All complaints alleging conduct that is within the jurisdiction of the Commission on Judicial Performance will be processed in accord with California Rules of Court, Title Ten, Judicial Administration, Chapter 2, Trial Court Management of Human Resources, rule 10.703. Rule 10.703 may be found on-line at the Judicial Council's website www.courtinfo.ca.gov/rules.

(Eff. 7/1/11; amended 7/1/16)

RULE 122 – Mandatory Local Forms

Where a mandatory local form has been adopted or revised in accord with the requirements of California Rules of Court, rule 10.613, failure of a party to file or submit the form as directed may result in delayed processing of pleadings or other documents, sanctions and/or dismissal of the action.

(Eff. 7/1/11)

RULE 123 – Appointment of Medical Examiners

- A. The court appoints medical examiners and/or mental health experts for reports or testimony as provided by law. When the need for this arises, the court will appoint from the approved List of Medical Examiners/Mental Health Experts for the Kings County Superior Court. Individuals wishing to be included on the court's List of Medical Examiners/Mental Health Experts, must complete, and submit a Medical Provider/Expert Certification. The Certification is available through the court's website or may be obtained from the office of the Court Executive Officer.

The completed Certification shall be forwarded to:

Kings County Superior Court
Attention: Court Executive Officer
1640 Kings County Drive
Hanford, California 93230

- B. The court may, for good cause, appoint an expert not on its approved List of Medical Examiners/Mental Health Experts.
- C. Upon receipt of a medical examiner's certificate and all supporting documents, the court will confirm that the examiner's license is valid and in good standing with appropriate licensing agencies. If the applicant's license is in good standing, the certificate and supporting documents will be forwarded by court administration to each bench officer for review. Bench officers will

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thereafter forward to court administrators, all comments, and objections that they may have to the examiner's inclusion on the court's approved List of Medical Examiners/Mental Health Experts.

- D. The Presiding Judge shall make the final determination as to which individuals appear on the court's approved List of Medical Examiners/Mental Health Experts.
- E. All medical examiners and mental health experts applying for inclusion on the court's List of Medical Examiners/Mental Health Experts, shall be advised in writing by court administration of the final determination of the Presiding Judge. Court administration shall retain proof in writing that the examiner was provided with such notice.
- F. It is the responsibility of all individuals appearing on the approved List of Medical Examiners/Mental Health Experts, to update court administration regarding any changes/amendments to licensing status, contact information, or other information included on their certificate.
- G. The court's approved List of Medical Examiners/Mental Health Experts shall be updated and distributed to all bench officers and appropriate court staff at an interval of not less than once per year. The list may, however, be updated more frequently as is deemed appropriate to provide bench officers and staff with information relevant to the appointment of experts in pending legal matters.
- H. Medical examiner/mental health expert appointments made by the court are made on a rotational basis unless the judicial officer presiding over a case determines that good cause exists for deviation from the rotation.

(Eff. 1/1/13; amended 7/1/16)

RULE 124 – Pleadings Prepared by Third Parties

- A. Parties who retain the services of third parties (*e.g.*, typing services or paralegals) to prepare their pleadings, must provide the court with the following information concerning the third-party preparer.
 - 1. Name, including Doing Business As (DBA);
 - 2. Legal Document Assistant (LDA) number;
 - 3. Address; and,
 - 4. Telephone number.
- B. Third-party preparer information must be stated in the caption area of the prepared document or, in the case of Judicial Council Forms, the area designated for such information.
- C. This rule applies to all pleadings, including Judicial Council Forms. If a Judicial Council Form does not provide sufficient space to set forth the required information, parties must include the

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name of the preparer on the face of each prepared pleading. The remaining information required by this Rule may be submitted via a simultaneously filed declaration.

(Eff. 1/1/14; renumbered 1/1/21)

RULE 125 – Electronic Filing (E-Filing) Rules

A. GENERAL RULES

The Superior Court of California, County of Kings allows the electronic filing of documents in accordance with Code of Civil Procedure section 1010.6 and California Rules of Court, rules 2.255 et seq.

Electronically transmitted documents must be both submitted to the court and accepted for filing by the court in order to be considered duly filed with the court in accordance with these rules.

1. A document that is filed electronically shall have the same legal effect as an original paper document.
2. When a document to be filed requires the signature of any person, not under penalty of perjury, the document shall be deemed to have been signed by the person who filed the document electronically.
3. ~~When a document to be filed requires the signature, under penalty of perjury, of any person, the document shall be deemed to have been signed by that person if filed electronically and if either of the following conditions is satisfied: (i) The person has signed a printed form of the document before, or on the same day as, the date of filing. The attorney or other person filing the document represents, by the act of filing, that the declarant has complied with this section. The attorney or the other person filing the document shall maintain the printed form of the document bearing the original signature until the final disposition of the case, as defined in subdivision (c) of Section 68151 of the Government Code, and make it available for review and copying upon the request of the court or any party to the action or proceeding in which it is filed; or (ii) The person has signed the document using a computer or other technology pursuant to the procedure set forth in a rule of court adopted by the Judicial Council.~~ A party who electronically files a document represents that a signed copy of the document is in his or her possession or control. At any time after filing or service of an electronically filed document, the court, or any party to the action, may require the filing party to produce the signed copy of the electronically filed document. The demand shall be served on all other parties but shall not be filed with the court.
4. Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Any document that is received electronically on a non-court day shall be deemed filed on the next court day. The court will issue a confirmation that the document has been received and filed. The confirmation shall serve as proof that the document has been filed.

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5. Upon electronic filing of a complaint, petition, or other document that must be served with a summons, a trial court, upon request of the party filing the action, shall issue a summons with the court seal and the case number. The court shall keep the summons in its records. Personal service of a printed form of an electronic summons shall have the same legal effect as personal service of an original summons.
6. The court shall permit a party or attorney to file an application for waiver of court fees and costs, in lieu of requiring the payment of a filing fee, as part of the process involving the electronic filing of a document. Nothing in this section shall require the court to waive a filing fee that is not otherwise waivable.
7. A party that is otherwise required to file and serve documents electronically may be excused from the requirements if the party shows undue hardship or significant prejudice. A written request for exemption which sets forth verified facts demonstrating undue hardship or significant prejudice must be filed at the time of initial appearance in the case and served along with the party's initial pleading. Written requests for exemption submitted after the filing of a party's initial pleading must be based upon new or additional facts unknown to the party at the time of first appearance. The requesting party shall lodge a proposed order with the court. The court may summarily grant or deny the request based upon the facts set forth by the requesting party or, where additional information is required, schedule the matter for hearing. However, in the absence of a judicial order granting exemption from these rules, all parties to whom this rule applies must comply with its provisions.
8. Unrepresented persons are exempt from mandatory electronic filing and service.

B. MANNER OF FILING

1. The electronic filing of documents must be affected using the court's electronic service providers ("Vendor"). Vendor information is available on the court's website. The Vendor will assign a confidential username and password to each party representative, which will be used to file, serve, and receive pleadings, orders, and other documents electronically filed in the case. No attorney or party representative may knowingly or recklessly authorize or permit his/her username or password to be utilized by anyone other than the authorized attorneys or employees of the attorney's law firm.
2. All electronically filed documents, to the extent practicable, must be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in such other or further format as the court may require. The document title entered on the e-filing system must be the same as that reflected in the caption of the document.

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3. All documents, papers or pleadings directly related to a previously filed document, paper or pleading must include a caption reference to the previously filed document, paper, pleading or motion. *For example:*

JOHN DOE,
Plaintiff

v.

JANE DOE,
Defendant

No. 15C0000

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT BY DEFENDANT

4. The following types of documents may or must be filed conventionally unless otherwise required by the court:
- A. A motion to file documents under seal must be filed electronically. Sealed documents must be filed and lodged conventionally.
 - B. Exhibits to declarations or other documents that are non-text articles, physical objects, or other documents not readily susceptible to electronic filing may be filed or lodged conventionally and in accordance with the direction of the clerk. A notice of such filing must be filed and served electronically.
 - C. Documents served by hand in open court during trial (including motions, memoranda of points and authorities, and other matters presented to the court in writing for decision) may be served conventionally. The document and proof of service must be e-filed before the close of business on the court day following service by hand in open court. In addition, the proof of service must reference the date the document was originally served in open court.
 - D. Requests for exemption from the court's e-filing requirements and, when filed simultaneously with such request, a party's initial pleading or initial responsive pleading in a case.
5. All electronically filed documents must be formatted in a manner that allows the court and its judicial officers to conduct word searches of the text.

C. MANDATORY CIVIL ELECTRONIC FILING (E-FILING)

Effective July 1, 2021, the court will no longer accept filing in the Civil Division in any manner other than Electronic Filing. Documents can be filed online by going to:

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<https://www.kings.courts.ca.gov/online services/index.htm>

1. Electronic filing in the Civil Division of Kings County Superior Court is mandatory.
2. Self-represented parties are exempt from the mandatory electronic filing pursuant to California Rules of Court, rule 2.253(b)(2).
3. Refer to the court's website for information regarding documents exempt from this requirement.

D. TECHNICAL PROBLEMS

1. At certain times, unexpected technical problems may temporarily preclude a User from electronic filing or serving one or more documents. Only those unexpected technical problems occurring at the fault of the Vendor or the court will provide "good cause" for an automatic one court day extension of an electronic filing or service deadline. In such circumstances, the document must be served or filed on the next court day; electronically or, if the system remains inoperable, by conventional means.
2. Maintenance or other system issues requiring a period of inoperability of the electronic system for which notice has been posted by the Vendor or on the court's website, does not provide "good cause" for an automatic extension of any filing or service deadline. During noticed periods of inoperability, documents may be filed by conventional means.
3. Technical errors on the part of the User do not provide "good cause" for an automatic one (1) court day extension of relevant electronic filing or service deadlines, nor an excuse from e-filing requirements. Users are encouraged to take appropriate steps to avoid last-minute filings and service. Counsel error in connection with e-filing requirements must be addressed under California Code of Civil Procedure section 473, subdivision (b).

E. OBLIGATION TO KEEP INFORMATION CURRENT

A party whose electronic notification address changes while the action or proceeding is pending must promptly file a notice of change of address with the court electronically and must serve this notice on all other parties or their attorneys of record. An electronic notification address is presumed valid for a party if the party files electronic documents with the court from that address and has not filed and served notice that the address is no longer valid.

F. RESPONSIBLE FOR REDACTION

The responsibility for redacting personal identifiers and privileged or confidential information rests solely with counsel and the parties. The clerk will not review each pleading or other paper for compliance. The court may impose sanctions for violation of these requirements.

G. CONFIRMATION OF RECEIPT OF LODGED AND FILED DOCUMENTS

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Vendor is hereby appointed the agent of the clerk as to the electronic filing, receipt, service and/or retrieval of any document in the e-file system. Vendor must promptly send Users confirmation of the receipt of any document that Users have transmitted to Vendor for filing or lodged with the clerk. Such confirmation must indicate the date and time of receipt stated in Pacific Time. The clerk must review the document and transmit to the Vendor confirmation that the document has been reviewed, accepted, or rejected by the clerk. The clerk must electronically endorse any document accepted for filing in accordance with California Rules of Court, rule 2.259(e), or must promptly transmit the clerk's notice of rejection or amendment to the User through Vendor.

H. PAYMENT OF STATUTORY FILING FEES

Vendor is hereby appointed as the agent of the clerk with respect to collecting statutory filing fees for any electronically filed document. Each User must pay all required filing fees for electronically filed documents to Vendor. Vendor must remit filing fees to the clerk. At such time, those fees are the sole property of the clerk of the Superior Court of California, County of Kings. All requests for refunds of filing fees must be addressed to the clerk and may be submitted electronically in the manner prescribed by the clerk.

I. OFFICIAL RECORD OF THE COURT

The electronic record created by the electronic filing or maintenance of pleadings and other documents, along with any documents and/or exhibits conventionally filed and/or maintained by the court, shall constitute the official record of the court for all purposes.

J. FAILURE TO COMPLY

Any document which fails to comply with this Rule, California Rules of Court, rule 2.250, et. seq., California Code of Civil Procedure section 1010.6, and all other applicable statutes and/or rules, may not be considered by the court.

(Eff. 10/1/14; amended 7/1/18; amended and renumbered eff. 7/1/2021)

RULE 126 – Submission of Documents for Filing

- A. Except as otherwise ordered by a judicial officer, parties may not submit documents to courtroom clerks and/or judicial officers for filing. All documents to be filed with the court must be submitted via the Clerk's Office or the court's electronic filing system.
- B. Documents allowed by a judicial officer to be submitted for filing in a courtroom may experience a delay in being entered into the court's electronic records system. The providing of conformed copies may also be delayed.

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C. Regarding conventionally filed documents:

1. All documents must comply with the requirements of California Rules of Court, rule 2.100, et seq., and be in a condition which allows them to be scanned into the court's electronic case management system. Light-colored pencil writings, physical objects, pages measuring more or less than 8 ½" x 11" and, without limitation, pages which have been excessively folded or creased, are generally unable be entered into the court's electronic system.
2. To facilitate the easy cross-referencing of exhibits, all pleadings, motions, declarations, and other documents filed with the court must individually designate and separate each exhibit using a single 8 1/2" by 11" page with the exhibit designation set forth in the middle of the page in type not smaller than 12 points. For example: EXHIBIT 1
3. All pleadings, motions, declarations, and other documents filed with the court which include attached exhibits must be numbered sequentially beginning on page 1 of the motion, declaration or pleading, and continuing in order until the last page of the last exhibit attached thereto. Exhibit designation pages shall be included in the sequential numbering.
4. Exhibit stamps should not be used to create the exhibit designation. Exhibit designators must be typewritten or handwritten, as stamps are not able to be searched by optical character recognition (OCR).
5. Since they cannot be easily scanned into the court's electronic case management system, exhibit tabs or other dividers which cause the page to exceed 8½" x 11" should not be used to separate exhibits from pleadings, motions, declarations, or other documents.
6. All pleadings, motions, declarations, and other documents filed with the court which include more than one attached exhibit must include an index which sets forth a description of the exhibit, its exhibit designation, and its page number. *For example:*

Description	Location	Page
Contract	Exhibit 1 to Declaration by John Doe	23
Statement	Exhibit 2 to Declaration by John Doe	25

7. The index should be located immediately before the first exhibit designation page and included in the sequential numbering provided for in paragraph (3).
- D. Conventionally filed documents failing to comply with these rules may result in the delayed entry of the document into the court's electronic case management system and/or may not be considered by the court.
- E. Documents electronically filed with the court must comply with the requirements set forth in Local Rule 126.

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(Eff. 7/1/15; as amended, 7/1/16; renumbered eff. 1/1/21; amended 7/1/21)

RULE 127 – Interlineation of Documents

No complaint, information, petition, application, or other document may be amended by interlineation. Unless specifically allowed by a judicial officer, changes to documents must be made via the filing of an amended pleading or document.

(Eff. 1/1/15; renumbered 1/1/21)

RULE 128 – Proposed Orders

- A. Any proposed order submitted to the court must be submitted as a stand-alone document. This rule does not apply to Judicial Council Forms.
- B. It is the policy of the Kings County Superior Court not to sign orders or judgments unless some portion of the text of the order or judgment appears on the page to which the judicial officer's signature is affixed, so that the connection between the signature page and the remainder of the order or judgment is apparent.
- C. Proposed orders submitted after an opposed motion in a civil case shall comply with California Rules of Court, rule 3.1312 and Local Rule 306.

(Eff. 1/1/99; amended 7/1/17; amended 7/1/2020; renumbered 1/1/21)

RULE 129 – Copies of Court Documents

- A. Non-confidential documents contained within a public court record may be viewed and copied upon request. Case number and title information can be located using the computers available in the viewing rooms of both the Civil and Criminal Divisions of the clerk's office or via the Search Case Index link available on the court's website.
- B. The court accepts mailed requests for copies of public documents, provided the request clearly sets forth: (1) the date (if known) and title of the document sought to be copied, and (2) the number and name of the case in which the document is located. Any mailed request for copies must be accompanied by a self-addressed envelope with adequate return postage pre-paid thereon and a form of payment sufficient to cover all costs incurred in the location and copying of the requested documents. The court does not accept facsimile requests for documents from private individuals or companies.
- C. If an envelope or file is stamped "Confidential" it may not be viewed without an order from the court. Parties to a case may inquire with the clerk's office regarding their ability to view or obtain copies of confidential cases or documents.

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- D. ~~A portion of the court's records are stored off-site and are otherwise not available for regular viewing or copying via the court's electronic case management system. As a result, on occasion public requests for viewing or copying of documents may not be able to be immediately satisfied by staff. In such instances, the court will provide access to the documents/copies within ten (10) court days.~~
- E. The court reserves the right to place reasonable limitations on the number of record inspections or requests for copies which can be performed by staff for a single individual or entity at a time. The court also reserves the right to place reasonable limitations on the days and hours during which large copying requests may be completed.
- F. The cost for obtaining a copy of any public court document is 50¢ per page for a one-sided document, \$1.00 per page for a two-sided document, \$40.00 per document for a certified document, and \$15.00 for a certified copy of a final judgment for dissolution of marriage. The court reserves the right to modify such charges consistent with relevant statutes and rules.
- G. The fee for a search of records or files conducted by a court employee that requires more than ten minutes is fifteen dollars (\$15) for each search. The court reserves the right to modify the amount charged to the public as consistent with any amendment of California Government Code section 70627(c).

(Eff. 1/1/18; amended 7/1/20; renumbered 1/1/21; amended 7/1/21)

(RULES 130 - 199 Reserved)

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CHAPTER 2: ADMINISTRATION OF CIVIL CASES

RULE 200 – Applicability

Unless otherwise specified, the provisions of this Chapter shall apply to all general civil cases, as defined in Rule 102.

(Eff. 1/1/99)

RULE 201 – Case Disposition Time Standards

The Kings County Superior Court adopts the case disposition time standards set forth in sections 2.1 and 2.2 of the California Standards of Judicial Administration and the Economic Litigation Act.

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

RULE 202 – Service of Summons and Filing of Proof of Service

- A. The plaintiff or cross-complainant shall serve the summons and complaint or cross-complaint together. ~~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.~~
- B. The plaintiff or cross-complainant shall serve the complaint or cross-complaint and file a proof of service within sixty (60) calendar days of filing the complaint or cross-complaint.
- C. 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.
- D. 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.
- E. 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.

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

RULE 203 – Uninsured Motorist Cases

An action for personal injury or property damage against an uninsured defendant may be designated an “uninsured motorist case” upon application or declaration of the plaintiff filed at the time of filing the complaint or at any time thereafter. Said application or declaration should state the following:

- A. All of the named defendants are believed to be uninsured and the action is filed to protect the running to the statute of limitations in the event that insurance is later discovered or plaintiff, after filing the action, has learned that all of the defendants are uninsured;
- B. In resolving the case with the defendants, it has been determined that defendants were underinsured within the meaning of plaintiff’s policy, which provides underinsured motorist coverage; and
- C. Plaintiff is proceeding in action with his or her insurer under the insured or underinsured motorist provision of the insurance policy and does not intend to proceed in the action against the uninsured defendants.
- D. Upon the filing of such an application or declaration by plaintiff, the court shall designate the case an uninsured motorist case and shall place it on a review calendar. Further, plaintiff need not comply with Rule 202 upon said designation. Plaintiff shall file with the court a certificate of progress every ninety (90) days, advising the court of the status of his claim against his insurer and the progress of the arbitration proceeding, if any.
- E. If plaintiff’s claim against his insurer is not resolved within one (1) year of the filing of the action, the court may require plaintiff or plaintiff’s counsel to appear for a hearing to determine when the matter will be resolved and/or if the action should be dismissed or reclassified as general civil litigation.

(Eff. 1/1/99 as Rule 202.5; renumbered 7/1/08)

RULE 204 – Tracking Cases

All pending cases shall be calendared for a future event. No pending case shall go off calendar without a future event being set.

(Eff. 7/1/08)

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RULE 205 – Case Management Conference

- A. At the time the complaint is filed, the clerk will issue a Notice of Case Management Conference to plaintiff, designating a date for a Case Management Conference that is no less than 120 days after the filing of the complaint. Plaintiff shall serve a copy of the Notice of Case Management Conference on each defendant along with the summons and complaint.
- B. Any party who files and serves a cross-complaint prior to the Case Management Conference shall serve on each cross-defendant who is a new party to the action, a copy of the Notice of Case Management Conference along with the summons and cross-complaint. If a new cross-defendant is served after the initial Case Management Conference, the cross-complainant shall serve the new cross-defendant with notice of any pending Case Management Conference, any assigned trial or settlement conference dates, and any other dates set by the court or orders made at the Case Management Conference.
- C. If the plaintiff adds a new defendant or identifies a fictitiously named defendant after the initial Case Management Conference, along with the summons and complaint, plaintiff shall serve the newly named defendant with notice of any pending Case Management Conference, any assigned trial and settlement conference dates, and any other dates set by the court or orders made at the Case Management Conference.
- D. Proof of service of notice of a Case Management Conference shall be filed with the court within sixty (60) days from the date the complaint is filed and may be included in the proof of service of the summons and complaint or cross-complaint.
- E. All parties are required to appear at the Case Management Conference. Unless the court determines otherwise, all cases except complex litigation are deemed at issue and will be assigned a date for trial, mandatory settlement conference, and trial readiness hearing.
- F. At the Case Management Conference, the court may make such orders as the court deems appropriate including, but not limited to, setting a further Case Management Conference, setting deadlines for the completion of discovery and pre-trial motions, scheduling a dismissal hearing, and/or imposing sanctions, including dismissal of the case.
- G. A Case Management Conference will be taken off calendar only if the case has been disposed of or has received a trial date prior to the Conference. For purposes of this rule, a case is disposed of if a judgment or dismissal of the entire action has been filed. If the case has been stayed or a notice of conditional settlement has been filed, the Conference will be continued. If any of these conditions have been met, it is the responsibility of the parties to notify the clerk in writing and ask that the Conference be taken off calendar or continued.

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- H. Failure to timely file and serve a Case Management Statement may result in the imposition of sanctions by the court.

(Eff. 1/1/99 as Rules 204; amended and renumbered 7/1/08)

RULE 206 – Complex General Civil Cases

Complex general civil cases shall be exempt from the court's policy to dispose of all general civil cases within twenty-four (24) months after filing. Upon the court's finding of exemption, the court shall establish a regular monitoring program for the case to assure that it is progressing to a disposition in a timely fashion consistent with its particular needs.

(Eff. 1/1/99 as Rule 206; amended and renumbered 7/1/08)

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. 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.

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- 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. 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.
- G. 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)

RULE 208 – Continuances

- A. No time standard or deadline specified in these rules, nor any schedule, date, time limitation or other requirement imposed by any order made pursuant to these rules may be modified, extended, or voided by any stipulation or agreement of the parties unless a written order approving it is obtained from the court. Continuances, extensions, or modifications may be obtained by noticed motion or ex parte application, on a showing of good cause.
- B. No trial date may be vacated or continued, except for good cause upon a duly noticed motion in a manner consistent with the provisions of California Rules of Court, rules 3.1332 and 3.1335.

(Eff. 1/1/99 as Rule 212; amended and renumbered 7/1/08)

(RULES 209 - 299 Reserved)

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CHAPTER 3: CIVIL LAW AND MOTION

RULE 300 – Applicability of Chapter

This chapter is applicable to all non-criminal and non-family law cases.

(Eff. 1/1/99)

RULE 301 – Setting Law and Motion Hearing

Prior to the filing of any law and motion matter, a date and time for hearing shall be reserved with the clerk. Matters will be formally set by the clerk for hearing upon receipt of a notice of motion and supporting documents, with the hearing date and time specified in accordance with the date and time reserved. Motions received without prior reservation with the clerk, shall be set in accordance with the convenience of the court.

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

RULE 302 – Moving Party’s Duty to File Proof of Service

Failure to timely file such proof of service in accordance with California Rules of Court, rule 3.1300, may result in the matter being dropped from calendar or continued, at the court’s option, as well as an order for sanctions payable to other parties inconvenienced by the offending party. This rule does not apply to ex parte matters.

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

RULE 303 – Taking Law and Motion Hearing Off Calendar

- A. Unless otherwise ordered by the court, any moving party who wishes to have a law and motion matter taken off calendar shall give written notice to all parties and shall notify the clerk and assigned judge in writing at least five (5) court days before the scheduled hearing date with proof of notification to all parties. Proof of notification to all parties may be made by proof of service by mail, or by letter indicating that a copy thereof has been sent to all parties and that all parties have also been notified by telephone, or by a declaration indicating when, and in what manner, notice was given to all parties.
- B. A law and motion matter may also be taken off calendar by stipulation of the parties, with written notice received by the court at least five (5) court days before the scheduled hearing.
- C. Within five (5) court days of the hearing, permission to take the matter off calendar must be obtained from the assigned judge, upon request of all parties in person, by conference call, or in writing.

(Eff. 1/1/99)

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RULE 304 – Continuing a Law and Motion Hearing

Any request for continuance of a law and motion hearing shall be made by stipulation or motion setting forth good cause before the assigned judge at least five (5) court days before the scheduled hearing with proof of notification to all parties.

(Eff. 1/1/99)

RULE 305 – Telephonic Appearances

- A. General Policy – For a fee, any party may appear telephonically with prior approval of the assigned court. “Court Call” [(888) 882-6878], a private vendor, is available in all departments, but its ability to be utilized by a party is dependent upon the individual policies and preferences of the assigned judicial officer. Whether or not to use “Court Call,” and whether a conference call is necessary, shall be determined at the time of preapproval. Additional information about telephonic appearances can be obtained from the court’s website or the court clerk.
- B. Incarcerated Individuals – Due to security, transportation costs, and staffing considerations, it is the standing order of the court that civil litigants under the custody of the California Department of Corrections and Rehabilitation are to appear at all pre-trial hearings by telephone. The assigned judicial officer may alter this standing order in his or her discretion for good cause shown. This rule does not apply to proceedings under California Penal Code section 2625.

At the time a civil law and motion matter is filed, an order for telephonic appearance by an inmate will be issued and served by the court clerk on the litigants and the litigation coordinator at the prison facility where the litigant in custody is housed. The order allowing a telephonic appearance by the litigant in custody will contain instructions on how to place the conference call into the court. It may be necessary for the court clerk to select a hearing date that differs from the requested date on the pleading when the inmate is the moving party. The hearing date on the order for telephonic appearance will take precedence over any other date that may appear on the pleadings.

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

RULE 306 – Preparation and Approval of Orders

- A. Unless the parties waive notice or the court orders otherwise, the party prevailing on any motion must prepare, serve, and file the proposed order in the manner provided for in California Rules of Court, rule 3.1312.
- B. For purposes of compliance with California Rules of Court, rule 3.1312(c)(2), copies of orders shall be submitted to: efile@kings.courts.ca.gov.
- C. Once signed, orders submitted to the court pursuant to California Rules of Court, rule 3.1312 will be returned only to the submitting party. It is the responsibility of the submitting party to serve all

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other parties with a copy of the executed order via Notice of Entry of Judgment or Order (CIV-130).

- D. It is the policy of the Kings County Superior Court not to sign orders or judgments unless some portion of the text of the order or judgment appears on the page to which the judicial officer's signature is affixed, so that the connection between the signature page and the remainder of the order or judgment is apparent.

(Eff. 1/1/99; amended 7/1/17)

RULE 307 – Filing Proof of Publication Five Days Before Hearing

In any matter, including probate petitions, petitions for change of name, or other civil matters, where notice or service by publication is a prerequisite for the court's ability to entertain the petition, motion, or proceeding, proof of publication shall be filed with the court at least five (5) court days before the motion is to be heard. Failure to comply with this rule may result in removal of the matter from calendar, a continuance of the hearing in question, and sanctions payable to any party inconvenienced by the offending party.

(Eff. 1/1/99 as Rule 310; amended and renumbered 7/1/08)

RULE 308 – Prerogative Writs

- A. Service of Petition – Code of Civil Procedure section 1107 requires service of the verified petition before it is filed and requires that the application for a writ be accompanied by proof of service of a copy of the application upon the respondent and the real party in interest. The petition may be filed without a proof of service, but no action (other than summary denial) can be taken on the petition unless there is compliance with the service provisions of Code of Civil Procedure sections 1107 and 1088.5 and (E) below.
- B. Manner of Service – A petition must be served in the same manner as summons and complaint.
- C. Persons to be Served – Where the respondent or real party of interest is a board or commission, service must be made upon the presiding officer, or upon the secretary, or upon a majority of the members of such board or commission.
- D. Orders to Show Cause and Motions
 - 1. Motions – The hearing on a petition is the trial of the case. It may be set by noticed motion in the manner generally governing motions. Absent a need to appear ex parte for a stay or other temporary order, use of the motion procedure is preferred.
 - 2. Order to Show Cause – The hearing on a petition may be set by order to show cause but this is rarely done.

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E. Alternative Writs

1. Prior Service of Application – Absent a showing of good cause or waiver by the responding party, an alternative writ will not issue unless the application is served at least five (5) days before the ex parte hearing.
2. Briefing Schedule and Hearing Date – Issuance of the alternative writ places the matter on the court's calendar for hearing; it does not, in and of itself, accomplish a stay or afford any affirmative relief. It may issue without notice but not without compliance with proper ex parte notification. If issued, it must be served in the same manner as a summons in a civil action unless the court orders otherwise. (Code Civ. Proc., § 1073.) A briefing schedule will be set by the court at the time the alternative writ is issued.

F. Pleadings – The rules of practice governing civil actions are generally applicable. The respondent may file a demurrer, motion to strike or answer, or otherwise appear. A writ of mandate cannot, however, be granted by default; the case must be heard by the court whether the adverse party appears. (Code Civ. Proc., § 1088.)

G. Evidence – In administrative mandate proceedings (Code Civ. Proc., § 1094.5) the evidence before the court is confined to the administrative record, unless the exception in subdivision (e) of Section 1094.5 applies and a declaration establishes the application of the exception. In other kinds of writ proceedings, evidence is presented by way of declarations, deposition testimony, etc., and not by oral testimony unless the court, in its discretion, permits it. Setting the writ for hearing before the record is prepared or before the evidence is gathered serves only to unnecessarily clog the court's calendar since the hearing must be continued if the record is not available or the evidence otherwise is incomplete.

H. Scope of Review – The scope of the court's review (i.e., "substantial evidence" vs. "independent judgment") depends upon the nature of the relief sought and a variety of other factors. The parties must state their position on this issue in the memoranda filed in support of and in opposition of the issuance of the writ.

I. Summary Denial – Petitions that are defective, incomplete, lack adequate supporting documentation, fail to state a prima facie claim for relief, or fall outside the scope of the court's jurisdiction may be summarily denied. Abuse of the writ process may subject the petitioner to appropriate sanctions.

(Eff. 7/1/08)

RULE 309 – Legal Research Copy

In connection with ex parte applications to be heard by the court within 24 hours of filing, the moving party and any party opposing the application, shall lodge an additional copy of all filed documents and exhibits with the clerk. The additional copy provided for under this rule shall be a complete unaltered

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photocopy of the documents and exhibits filed. Legal research copies are not required in connection with regularly noticed motions, ex parte applications for orders shortening time, and ex parte applications filed with more than 24 hours notice to the court.

(Eff. 7/1/08)

RULE 310 – Joining Motions of Other Parties

If a party desires to receive the same relief as another party and files papers “joining” another party’s motion, the court will not consider the papers to be a separate motion and will not grant relief to the party joining the motion unless that party has complied with all procedural requirements for the filing of motions, including the payment of filing fees, proper notice, format of motion and method of service.

(Eff. 1/1/10)

RULE 311 – Motions in Limine

- A. All motions in limine and any opposition thereto must be lodged with the court in the format set forth in Section (B), not less than five (5) court days prior to date on which they will be considered by the court. The court reserves the right to modify such deadline to meet the particular case management needs of any action. Any failure by a party to comply with the deadlines set forth herein and/or alternate deadlines set by the assigned trial judge, may result in the non-compliant pleading being disregarded by the court.
- B. Prior to lodging any motion in limine with the court, the parties to all civil cases must meet and confer, as follows:
 - 1. The parties must exchange their in limine motions not less than fifteen (15) court days prior to the motion in limine hearing date. The court encourages parties to utilize available forms of electronic transmission.
 - 2. The parties must discuss orally or in writing the exchanged motions with an eye towards limiting the disputes or issues to be addressed by the court.
 - 3. The parties shall draft a stipulation and proposed order to be lodged not less than five (5) court days prior to the motion in limine hearing date, setting forth all motions that the parties agree should be granted by the court.
 - 4. As to all motions in limine to which opposition will be lodged, the parties shall submit to the court in a binder, a document which includes a not more than three (3) page argument for, and a not more than three (3) page argument against, each of the motions. The six (6) page per motion limitation provided for herein is exclusive of exhibits and any table of contents or table of authorities offered by the parties.

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5. All documentary evidence relied on in support of or in opposition to a motion in limine regarding which an opposition has been offered, must be compiled into a single binder. The exhibits shall be tabbed to correspond with each of the motions and shall be clearly identified so that the court can easily determine the motion or opposition to which such evidence is directed. The binder shall be lodged with the clerk of the courtroom in which the motions will be heard. The binder must be lodged not less than five (5) court days prior to the scheduled motion in limine hearing date.
 6. A proposed order must be submitted for each motion to be ruled on by the court. The proposed order shall be submitted with the motion in limine to which it applies. The proposed order, which may be submitted at the end of the relevant motion or as a separate pleading, shall include blank boxes so that the court may mark the motion granted, denied, denied without prejudice to renew at an appropriate time, or modified (with space for the modification).
- C. In cases where one party is unrepresented and/or opposing counsel is refusing to comply with the requirements set forth in paragraph B, the party filing a motion in limine must submit a declaration with their motion setting forth good cause for their failure to comply with this local rule of court. The declaration must set forth in specific detail all attempts made by the filing party to comply with paragraph B.

(Eff. 1/1/13)

RULE 312 – Rules for Civil Trial

The following shall apply in all limited and unlimited jurisdiction civil trials conducted in the Kings County Superior Court. The court will consider modifications to specific terms of this rule on a case-by-case basis, which should be raised, if possible, before the scheduled Motion in Limine Hearing or Pretrial Conference. To comply with this rule, the parties must meet and confer prior to the Motion in Limine Hearing or Pretrial Conference. Any failure by counsel and/or parties to comply with this rule may result in the court vacating and rescheduling the trial date. Where one or more of the parties is not represented by counsel, a good faith attempt must be made to comply with this rule.

1. Pretrial Conference or Motions in Limine Hearing

In all limited and unlimited civil cases not falling under California Code of Civil Procedure §§ 90-98 (Economic Litigation), California Rules of Court, rule 3.400 et seq. (Complex Cases) and/or California Rules of Court, rule 3.2220 et seq. (CEQA), the court conducts a Pretrial Conference or Motions in Limine Hearing. The parties should be prepared to provide/address the following at the conference/hearing, as appropriate:

- A. The estimated length of trial (including jury selection);
- B. The joint list of witness names to be read to the jury;

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- C. Any witness or attorney scheduling issues;
- D. Any witness issues (*e.g.*, unavailability, need for interpreters, etc.);
- E. Any anticipated evidentiary or other legal issues;
- F. Any party stipulations;
- G. A joint statement of the case to be read to the jury;
- H. A joint list of exhibits expected to be introduced at trial, with any exhibit-related disputes clearly identified for the court. To the extent allowed by law, exhibits shall be exchanged prior to the Pretrial Conference or Motions in Limine Hearing. Exhibits shall be presented to the court in a binder or other organized fashion ready for the clerk's processing during trial. The clerk will use a numerical system of designation of all exhibits. Except as to rebuttal exhibits, the clerk will generally not mark exhibits at the time designated for the start of trial. Exhibits that are not marked during the Pretrial Conference or Motion in Limine Hearing must be presented to the clerk at least two (2) court days prior to the start of trial for marking;
- I. A joint list of jury instructions and verdicts, with any disputes clearly identified for the court. The parties shall lodge copies of the requested jury instructions and verdicts with the court consistent with California Rules of Court, rule 2.1050 et seq. and California Rules of Court, rule 3.1580;
- J. A trial brief;
- K. A joint list of voir dire questions, agreed upon juror questionnaire (if appropriate), and brief outline of the case per California Rules of Court, Standard 3.25(b);
- L. Those documents required by Kings County Superior Court Local Rule 311, in the form required by that rule;
- M. Any need for an increased panel of potential jurors;
- N. Whether the jury will be allowed to take notes during trial;
- O. Whether the jury will automatically be provided with copies of all exhibits during deliberations, or only specific exhibits upon request;
- P. Any audio, video, or computer needs/accommodations required for trial;
- Q. Number of alternate jurors to be chosen;
- R. The preferred method for addressing challenges for cause during voir dire (outside the presence of jury panel, in chambers, etc.); and,

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S. Any other trial issues that the parties reasonably can anticipate.

2. Jury Selection

- a. Unless otherwise agreed upon by the court and parties, the court will utilize a “16-pack” method of jury selection (*i.e.*, the prospective jurors in seats 1-16). The court questions the 16 prospective jurors on voir dire, and then each side is given the opportunity to inquire. This process is continued until the jury and the alternates are selected. The objective is to have the jury box and the six-pack seated before the start of each round of peremptory strikes.
- b. The court and parties will comply with California Code of Civil Procedure section 222.5 and California Rules of Court, Standard 3.25.

3. Witnesses

- A. It is counsel’s responsibility to have their witnesses available during their case to avoid unnecessary trial delays. If a party has no more witnesses to call, the court may deem that party to have rested. While the court will not make this finding lightly, it does expect that counsel will exercise reasonable judgment in arranging for witnesses.
- B. If a witness has not completed his or her testimony at the time of a recess or adjournment, counsel shall have the witness on the stand before the jury is seated.
- C. If a party requests that a witness be called during another party’s case-in-chief, counsel for that party shall meet and confer with opposing counsel promptly upon learning of the need for witness accommodation.
- D. If a witness requires an interpreter or needs an accommodation based on disability or otherwise, counsel shall make any necessary arrangements with the clerk sufficiently in advance to avoid trial delays.

4. Exhibits

- A. There shall be made available for use at trial, at least four (4) true and correct copies of all exhibits to be referenced during trial. Each party shall have a copy of the exhibits at counsel table. A copy of the exhibits shall be located at the witness stand, and the court shall be provided with a copy of all exhibits for its own reference during testimony.
- B. Each party shall request that an exhibit be marked for identification before referencing it. Any subsequent reference to the exhibit shall mention the exhibit designation so the appellate record is clear.

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- C. A party shall not publish any exhibit to the jury without first requesting to do so. After the request, any objection must be immediately made. Absent a prompt objection, the request generally will be granted as a matter of course.
- D. The parties shall comply with California Rules of Court, rule 2.1040, requiring the provision of a transcript of various recordings. The court shall deem that the party receiving the transcript before announcing “ready” waives any objection to the accuracy of the transcript unless raised at the first trial appearance before this court.
- E. The party offering an exhibit is responsible for supplying/arranging for any equipment necessary to present that exhibit, such as a sound or video device for a CD or DVD.

5. Motions

- A. Before bringing any trial motion, the parties shall meet to discuss whether they can reach an informal resolution.
- B. The parties shall bring any trial motions before the commencement of jury selection, unless the motion reasonably could not have been anticipated previously – in which case the moving party shall seek to have the motion(s) heard before the jury returns the next day at 8:30 a.m., if possible. The court generally will not hear motions while the jury is waiting unless it is necessary to avoid prejudice to one of the parties.

(Eff. 1/1/19)

RULE 313 – Tentative Rulings

The court adopts the tentative ruling procedure set out in California Rules of Court, rule 3.1308(a)(2). The tentative ruling or notice to appear will generally be available by 4:00 p.m. the court day before the hearing. Unless the court directs otherwise, the court’s tentative ruling will be available on the court’s website or by calling (559) 582-1010, Ext 6002.

(Eff. 1/1/13 as Rule 312; renumbered 1/1/19)

(RULES 314 - 399 Reserved)

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CHAPTER 4 – MISCELLANEOUS CIVIL RULES

RULE 400 – Interpreters

Except as provided for by law or ordered by the court, interpreters will not be provided for civil or small claims matters. Upon request, the clerk will provide the names of authorized interpreters with whom a party may arrange for interpreting services or may refer the party to the court's Interpreter Coordinator. Any party requiring the services of an interpreter is responsible for arranging and paying for the services of such interpreter.

Information regarding the fee for interpreter services is available from the Interpreter Coordinator and court clerk.

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

RULE 401 – Attorney Fee Schedule

Except as otherwise ordered by the court, Attorney's fees in default cases, when allowable in designated cases, shall be fixed in accordance with the court's fee schedule. A copy of the court's Attorney Fee Schedule is set forth herein as ~~Addendum 1~~ Appendix A.

(Eff. 1/1/99; amended 1/1/09; amended 7/1/21)

RULE 402 – Eminent Domain Pleadings

- A. In eminent domain cases involving more than one parcel of property, the plaintiff's complaint shall set forth parcel numbers or symbols to identify each parcel of property. A defendant's answer, demurrer, or written appearance shall set forth, in the space below the number of the case and in parentheses, the parcel numbers or symbols that identify the property claimed or owned by him or her.
- B. The clerk shall include in the index opposite the name of each defendant the parcel numbers or symbols that identify the property in which the defendant is alleged to have an interest.
- C. The court may, for good cause shown, order any paper to be filed without a parcel number or symbol.

(Eff. 1/1/99 as Rule 404; renumbered 7/1/08)

RULE 403 – Procedures in Small Claims Matters

- A. Case Disposition Time – The court shall endeavor to dispose of all small claims cases as follows: 90% within seventy-five (75) days after filing; and 100% within ninety-five (95) days after filing.

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- B. Unserved Defendants – If proof of service on any defendant in a small claims case has not been filed by the date set for trial, the court may order a continuance of the trial date for up to thirty (30) days to enable the plaintiff to effectuate service, upon showing of good cause and due diligence in attempting to effectuate service on the defendant. If proof of service has not been filed by the continued trial date, or if the plaintiff does not appear for trial, the court may dismiss the case with or without prejudice or render judgment for the defense.
- C. Continuances – Any request for a continuance must be in writing and served on the opposing party or parties pursuant to Code of Civil Procedure section 116.570.
- D. Untimely Appeals – No notice of appeal from a small claims judgment shall be accepted for filing after the statutory period for filing such appeal has expired, unless a writ of mandate ordering the clerk to file the notice of appeal has been issued. Any untimely notice of appeal from a small claims judgment erroneously accepted for filing may subsequently be rejected or stricken *sua sponte* by the court.
- E. Incarcerated Plaintiffs – Pursuant to Code of Civil Procedure section 116.540(f), a party incarcerated in a penal institution need not personally appear at the trial of a small claims action and may submit evidence by declaration or may authorize another individual to appear and participate on his behalf if the representative is serving without compensation and has appeared for others no more than four times during the calendar year. Due to significant security and safety concerns that generally arise in connection with the transportation and production of incarcerated individuals, and unless an order for telephonic appearance has been issued by the court, incarcerated individuals shall appear at all small claims hearings in one of the manners provided for by Code of Civil Procedure section 116.540(f). Declarations submitted pursuant to Code of Civil Procedure section 116.540(f), should be filed at least five (5) court days prior to the hearing. Where a declaration has not been received by the court and no representative appears at a small claim hearing on behalf of an incarcerated individual, dismissal of the action and/or entry of default judgment may occur. Unless good cause has been shown to exist, a copy of the declaration and all attachments thereto must be served prior to the hearing upon all opposing parties. A sample “Declaration in Support of Plaintiff’s Claim” is available on the court’s website and/or upon request.

(Eff. 1/1/99 as Rule 405; amended and renumbered 7/1/08; amended 1/1/10)

RULE 404 – Procedures in Unlawful Detainer Cases

- A. Case Disposition Time – The court shall endeavor to dispose of all unlawful detainer cases as follows: 90% within thirty (30) days after filing; and 100% within forty-five (45) days after filing.
- B. Service and Filing of Proof of Service – Within fifteen (15) days from the date the unlawful detainer complaint was filed, a plaintiff shall either serve all named defendants and file a proof of service with the court or file an application for service by posting. If service is made by posting, proof of service must be filed within fifteen (15) days of issuance of the order.

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C. Status Conference – Within forty-five (45) days from the filing of the complaint, a status conference will be conducted in all pending unlawful detainer cases where a default has not been entered and/or a trial date has not been set by the court. Notice of the date, time and location of the status conference shall be served by the plaintiff upon all named defendants in the same manner as the unlawful detainer complaint.

1. Parties are required to appear at the conference ready to advise the court as to the status of the litigation. No written statements need be filed by the parties prior to the conference, however, any party wishing to appear at the conference by telephone must schedule such appearance with the court's designated vendor prior to the noticed hearing date.
2. If the Complaint has been served, but the deadline for the filing of a responsive pleading thereto will not lapse by the date on which the conference is scheduled to occur, plaintiff and/or plaintiff's counsel may appear at the conference via the filing of a declaration setting forth all facts demonstrating that good faith efforts are being taken by him or her to comply with the case disposition standards set forth above. The declaration must be filed with the court at least five (5) court days prior to the scheduled conference. In addition, the declaration must be accompanied by a proposed order resetting the conference to a date beyond the applicable responsive pleading deadline. If such declaration cannot be timely filed, plaintiff and/or his or her attorney of record shall appear at the conference as provided in Paragraph 1 above.

D. Request to Set Trial Date –

1. Within fifteen (15) days from the date the unlawful detainer answer is filed, the plaintiff shall file a Request to Set Case for Trial (UD-150), unless a judgment, request for dismissal, or notice of conditional settlement has been filed. By filing a Request to Set Case for Trial, a party represents that the case is at issue and will be ready to proceed to trial on the date assigned. The opposing party may object to the Request to Set Case for Trial in an unlawful detainer action by serving and filing a counter request within five (5) days.
2. Any request to continue a trial date which will cause the date of trial to exceed the 20-day deadline set forth in California Code of Civil Procedure, section 1170.5(a), must be presented via ex parte application consistent with California Rules of Court, rule 3.1200, et seq.

E. Dismissal Hearing – Failure to comply with this rule will result in the scheduling of a dismissal hearing requiring the attendance of all counsel and any unrepresented parties who have appeared in the case to show cause why the case should not be dismissed. Failure of the plaintiffs to appear shall result in dismissal of the case. A dismissal hearing will be taken off calendar if a judgment, request for dismissal, notice of conditional settlement or a Request to Set Case for Trial is filed with the court prior to the date of the dismissal hearing.

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- F. Defaults of DOE Defendants – Before any default or default judgment will be entered by the court against a fictitiously named defendant, a proof of service must be filed which fully complies with the provisions of California Code of Civil Procedure section 474 or otherwise demonstrates personal service upon the fictitiously named defendant of a copy of the Complaint, Summons, and Amendment to Complaint providing adequate notice to the fictitiously named defendant of his involvement in the litigation. All proofs of service reflecting service of the Complaint, Summons and/or Amendment to Complaint upon a fictitiously named defendant shall include a physical description of the individual served. Service of any documents following the entry of default against one or more named defendants in the litigation shall comply with the provisions of Code of Civil Procedure section 1010.
- G. Hearing to Prove Damages – After a clerk’s judgment for restitution of the premises has been entered, a plaintiff seeking to recover money damages must set the case for a hearing within six (6) months after the judgment is entered. A personal appearance will not be required if a declaration is submitted pursuant to Section 585(b) and (d) of the Code of Civil Procedure.
- H. Undertaking for Immediate Possession of Premises – Unless otherwise ordered by the court, the minimum amount of undertaking required for an order for immediate possession of premises, pursuant to Section 1166a of the Code of Civil Procedure, shall be ten (10) times the amount of monthly rental, but not less than \$2500.00.
- I. Judgment – When a judgment for restitution or possession of the premises under Code of Civil Procedure section 1169 or 1174 is prepared and submitted by plaintiff, it shall describe with reasonable certainty the real property that is the subject of the judgment, giving its street address (including the zip code), if any, or other common designation, if any.

(Eff. 1/1/99 as Rule 406; renumbered 1/1/17; amended 7/1/18)

RULE 405 – Compromise of Minors or Incompetent Adults

- A. The person compromising the claim on behalf of the minor or incompetent adult must attend the hearing of the petition, unless the court orders otherwise. At the time of the hearing, the court will determine the amount of costs, expenses, and attorney’s fees to be allowed from the proceeds of the settlement in the manner set forth in California Rule of Court, rule 7.955. This necessitates submission of an account of the services rendered, hourly fee charged, and itemization of the costs incurred. If a contingency agreement was entered into, a reasonable fee for compromise of a claim of a minor or incompetent adult is normally 25% of the proceeds of the settlement when trial has not commenced, one-third after a trial has commenced and 40% when settlement is entered into after filing appellant’s opening brief on appeal. The court may award more or less than these amounts if such fees are found reasonable by the court.
- B. Any compromise of a settlement contemplating the creation of a trust from the settlement proceeds or a special needs trust as set forth in Probate Code section 3600 et seq. must comply with California Rule of Court, rule 7.903. A copy of the trust is to be provided to the judge in the civil proceeding hearing the matter, who shall review the trust terms for compliance with the law. The

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judge shall supervise the setting and posting of any trustee bond required under the terms of the trust or by law, prior to the transmittal of the settlement proceeds to the trustee.

- C. If the order of the court provides that the trust is subject to the provisions of Probate Code section 17200 and California Rule of Court, rule 7.903, the trustee shall open a new probate proceeding and pay a “first petition” filing fee. The trustee shall file a petition in the probate file entitled “Petition for Review of Compliance with Order pursuant to Probate Code section 3602 or 3604,” attach a copy of the order approving the compromise of the minor or incompetent adult’s claim as an exhibit and cause the petition to be set for a noticed hearing. Such petition will then be reviewed for compliance with the orders compromising the claim, funding of the trust, and setting of future dates for the filing of the first annual account. The hearing on the petition may then be ordered off calendar by the court if all the pleadings appear to be in order and no objection has been filed.

(Eff. 1/1/10)

RULE 406 – Petition for Change of Name

A background check and electronic fingerprint scan will be required when a petition for a name change, Guardianship, Conservatorship, and Stepparent Adoption has been filed. The purpose of the background check is to verify that the petitioner is not on probation, parole, or a registered sex offender. (Code Civ. Proc. § 1279.5 (e).) When a minor’s name is to be changed, a Live Scan will be requested from the petitioner parent(s) or legal guardian(s). A Live Scan consists of a check of electronic fingerprint records maintained by the Department of Justice, the Child Abuse Central Index and possibly the FBI. Live Scan locations have been identified in an information packet that is available for purchase from the court clerk. Petitioner shall pay the fee charged by the Live Scan provider. The petitioner shall complete the Live Scan application form with the requested information and provide the Live Scan provider valid photo identification. Failure to provide the requested information will delay the petition and/or otherwise preclude the completion of the required investigation.

(Eff. 7/1/11; amended 1/1/16)

RULE 407 – Court Policy on Inmate Personal Property Claims

Introduction: The court receives numerous claims from inmates under the custody of the California Department of Corrections and Rehabilitation and/or Kings County Jail. These claims seek monetary damages, performance of alleged mandatory duties, or replacement of personal property alleged to have been damaged, lost or destroyed by prison/jail officials. Such claims are often plagued by defects which ultimately frustrate litigants and result in unnecessary delays and the expenditure of limited inmate and public resources. The goal and intention of “Court Policies for Inmate Claims” is to provide inmates with sufficient information to make an informed decision as how to best pursue their request for relief.

The policies set forth below are informational only. They do not impose any mandatory duty upon a party and/or the court.

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COURT POLICY #1: Where the value of the property placed at issue in an inmate personal property claim is less than \$10,000.00, IT IS THE PREFERENCE OF THE COURT THAT THE CLAIM BE PURSUED IN ITS SMALL CLAIMS DIVISION. (Cal. Code of Civ. Proc. § 116.221.) The summary nature of trials in the Small Claims Division makes the resolution of inmate personal property claims less time consuming and a less expensive remedy for litigants to pursue. Small claims court actions by inmates are resolved without the assistance of counsel and by declaration and/or authorized appearance of another individual. (See, Cal. Code of Civ. Proc. §§ 116.530(b), 116.540(f); Rule 403(E).) In addition, the filing fee for a claim pursued in the Small Claims Division is significantly less than that charged in connection with petitions for writ of mandate or a civil complaint for damages. [In 2016, Small Claims Division filing fees ranged from \$30 to \$75. (Cal. Code of Civ. Proc. § 116.230(b).)]

COURT POLICY #2: Inmates pursuing claims via a petition for writ of mandate or civil complaint for damages will be charged the full amount of the scheduled filing fee in accord with California Government Code section 68635. Under California Government Code section 68635, the fee is collected by installment payments paid from the inmate's trust account. A granted Fee Waiver does not excuse an inmate from paying the required fee. In addition, the entire filing fee must be paid even if the petition is summarily denied, or judgment is entered without a hearing on the merits.

COURT POLICY #3: Regarding most inmate claims, some showing of a prefiling exhaustion of administrative remedies is required. To make the required showing, litigants should attach copies of relevant administrative decisions to their initial pleading and/or state therein an inability to obtain such documents along with those specific facts demonstrating exhaustion or grounds for excuse/waiver of the same. The exception to the filing of a government claim set forth in *Escamilla v Department of Corrections & Rehabilitation* (2006) 141 Cal.App.4th 498, is limited to bailment situations. It does not apply to disputes concerning property declared by the prison authorities to be contraband, or disputes about the value of replacement property offered to the inmate by prison authorities. (*Flores v Department of Corrections & Rehabilitation* (2014) 224 Cal.App.4th 199, 208.)

COURT POLICY #4: In cases involving inmate personal property claims, the court may elect to set an early case management conference. Notice of any such conference will be provided to the inmate by the court. The purpose of the early conference is to discuss with the plaintiff/petitioner the benefits of pursuing his or her claim in the small claims division of the court. Pending completion of the early case management conference, the initial pleading should not be served. In the event plaintiff/petitioner agrees at the conference to dismiss a civil complaint or petition for writ of mandate in favor of pursuit of a small claims action, the court will order a reduction in the filing fee paid by the plaintiff/petitioner from the sum applicable to unlimited/limited division filings to the sum for small claims actions.

COURT POLICY #5: Inmate claims pursued as petitions for writ of mandate may be denied "out of hand" when it appears from the face of the petition that a peremptory writ will not be issued. The court may do so even though the defendant has not appeared by answer or demurrer. (*Kingston v. Dept. of Motor Vehicles* (1969) 271 Cal. App. 2d 549, 552; *Lewis v. Superior Court* (1999) 19 Cal. 4th 1232, 1269 (dis. opn. of Kennard, J.).) The most common grounds for summary denial of a petition for writ

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of mandate are: (1) a failure by the inmate to demonstrate exhaustion of administrative remedies prior to seeking judicial relief; (2) improper/defective proof of service; and (3) failure to state a prima facie claim for mandamus relief.

COURT POLICY #6: The court reserves the right to set a *sua sponte* motion for judgment on the pleadings in all civil cases where it appears from the face of the pleading and its exhibits that an inmate plaintiff has failed to exhaust administrative remedies or failed to file a government claim as required by Government Code section 911.2 et seq.

COURT POLICY #7: The court will not transfer an inmate to court in connection with a civil complaint for damages and/or petition for writ of mandate. In most cases, petitions for writ of mandate and/or civil complaints addressing inmate claims will be resolved via declaration. Access to the court may also be achieved by deferral of the action until the inmate is released or, without limitation, telephonic appearances. The trial court will exercise its sound discretion in determining the appropriate way in which to secure access to the civil courts for incarcerated individuals.

COURT POLICY #8: The court will not grant a motion for appointment of counsel in connection with any inmate civil complaint and/or petition for writ of mandate. The appointment of counsel in connection with a civil action is considered a gift of public funds. In addition, at present time the court does not possess sufficient monetary resources to make an appointment of counsel in connection with inmate personal property claims and Kings County lacks an active pro bono attorney program from which such appointments can be made.

(Eff. 1/1/15; amended 7/1/17)

RULE 408 – Default Judgment

- A. To obtain a default judgment a plaintiff shall present testimony in support of his or her claim by competent witnesses having personal knowledge of the essential facts, or file an affidavit or declaration by such witnesses, except for cases governed by Code of Civil Procedure section 585(a). Applications for default judgment on declarations pursuant to Code of Civil Procedure section 585(d) is the preferred procedure.
- B. When submitting a matter for default judgment on declarations or affidavits only, the parties must comply with California Rules of Court, rule 3.1800. The materials required by Rule 3.1800(a) must be submitted together as a single packet.
- C. When submitting a matter for default judgment where personal testimony will be offered, Plaintiff must reserve a hearing date with the court clerk prior to the filing of his or her documents. The hearing will not be placed on the court's calendar until such time as plaintiff's application and supporting documents have been filed, and all required hearing fees paid. All documents in support of the default judgment must be filed with the clerk's office as a single packet and at least ten (10) court days prior to the scheduled hearing date. Included in such packet shall be a form of written notice setting forth the reserved time, date, and location of the hearing.

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- D. The court may, in its discretion, set an application for default judgment on declarations for a hearing. If, after reviewing the materials submitted, the court determines that additional testimony or documentary evidence is necessary, an order or notice will issue informing the plaintiff of the date, time, and location of the scheduled hearing.

(Eff. 1/1/18)

(RULES 409 - 499 Reserved)

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CHAPTER 5: CRIMINAL RULES

Part 1 - Rules Applicable to All Criminal Proceedings

RULE 500 – Appointed Counsel for Indigent Defendants

- A. Contract Counsel – The court will endeavor to appoint to represent indigent defendants those counsel who have contracted with the County to provide such representation. In the event no such counsel is available to accept appointment, the court may appoint counsel from its appointment list.
- B. Appointment List – The court shall maintain a list of counsel who desire to receive appointments to represent indigent parties in criminal matters. To be included on the list, counsel may be required to submit a written application and satisfy the judicial officers of the court that counsel possess sufficient knowledge, education, experience, judgment, and ability to defend persons accused of serious crimes. The Juvenile Court shall maintain a separate court appointment list. Nothing in this rule is intended to limit the discretion of the court to appoint counsel deemed appropriate by the court to represent an indigent defendant. The court retains full discretion to remove from the appointment list any counsel who fails to appear for court appearances, fails to follow these Rules or the California Rules of Court or fails to demonstrate the minimum level of proficiency in legal work deemed appropriate by judges of the court.

(Eff. 1/1/99)

RULE 501 – Discovery

- A. Discovery in criminal actions is reciprocal in nature and is governed by Penal Code sections 1054 through 1054.7. There shall be a standing order in each criminal action requiring all parties and their attorneys to comply with Penal Code sections 1054 through 1054.7. The order is deemed to have been made and communicated to all counsel at the time of arraignment. Before a party may seek enforcement of any of the disclosures required by law, the party shall make an informal request of opposing counsel for desired materials and information in the manner required by Penal Code section 1054.5(b). Failure to make such request shall be grounds for denial of a discovery motion. Informal requests should be presented to opposing counsel in writing.
- B. Should either party to a criminal action fail to provide the information or material listed in Sections 1054.1 or 1054.3 of the Penal Code after agreeing to an informal request to provide the same, the court may proceed with remedies and sanctions as provided in Section 1054.5 of the Penal Code.

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

RULE 502 – Expert and Investigative Fees

Expert and investigative fees for indigent defendants shall not normally be paid or reimbursed unless prior approval for the expenditures has been obtained by court order, which may be issued ex parte

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and kept confidential until the conclusion of the case. A copy of the order authorizing the fee shall be attached to each claim form requesting payment for such fee. The claim shall disclose all amounts of fees previously requested pursuant to the attached order and indicate whether the request was granted or denied.

(Eff. 1/1/99)

RULE 503 – Criminal Trials – Duty of Counsel

- A. Witnesses – Each attorney is responsible for having witnesses available at the time their testimony is required. No trial will be delayed because of incorrect scheduling of witnesses unless counsel can show to the court that due diligence was exercised in obtaining the presence of the absent witness and that the witness's presence is necessary to secure a fair trial.
- B. Interpreters – Counsel planning to call a witness who needs the assistance of an interpreter is required to make all necessary arrangements prior to trial for the presence of an appropriate interpreter at the time the witness is to be called. If given adequate advance notice, the court will assist criminal defendants in arranging for the presence of needed interpreters.
- C. Transcripts of Recordings – Prior to the commencement of any trial, a typed transcription of any sound recording which counsel expects to offer into evidence shall be prepared at the direction and expense of the proponent of the evidence and shall be certified by the preparer as containing a true transcription of such recorded statement. The proponent of such recording shall prepare enough copies of such transcript for each of the following persons to have a copy: each juror and alternate juror, the judicial officer, each opposing party, each opposing counsel, the court reporter, and the clerk.

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

RULE 504 – Applications for Modification of Sentence or Terms of Probation

- A. Motions for modifications of sentence or probation shall be in writing and directed to the sentencing judge.
- B. Notice of the motion shall be given to the District Attorney at least fifteen (15) days prior to any hearing date for such motion. The moving party must also deliver a copy of the motion to the Probation Office at least fifteen (15) days prior to the date for hearing.

(Eff. 1/1/99 as Rule 505; renumbered 7/1/08)

RULE 505 – Renewal of Motions

Motions decided prior to trial shall not be renewed unless based upon new facts or law which could not, with due diligence, have been known at the time of the original motion. Any renewed motion shall be supported by a declaration showing such diligence and setting forth the new facts and/or law.

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(Eff. 1/1/99 as Rule 506; renumbered 7/1/08)

RULE 506 – Reporters

A verbatim record of proceedings involving any misdemeanor or infraction matter is not generally required. Parties wishing a verbatim record of such proceedings must submit to the clerk, at least five (5) days prior to the hearing, a written request, and all required deposits in accordance with California Penal Code section 1045. Any party requesting any reporting, recording, or transcript pursuant to this rule shall pay the entire cost of such reporting, recording, or transcript.

(Eff. 7/1/08)

RULE 507 – Negotiated Plea Agreements

Absent exceptional circumstances, the court will not accept a negotiated plea agreement in any case after a final trial readiness hearing has been held.

(Eff. 1/1/09)

RULE 508 – Jury Instructions

In all matters set for jury trial in criminal case, the prosecuting and defense attorneys must comply with the following:

- A. Jury instructions shall be prepared by counsel in accord with California Rules of Court, rule 2.1055 and rule 2.1058.
- B. Upon order of the court, jury instructions may be submitted to the court electronically.
- C. Where there is a trial by jury, the parties shall request instructions by submitting proposed instructions to the trial judge on the first day of trial or at such earlier date as set by the court.
- D. The party requesting a CALCRIM instruction which contains one or more blanks **shall type in the blank space all the words required to adapt the form for use in the pending case**. The latest edition of CALCRIM forms shall be used whenever possible.
- E. Both defense and prosecuting attorneys shall provide at the trial readiness hearing, or any other date ordered, the following:
 - 1. Witness list;
 - 2. Jury instructions. Both sides shall prepare a list of instructions they propose to be used as set forth in Rule 508A and California Rules of Court, rule 2.1055;
 - 3. All verdict forms (prosecuting attorneys only);
 - 4. All motions in limine with proof of service upon the opposing party attached; and,
 - 5. In all cases where written jury questionnaires will be used, a joint statement of the case to be read to potential jurors prior to their completion of the relevant questionnaire.

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- F. Any written opposition to a filed and serve motion in limine shall be filed and served not less than five (5) court days prior to trial confirmation.
- G. Motions in limine will be discussed at trial confirmation hearings. Counsel shall plan accordingly and be prepared.

(Eff. 7/1/15; amended 7/1/21)

RULE 509 – Petitions for Relief under California Penal Code Section 1170.18 (Proposition 47) and California Health & Safety Code Section 11361.8 (Proposition 64)

- A. The Kings County Superior Court has developed forms for use in connection with requests for relief under California Penal Code section 1170.18 and California Health & Safety Code section 11361.8. The forms are optional, but their use is preferred. The forms are available on the court's website or by written request. A separate form should be used for every criminal case to be addressed.
- B. Requests for relief which are not on the optional form(s) and/or otherwise formatted as a motion/petition will not be forwarded for judicial action. Letters or notes requesting relief under California Penal Code section 1170.18 and California Health & Safety Code section 11361.8 may not be considered by the court.
- C. A copy of any petition/motion filed with the court should be served upon the Kings County District Attorney's Office and proof of service filed with the court. The Kings County District Attorney's Office has thirty (30) days to file a response to the petition. Upon receipt of such response and/or lapse of the deadline for the same, an order will issue. The court may summarily deny or summarily grant a petition/motion without hearing. In the alternative, the court may set the petition/motion for hearing.
- D. Unless otherwise ordered by the court, all hearings on petitions for relief under California Penal Code section 1170.18 and/or California Health & Safety Code section 11361.8 will be set by the court clerk.

(Eff. 7/1/17; amended 1/1/21)

RULE 510 – Extra Copies of Law and Motion Documents

At the time any law and motion matter is filed with the court, counsel filing the motion shall deliver a courtesy copy of the motion to the courtroom clerk for the Department to which the matter will be assigned during an open session of that Department.

(Eff. 1/1/18; amended 1/1/19)

RULE 511 – Requests for Dismissal Pursuant to VC § 41500

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All requests for dismissal pursuant to California Vehicle Code section 41500, subdivision (a), must include a verified statement or official document from the California Department of Corrections and Rehabilitation, Division of Juvenile Justice, or county jail, confirming the date of defendant's commitment. Requests lacking such information may not be considered by the court.

(Eff. 7/1/17 as Rule 510, renumbered 1/1/18; amended 1/1/21)

RULE 512 – Notice and Copy Requirement for Pitchess Hearings

- A. The respondent to any motion for discovery of confidential personnel files or other records of a law enforcement agency (*Pitchess*) shall submit to the court copies of all records produced for *in camera* inspection. These copies shall be placed onto a digital storage device (e.g., CD/DVR/Flash drive) and provided to the court no later than the day and time set for the *in camera* proceedings and will be retained by the court in the event of appellate review.
- B. Any notice filed with a motion seeking discovery of confidential personnel files or other records of a law enforcement agency shall specifically reference the copy requirement provided in Section A of this rule to prevent any unnecessary delays in the proceedings.

(Eff. 7/1/21)

(RULES ~~512~~ 513 - 519 Reserved)

Part 2 – Rules Applicable to Felony Cases and Misdemeanor Cases Joined or Consolidated with a Felony for Trial

RULE 520 – Proceedings Through Preliminary Examination

- A. Early Disposition – At the time of initial arraignment on a felony matter, a defendant may choose to attempt settlement of the case prior to the setting of a preliminary examination. Upon the defendant providing an appropriate waiver of time, the court will set the matter into a designated department for an early disposition hearing. If the matter is resolved at that hearing by way of a plea, sentencing will take place in a department to be assigned. If the matter is not resolved and a preliminary hearing is not waived, the case will be calendared in the appropriate department for preliminary examination.
- B. Setting Case for Post Preliminary Hearing Arraignment – Upon conclusion of the preliminary examination, for those persons held to answer, the matter will be certified to a designated department for arraignment.
- C. Setting Case for Sentencing – Upon entry of a plea of guilty or nolo contendere to a felony charge, the case will be referred to the Probation Office for a pre-sentence investigation and report and the court shall appoint a time for pronouncement of judgment and sentencing in the designated department. However, if the parties stipulate to a sentence and the court permits, upon entry of appropriate waivers, the court may pronounce sentence immediately. If the defendant is committed

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to prison the court will order the Probation Office to prepare a report pursuant to Penal Code section 1203.

- D. Competency Certification – A court which has suspended criminal proceedings pursuant to Penal Code section 1368 shall appoint a psychiatrist or licensed psychologist or two such professionals in accordance with Penal Code section 1369(a) and refer the matter to the designated department for further hearing.

(Eff. 1/1/99 as Rule 521; renumbered 7/1/08)

RULE 521 – Post Preliminary Examination Arraignment

- A. Appearance by Counsel – Unless relieved of the obligation by court order, counsel representing a defendant when the defendant is held to answer shall appear at the date and time of the defendant's post-preliminary hearing arraignment.
- B. Future Appearance Dates – Defense counsel intending to set trial dates shall appear fifteen (15) minutes prior to calendar call and confer with the clerk of the department to which the case has been assigned for the purpose of arranging tentative dates for trial and other appearances. In any case in which the District Attorney wishes to have a voice in the setting of dates for further appearances, the District Attorney shall also appear for the pre-calendar conference with the clerk. Actual dates for further appearances will be set by the judge in open court.
- C. Mandatory Appearances – In each felony case, unless otherwise ordered by the court, dates for the following mandatory appearances shall be set:
1. Settlement conference
 2. Trial readiness hearing
 3. Trial confirmation hearing
 4. Trial
- D. Bail/Own Recognizance Release – Unless otherwise ordered by the court, a defendant's bail or own recognizance release status shall remain as previously ordered. Conditions of own recognizance release imposed by previous order shall remain in effect unless changed by court order.

(Eff. 1/1/99 as Rule 522; amended and renumbered 7/1/08)

RULE 522 – Presence of Trial Counsel and Defendant Mandatory

The presence of defendant and trial counsel (or in the case of the District Attorney, a supervisor of trial counsel or other deputy who is familiar with the case and possessed of full authority in the case) is required at each mandatory appearance unless otherwise authorized by the court. It is not acceptable for defense counsel to send in his or her place a partner, associate or other lawyer who is not sufficiently versed in the matter to provide a meaningful appearance and/or who is otherwise not

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vested with the full authority to bind defense counsel and the defendant to future dates for appearance, admissions and/or stipulated resolutions of issues which may arise during the hearing. By prior approval of the court, telephone appearances may be made by counsel in exceptional circumstances.

(Effective 1/1/99 as Rule 523; amended and renumbered 7/1/08)

RULE 523 – Felony Settlement Conference

A settlement conference shall be scheduled in every felony case. Except where prohibited by Penal Code section 1192.7 or other statute, counsel for both sides shall be prepared to discuss the issues of the case and negotiate its possible disposition without trial at the settlement conference. In cases where plea negotiation is arguably prohibited by statute, counsel shall be prepared to discuss whether any statutory exception to the prohibition is present. Counsel shall also be prepared to discuss and endeavor to enter into agreements and stipulations, which may eliminate or determine issues not in dispute and thus shorten the trial.

(Eff. 1/1/99 as Rule 524; renumbered 7/1/08)

RULE 524 – Felony Trial Readiness Hearings

A trial readiness hearing shall be scheduled in every felony case and shall be calendared between one (1) and fourteen (14) days prior to the trial date. It shall be the duty of all counsel to prepare their cases so that by the trial readiness hearing they are able to represent that: 1) all non in limine pre-trial motions have been heard, 2) all witnesses are subpoenaed and available, 3) trial counsel is prepared for trial and has no conflicts, and 4) the defendant knows of no reason why the case should not go to trial as scheduled. Additionally, trial counsel shall notify the court of any non-perfunctory in limine motions to be brought at trial and provide a time estimate for such motions.

(Eff. 1/1/99 as Rule 525; renumbered 7/1/08)

RULE 525 – Felony Trial Confirmation Hearings

A. At the trial confirmation hearing counsel will be asked if he or she can represent that there is no reason why the matter will not proceed to trial as scheduled. Opposing counsel shall be served with a copy of any transcript of any sound recording which counsel expects to play and/or offer into evidence. Counsel shall also be prepared to inform the court as to the following matters:

1. The nature and duration of any motions in limine.
2. The anticipated length of the trial.
3. Any anticipated problems with scheduling of witnesses.
4. Any motions to amend the information.
5. Whether any witnesses need an interpreter.
6. Any other matters which may adversely affect the orderly presentation of the trial.

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- B. It is the affirmative duty of trial counsel to bring to the court's attention any matters discussed above which may cause delays in the conduct of the trial.

(Eff. 1/1/99 as Rule 526; renumbered and amended 7/1/08)

RULE 526 – Felony Pre-Trial Motions

- A. Pre-trial motions other than motions in limine should be orally noticed and scheduled at the post preliminary examination arraignment. This oral notice is supplemental to any notice required by statute or California Rules of Court. If not orally noticed at arraignment, pre-trial motions may be scheduled by written noticed motion to be heard no later than the trial readiness hearing. Pre-trial motions will not be set or heard after the readiness hearing date except upon an affirmative showing of good cause in a written declaration. The court may impose sanctions against any attorney unreasonably delaying the bringing of any pretrial motion including Penal Code section 995, 1538.5 motions and motions of a constitutional dimension. If a motion requires the taking of evidence, counsel shall confer with the court clerk of the department in which the case is calendared to obtain possible hearing dates and times prior to setting the motion.
- B. All motions and oppositions shall be in writing and shall be accompanied by points and authorities in support thereof and proof of service on opposing counsel.
- C. All motions and responsive pleadings thereto shall have prominently displayed on the face of the moving document the date and time of the hearing and a time estimate for the duration of the hearing.
- D. All documents submitted for filing shall include the attorney's state bar number.
- E. All documents shall be typewritten or mechanically or electronically printed in a manner, which produces clear and permanent copies equally legible as letter quality printers. Pro per defendants may file handwritten documents provided the documents are legible.
- F. All documents shall be hole punched in accordance with directions from the clerk.
- G. No memorandum of points and authorities or affidavit submitted in support of a motion, petition, warrant application, or other request shall exceed ten (10) pages. In connection with affidavits, such limitation is inclusive of attached exhibits. Parties wishing to exceed this limit must obtain prior leave from the court.
- H. A motion to dismiss pursuant to Penal Code section 995 shall set forth with particularity the claimed deficiencies or irregularities in the proceedings. Moving papers and responses thereto, when referring to the evidence, shall contain page and line citations to the reporter's transcript.
- I. A motion to suppress evidence pursuant to Penal Code section 1538.5 shall specifically describe and list the evidence, which is the subject of the motion to suppress, shall specifically state the theory or theories which shall be relied upon for the suppression of evidence, and shall cite the

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specific authority or authorities which support the motion. Moving and responding parties shall state in their pleadings whether they are (a) willing to stipulate that the preliminary hearing transcript may be considered as evidence at the hearing on the motion and/or, (b) whether witnesses are proposed to be called.

(Eff. 1/1/99 as Rule 527; amended and renumbered 7/1/08; amended 1/1/14)

RULE 527 – Felony Sentencing

- A. Letters – Written statements of defendants and letters of reference or recommendation on behalf of defendants are to be submitted to the probation officer, not to the court. Any such items must be submitted to the probation officer no later than fourteen (14) calendar days following conviction to be considered by the probation officer or court. Written communications submitted ex parte to the court by or on behalf of defendants or victims will be rejected. No more than five (5) letters of reference on behalf of a defendant are to be attached to a probation report. Where in excess of five (5) such letters of reference are timely received by the probation officer, they shall be summarized in a paragraph in the probation report. Letters of reference or recommendation presented for the first time at the sentencing hearing may, in the discretion of the judicial officer, be rejected.
- B. Notice of Intention to Present Evidence – A party seeking consideration of circumstances in aggravation or mitigation may file and serve a statement complying with the requirements of Penal Code section 1170(b) and Rule 4.437 of the California Rules of Court. The facts contained in the probation report’s “Summary of Offense” shall be considered to be the operative facts surrounding the offense absent any notice of intention to dispute facts.

(Eff. 1/1/99 as Rule 528; amended and renumbered 7/1/08)

(RULES 528-529 Reserved)

Part 3 - Rules Applicable to Misdemeanor Cases

RULE 530 – Misdemeanor Arraignment

At arraignment the court will set appearance dates for one or more of the following:

1. A pre-trial hearing
2. A motion hearing
3. A trial readiness hearing
4. A trial confirmation hearing
5. Trial

(Eff. 1/1/99 as Rule 531; renumbered 7/1/08)

RULE 531 – Misdemeanor Pre-Trial Hearing

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At the pre-trial hearing the court will hear all pretrial motions and conduct settlement negotiations. If a trial date was not previously set, one will be assigned. If no disposition is reached at the pre-trial hearing, the court may set a trial readiness hearing.

(Eff. 1/1/99 as Rule 532; amended and renumbered 7/1/08)

RULE 532 – Misdemeanor Trial Readiness Hearing

The purpose of a trial readiness hearing is to verify that the parties will be ready on the trial date and that jury summons should issue. The court may combine the trial readiness hearing with the pre-trial hearing. It is the duty of counsel to determine by the trial readiness hearing that all necessary witnesses will be available on the trial date and that there are no impediments to trial on the assigned trial date.

(Eff. 1/1/99 as Rule 533; amended and renumbered 7/1/08)

RULE 533 – Misdemeanor Trial Confirmation Hearing

A trial confirmation hearing will normally be scheduled one (1) or two (2) court days prior to trial. It is the duty of counsel at a trial confirmation hearing to apprise the court of any matters which might interfere with the expeditious trial of the case on the date assigned.

(Eff. 1/1/99 as Rule 534; renumbered 7/1/08)

RULE 534 – Misdemeanor Penal Code Section 1538.5 Motions

A motion to suppress evidence pursuant to Penal Code section 1538.5 shall specifically describe and list the evidence, which is the subject of the motion to suppress, shall specifically state the theory or theories which shall be relied upon for the suppression of evidence, and shall cite the specific authority or authorities which support the motion.

(Eff. 1/1/99 as Rule 535; renumbered 7/1/08)

(RULES 535 - 539 Reserved)

Part 4- Rules Applicable to Infractions

RULE 540 – Available Procedures for Persons Charged with Infractions

Persons charged with infractions only (i.e., these procedures are not available to those charged jointly with infractions and misdemeanors or felonies), may proceed as follows:

- A. Persons desiring not to contest the citation, ticket, or complaint may plead guilty or no contest and pay a fine. These transactions may be handled through the mail, through an automated telephone system, or by going to the front window at the ~~nearest~~-Superior Court ~~location~~.

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- B. Persons desiring to contest the citation, ticket, or complaint may plead not guilty and request a court trial. Three types of trial procedures are possible, subject to the discretion of the court:
1. A person desiring to personally appear before a judge and to confront and cross-examine witnesses in court may request a court trial. An arraignment will be scheduled by the court clerk at which the defendant must appear to enter their plea to the citation, ticket, or complaint. At arraignment, the court will schedule the date and time for trial. Any person wishing to avoid having to appear for a pre-trial arraignment may do so by entering their not guilty plea via Counter Arraignment for Contested Infractions and posting the required bail amount.
- NOTE:** For those electing to enter their plea at arraignment, no deposit of bail is required unless ordered by the court consistent with California Rules of Court, rule 4.105(c)(3).
2. A person desiring to personally appear before a judge, but who is willing to waive certain constitutional rights (including the right to confront and cross examine witnesses) and permit the judge to consider as evidence the notice to appear (ticket) may request to proceed pursuant to Vehicle Code section 40901.
 3. A person willing to waive certain constitutional rights including the right to be personally present before the judge at trial may request to proceed by trial by written declaration pursuant to Vehicle Code section 40902.
- C. In traffic cases, a written promise to appear in court may be complied with via general appearance by counsel. (California Vehicle Code section 40507.) Any attorney personally appearing before the court and/or wishing to enter a plea on behalf of his or her client prior to arraignment pursuant to California Vehicle Code section 40507, must have full authority to enter binding waivers of time and otherwise fully represent the interests of the named defendant. Where identity is placed at issue, a defendant must be personally present at trial for purposes of identification.
- D. All motions in traffic cases must be filed and served not less than ten (10) court days prior to the scheduled hearing date. Proof of service must be filed with the court. Any motion which has not been served in a timely manner will not be forwarded to the assigned judicial officer for consideration.
- E. All motions must be accompanied by proposed orders. Failure to include a proposed order may result in a delay in the processing and/or consideration of the motion by the court.
- F. The Traffic Division of the Kings County Superior Court is not in session every day of the week, nor every week of the month. Accordingly, all hearing dates must be cleared with the court clerk prior to the filing any motion, petition, or application. If it is determined by the reviewing judicial officer that a hearing is not required, the hearing date will be vacated.

(Eff. 1/1/99; amended 1/1/18)

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RULE 541 – Requesting a Trial in Connection with Contested Infractions

- A. Any person desiring to personally appear before a judge and to confront and cross-examine witnesses in court may request a court trial. The request for court trial must be received by the court on or before the date set forth on the relevant citation or ticket.
- B. A defendant or their attorney may request a trial by: (1) appearing at the Traffic Window of the Kings County Superior Court, or (2) submitting such request in writing forwarded via first class mail to the court.
- C. Any defendant or attorney who seeks to have a not guilty plea entered in a case without appearance at arraignment must execute a Counter Arraignment for Contested Infraction. The executed Counter Arraignment form must be submitted to the court simultaneously with the required bail amount. If the defendant or attorney is unavailable for trial on a certain date, a cover letter may be included with the executed Counter Arraignment for Contested Infraction setting forth such information. The court clerk may, but is not required to, reschedule the trial date to accommodate the schedule of counsel. Trial dates are scheduled in accord with the needs of the court.
- D. Upon timely receipt of the executed Counter Arraignment for Contested Infraction and required bail amount, the court clerk will issue a Subpoena - Notice of Trial Date to the citing law enforcement officer. Executed Counter Arraignment for Contested Infraction and required bail amounts must be received by the court not less than fifteen (15) days prior to the scheduled court trial date.
- E. Any request for continuance or rescheduling of a trial date must include a showing of good cause.

(Eff. 1/1/99; amended 1/1/18)

RULE 542 – Trial by Declaration

- A. Pursuant to Vehicle Code section 40903, a defendant charged with Vehicle Code infractions or violations of local ordinances adopted pursuant to the Vehicle Code who fails to (1) appear in court to plead or set a trial date, (2) post bail and request a trial by written declaration by mail, (3) request an extension, or (4) pay and forfeit bail by the date shown on the notice to appear may be deemed to have elected to have a trial by written declaration upon any alleged infraction or violation, as charged by the citing officer. A defendant deemed to have elected this procedure will be mailed the appropriate notice and form. Failure to return the required written declaration by the stated deadline may result in a trial upon such evidence as provided by Vehicle Code section 40903(b) and the case may be adjudicated solely on the merits of the citing document.
- B. A trial by written declaration is also available to any defendant who wishes to contest the citation and who timely requests a trial by written declaration in writing. A trial by written declaration shall be requested and conducted in accordance with Rule 4.210 of the California Rules of Court. A trial by declaration is not available if defendant has been notified that a personal appearance is mandatory. A defendant electing this procedure shall complete and return to the clerk Forms TR-

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205, Election by Trial by Written Declaration, and TR-200, Instructions to Defendant and shall notify the clerk of his or her current address and of any changes thereof. Failure to return a written declaration by the date shown on Form TR-205 may result in a trial upon such evidence as provided by Vehicle Code section 40902(c).

(Eff. 1/1/99; amended 1/1/8)

(RULES 543 - 579 Reserved)

Part 5 – Rules Applicable to Petitions for Writ of Habeas Corpus

RULE 580 – Petitions for Writ of Habeas Corpus

- A. Petitions for Writ of Habeas Corpus shall be processed by the court in accord with California Rules of Court, rule 4.550 et seq. Except as provided in California Rules of Court, rule 4.551(a)(2), it is not appropriate for petitioners to fail to complete any portion of the Petition for Writ of Habeas Corpus (form HC-001). If the form HC-001 provides inadequate space to state the entirety of a petitioner's claim, he or she may attach additional pages thereto that set forth in a clear and concise manner the facts necessary to state a prima facie claim for habeas corpus relief. Petitions failing to meet the requirements of California Rules of Court, rule 4.551, subdivision (a)(1), (2), will be returned without filing.
- B. The court clerk will not file any pleading which is unable to be fully scanned into the court's electronic case management system in a form which will thereafter be readable by the assigned judicial officer and/or public. Papers with light writing and torn pages are just a few examples of conditions which may keep a document from being scanned into the electronic record of the court.
- C. Absent order of the court, the clerk will not provide copies of filed petitions and/or exhibits to the parties. It is the responsibility of the submitting party to retain copies of their filed documents and petitions. In addition, the clerk will not conform incomplete copies of filed documents.
- D. Any request for expedited review of a Petition for Writ of Habeas Corpus must be presented to the court via written motion demonstrating good cause. (Cal. R. Ct., rule 4.551(h).) Because stating on the face of Judicial Council Form HC-001 that expedited review is requested does not by itself satisfy the good cause requirement of California Rules of Court, rule 4.551, subdivision (h), such unsupported requests will not be considered by the court.
- E. Any party-initiated motion for additional time to do any act set forth in California Rules of Court, rule 4.552 must demonstrate good cause and include proof of service upon all parties or their attorney of record. The motion must be filed and served at least twenty (20) days prior to the deadline the party seeks to extend. Any opposition to the extension request must be filed and served at least ten (10) days prior to the deadline to sought be extended. A proposed Order setting forth the good cause basis for the requested extension should be included with the motion. Failure to include a proposed order may delay processing of the party-initiated motion.

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- F. The court will not accept for filing any written communication or application that, following issuance of an Order Re: Petition for Writ of Habeas Corpus directing action on the part of the respondent(s), has not been served upon all parties or their attorney of record.

(Eff. 7/1/11; amended 1/1/19; amended 7/1/20)

(RULES 581 - 599 Reserved)

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CHAPTER 6: JUVENILE COURT RULES

RULE 600 – Application and Definitions

These rules apply to Juvenile Court proceedings, but not juvenile traffic hearings or traffic hearing appeals. To the extent that any of these rules conflict with either statutory requirements or the California Rules of Court, the local rule is of no legal effect.

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

RULE 601 – Standing Orders

The Presiding Judge of the Juvenile Court may issue such standing orders for the administration of the Juvenile Court as the court deems appropriate. The court may hereafter issue new or amended standing orders by filing the same with the court clerk. The court clerk shall keep and make available to the general public copies of any standing order and these rules. The court clerk may charge for the cost of providing such copies.

(Eff. 1/1/99)

RULE 602 – Attendance at Hearings

Unless excused by the court, each party and attorney shall attend each scheduled court hearing.

(Eff. 1/1/99)

RULE 603 – Motion Requirements

- A. Noticed motions should be accompanied by a proof of service compliant with California Code of Civil Procedure section 1013.
- B. All motions calendared in the Juvenile Court must comply with the requirements of the Code of Civil Procedure sections 1010 et seq. and California Rules of Court, rules 3.1110, 3.1113, 3.1115, 3.1320, and 5.544, except that written notice to opposing counsel and the court may be reduced to five (5) court days, and any opposition must be filed and served two (2) court days before the scheduled hearing. Prior to giving notice, the moving party must reserve the hearing date with the calendar clerk for the Juvenile Court.
- C. Notwithstanding the foregoing requirements, motions to continue a hearing, brought under Welfare and Institutions Code section 352, are subject to the time limits set forth therein.
- D. Papers that do not comply with these rules, the Code of Civil Procedure, and the California Rules of Court will not be considered by the court unless good cause is otherwise shown.

(Eff. 1/1/99 as Rules 603 and 605; amended and renumbered 7/1/08; amended 1/1/21)

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RULE 604 – Ex Parte Application and Orders

Any ex parte application for order shall be presented to the Presiding Judge of the Juvenile Court or the designee of same. Whenever possible, the moving and responding papers and any declaration regarding notice must be served on the attorney for each parent, attorney for the child, county counsel, CASA, supervising social worker, and parents who are not represented by counsel. Notice may be excused if the giving of such notice would frustrate the purpose of the order and cause the child to suffer immediate and irreparable injury and/or if, following a good faith attempt, the giving of notice is not possible.

(Eff. 1/1/99; amended 1/1/11)

RULE 605 – Pre-Hearing Discovery

- A. Pre-hearing discovery shall be reciprocal and shall be conducted in the manner provided for within Rule 5.546 of the California Rules of Court. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties to the litigation. For purposes of Rule 5.546(e) of the California Rules of Court, the term “parent or guardian” shall include de facto parent(s).
- B. In the case of contested hearings, the parties shall exchange witness lists of all witnesses to be called, if not included in the social study report prepared by Child Protective Services (CPS), at least five (5) court days prior to the hearing.
- C. Formal Discovery. Only after all informal means have been exhausted may a party petition the court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five (5) court days before the hearing date. The date for the hearing shall be obtained from the clerk of the Juvenile Court. Any responsive papers shall be filed and served two (2) court days prior to the hearing.
- D. The Code of Civil Procedure authorizing interrogatories, depositions, requests for production of documents, subpoenas of juvenile records or other similar types of discovery shall not apply to Juvenile Court proceedings absent prior approval of a judge of the Juvenile Court upon noticed motion.
- E. The names of any experts to be called by any party and copies of any reports, if not part of a social study report prepared by CPS, shall be provided to all counsel at least five (5) court days before the hearing.
- F. In delinquency proceedings, the court rules regarding discovery set forth in Penal Code sections 1054 through 1054.8 will apply.

(Eff. 1/1/99 as Rule 617; amended and renumbered 7/1/08)

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RULE 606 – Access to Minors Subject to Section 300 of the Welfare and Institutions Code

No party or counsel in a dependency proceeding shall interview the minor about the events relating to the allegations in the petition(s) on file without permission of the minor's attorney or court order.

No party or counsel in a dependency proceeding shall cause the minor to undergo a physical, medical, or mental health examination or evaluation without court approval and pursuant to a written noticed motion. This rule does not apply to the CPS caseworker or other authorized CPS social worker.

(Eff. 1/1/99 as Rule 611; amended and renumbered 7/1/08)

RULE 607 – Interviewing Victims of Child Abuse

All counsel representing parties and other participants in a dependency case in which child abuse has been alleged shall attempt to minimize the number of interviews they take of the minor relating to the events surrounding the alleged abuse. To this end anyone wishing to learn facts about the alleged incident(s) shall first review any interviews taken or reports made by the investigating officer(s) or CPS social worker(s).

(Eff. 1/1/99 as Rule 612; renumbered 7/1/08)

RULE 608 – Guardian Ad Litem for Minors

Until such time as a trained volunteer Court Appointed Special Advocate (CASA) program is established in Kings County for purposes of the Federal Child Abuse Prevention and Treatment Act (42 U.S.C. section 5101 et seq.), California Rules of Court, rule 5.660, and Welfare and Institutions Code section 326.5, an attorney representative of the Minors Advocate Office of CPS shall be deemed to be the minor's guardian ad litem unless the court orders otherwise. Upon establishment of a CASA program in Kings County, an approved CASA representative may be appointed by the court to serve as the minor's guardian ad litem.

(Eff. 1/1/99 as Rule 613; amended and renumbered 1/1/11)

RULE 609 – Guardian Ad Litem for Parents

The court shall appoint any person whom the court deems qualified as guardian ad litem to represent any incompetent parent or guardian whose child is before the court pursuant to a petition under Welfare & Institutions Code section 300. The determination of incompetence may be made by the court at any time in the proceeding based upon evidence received from any interested party. The court shall apply that test for mental competence set forth in Penal Code section 1367.

(Eff. 1/1/99 as Rule 614; amended and renumbered 7/1/08)

RULE 610 – Guardian Ad Litem - Notice, Access to Records, Right to Appear

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In all proceedings, the guardian ad litem shall be given the same notice as any party and have the same access to all records relating to the case as would any party and have the right to appear at all hearings.

(Eff. 1/1/99 as Rule 615; renumbered 7/1/08)

RULE 611 – Motion to Challenge Legal Sufficiency of Petition

- A. In any dependency proceeding, the court may entertain a pre-hearing challenge by motion to the legal sufficiency of the petition. Such a motion may be made in writing or orally but must be made as early in the proceedings as possible. The court may rule on the motion at the hearing at which it is made or may continue the hearing on the motion to another date to receive briefing from counsel. If the court sustains the motion, the court may grant leave to amend the pleading in the petition upon any terms as may be just.
- B. The provisions of Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure relating to variance and amendment of pleadings in civil actions shall apply to petitions and proceedings under this Chapter.

(Eff. 1/1/99 as Rule 618; amended and renumbered 7/1/08)

RULE 612 – Citations to Appear, Warrants and Subpoenas

The court may issue citations to appear, warrants and subpoenas in accordance with the provisions of California Rules of Court, rule 5.526. In the event that the court orders a warrant to be issued, bail shall normally be set at not less than \$5,000.

(Eff. 1/1/99 as Rule 620; amended and renumbered 7/1/08)

RULE 613 – Settlements

The court recognizes that agreement between the parties regarding the matters before the court is not only beneficial to the child/ren but also often contributes to the satisfactory reunification of the family. The court encourages settlement discussions including Family Unity Meetings between the parties at any time prior to the hearing. In the event the case is set for Jurisdiction/Disposition hearing, the parties shall meet at least one-half hour prior to the Jurisdiction/Disposition hearing to discuss settlement of the case. The court shall be promptly advised of any proposed settlements, admissions, or submissions of the entire hearing on reports.

(Eff. 1/1/99 as Rule 621; renumbered 7/1/08)

RULE 614 – Standards of Representation in Dependency Cases

- A. All counsel appearing in dependency proceedings shall meet the requirements for competent counsel set forth in Rule 5.660(d) of the California Rules of Court. In any case where a client's whereabouts is unknown, an attorney should immediately inform the court. Upon such showing

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of good cause, the court may excuse an attorney from the requirement of regular client meetings set forth in Rule 5.660(d)(4) of the California Rules of Court.

- B. In addition to the requirements set forth in Rule 5.660(d) of the California Rules of Court, all court appointed attorneys appearing in a dependency matter before the Juvenile Court must complete either of the following minimum training and educational requirements:
1. Participated in at least eight (8) hours of training or education in juvenile dependency law, which training must have included information on the applicable case law and statutes, the Rules of Court, Judicial Council forms, motions, writs, mediation, child development, child abuse and neglect, family reunification and preservation, restraining orders, rights of de facto parents, and reasonable efforts; or
 2. At least six (6) months experience in dependency proceedings in which the attorney has had primary responsibility for representation of his or her clients in said proceedings. In determining whether the attorney had demonstrated competence, the court will consider whether the attorney's performance has substantially complied with the requirements of these rules.
- C. Each court appointed attorney who practices before the juvenile dependency court must complete within every three (3) year period at least eight (8) hours of continuing education related to dependency proceedings. Evidence of completion of the required number of hours of training or education must be retained by the attorney and may include a copy of a certificate of attendance issued by a California Mandatory Continuing Legal Education (MCLE) provider; a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether it is an MCLE provider. Attendance at a court sponsored or approved program will also fulfill this requirement.
- D. The attorney's continuing training or education must be in the areas set forth in paragraph (B) above, or in other areas related to juvenile dependency practice.
- E. Each court appointed counsel, including those employed by county offices, must annually complete and file a "Certificate of Competency," and file it with the Presiding Judge of the Juvenile Court. A copy of a form "Certificate of Competency" will be provided upon request. Requests and completed Certificates should be directed to:

Ms. Nancy Rizo, Sr. Executive Svc. Coordinator
Kings County Superior Court
1640 Kings County Drive
Hanford, California 93230

(Eff. 1/1/99 as Rules 623 through 625; amended and renumbered 7/1/08; amended 7/1/17)

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RULE 615 – Standards of Representation in Delinquency Cases

All counsel appearing in delinquency proceedings shall meet the requirements for competent counsel set forth in Rule 5.664. Each court appointed counsel, including those employed by county offices, must annually complete Judicial Counsel Form JV-700 and submit the same to the Presiding Judge of the Juvenile Court. Completed Judicial Council Forms JV-700 should be directed to:

Ms. Nancy Rizo, Sr. Executive Svc. Coordinator
Kings County Superior Court
1640 Kings County Drive
Hanford, California 93230

(Eff. 7/1/17)

RULE 616 – Procedures for Reviewing and Resolving Complaints

- A. Any party to a Juvenile Court proceeding may lodge a written complaint with the court concerning the performance of his or her appointed counsel in a Juvenile Court proceeding. In the case of a complaint concerning the performance of counsel appointed to represent a minor, the complaint may be lodged on the child's behalf by the social worker, a caretaker relative or a foster parent. Any complaints shall be lodged separately in the Juvenile Court file in a sealed envelope.
- B. Counsel shall be provided with a copy of the complaint. The court shall review any complaint within ten (10) days of receipt and may determine based upon that complaint that a prima facie case does not exist to believe that counsel has failed to act competently or has violated these rules. In that event, no further action is required by the court, however, the court shall notify the party and counsel in writing of its decision. This shall constitute a final decision on the matter.
- C. If the court determines that the complaint presents a prima facie case that the attorney may have failed to act competently or has violated local rules, the court may request an informal response from counsel or may conduct a hearing to make a determination on the issue. If ordered, a hearing shall be held as soon as practicable. The complainant and counsel shall each be given at least five (5) days notice of the hearing. The hearing shall not be open to the public or other parties to the Juvenile Court proceeding. The Presiding Judge of the Juvenile Court may designate a commissioner, referee, or judge pro tempore, or any qualified member of the Bar to act as hearing officer. The hearing officer may conduct the hearing with that degree of formality he or she deems appropriate.
- D. Any complaints, written responses to the complaints, or written notification of the court's determination rendered pursuant to this rule shall be subject to the confidentiality requirements established under Welfare & Institutions Code section 827.

(Eff. 1/1/99 as Rule 626; amended and renumbered 7/1/08; amended 1/1/12; renumbered 7/1/17)

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RULE 617 – Procedures for Informing the Court of Other Forum Interests of a Dependent Child

At any time during the dependency proceedings, counsel for the minor or any interested person may notify the court that the minor may have an interest or right which needs to be protected or pursued in another judicial or administrative forum as soon as it is reasonably possible for counsel to do so. Notice to the court may be given orally or by the filing of a declaration. The person giving notice shall set forth the nature of the interest or right which needs to be protected or pursued, the name and address, if known, of the administrative agency or judicial forum in which the right or interest may be affected, and the nature of the proceedings being contemplated or conducted there.

The court may set a hearing on the notice if the court deems it necessary to determine the nature of the child's right or interest or whether said interest should be protected or pursued.

(Eff. 1/1/99 as former Rule 627; renumbered 7/1/17)

RULE 618 – Release of Information Relating to Juvenile

Juvenile Court records are confidential by statute and case law. Disclosure and use of such records shall be governed by California Rules of Court, rule 5.552 and California Welfare and Institutions Code sections 825 through 830.1. All requests for the dissemination of records pursuant to California Welfare & Institutions Code section 827 will be handled by the court in accord with its December 12, 2013 written policy regarding the same. The written policy of the court will be made available to the public upon request.

(Eff. 1/1/99 as Rule 628; amended and renumbered 7/1/08; amended and renumbered 7/1/17)

RULE 619 – Requests for Transcripts

Any party wanting the court to pay for a reporter's transcript shall apply in writing to the judicial officer who heard the matter in question or to the Presiding Judge of the Juvenile Court. Alternatively, a party may orally request at a court hearing that the court order a transcript be prepared at court expense. In order to obtain transcripts at court expense, a party must demonstrate a legal necessity for the transcript and that he or she is receiving financial assistance under SSI and SSP, TANF, the Food Stamp Program, General Assistance, or meets the gross monthly income criteria as set out in Judicial Council Form FW-001-INFO entitled, "Information Sheet on Waiver of Court Fees and Costs."

(Eff. 1/1/99 as Rule 629; amended and renumbered 7/1/08; renumbered 7/1/17)

RULE 620 – Appointment of Child Advocates (CASA)

- A. At any time during a dependency proceeding pursuant to Welfare and Institutions Code section 300 et seq. or at any time following a declaration of wardship at a disposition hearing during delinquency proceedings pursuant to Welfare and Institutions Code section 601 et seq. a trained CASA volunteer may be appointed by the court to provide all the services contemplated by Welfare and Institutions Code sections 102(c) and 104, and to represent the best interests of

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children in Juvenile Court proceedings. To qualify for appointment, the child advocate must be trained and function under the auspices of a CASA program, formed and operating under the guidelines established by the Judicial Council of California (Welf. & Inst. Code, §§ 100 and 103(a)).

- B. A CASA volunteer is a sworn officer of the court having taken an oath which describes the duties and responsibilities of the volunteer. CASA volunteers serve at the pleasure of the court and are bound by all court rules.
- C. The Kings County CASA Program will function under and pursuant to the program guidelines of CASA Programs as from time to time may be adopted or amended by the Judicial Council of the State of California, pursuant to Welfare and Institutions Code section 100, and will comply generally with the provisions of Welfare and Institutions Code sections 100-109, and California Rules of Court, rule 5.655.
- D. CASA volunteers are appointed only on behalf of children, and only in such proceedings as authorized by Welfare and Institutions Code sections 100-109 and the program guidelines established pursuant to these sections.
- E. CASA volunteers must have access to all documents, case files, and other documents which relate to the child before the court as authorized by Welfare and Institutions Code section 107.
- F. A CASA volunteer's personnel file is confidential. No one will have access to the volunteer's personnel file with the exception of the volunteer, the CASA program director or their designee, and the Presiding Judge of the Juvenile Court.
- G. CASA shall receive notice of all court proceedings involving persons for whom they have been appointed.
- H. CASA shall have reasonable access to the children for whom they have been appointed.
- I. CASA shall be served with a copy of all documents filed with the court as to a child for whom they have been appointed. The party filing said document is responsible for service on CASA.
- J. There must be ongoing, regular communication concerning the child's best interests, current status, and significant case developments maintained among the advocates, case manager, child's attorney, attorney(s) for parents, social worker, county counsel, relatives, foster parents, and any therapist for the child.
- K. A child advocate may petition the court to set the child's case for hearing.
- L. All court reports submitted by CASA shall be submitted and served on all parties through their counsel, Child Welfare Services, and Probation in a timely fashion, at least ten (10) court days prior to the scheduled hearing unless otherwise ordered by the court.

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(Eff. 1/1/11; renumbered 7/1/17)

RULE 621 – Judicial Assignments

All-purpose judicial assignments have been adopted in connection with juvenile cases. All interested parties are directed to review the current version of the Standing Order re All Purpose Assignment of Juvenile Delinquency Cases and Standing Order re All Purpose Assignment of Juvenile Dependency Cases; both documents are available for public viewing on the court's website.

(Eff. 1/1/16; renumbered 7/1/17; amended 1/1/18)

RULE 622 – Competency Protocol

The Juvenile Court will follow the Juvenile Competency Protocol effective July 1, 2021. This protocol is consistent with and supplements the requirements of Welfare and Institutions Code section 709 and California Rules of Court, rule 5.645. In the event of modifications to Welfare and Institutions Code section 709 and California Rules of Court, rule 5.645, the Statute and Rule of Court shall control. A copy of the Juvenile Competency Protocol can also be found on the court's website: [Link to Juvenile Competency Protocol.]

(Eff. 7/1/21)

(RULES 623 - 699 Reserved)

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CHAPTER 7: FAMILY COURT RULES

Part 1 - General Rules

RULE 700 – Enforcement

Failure to comply with these rules may result in an award of attorney fees and costs pursuant to Family Code section 271 and/or any of the sanctions set forth in Superior Court of Kings County, Local Rule 103.

(Eff. 1/1/99 as Rule 701; amended and renumbered 7/1/08)

RULE 701 – Setting Matters for Hearing

- A. All family law matters must be set pursuant to Superior Court of Kings County, Local Rule 301. Failure to be in the courtroom on time may result in the matter being dropped from the calendar, the matter being continued and/or the imposition of sanctions.
- B. No matter shall be calendared on the Family Law and Motion Calendar when both sides are represented by counsel without first calling opposing counsel and attempting to clear a hearing date, unless notice is otherwise excused by these rules or if opposing counsel represents the Department of Child Support Services.

(Eff. 1/1/99 as Rule 710; amended and renumbered 7/1/08; amended 7/1/20)

RULE 702 – Presentation of Documents

All documents submitted in family law matters must comply with California Rules of Court as to motion practice, as well as the following:

- A. In accordance with California Rules of Court, rule 5.111, the court will not consider more than ten (10) typewritten, double-spaced pages of declarations without prior approval. This restriction does not apply to exhibits submitted with the declaration(s). However, no more than fifty (50) pages of exhibits (including dividers) shall be attached to any declaration. No reply or closing declaration shall exceed five (5) pages (not including exhibits).
- B. No foundation will be required for medical, psychological, educational, mediation, probation, civil investigation reports, records of a financial institution, and records related to the purchase or sale of real property. All such documents will be deemed to be business records without authentication unless a party asserts a genuine objection predicated upon a good faith factual belief that the records are not authentic. In the event of such an objection, the court may allow for a continuance to allow the proffering party to establish authenticity to the satisfaction of the other party or to procure a witness or other evidence for this purpose. The court may sanction a party pursuant to Family Code section 271 if it finds that an objection as to authenticity was not made in good faith.

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- C. Photocopies of forms adopted by the Judicial Council and used in family law matters must be legible and tumbled if two sided.

(Eff. 1/1/99 as Rule 711; amended and renumbered 7/1/08; amended 7/1/12; amended 7/1/20; amended 7/1/21)

RULE 703 – Matters Off Calendar

After service of the moving papers, no matter shall be taken off calendar without notice to the responding party. The responding party must agree to take any matter off calendar when the responding party has requested affirmative relief.

(Eff. 1/1/99 as Rule 712; amended and renumbered 7/1/08; amended 7/1/20)

RULE 704 – Continuances

- A. Continuances must comply with Superior Court of Kings County, Local Rule 304, an Order to Show Cause will only be continued with a Stipulation and Order or by submitting an Application and Order for Reissuance of Order to Show Cause [Judicial Council Form Number FL-306].
- B. An Order to Show Cause Re: Contempt and Order for Examination of Judgment Debtor will not be reissued. If an Order to Show Cause Re: Contempt or Examination of Judgment Debtor is not served, the moving party shall take the hearing off calendar. If a new hearing date is sought, a new Order to Show Cause Re: Contempt or Application for Examination of Judgment Debtor must be submitted to the court.
- C. After service of an Order to Show Cause Re: Contempt or Order for Examination of Judgment Debtor, a continuance will not be granted without a court appearance.

(Eff. 1/1/99 as Rule 714; amended and renumbered 7/1/08)

RULE 705 – Hearings Estimated to Take More Than 20 Minutes

After consulting with counsel for the parties or self-represented parties, if it is apparent to the presiding family law judge or commissioner that a matter will take more than twenty (20) minutes, such matter may be continued by the court to accommodate its calendar. Nothing contained herein shall alter, modify, or amend applicable notice requirements set forth in the California Family Code, including Family Code section 215.

(Eff. 1/1/99 as Rule 715; amended and renumbered 7/1/08; amended 1/1/12; amended 7/1/20)

RULE 706 – Case Management Conference

All dissolution of marriage, legal separation, nullity of marriage, and uniform parentage actions may be set for a family centered case resolution plan conference, herein referred to as a “Case Management Conference.” Unless otherwise ordered by the court, a Case Management Conference shall be set not more than one (1) year after the filing of the initial petition.

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A. Case Management Conference Statement

No less than seven (7) days before the date set for the Case Management Conference each party shall file and serve a Case Management Conference Statement.

1. Attendance at conference

Parties shall be present at the Case Management Conference unless represented by counsel, in which case, counsel shall appear. Appearance may be in person or by telephone if timely arranged. The parties or the attorneys shall be fully prepared to discuss identification of disputed issues, the timetable for disposition of the case by settlement or trial and be sufficiently familiar with the facts of the case so that the court may make necessary orders.

B. Orders at Case Management Conference

The parties shall address, if applicable, and the court may take appropriate action with respect to, the following:

1. Whether any matters (e.g., the bankruptcy of a party, pending criminal matters impacting issues in the case, a pending juvenile action concerning a child, or custody orders from another jurisdiction) affect the court's jurisdiction or processing of the case.
2. Whether discovery has been completed and, if not, the date by which it will be completed.
3. What discovery issues are anticipated.
4. Whether an issue in the case should be bifurcated or a hearing should be set for a motion to bifurcate.
5. A date or dates by which Final Declarations of Disclosure are to be exchanged and the Declaration of Service of Declaration of Disclosure and Income and Expense Declarations filed.
6. Whether to refer the parties to Family Court Services in cases in which custody or visitation (or both) is at issue and no evaluation or private mediation is pending.
7. The need for selection and compensation of joint experts by stipulation or motion.
8. The need for, selection, and compensation of a Special Master by stipulation or appointment pursuant to Code of Civil Procedure sections 638 and 639.
9. The need for an order for attorney fees and costs by stipulation or motion.
10. A date for Mandatory Settlement Conference.
11. Whether to set a Recommendation Conference in cases involving child custody and visitation in cases that have a child custody evaluation pending.

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12. If a trial date has not been previously set, the date by which the case will be ready for trial. Each side shall have available at the conference all necessary information as to unavailable dates as to the parties, their attorneys, and any retained experts.
13. The estimated length of trial.
14. Setting a trial date.
15. Any other matters that should be considered by the court or addressed in its case management order.
16. Whether to set a further Case Management Conference.
17. Whether to tailor or modify the requirements of Local Rule 721 as it relates to the case.
18. The stipulation of the parties and consent of the court to place the matter in further case management pursuant to Family Code sections 2450 and 2451.

(Eff. 7/1/08; amended 1/1/12)

RULE 707 – Ex Parte Requests for Orders (Temporary Restraining Orders, Orders Shortening Time) and Related Hearings

The procedural and notice requirements for requests for ex parte orders, Temporary Restraining Orders, and other emergency requests are set forth in California Rules of Court, rules 3.1200 through 3.1207. Any application under this section must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief on short notice. An order requested will issue only upon a factual showing that great or irreparable injury will result to the applicant before the matter can be heard upon a regularly noticed motion (Fam. Code § 241).

A. Assignment and Stipulation to Commissioner

Ex Parte Requests for Temporary Emergency Orders are assigned to COMMISSIONER BRIAN N. CHASE for determination. Any objection to such judicial assignment must be submitted in writing by the petitioner at the time of his/her filing of the Ex Parte Request for Temporary Emergency Order. Any objection to such judicial assignment by respondent must be submitted in writing by the deadline for the filing of his/her Response (Judicial Council Form FL-320). The failure to submit a timely written objection to the assignment of COMMISSIONER BRIAN N. CHASE, shall be deemed a stipulation to such judicial assignment. (Cal. R. Ct., rule 2.186(d)(1).)

B. Procedure and Notice

1. Orders filed in the Family Law Court must be accompanied by a Declaration Regarding Notice and Service of Request. California Judicial Council Form FL-303 or Kings County Superior

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Court Local Form 303 are available for this purpose, but the use of either form is not mandatory. Except for applications for orders filed under the Domestic Violence Prevention Act, all applications must be submitted with the appropriate fee or fee waiver, the original application, and two (2) copies of the application. The court will file all applications submitted (including applications pertaining to domestic violence) whether temporary orders are issued.

2. Except as provided in Family Code section 6300, unless notice of the application for an ex parte order (including an application for an order shortening time) or a Temporary Restraining Order would result in great irreparable injury to the applicant before the matter can be heard on notice, the applicant shall give the other party the notice required by law. Any party seeking to have a Request for Temporary Emergency (Ex Parte) Order decided by the court without service of notice upon the opposing party must include a declaration setting forth sufficient facts to support the waiver of notice. Any Request for Temporary Emergency (Ex Parte) Order which does not include the required declaration may not be considered by the court.
3. If the applicant for a Temporary Restraining Order is a minor under 12 years of age, an application for appointment of guardian ad litem and order appointing guardian ad litem shall accompany the application.
4. All ex parte requests for an Order Shortening Time (OST) shall be submitted in compliance with the application and notice requirements set forth in this rule. Before submitting an application for an OST, the applicant shall contact the opposing counsel or party and request a list of dates counsel or party is unavailable and include that information with his/her own unavailability on the declaration of notice.
5. All ex parte applications shall be submitted to the court by 10:00 a.m. on the date for which notice was provided. Any ex parte applications submitted after 10:00 a.m. will be held and not considered until the next day. Notice shall be provided no later than 10:00 a.m. on the preceding court date. Notice shall include a copy of the Request for Order that is being submitted on an ex parte basis along with all supporting documents that accompany the ex parte application.
6. Any opposition to the ex parte request shall be submitted no later than 10:00 a.m. on the date for which notice was provided. Judicial Council Form FL-320 is a mandatory form. A copy of any response filed with the court must be served by mail on all other parties to the case.
7. Ex parte applications will be forwarded to the assigned judicial officer for determination immediately upon the earlier of the filing of Judicial Council Form FL-320 and/or the lapsing of the deadline for the filing of a response by the responding party.
8. Ex parte applications filed in the Family Law Court which include the required Declaration Regarding Notice and Service of Request will in most circumstances be determined by the assigned judicial officer without a hearing and the decision based only upon the Request and any timely-filed response.

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9. Once the ex parte application is ruled upon, it will be filed and made available for pick-up by the moving party. The responsive Declaration will also be filed and made available for pick-up by the responding party. The moving party must serve the filed order(s) within the time limitation specified in the orders.

C. Requests Related to Child Custody

No order granting temporary custody of a minor child will be granted without a supporting declaration stating the following:

1. The date of separation, or if a custody order has previously been issued, a copy of that order (if from another County or State), a summary of the custody/visitation practices of the parties in the past, and if there is an existing Juvenile Court order regarding custody, a copy of that order.
2. The name of the parent the child/ren is/are currently residing with. If different from any prior order or practice, how that parent obtained custody; and
3. If a short notice (ex parte) change in status quo is requested, clear and specific facts demonstrating that the health and welfare of the child/ren will be in danger without a change of custody (including flight from the area). A temporary order for child custody will not issue without an accompanying order restricting all parties from removing the child/ren from California except for good cause shown.

D. Exclusive Use of Vehicle – A short notice (ex parte) order granting exclusive use of a vehicle will not be granted unless a declaration demonstrates that the opposing party has suitable transportation available, or requires no such transportation, or such order is necessary for the immediate best interests of the child/ren, and who has current possession of the vehicle.

E. Payment of Obligations – A short notice (ex parte) order requiring the payment of obligations will not issue without financial facts justifying the order, plus a completed Income and Expense Declaration with at least an estimate of opposing party's gross income.

F. Modified Orders – If the court modifies any requested orders, it is the responsibility of the applicant, or attorney, to conform all copies with the changes before filing and service.

G. Set Aside of Ex Parte Orders – If a responding party requests an ex parte or emergency short notice order be set aside prior to the date set for hearing, any such request must comply with the procedures for ex parte requests set forth above.

(Eff. 1/1/99 as Rule 717; amended and renumbered 7/1/08; amended 7/1/20; amended 1/1/21)

RULE 708 – Family Law Temporary Restraining Orders at Initial Filing

A. Pursuant to Family Code section 2040, in actions for dissolution, annulment, and legal separation, certain temporary restraining orders issue automatically (Automatic Temporary Restraining

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Orders [ATROs]). These orders are mutual and bind both the petitioner and respondent. The ATROs remain in effect until modified. They include, but are not limited to:

1. Removing the minor child/ren of the parties from the state without the prior written consent of the other party or an order of the court;
2. Cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and disability held for the benefit of the parties and their minor child/ren; and
3. Transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life. Each party shall notify the other party of any proposed extraordinary expenditures at least five (5) days before incurring those expenditures and account to the court for all extraordinary expenditures made after service of the summons on that party. However, nothing shall preclude the use of community property to pay reasonable attorney fees in order to retain legal counsel in the action.

B. Under Uniform Parentage or Petition for Custody and Support matters, certain temporary restraining orders issue automatically (ATROs). These orders are mutual and bind both the petitioner and respondent. They include:

1. Removing from the state, the minor child/ren for whom the action seeks to establish a parent-child relationship, without the prior written consent of the other party or an order of the court.

(Eff. 7/1/08)

RULE 709 – Requests for Orders to Show Cause Issued by the Clerk

For the convenience of counsel and litigants who are self-represented, the court clerk has been authorized to issue family law requests for Orders to Show Cause not requesting temporary orders or an Order Shortening Time for hearing or service. The court clerk may set the Order to Show Cause for a hearing date.

(Eff. 7/1/08; amended 7/1/19)

RULE 710 – Applications for Family Law Court Orders

(Eff. 1/1/99 as Rule 720; amended and renumbered 7/1/08; repealed 1/1/12)

RULE 711 – Attorney Fees

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- A. Except as provided in Kings County Local Rules 103 and 700, or as otherwise allowed by statute, attorney fees and costs will not be awarded unless an Income and Expense Declaration is filed by the requesting party, with Item 15 fully and accurately completed.
- B. If attorney fees and/or costs of litigation (including fees for experts) are requested in a combined amount in excess of \$2,500.00, the request must be supported by a separate declaration signed by the attorney, describing services performed, time expended, hourly rate, and all reasonably anticipated fees and/or costs. In the absence of such declaration, no award in excess of \$2,500.00 for fees and costs will be granted.
- C. Without compliance with the Superior Court of Kings County, Local Rule 712, no attorney fees under Family Code section 271 will be awarded at any hearing.

(Eff. 1/1/99 as Rule 702; amended and renumbered 7/1/08)

RULE 712 – Meet and Confer Requirement/Settlement Efforts

- A. Except for proceedings under the Domestic Violence Prevention Act and the Kings County Department of Child Support Services calendar, counsel must meet and confer prior to the beginning of a contested hearing to resolve or limit the disputed issues. Failure to conduct such settlement discussions in good faith may have a bearing on attorney fees to be awarded and may result in a court ordered continuance.
- B. Except for proceedings under the Domestic Violence Prevention Act, all parties are required to provide copies of documentary evidence to opposing parties and not wait until the time of the hearing to “surprise” the opposing party with proffered documentary evidence except where a document clearly and substantially impeaches the veracity of a party or witness, and the document is used primarily for that purpose. This document exchange must occur prior to or at the meet and confer session.
- C. Except for proceedings under the Domestic Violence Prevention Act, no case on the family law calendar will be heard unless counsel, with their respective clients either physically present or immediately physically available, have met and conferred in good faith and attempted to resolve all disputed issues.
- D. When counsel cannot reasonably or economically meet prior to the hearing date due to geographical distances, counsel may meet on the day of the hearing prior to the call of the calendar, or in the discretion of the court, after the calendar is called but prior to the matter being heard.
- E. When counsel is appearing at a mandatory settlement conference on behalf of clients who cannot be present at the hearing, counsel must arrange for the absent client to be on telephone standby.

(Eff. 1/1/99 as Rule 722; amended and renumbered 7/1/08; amended 7/1/20)

RULE 713 – Stipulations in Open Court

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The settlement of matters resulting in stipulations is favored and will take precedence on the calendar over contested matters.

(Eff. 1/1/99 as Rule 723; amended and renumbered 7/1/08)

RULE 714 – Failure to Appear/Tardiness

- A. Failure of the moving party or attorney to be present at the calendar call, or failure to have informed the bailiff or clerk of his or her location, may result in the matter being removed from the calendar. If the responding party has appeared, attorney fees and costs may be awarded to the appearing party.
- B. In the event the responding party or attorney fails to appear or to have informed the bailiff or clerk of his or her location, the court may continue the matter, award attorney fees, or enter an order on the pleadings and/or testimony of the moving party.

(Eff. 1/1/99 as Rule 724; renumbered 7/1/08)

RULE 715 – Preparation of Order After Hearing

- A. Unless otherwise ordered, the findings and decisions of the court in connection with any hearing shall be set forth in a minute order to be prepared, filed and served by the clerk (“Family Law Minute Order”). The clerk will serve a copy of the filed Family Law Minute Order upon all parties. No further notice of the court’s decisions and findings after hearing will be given. It is the responsibility of each party and/or counsel to keep the court informed as to their current mailing address.
- B. In any matter where the court directs a party to prepare a Findings and Order After Hearing, the parties shall comply with the timing requirements of California Rules of Court, Rule 5.125. If the parties cannot comply with the timing requirements of Rule 5.125 because they require a transcript of the proceedings to resolve disputes over the form of order, the parties shall advise the bench officer that the transcript has been ordered and the expected date of availability of the transcript. Failure to submit Orders After Hearing in accordance with Rule 5.125 may result in the imposition of sanctions.
- C. It is the policy of the Kings County Superior Court not to sign orders or judgments unless some portion of the text of the order or judgment appears on the page to which the judicial officer’s signature is affixed so that the connection between the signature page and the remainder of the order or judgment is apparent.

(Eff. 1/1/99 as Rule 725; renumbered 7/1/08; amended 10/31/11; amended 7/1/20)

RULE 716 – Adoption of Schedule for Temporary Spousal Support Awards

It is the policy of this court that parties be treated fairly and uniformly in determining their temporary spousal support obligations. Accordingly, the temporary spousal support guidelines used by the court

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will be those known as “Kings County Superior Court Guidelines” as calculated by a certified software program designated in the California Rules of Court. These schedules are subject to change.

(Eff. 7/1/08)

RULE 717 – Income and Expense Declaration/Financial Statement

- A. An Income and Expense Declaration (Judicial Council Form FL-150) must be filed and served with the moving and responsive papers in all matters when child support, spousal support, attorney fees, or payment of obligations is at issue. This provision shall not apply to individuals who are subject to contempt proceedings for non-payment of support.
- B. The failure to complete the Income and Expense Declaration fully, or attach the required pay stubs or income information, may result in sanctions as set forth in the Superior Court of Kings County, Local Rules, rules 103 and 700.
- C. If an Income and Expense Declaration is more than ninety (90) days old, the party must file a current Income and Expense Declaration. If there has been no change within the previous ninety (90) days, a declaration under penalty of perjury to that effect must be filed with the court. In either case, current verification of earnings or income must be attached as set forth in subdivision (D) below.
- D. For wage earners, pay stubs for the immediately preceding two (2) months, or one (1) pay stub showing year-to-date information, and W2 forms for the prior year, must be attached to all Income and Expense Declarations.
- E. For self-employed persons, the Income and Expense Declaration requires a profit and loss statement or Schedule C for the preceding two (2) years.
- F. If documents are not available (*i.e.*, they are in the possession and control of the other party), a declaration under penalty of perjury must state that fact.

(Eff. 1/1/99 as Rule 730; amended and renumbered 7/1/08; amended 7/1/20)

RULE 718 – Child Custody Recommending Counseling in Child Custody and/or Visitation Matters

Parties will be referred to the Family Court Services Department for Child Custody Recommending Counseling. There are two types of Child Custody Recommending Counseling that are available to parties at the court’s discretion. Child Custody Recommending Counselors will work to assist the parties in settling the issues by agreement.

- A. Immediate Child Custody Recommending Counseling. At the hearing, the judicial officer may order the parties to Immediate Child Custody Recommending Counseling. The Child Custody Recommending Counselor will verbally report in open court any agreements the parties have

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reached and/or any recommendations of the Child Custody Recommending Counselor. If an agreeable custody and/or visitation order is not obtained as a result of Immediate Child Custody Recommending Counseling, a formal session may be ordered.

- B. Formal Child Custody Recommending Counseling. Parties will be referred to Formal Child Custody Recommending Counseling when deemed appropriate by the judicial officer at the time of the hearing. The parties may request to participate in Child Custody Recommending Counseling by stipulation in writing prior to a hearing.
- C. At the time the appointment is set, a parent may request a telephonic appearance for their Child Custody Recommending Counseling session if the parent resides more than 100 miles from Kings County. If granted, the party requesting the telephonic appearance must initiate the telephone call to the Child Custody Recommending Counselor. Where both parents reside over 100 miles from Kings County, only the parent residing the furthest distance from the court may be allowed to make a telephonic appearance at the Child Custody Recommending Counseling session.
- D. In a case in which there has been a history of domestic violence between the parties, in which there is a protective or restraining order in effect, or at the request of the party who is alleging domestic violence, the Child Custody Recommending Counselor, Evaluator, or Investigator shall follow the Family Court Service Domestic Violence Protocol and meet with the parties separately.
- E. The Child Custody Recommending Counselor may review the court file at his/her discretion. Any documents that a party wants the Child Custody Recommending Counselor to consider, must be filed in the court file no less than five (5) days prior to Child Custody Recommending Counseling. Without prior approval, the court will not consider more than ten (10) typewritten, double-spaced pages of declarations. This restriction does not apply to exhibits submitted with the declaration(s). However, no more than fifty (50) pages of exhibits (including dividers) shall be attached to any declaration. A copy of all documents must also be served on the other party/attorney or the documents will not be considered. A party's failure to appear at any appointment with the Child Custody Recommending Counselor, of which he/she has notice and which he/she has failed to cancel at least 24 hours prior to the session, may result in a missed appointment fee and/or sanctions.
- F. Neither party shall bring any weapons to the Child Custody Recommending Counseling appointment. All individuals entering court facilities will be subject to search.
- G. No later than five (5) court days prior to the hearing, or as soon thereafter as possible, the Child Custody Recommending Counselor will file a counseling report with the court, with copies available to the parties. The report will, in the absence of an agreement, contain a recommendation to the court with respect to the matter(s) at issue. The counseling report will be deemed admitted into evidence for any child custody and visitation proceeding, subject to either parties right to subpoena and cross examine the counselor.
- H. At the first hearing following the parties' participation in Formal Child Custody Recommending Counseling, the court will receive the report of the counselor and attempt to resolve custody and visitation issues without trial. The parties and counsel shall attend this hearing and be prepared to

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discuss the counselor's recommendations. If the parties are unable to resolve custody and visitation issues at this hearing, the court will schedule a further hearing to resolve the contested issues. The court may, at the initial hearing, make interim orders pending the further hearing on the contested issues.

- I. Confidentiality. Except as required by California Penal Code section 11166, recommending counseling proceedings will be held in private, and all written and verbal communication will be deemed “official information” (Cal. Evid. Code § 1040). Any information may, however, be disclosed to the court.
- J. Participation of Children. Children shall not be present at court hearings or Child Custody Recommending Counseling unless ordered by the court or requested by the Child Custody Recommending Counselor. The court and/or Family Court Services will determine whether and under what conditions a minor may be interviewed and the terms and conditions under which counsel may be appointed for the child/ren. However, if the child is 14 years of age or older and wishes to address the court, the judicial officer will determine whether and under what conditions the child shall be permitted to do so. If a request to address the court is declined, the judicial officer shall state its reasons for that finding on the record. If the court precludes the calling of any child as a witness, the court shall provide alternative means of obtaining input from the child and other information regarding the child's preferences.
- K. Presence in Family Court Services. Only the parties to the case are to be present during Child Custody Recommending Counseling. Individuals who are not parties to the case shall not be allowed in the Family Court Services’ waiting room and offices. However, the parents may have a silent support person with them in session.
- L. Orientation. Parties are required to complete the Judicial Council of California Orientation to Family Court Mediation and Child Custody Recommending Counseling prior to participating in Child Custody Recommending Counseling. The orientation will take thirty (30) minutes to complete. The orientation is available on the court’s website at:
<https://www.kings.courts.ca.gov/divisions/familylaw-childcustody.htm>
- M. Intake. Each party must complete a Family Court Services intake form prior to participating in Formal Child Custody Recommending Counseling. The information placed on the form will provide invaluable information to the Child Custody Recommending Counselor about the parties, their children, and custodial and visitation preferences.
- N. Service of Documents. No parent or litigant shall serve documents on the other party/parent at Family Court Services during Child Custody Recommending Counseling.

(Eff. 1/1/99 as Rule 740; amended and renumbered 7/1/08; amended 1/1/18; amended 7/1/20)

RULE 719 – Custody Evaluation (§730, §3111, §3118, and Child Custody Evaluation)

The following rules are in accordance with California Rules of Court, rule 5.220, Court Ordered Child Custody Evaluations. The goal of this court is to promote the best interests of the family and its

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children while protecting the privacy of the parties involved. The term “custody evaluator” defines an independent psychiatrist, psychologist, L.C.S.W., L.M.F.T., or court connected Child Custody Recommending Counselor completing either a comprehensive or partial child custody evaluation.

- A. Matters of custody and visitation will not be referred for an evaluation unless determined necessary by the court. Family Court Services can provide a limited investigation of specific issues by order of the court, and the court may permit examination and cross examination of the Child Custody Recommending Counselor.
- B. Whether a referral is to an independent professional for a custody evaluation, or to a court connected Child Custody Recommending Counselor for a limited investigation, the court will appoint a professional whose skills, training, and background are best suited to the particular needs of the family with qualifications as outlined in California Rules of Court, rules 5.225 and 5.230.
- C. In all cases referred for evaluation for which there is no previous stipulation as to the evaluator, the parties will nominate three qualified professionals, and the court will choose from that list. No preemptory challenge will be allowed once the name of the evaluator is so chosen. In all cases where the parties stipulate to such an evaluation, such stipulation will only be approved where, in the opinion of the judicial officer, the alleged facts warrant an evaluation.
- D. Ex parte communication. No party, or attorney for a party, shall initiate contact with an evaluator to discuss the merits of the case without notice to the other party and an opportunity to be present; a copy of any written communication must be served upon the other party or their attorney. The evaluator shall have the discretion to communicate with any person or agency that may provide information relevant to the evaluation.
- E. When an evaluator is interviewing children, the evaluator will state to the child in language appropriate to the child that the evaluator may need to tell the judicial officer what was discussed during their conversations so that the child is aware that their communications are not confidential.
- F. When ordering an evaluation, the court will state the date upon which the report is due. If any fees or costs will be charged for the evaluation, the court will make an order allocating the payment of the evaluator’s fees and costs between the parties.
- G. The report shall have affixed to the first page form FL-328 and shall be submitted to the court at least ten (10) days before the hearing. The court shall determine dissemination of the report after the Family Court Services Director or the Director’s designee has reviewed the report and submitted it the assigned judicial officer.
 - 1. No written report shall be discussed by the parties or counsel with the minor child/ren at issue.
 - 2. Without a court order to the contrary, no person with access to such written report will use the report or information contained therein in any manner outside the custody proceeding

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for which the report was ordered. A violation of this Local Rule may result in the imposition of monetary sanctions.

3. All reports to the court will remain confidential, and their duplication and dissemination may be subject to appropriate protective orders as determined by the court. In no event will any such report be shown to any individual not a party to the proceeding, or to their attorneys, except by order of the court. Custody Evaluation Report (form FL-328) shall be attached as the first page of the child custody evaluation report, and the report shall be filed into the court's database at least ten (10) days before the hearing and shall remain CONFIDENTIAL.
- H. A Child Custody Evaluation/Investigation and Report pursuant to California Family Code section 3110 et seq., may not commence without the written order of a judicial officer. Such investigations are ordered in those cases where serious factual questions as to the health, safety, and welfare of the child/ren are involved and such an investigation is required to assist the judicial officer in reaching a decision.

(Eff. 1/1/99 as Rule 741; amended and renumbered 7/1/08; amended 1/1/16)

RULE 720 – Custody Orders and Agreements

- A. As allowed by Family Code section 3024, all custody agreements and orders must contain language that is in substantial conformity to the following:

“If either parent plans to change the residence of a child, subject to this order, for more than thirty (30) days, and that change will affect the ability of either parent to fulfill this parenting plan, unless there is a written agreement of the parties, the parent contemplating the move shall notify the other parent of said move by mail, return receipt requested and postage prepaid, to the last known address of the parent to be notified. A copy of the notice shall also be sent to that parent's attorney of record. To the extent feasible, the notice shall be provided within a minimum of forty-five (45) days prior to the proposed change of residence to allow time for mediation of a new agreement concerning custody and visitation.

- B. Failure to comply with this notice requirement is not in and of itself sufficient to change an existing order of custody and visitation.

(Eff. 1/1/99 as Rule 743; amended and renumbered 7/1/08)

RULE 721 – Settlement Conference Statement

- A. All parties and attorneys must attend a mandatory settlement conference prior to trial on a date designated by the court, unless exempted from compliance with this rule. An exemption will be granted only upon a showing of good cause and leave granted by the court. A motion for leave to dispense with any mandatory settlement conference requirement must be filed, calendared, and heard on or before the date of the settlement conference.

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B. At least fourteen (14) days before the settlement conference, each party must exchange written offers of settlement in sufficient specificity to be enforceable that, if accepted, would resolve all issues remaining in dispute. These offers shall not be filed with the court, but each party shall bring to the settlement conference a copy of that party's written proposal. At least seven (7) days before the settlement conference, each party must file with the court and serve on the opposing party a Settlement Conference Statement that must contain the following:

1. A list of all community assets (and debts related to them), including the date of acquisition, purchase price, and present fair market value. If there is a dispute as to whether the asset is, in fact, community property, a tracing of the funds should be described.
2. A list of all property that the party claims is separate property, including the date and method of acquisition. The fair market value of separate assets should also be included.
3. Factual data upon which the parties rely in support of (or in opposition to) a claim for child support, and/or spousal support, and attorney fees. Any request for spousal support must be supported by a statement addressing all relevant facts as listed in Family Code section 4320.
4. A list of the community obligations existing at time of separation. If a spouse is claiming credit for payment after separation, an itemized list, with proof of payment, must be attached.
5. Any party contending that community property or quasi-community property of the parties should be valued at a date after separation and before the trial must comply strictly with the provisions of Family Code sections 2550-2552 with respect to notice of the other party.
6. A statement that the value of an asset or liability is unknown (without a showing that a good faith appraisal thereof could not be made), or that a valuation of the asset is not made because a party seeks a sale, a deferred sale of home order, or equal division of the asset, will be deemed a material failure to comply with these rules.
7. Where it is urged that the family home be retained pursuant to Family Code section 3800, all facts relevant to this issue must be included in the statement.
8. A Property Declaration (Judicial Council Form FL-160) or a statement as to the date the Property Declaration was previously filed with the court. An Amended Property Declaration if any information has changed since the prior filing.

(Eff. 1/1/99 as Rule 750; amended and renumbered 7/1/08; amended 7/1/20)

RULE 722 – Trials

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Family Law Trials – Family Law Trials are typically scheduled either at a Case Management Conference or a Settlement Conference. Unless otherwise ordered. The following rules shall govern the trials:

- A. No later than ten (10) days before trial, each party shall file and serve a Witness List which identifies each witness a party expects to have testify at the trial, along with a brief statement of anticipated testimony. Judicial Council Form FL-321 (“Witness List”) may be used for this purpose, but it is not required.
- B. No later than ten (10) days before trial, each party shall file and serve an Exhibit List which identifies each exhibit a party expects to introduce at trial. Petitioners (and any party identified as an “Other Parent”) shall designate each exhibit consecutively with letters, i.e., A, B, C; and respondents shall designate each exhibit consecutively with numbers, i.e., 1, 2, 3.
- C. No later than ten (10) days before trial, each party shall exchange (but not file) their exhibits. All pages of any exhibits that are ten (10) pages or more shall be consecutively numbered on the bottom-right corner. Any attorney intending to introduce more than ten (10) exhibits on behalf of a party shall pre-mark each exhibit sticker on the back, bottom-right corner which includes the exhibit alphabetic or numeric designation, the case number and date of trial. The date shall be in the format: xx/xx/xxxx. All exhibit stickers must be typed or, if handwritten, be *legible*.
- D. Trial exhibits shall not be filed with the court. The parties shall bring to trial an original plus three (3) copies of each exhibit (a total of 4 sets).
- E. The preservation, destruction, or return to the parties of exhibits received into evidence at a trial shall be governed by California Code of Civil Procedure sections 1952 and 1952.2.

(Eff. 7/1/21)

RULE 722 – Entry of Default Renumbered to Rule 723

Envelopes provided to the Clerk of the Court for mailing to parties on entry of default must contain the return address of the Clerk of the Court, not the address of the moving party.

The court’s address is: Kings County Superior Court, Attn: Clerk of the Court, 1640 Kings County Drive, Hanford, CA 93230. Case Number _____.

(Eff. 7/1/08, amended 7/1/16; renumbered 7/1/21)

RULE 723 – Stipulation or Objection to Superior Court Commissioner(s) Renumbered to Rule 724

- A. Family law cases, uniform parentage actions, civil harassment actions, domestic violence cases, and guardianships are routinely assigned to the family law commissioner for all

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purposes, including the power to make all rulings, decisions and to enter judgment in the case. Except as provided in Code of Civil Procedure section 259, subdivisions (a), (b), (c), (e) and (f), matters assigned to the court commissioner require that the parties stipulate to the commissioner hearing the matter. The stipulation may be in writing, implied by conduct or entered on the record. (Cal. R. Ct., rule 2.816(d).)

- B. If a party refuses to stipulate to have a proceeding heard by a commissioner acting as a temporary judge, the matter will be re-assigned and continued to the next available calendar date. In order to avoid the undue consumption of judicial resources and to minimize the inconvenience to the litigants, parties are advised to file any objection to the family law commissioner at least five (5) court days before the hearing on the matter. Notice of the objection shall also be served on all parties who have appeared in the case by the person asserting the same at least five (5) court days before the hearing on the matter.
- C. An objection to a court commissioner acting as a temporary judge will be construed as an objection to the particular matter assigned to the court commissioner. A party who objects to a court commissioner acting as a temporary judge at all stages of the litigation in the case including trial and any ancillary matters must either file an objection before each hearing to which a stipulation would otherwise be required or exercise a timely challenge under Code of Civil Procedure sections 170.6 or, if appropriate, under 170.1.

(Eff. 7/1/08; [renumbered 7/1/21](#))

RULE 724 – Parties Not Represented [Renumbered to Rule 725](#)

- A. Any proposed Marital Settlement/Termination Agreement in which only one party has legal counsel should contain language which is in substantial conformity with the following:

“Petitioner/Respondent acknowledges by the initials at the end of this paragraph that she/he has been advised to obtain independent legal counsel and that she/he has voluntarily chosen not to do so; that she/he has read and understands the contents and legal effect of this agreement and has entered into it and signed it freely and voluntarily.” (Initials of party)

- B. If an unrepresented party pays a fee for preparation of a document, the document must include the name of the preparer. (Prepared by XYZ Legal Services).

(Eff. 7/1/08; [renumbered 7/1/21](#))

RULE 725 – Procedures for Entry of Judgment [Renumbered to Rule 726](#)

- A. All proposed judgments where child support is ordered shall include an allocation of health care costs and childcare costs related to employment or to reasonably necessary education or training for employment skills. The allocation shall be one-half to each party unless otherwise agreed or ordered pursuant to Family Code section 4061.

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- B. All stipulations waiving guideline child support shall include the following language:

“The parties are agreeing to an amount that is not pursuant to current guideline formula. The parties agree that, pursuant to Family Code section 4065(a): They are fully informed of their rights concerning child support. The order is being made without coercion or duress. The agreement is in the best interest of the child/ren involved. The needs of the child/ren will be adequately met by the stipulated amount. The right of support has not been assigned to the county pursuant to Welfare and Institutions Code section 11477, and no public assistance application is pending.”

- C. A copy of the current child support or spousal support order on which a proposed Income Withholding Order is based must be submitted to the court along with any requested Income Withholding Order or the Income Withholding Order will not be issued.

- D. All judgments and orders after hearings where a child support order is contained and where the Department of Child Support Services is enforcing the order, shall include the following language:

“All child support payments must be made to the California State Disbursement Unit at P.O. Box 989067, West Sacramento, CA 95798-9067. Parties must notify the Department of Child Support Services in writing within ten (10) days of any change of residence, income, or employment.”

(Eff. 7/1/08; amended 7/1/20; [renumbered 7/1/21](#))

RULE 726 – Domestic Violence Coordination Rules [Renumbered to Rule 727](#)

- A. Court Communication. It is this court’s goal to coordinate domestic violence orders. It is the clerk’s responsibility, upon any request for protective orders, to determine if any such orders have already been issued as to the same parties or children in any other department by accessing the court’s case management system. The court’s Family Law Department shall use all reasonable efforts to communicate and exchange information with other court departments regarding any domestic violence orders.
- B. Avoiding Conflicting Orders. The Family Court shall not knowingly issue a protective order or custody order in conflict with an order of the criminal court. If such an order issues inadvertently, the orders of the criminal law proceeding shall have priority.
- C. Modification of Criminal Orders. A court issuing a criminal protective order may, after review of any existing family or juvenile court orders, modify the criminal protective order to allow or restrict contact between the restrained person and his or her child(ren), spouse, or other protected person.
- D. Coexisting Criminal, Family and/or Juvenile Orders. A family or juvenile court order may coexist with a criminal court protective order, subject to the following:
1. Any order that permits contact between the restrained person and his or her children shall provide for the safe exchange of the child/ren and shall not contain language either printed or handwritten that violates a “no contact order” issued by a criminal court.

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2. Safety of all parties shall be the court's paramount concern. The Family Court order shall specify the time, day, place, and manner of transfer of the child/ren, as provided in Family Code section 3100.

E. Issuance and Enforcement of Restraining Order. Upon granting of relief (through initial petition, modification, or termination), the clerk shall convey within 24 hours a file endorsed copy of the order to the Kings County Sheriff's Department for input into CLETS (a statewide computerized registration system for restraining orders).

(Eff. 7/1/08; [renumbered 7/1/21](#))

RULE 727 – Court Policies for Family Law [Renumbered to Rule 728](#)

Introduction: The court believes it is important for counsel and self-represented parties to know what the general policies of the court are on certain issues that commonly arise in the family law area. Therefore, the court has adopted certain "Court Policies" which it follows except in the unusual case. The court reserves to itself the continuing discretionary power it has in making any final determination on these issues on a case-by-case basis. The goal and intention of the "Court Policies for Family Law" is to encourage and enhance the ability of counsel and the parties to settle these matters whenever possible.

COURT POLICY #1: When a party seeks a contribution from the other party for childcare costs related to employment or to reasonably necessary education or training for employment skills, such costs incurred to a friend or family member will be scrutinized by the court and shall be supported by appropriate documentation, i.e., proof of payment.

COURT POLICY #2: Additional child support amounts are generally divided one-half to each parent. (Fam. Code § 4061.) "Additional child support amounts" shall include:

(1) Childcare costs related to employment or to reasonably necessary education or training for employment skills, (2) The reasonable uninsured health care costs for the children as provided in Section 4063, (3) Costs related to the educational or other special needs of the children, and (4) Travel expenses for visitation. (Fam. Code § 4062.)

COURT POLICY #3: In determining the amount of temporary spousal support, the court generally does not consider overtime earnings of the payor.

COURT POLICY #4: Within fifteen (15) days following the court's service of a filed Family Law Minute Order or Judgment containing an order for child support, spousal support, and/or family support, the prevailing party shall submit to the court an appropriate order form for wage withholding and, where child support is ordered, a Child Support Registry form.

COURT POLICY #5: Attorney fee orders under Family Code section 2030 are viewed as a means to ensure that each party has access to legal representation. Attorney fee orders are not a mechanism to equalize the relative wealth of the parties. It is the court's view that attorneys should be held

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accountable to their own clients in justifying the necessity for and the amount of the services that they perform. The court may allow attorney's fees orders under Section 2030 to be paid overtime under terms and conditions the court deems appropriate.

COURT POLICY #6: The court will exercise its discretion in determining whether documents presented for filing on the day of a hearing will be filed and/or considered. See Local Rules 111 and ~~124~~ 125 regarding filing times.

COURT POLICY #7: The court generally does not distribute debts at a hearing for temporary orders during the pendency of the case. When orders are made for the temporary use of property, however, orders are generally included for payment of loans related to that property.

(Eff. 1/1/99 as attachment to Local Rules; numbered and amended 7/1/08; Policy #4 amended 10/31/11; Policy #1, #5 and #6 amended 7/1/20; [renumbered 7/1/21](#))

RULE 728 – Dismissal of “Special Proceeding” Petitions [Renumbered to Rule 729](#)

- A. Where an adoption petition, a petition to have a child freed from parental custody and/or a petition in any other type of “special proceeding,” *to which California Code of Civil Procedure section 583.310 would not usually apply* (“petition”), has not been brought to conclusion within five (5) years of the date of its filing, the court may on its own motion issue an Order to Show Cause (OSC) to determine whether dismissal of the petition is appropriate. Upon failure of the parties to appear at the noticed OSC hearing, upon the pre-hearing filing of a request for dismissal of the petition by the petitioner and/or upon failure of the parties appearing at the OSC hearing to demonstrate that dismissal is inconsistent with the character of the petition, the court may in its discretion dismiss a petition which has been pending for a period of more than five (5) years. All Orders to Show Cause issued under this rule will be forwarded by the clerk via first class mail to the last known mailing address of each of the interested parties and their attorney-of-record. In order to avoid the inadvertent dismissal of petitions pending before the court, all parties and counsel must keep the court advised of their current mailing addresses.
- B. No special proceeding dismissed by the court in accordance with this rule shall be reinitiated without the filing of a new petition and payment of new filing and investigation fees.

(Eff. 1/1/09; [renumbered 7/1/21](#))

RULE 729 – Duties of the Family Law Facilitator [Renumbered to Rule 730](#)

In addition to the duties mandated by the Family Law Facilitator Act, California Family Code section 10000 et seq., the Family Law Facilitator shall have the following duties:

- A. Meeting with litigants to mediate issues of child support, spousal or partner support, and maintenance of health insurance, subject to California Family Code section 10012.

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- B. Drafting stipulations, which may include issues other than those specified in California Family Code section 10003. If the parties are not able to resolve issues with the assistance of the Family Law Facilitator, the Facilitator, before or at the hearing, and at the court's request, shall review documents, prepare support schedules, and advise the court whether the matter is ready to proceed.
- C. Assisting the clerk in maintaining records.
- D. Preparing orders documenting the court's announced order where both parties are self-represented or in those cases with one attorney where the court refers the self-represented party because the order benefits that party.
- E. Serving as a special master and making findings to the court unless the Facilitator has served as a mediator in the case.
- F. Participating in the operation of the Family Court Clinic, including the training and supervision of volunteers.
- G. Such additional duties as may be delegated by the Presiding Judge, Assistant Presiding Judge or Family Law Judge consistent with California Family Code section 10005.

(Eff. 7/15/11; [renumbered 7/1/21](#))

RULE 730 – Judicial Notice in Family Law Matters - Department 4 [Renumbered to Rule 731](#)

- A. When appearing in Department 4 of the Kings County Superior Court in connection with Family Law matters, all Requests for Judicial Notice must comply with the requirements set forth in subdivision (c) of Rule 3.1306 of the California Rules of Court, and relevant sections of the California Evidence Code.
- B. Any party requesting that judicial notice be taken of a fact or document shall:
 - 1. A Request for Judicial Notice shall include a list of documents that are the subject of the Request. The list shall identify each document, the case number in which it was filed, and the date of filing. If the document has been filed or recorded, the Request must include its filing/recording date, as well as other information relevant to identifying its location. As to any document that is not contained within Kings County Superior Court records, a copy of the document shall also be attached to the request.
 - 2. Include within the Request for Judicial Notice, a description of any fact to be judicially noticed and the specific document(s) evidencing such fact.

Example(s):

- 1. Conviction (Count 1 - Penal Code section 182) - Abstract of Judgment filed 1/1/15 in Kings County Superior Court Case No. 14CM0000, People v. John Doe.

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2. Judgment entered in favor of John Doe for \$10,000.00 - Notice of Entry of Judgment, filed 1/1/15 in Fresno County Superior Court Case No. 14CIV0000, John Doe v. Sue Smith.
 3. John Doe's Purchase of Real Property located at 777 Cottonwood Lane, Hanford CA - Deed of Trust, recorded in Kings County on 2/1/15.
 4. Abstract of Judgment filed 1/1/15 in Kings County Superior Court Case No. 14CM0000, People v. John Doe.
 5. Deed of Trust recorded on 3/1/15 in Fresno County.
 6. Contract for Sale signed on 5/1/15.
3. Attach to the Request a certified copy of any document to be judicially noticed or referenced which is not already on file with the Kings County Superior Court.
- C. The written list and Request for Judicial Notice must be served on all parties to the litigation. Proof of Service shall be filed with the court in a timely manner.

(Eff. 1/1/17; amended 7/1/20; [renumbered 7/1/21](#))

RULE 731 – Experts Pursuant to California Evidence Code § 730 Renumbered to Rule 732

1. The court encourages mutually agreed upon experts, especially for such issues as custody evaluations, business valuations, business cash flow analyses (when relevant to support), and real estate and personal property valuations. In the absence of a mutually agreed upon expert, the court may appoint its own expert under Evidence Code section 730.
2. If one or more written reports are issued by such an expert, copies of all such reports shall be transmitted to each counsel or unrepresented party at least thirty (30) calendar days before trial. Written reports prepared by a § 730 expert shall be deemed "in evidence" for all purposes subject to the other party's right to arrange for the expert's presence at the trial as provided for herein and cross-examine the expert.
3. If a § 730 expert's written report was prepared and will be offered at trial, and either counsel or an unrepresented party demands the right to cross-examine the expert at trial with respect to the matters in the report, that party shall be responsible for arranging for the attendance of the expert at trial and the expert's name shall be included on that party's Witness List filed in connection with the trial. If there is no written report of the expert, the party intending to call the expert at trial shall be responsible for making the witness available on the day of trial.

(Eff. 7/1/20; [renumbered 7/1/21](#))

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RULE 732 – Appointment of Elisor Renumbered to Rule 733

Where one of the parties will not or cannot execute a document necessary to carry out a court order, the Clerk of the Court, or his or her authorized representative or designee may be appointed as an elisor to sign the document. When applying for an appointment of an elisor, the application and proposed order must designate ‘The Clerk of the Court or clerk’s designee’ as the elisor and indicate for whom the elisor is being appointed and in what capacity they are to sign the document. The application must not set forth a specific court employee.

The order must expressly identify the document being signed and a copy of the document must be attached to the proposed order. The original document, presented for signature by the elisor, must match the copy of the document attached to the proposed order. The declaration supporting the application must include specific facts establishing the necessity for the appointment of the elisor. If the elisor is signing documents requiring notarization, the applicant must arrange for a notary public to be present when the elisor signs the document(s).

(Eff. 7/1/2020; [renumbered 7/1/21](#))

(RULES 734 - 739 Reserved)

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Part 2 – Child Support and the Kings County Department of Child Support Services

The following procedures and rules apply to paternity, child support cases and spousal support enforcement cases where the Department of Child Support Services (DCSS) is involved. These proceedings will normally be held in a specific Department of the Superior Court and absent exceptional circumstances shall be heard by the designated Child Support Commissioner.

RULE 740 – Child Support Commissioner as Temporary Judge

- A. The Title IV-D Child Support Commissioner shall act as a temporary judge unless an objection is made by the Local Child Support Agency (DCSS) or a party. The parties shall be advised by the court prior to the proceeding that the matter is being heard by a commissioner who shall act as a temporary judge unless any party objects to the commissioner acting as a temporary judge. Failure to object to the Child Support Commissioner hearing the matter prior to the hearing shall be deemed consent for the commissioner to act as a temporary judge.
- B. If any party objects to the commissioner hearing the matter as a temporary judge, the commissioner, notwithstanding such objection, may hear the matter and make findings of fact and a recommended order. Within ten (10) court days, a judge shall ratify the recommended order unless either party objects to the recommended order, or where the recommended order is in error. In both cases, the judge shall issue a temporary order and schedule a *de novo* hearing within ten (10) court days. Any party may waive his or her right to a review hearing at any time.
- C. Nothing in this rule displaces any rights provided for in the Code of Civil Procedure section 170 et seq.

(Eff. 7/1/08)

RULE 741 – DCSS Involvement in Title IV-D Proceedings

- A. In all cases where DCSS is involved pursuant to Family Code section 17400, whether filed by DCSS or a party other than DCSS, all hearings related thereto affecting the establishment of parentage or child support, the modification or enforcement of child support and the enforcement of spousal support shall be conducted in a department of the Superior Court designated to hear these matters.
- B. The DCSS shall be treated as a party in those hearings, and all notices required by law shall be tendered to DCSS accordingly. The hearing shall be held by the Child Support Commissioner.

(Eff. 7/1/08)

RULE 742 – Custody and Visitation Issues at Title IV-D Proceedings

Except as otherwise permitted by law, child custody, and visitation issues shall not be heard by the Child Support Commissioner in Title IV-D proceedings. However, the Child Support Commissioner may entertain, clarify, and make orders approving the parties' stipulations for custody and visitation.

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(Eff. 7/1/08, amended 1/1/14)

RULE 743 – Rules Related to the Conduct of Title IV-D Hearings

- A. Court hearings occur as matters are ready to be heard. The court may not do a calendar call at the beginning of each hearing session.
- B. Matters proceeding by complete agreement of the parties are given preference on the court calendar and are heard first.
- C. Parties shall meet and confer with the DCSS attorney or DCSS representative on the date of the hearing, prior to entering the courtroom. This requirement applies to parties who are represented by an attorney.
- D. DCSS does not represent any of the parties in a Title IV-D action, inside or outside of court, even when it brings a motion, responds, or files pleadings at the request of one of the parties.
- E. Only those declarations under penalty of perjury which have been filed and served in accordance with Code of Civil Procedure section 1005 and other applicable sections, are assured of consideration on the hearing date.
- F. The court, in its discretion, may consider un-filed or late filed papers which substantiate income, expenses, ability to work or other factors necessary to set child support, if such papers have been shown to the parties present at the hearing.
- G. If child support and attorney fees are in issue, a current (less than 90 days old) Income and Expense Declaration form FL-150 must be completed, including the other party's income, or a fair estimate thereof. If only child support is in issue, then the Financial Statement (Simplified) Judicial Council form FL-155 may be substituted. In either case, the following information shall be attached:
 - 1. Wage earners shall attach a pay stub showing year-to-date income covering the last ninety (90) days, or sufficient pay stubs without year-to-date information to cover the last ninety (90) days of employment.
 - 2. Self-employed persons shall attach copies of their previous year's Federal Income Tax return and a profit and loss statement for the current year, through the last quarter, showing income and applicable deductions.
- H. DCSS records of a party's income available to the Department as obtained from the EDD or other public agencies, will generally be considered by the court without the need for further foundation. The DCSS shall not be required to file an Income and Expense Declaration for any party as a prerequisite for obtaining a child support order.
- I. In Title IV-D proceedings, the DCSS may state their position on any case without having to file a pleading.

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(Eff. 7/1/08, amended 1/1/14)

RULE 744 – Telephonic Appearance at Title IV-D Hearings

- A. The telephonic appearance by a party at hearing must be approved and conform with the provisions of California Rules of Court, rule 5.324.
- B. Among other requirements, the rule requires that application for appearance be filed on the Request for Telephonic Appearance (Governmental) Form FL-679. The Request must be filed with the court clerk at least twelve (12) court days before the hearing and served on all other parties or their attorneys and DCSS, so that objections can be made, if any.
- C. The service of the request by mailing or personal delivery on the other parties or their attorneys and DCSS must be reasonably calculated to apprise the recipient of the Request by close of the next court day.
- D. The court, on its own motion, may allow a telephonic appearance.

(Eff. 7/1/08)

(RULES 745 – 799 Reserved)

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~~ADDENDUM 1~~ APPENDIX A

Attorney Fee Schedule

In default cases in which attorney's fees are awardable, the court may consider the following schedule, but shall not be bound by it:

TOTAL AMOUNT OF DEMAND	ATTORNEY'S FEES
\$0 - \$1,000	25% of the demand.
\$1,001 - \$7,500	15% of the amount in excess of \$1,000, plus \$250.
\$7,501 - \$15,000	10% of the amount in excess of \$7,500, plus \$1,225.
\$15,001 - \$25,000	4% of the amount in excess of \$15,000, plus \$1,975.
Over \$25,000	2% of the amount in excess of \$25,000, plus \$2,275.

(Adopted 7/1/08; amended 1/1/09)

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LOCAL FORMS INDEX BY NUMBER

<u>Number</u>	<u>Name</u>	<u>Effective Date</u>	<u>Usage</u>
AD 1	Adoption checklist for Petitioners	5/2016	Optional
AD 165	Presumed Father’s Consent to Adoption When Denying he is Biological Father (In or Out of California)	3/2015	Optional (State Form)
AD 2	Consent to Adoption by Parent Retaining Custody (Stepparent Adoption)	6/2002	Optional (State Form)
AD 20	Refusal to Give Consent to Adoption	4/2015	Optional (State Form)
AD 20B	Refusal to Give Consent to Adoption – Alleged Natural Father	5/2015	Optional (State Form)
AD 2A/2B	Consent to Adoption by Parent In or Outside California Giving Custody to Husband or Wife or Domestic Partner of Other Parent (Stepparent Adoption)	5/2011	Optional (State Form) ¹
AD 2D	Consent to Adoption by Parent Outside California in Armed Forces Giving Custody to Husband or Wife or Domestic Partner of Other Parent (Stepparent Adoption)	3/2008	Optional (State Form)
AD 3	Adoption Questionnaire (Stepparent) or DP Adoption	5/2016	Optional
AD 5	Application to Attend Mediation	11/2016	Optional
BC11 8016	Request for Live Scan Service	3/2007	Optional (State Form)
BC11 8016 - INT	Live Scan Instructions	3/2007	Optional
CIV 1	Application for Judicial Consent to Marriage (underage marriage)	6/2016	Optional
CIV 2	Declaration of Default Payments	12/2016	Optional
CIV 3	Declaration in Support of Entry of Satisfaction of Judgment	12/2016	Optional
CIV 4	Ex Parte Hearing Instruction	11/2016	Optional

¹ Forms developed by the State of California – Health and Human Services Agency and/or other agencies cannot be modified by this court to meet the requirements of California Rules of Court, rule 10.614. Accordingly, the court has adopted the use of each State Form without modification.

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CIV 5	Proof of Service by mail or personal (generic)	3/2016	Optional
CS 1	Conservatorship Checklist	11/2016	Optional
CS 2	Conservatorship Questionnaire	11/2016	Optional

FL 1	At Issue Memorandum (Family Law)	11/2016	Optional
FL 2	At Issue Memorandum Checklist (Family Law)	6/2008	Optional
FL 3	Withdrawal of Request for Order	5/2010	Optional
FL 4	Consent to Marriage		Optional
FL 5	Proof of Notice of Ex Parte Hearing for Temporary Restraining Orders and Child Custody	11/2016	Optional
FL 6	Declaration of Premarital Counseling	7/2006	Optional
FL 303	Declaration Re Notice Upon Ex Parte Application for Orders	7/2020	Optional
GS 1	Declaration of Diligent Search (for Guardianship)	7/2016	Optional
GS 2	Guardianship Investigation Letter	7/2016	Optional
GS 3	Guardianship Termination Questionnaire	6/2016	Optional
GS 4	Personal Reference Questionnaire	5/2016	Optional
GS 5	Guardianship Questionnaire (for relative cases)	5/2016	Optional
GS 6	Proof of Service for Personal Service or by Notice and Acknowledgement of Receipt	1/2019	Optional
KCLF CRM 0	Advisement and Waiver of Right to Counsel (Faretta)	7/2021	Optional
KCLF CRM 1	Application/Petition for Resentencing – Response (Pen. Code § 1170.18)	12/2014 7/2021	Optional
KCLF CRM 2	Petition for Resentencing (Response) (Health & Safety Code § 11361.8) – Pen. Code § 1170.18	1/1/19 7/1/2021	Optional
KCFL CRM 3	Petition/ Application for Resentencing – Response Adult Crimes (Health & Safety Code § 11361.8)	1/1/19 7/2021	Optional
KCLF CRM 4	Waiver of Rights and Admission of Violation of Probation, Parole, Mandatory Supervision or Post Release Community Supervision Juvenile Petition/Application – Pen. Code § 11361.8	4/16/19 7/2021	Optional

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

KCLF CRM 5	Misdemeanor Diversion Waiver and Order	7/2021	Optional
KCLF CRM 6	Misdemeanor Domestic Violence – Plea of Guilty/No Contest	7/2021	Optional
KCLF CRM 7	Felony Plea of Guilty/No Contest	7/2021	Optional
KCLF CRM 8	Advisement of Rights, Waiver, and Plea Form – Vehicle Code § 14601 et seq.; § 12500	7/2021	Optional
KCLF CRM 9	DUI Advisement of Rights, Waiver, and Plea Form – Vehicle Code § 23153	7/2021	Optional
KCLF CRM 10	Advisement of Rights, Waiver, Plea Form – Proposition 36 (Pen. Code § 1210 et seq.)	7/2021	Optional
KCLF CRM 11	Misdemeanor Advisement of Rights, Waiver, and Plea Form – General	7/2021	Optional
KCLF CRM 12	DUI No Injury Advisement of Rights, Waiver, Plea Form – (Vehicle Code §§ 23152, 23103(a)/23103.5, 23140, 23154, 14601 et seq., 12500(a)) [Misdemeanors Only]	7/2021	Optional
KCLF MIL 1	Request for Military Diversion (Pen. Code 1001.80)	7/2021	Optional
MISC 1	At Issue Memorandum/Counter At Issue Memorandum	11/2016	Optional
PRU-1000	Advisement of Rights, Waiver, and Plea Form [Deferred Entry of Judgment (Penal Code §1000 et. seq.)]	1/2012	Optional
PRU-101	MISD advisement of rights 23152a	1/2012	Optional
PRU-102	Addendum to DUI	9/2005	Optional
PRU-106	MISD advisement of rights VC 12500a or VC 14601	1/2012	Optional
PRU-1210	Advisement of Rights Prop 36	1/2012	Optional
PRU-200	MISD advisement of rights 484a	1/2012	Optional
PRU-200B	MISD advisement of rights 273.5a	1/2012	Optional
PRU-200C	MISD advisement of rights 148a	1/2012	Optional
PRU-200D	MISD advisement of rights 11550a	1/2012	Optional
PRU-300	Plea of Guilty/No Contest – Felony	11/6/17	Optional
PRU-400	Faretta Waiver	5/2006	Optional
SC 1	Declaration in Support of Plaintiff’s Claim	6/2016	Optional
SC 2	Declaration in Support of Defense to Claim	6/2016	Optional
SDSC-CRM-277	Petition for Resentencing (Pen. Code §1170.18)	11/2014	Optional

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

SUPCR1106	DUI Advisement of Rights, Waiver, and Plea Form (VC §23153)	7/1/13	Optional
UD 1	Instructions on Completing a Three Day Notice to Pay Rent or Quit	8/2008	Optional
UD 2	Proof of Service for 30 or 60 Day Notice to Quit	7/2005	Optional

UD 3	Proof of Service of a Three Day Notice to Pay Rent or Quit	8/2008	Optional
UD 4	Three Day Notice to Pay Rent or Quit	8/2008	Optional
UD FAQ	Unlawful Detainer Default Timeline	4/2009	Optional
VS 44	Court Report of Adoption INFO ONLY Sheet	1/2008	Optional (State Form)

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

LIST OF FORMS BY NAME

Name	Number	Effective Date	Usage
Addendum to DUI	PRU-102	9/2005	Optional
Adoption checklist for Petitioners	AD 1	5/2016	Optional
Adoption Questionnaire (Stepparent) or DP Adoption	AD 3	5/2016	Optional
Advisement of Rights Prop 36	PRU-1210	1/2012	Optional
Advisement and Waiver of Right to Counsel (Faretta)	KCLF CRM 0	7/2021	Optional
Advisement of Rights, Waiver, Plea Form – Proposition 36 (Pen. Code § 1210 et seq.)	KCLF CRM 10	7/2021	Optional
Advisement of Rights, Waiver, and Plea Form – Vehicle Code § 14601 et seq.; § 12500	KCLF CRM 8	7/2021	Optional
Advisement of Rights, Waiver, and Plea Form [Deferred Entry of Judgment (Penal Code §1000 et. seq.)]	PRU-1000	1/2012	Optional
Application/Petition for Resentencing – (Pen. Code § 1170.18)	KCLF CRM 1	7/2021	Optional
Application for Judicial Consent to Marriage (underage marriage)	CIV 1	6/2016	Optional
Application to Attend Mediation	AD 5	11/2016	Optional
At Issue Memorandum (Family Law)	FL 1	11/2016	Optional
At Issue Memorandum Check-List (Family Law)	FL 2	6/2008	Optional
At Issue Memorandum/Counter At Issue Memorandum	MISC 1	11/2016	Optional
Consent to Adoption by Parent In or Outside California Giving Custody to Husband or Wife or Domestic Partner of Other Parent (Stepparent Adoption)	AD 2A/2B	5/2011	Optional (State Form)

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

Consent to Adoption by Parent Outside California in Armed Forces Giving Custody to Husband or Wife or Domestic Partner of Other Parent (Stepparent Adoption)	AD 2D	3/2008	Optional (State Form)
Consent to Adoption by Parent Retaining Custody (Stepparent Adoption)	AD 2	6/2002	Optional (State Form)
Consent to Marriage	FL 4		Optional
Conservatorship Checklist	CS 1	11/2016	Optional
Conservatorship Questionnaire	CS 2	11/2016	Optional
Court Report of Adoption INFO ONLY Sheet	VS 44	1/2008	Optional (State Form)

Declaration in Support of Defense to Claim	SC 2	6/2016	Optional
Declaration in Support of Entry of Satisfaction of Judgment	CIV 3	12/2016	Optional
Declaration in Support of Plaintiff's Claim	SC 1	6/2016	Optional
Declaration of Default Payments	CIV 2	12/2016	Optional
Declaration of Diligent Search (for Guardianship)	GS 1	7/2016	Optional
Declaration of Premarital Counseling	FL 6	7/2006	Optional
Declaration re Notice Upon Ex Parte Application for Orders	FL 303	7/2020	Optional
DUI Advisement of Rights, Waiver, and Plea Form (VC §23153)	SUPCR1106	7/2013	Optional
DUI Advisement of Rights, Waiver, and Plea Form – Vehicle Code § 23153	KCLF CRM 9	7/2021	Optional
DUI No Injury Advisement of Rights, Waiver, Plea Form – (Vehicle Code §§ 23152, 23103(a)/23103.5, 23140, 23154, 14601 et seq., 12500(a)) [Misdemeanors Only]	KCLF CRM 12	7/2021	Optional
Ex Parte Hearing Instruction	CIV 4	11/2016	Optional
Felony Plea of Guilty/No Contest	KCLF CRM 7	7/2021	Optional
Faretta Waiver	PRU-400	5/2006	Optional

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

Guardianship Investigation Letter	GS 2	7/2016	Optional
Guardianship Questionnaire (for relative cases)	GS 5	5/2016	Optional
Guardianship Termination Questionnaire	GS 3	6/2016	Optional
Juvenile Petition/Application – Pen. Code § 11361.8	KCLF CRM 4	7/2021	Optional
Instructions on Completing a Three Day Notice to Pay Rent or Quit	UD 1	8/2008	Optional
Live Scan Instructions	BC11 8016 - INT	3/2007	Optional
MISD advisement of rights 11550a	PRU-200D	1/2012	Optional
MISD advisement of rights 148a	PRU-200C	1/2012	Optional
MISD advisement of rights 23152a	PRU-101	1/2012	Optional
MISD advisement of rights 273.5a	PRU-200B	1/2012	Optional
MISD advisement of rights 484a	PRU-200	1/2012	Optional
MISD advisement of rights VC 12500a or VC 14601	PRU-106	1/2012	Optional
Misdemeanor Advisement of Rights, Waiver, and Plea Form – General	KCLF CRM 11	7/2021	Optional
Misdemeanor Diversion Waiver and Order	KCLF CRM 5	7/2021	Optional
Misdemeanor Domestic Violence – Plea of Guilty/No Contest	KCLF CRM 6	7/2021	Optional
Personal Reference Questionnaire	GS 4	5/2016	Optional
Petition/Application for Resentencing –Adult Crimes (Health & Safety Code § 11361.8)	KCLF CRM 3	7/2021	Optional
Petition for Resentencing (Response) – Pen. Code § 1170.18	KCLF CRM 2	7/2021	Optional
Petition for Resentencing – Response (Pen. Code § 1170.18)	KCLF CRM 1	12/2014	Optional
Petition for Resentencing (Pen. Code § 1170.18)	SDSC CRM 277	11/2014	Optional
Petition for Resentencing (Health & Safety Code § 11361.8)	KCLF CRM 2	1/2019	Optional

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

Petition for Resentencing Response (Health & Safety Code § 11361.8)	KCLF CRM 3	1/2019	Optional
Plea of Guilty/No Contest—Felony	PRU 300	11/2017	Optional
Presumed Father’s Consent to	AD 165	3/2015	Optional (State Form)

Adoption When Denying he is Biological Father (In or Out of California)			
Proof of Notice of Ex-Parte Hearing for Temporary Restraining Orders and Child Custody	FL 5	11/2016	Optional
Proof of Service by mail or personal (generic)	CIV 5	3/2016	Optional
Proof of Service for 30 or 60 Day Notice to Quit	UD 2	7/2005	Optional
Proof of Service for Personal Service or by Notice and Acknowledgement of Receipt	GS 6	1/2019	Optional
Proof of Service of a Three Day Notice to Pay Rent or Quit	UD 3	8/2008	Optional
Request for Military Diversion (Pen. Code 1001.80)	KCLF MIL 1	7/2021	Optional
Refusal to Give Consent to Adoption	AD 20	4/2015	Optional (State Form)
Refusal to Give Consent to Adoption – Alleged Natural Father	AD 20B	5/2015	Optional (State Form)
Request for Live Scan Service	BC11 8016	3/2007	Optional (State Form)
Three Day Notice to Pay Rent or Quit	UD 4	8/2008	Optional
Unlawful Detainer Default Timeline	UD FAQ	4/2009	Optional
Waiver of Rights and Admission of Violation of Probation, Parole, Mandatory Supervision or Post Release Community Supervision	KCLF CRM 4	4/2019	Optional
Withdrawal of Request for Order	FL 3	5/2010	Optional

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

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Chapter	Rule No.	Rule Title	Effective Date	Amended Effective Date
1	-	CHAPTER 1: GENERAL AND ADMINISTRATIVE RULES	-	-
1	100	Citation of Rules	1/1/99	-
1	101	Construction, Scope and Effect of Rules	1/1/99	7/1/08
1	102	Definitions	1/1/99	7/1/11
1	103	Failure to Comply with Rules	1/1/99	7/1/08
1	104	Court Attire, Conduct, Gang-Related Clothing and Personal Property	1/1/99	7/1/19
1	105	Appearance and Conduct of Counsel	1/1/99	-
1	106	Payment of Fees and Fines	1/1/99	7/1/08
1	107	Custody of Court Files	1/1/99	7/1/15
1	108	Exhibits/Dangerous Evidence	1/1/99 as Rule 109	7/1/08
1	109	Sound Recording Evidence/Transcripts to be Offered as Exhibits	1/1/99 as Rule 110	7/1/08
1	110	Judicial Notice	1/1/99	1/1/17
1	111	Time for Filing	7/1/08	7/1/15
1	112	Facsimile Machine (Fax) Filing	1/1/99	7/1/19
1	113	Filing Exhibits to Documents with the Court	7/1/15	1/1/16
1	114	Stipulation or Objection to Superior Court Commissioner(s)	7/1/08	-
1	115	Filing of Documents for Ex Parte Hearings	7/1/08	7/1/2020
1	116	News and Media	1/1/09	-
1	117	Use of Computers, Electronic Equipment and Recording Devices	7/1/09	7/1/19
1	118	Color of Print/Original Signatures	1/1/10	7/1/2020
1	119	Notice of Unavailability of Counsel	7/1/10	-
1	120	Record on Appeals to the Appellate Division	7/1/10	-

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1	121	Complaints Concerning Subordinate Judicial Officers	7/1/11	7/1/16
1	122	Mandatory Local Forms	7/1/11	-
1	123	Appointment of Medical Examiners	1/1/13	7/1/16

1	124	Pleadings Prepared by Third Parties	1/1/14	-
1	125	Electronic Filing	10/1/14	1/1/2021
1	126	Submission of Documents for Filing	1/1/15	1/1/2021
1	127	Interlineation of Documents	1/1/15	-
1	128	Proposed Orders	7/1/15	1/1/2021
1	129	Copies of Court Documents	1/1/18	1/1/2021
1	-	(Rules 130- 199 Reserved)	-	-
2	-	CHAPTER 2: ADMINISTRATION OF CIVIL CASES	-	-
2	200	Applicability	1/1/99	-
2	201	Case Disposition Time Standards	1/1/99	7/1/08
2	202	Service of Summons, and Filing of Proof of Service	1/1/99	7/1/08
2	203	Uninsured Motorist Cases	1/1/99 as Rule 202.5	7/1/08
2	204	Tracking Cases	7/1/08	-
2	205	Case Management Conference	1/1/99 as Rules 204, 205	7/1/08
2	206	Complete General Civil Cases	1/1/99	7/1/08
2	207	Mandatory Settlement Conference	1/1/99 as Rules 207-211	7/1/08
2	208	Continuances	1/1/99 as Rule 212	7/1/08
2	-	(Rules 209 - 299 Reserved)	-	-

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

3	-	CHAPTER 3: CIVIL LAW AND MOTION	-	-
3	300	Applicability of Chapter	1/1/99	-
3	301	Setting Law and Motion Hearing	1/1/99	7/1/08
3	302	Moving Party's Duty to File Proof of Service	1/1/99	7/1/08
3	303	Taking Law and Motion Hearing Off Calendar	1/1/99	-
3	304	Continuing a Law and Motion Hearing	1/1/99	-
3	305	Telephonic Appearances	1/1/99	7/1/08
3	306	Preparation and Approval of Orders	1/1/99	7/1/17

3	307	Filing Proof of Publication Five Days Before Hearing	1/1/99 as Rule 310	7/1/08
3	308	Prerogative Writs	7/1/08	-
3	309	Legal Research Copy	7/1/08	-
3	310	Joining Motions of Other Parties	1/1/10	-
3	311	Motions in Limine	1/1/13	-
3	312	Rules for Civil Trial	1/1/19	-
	313	Tentative Rulings	1/1/13	1/1/19
3	-	(Rules 314 - 399 Reserved)	-	-
4	-	CHAPTER 4: MISCELLANEOUS CIVIL RULES	-	-
4	400	Interpreters	1/1/99	7/1/08
4	401	Attorney Fee Schedule	1/1/99	1/1/09
4	402	Eminent Domain Pleadings	1/1/99 as Rule 404	7/1/08
4	403	Procedures in Small Claims Matters	1/1/99 as Rules 405	1/1/10
4	404	Procedure in Unlawful Detainer Cases	1/1/99 as Rule 406	7/1/18
4	405	Compromise of Minors or Incompetent Adults	1/1/10	-
4	406	Petition for Change of Name	7/1/11	1/1/16
4	407	Court Policy on Inmate Personal Property Claims	1/1/15	7/1/17
4	408	Default Judgment	1/1/18	-

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4	-	(Rules 409 - 499 Reserved)	-	-
4	-	Addendum 1 – Rule 401 Attorney Fee Schedule	7/1/08	1/1/09
5	-	CHAPTER 5: CRIMINAL RULES	-	-
5	-	<i>Part 1 – Rules Applicable to All Criminal Proceedings</i>	-	-
5	500	Appointed Counsel for Indigent Defendants	1/1/99	-
5	501	Discovery	1/1/99	7/1/08
5	502	Expert and Investigative Fees	1/1/99	-
5	503	Criminal Trials – Duty of Counsel	1/1/99	7/1/08
5	504	Applications for Modification of Sentence or Terms of Probation	1/1/99 as Rule 505	7/1/08
5	505	Renewal of Motions	1/1/99 as Rule 506	7/1/08
5	506	Reporters	7/1/08	-
5	507	Negotiated Plea Agreements	1/1/09	-

5	508	Jury Instructions	7/1/15	-
5	509	Petitions for Relief under California Penal Code Section 1170.18 (Proposition 47) and California Health & Safety Code Section 11361.8 (Proposition 64)	7/1/17	1/1/2021
5	510	Extra Copies of Law and Motion Documents	1/1/18	1/1/19
5	511	Requests for Dismissal Pursuant to VC§41500	7/1/17 as Rule 510	1/1/2021
5	-	(Rules 512 - 519 Reserved)	-	-
5	-	<i>Part 2 – Rules Applicable to Felony Cases and Misdemeanor Cases Joined or Consolidated with a Felony for Trial</i>	-	-
5	520	Proceedings Through Preliminary Examination	1/1/99 as Rule 521	7/1/08
5	521	Post Preliminary Examination Arraignment	1/1/99 as Rule 522	7/1/08

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5	522	Presence of Trial Counsel and Defendant Mandatory	1/1/99 as Rule 523	7/1/08
5	523	Felony Settlement Conference	1/1/99 as Rule 524	7/1/08
5	524	Felony Trial Readiness Hearings	1/1/99 as Rule 525	7/1/08
5	525	Felony Trial Confirmation Hearings	1/1/99 as Rule 526	7/1/08
5	526	Felony Pre-Trial Motions	1/1/99 as Rule 527	1/1/14
5	527	Felony Sentencing	1/1/99 as Rule 528	7/1/08
5	-	(Rules 528 - 529 Reserved)	-	-
5	-	<i>Part 3 – Rules Applicable to Misdemeanor Cases</i>	-	-
5	530	Misdemeanor Arraignment	1/1/99 as Rule 531	7/1/08
5	531	Misdemeanor Pre-Trial Hearing	1/1/99 as Rule 532	7/1/08
5	532	Misdemeanor Trial Readiness Hearing	1/1/99 as Rule 533	7/1/08
5	533	Misdemeanor Trial Confirmation Hearing	1/1/99 as Rule 534	7/1/08
5	534	Misdemeanor Penal Code Section 1538.5 Motions	1/1/99 as Rule 535	7/1/08

5	-	(Rules 535 - 539 Reserved)	-	-
5	-	<i>Part 4 – Rules Applicable to Infractions</i>	-	-
5	540	Available Procedures for Persons Charged with Infractions	1/1/99	1/1/18
5	541	Trial Pursuant to Vehicle Code Section 40901	1/1/99	1/1/18
5	542	Trial by Declaration (Vehicle Code Section 40902)	1/1/99	1/1/18
5	543	Payment of Bail in Traffic Infraction Cases	1/1/16	Deleted Eff. 1/1/18, See Rule 541(b)(1)
5	-	(Rules 544 – 579 Reserved)	-	-

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

5	-	<i>Part 5 – Rules Applicable to Petitions for Writ of Habeas Corpus</i>	-	-
5	580	Petitions for Writ of Habeas Corpus	7/1/11	7/1/2020
6	-	CHAPTER 6: JUVENILE COURT RULES	-	-
6	600	Application and Definitions	1/1/99	7/1/08
6	601	Standing Orders	1/1/99	-
6	602	Attendance at Hearings	1/1/99	-
6	603	Motion Requirements	1/1/99 as Rules 603, 605	1/1/2021
6	604	Ex Parte Application and Orders	1/1/99	1/1/11
6	605	Pre-Hearing Discovery	1/1/99 as Rule 617	7/1/08
6	606	Access to Minors Subject to Section 300 of the Welfare and Institutions Code	1/1/99 as Rule 611	7/1/08
6	607	Interviewing Victims of Child Abuse	1/1/99 as Rule 612	7/1/08
6	608	Guardian Ad Litem for Minors	1/1/99 as Rule 613	1/1/11
6	609	Guardian Ad Litem for Parents	1/1/99 as Rule 614	7/1/08
6	610	Guardian Ad Litem – Notice, Access to Records, Right to Appear	1/1/99 as Rule 615	7/1/08
6	611	Motion to Challenge Legal Sufficiency of Petition	1/1/99 as Rule 618	7/1/08
6	612	Citations to Appear, Warrants and Subpoenas	1/1/99 as Rule 620	7/1/08
6	613	Settlements	1/1/99 as Rule 621	7/1/08
6	614	Standards of Representation in Dependency Cases	1/1/99 as Rules 623, 624, 625	7/1/17
6	615	Standards of Representation in Delinquency Cases	7/1/17	-

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

6	616	Procedures for Reviewing and Resolving Complaints	1/1/99 as Rule 626	7/1/17
6	617	Procedures for Informing the Court of Other Forum Interests of a Dependent Child	1/1/99 as Rule 627	7/1/17
6	618	Release of Information Relating to Juvenile	1/1/99 as Rule 628	7/1/17
6	619	Requests for Transcripts	1/1/99 as Rule 629	7/1/17
6	620	Appointment of Child Advocates	1/1/11	7/1/17
6	621	Judicial Assignments	1/1/16	1/1/18
6	-	(Rules 622 - 699 Reserved)	-	-
7	-	CHAPTER 7: FAMILY COURT RULES	-	-
7	-	<i>Part 1 – General Rules</i>	-	-
7	700	Enforcement	1/1/99 as Rule 701	7/1/08
7	701	Setting Matters for Hearing	1/1/99 as Rule 710	7/1/2020
7	702	Presentation of Documents	1/1/99 as Rule 711	7/1/2020
7	703	Matters Off Calendar	1/1/99 as Rule 712	7/1/2020
7	704	Continuances	1/1/99 as Rule 714	7/1/08
7	705	Hearings Estimated to Take More Than 20 Minutes	1/1/99 as Rule 715	7/1/2020
7	706	Case Management Conference	7/1/08	7/1/2020
7	707	Ex Parte Requests for Orders (Temporary Restraining Orders, Orders Shortening Time) and Related Hearings	1/1/99 as Rule 717	1/1/2021
7	708	Family Law Temporary Restraining Orders at Initial Filing	7/1/08	-
7	709	Requests for Orders to Show Cause Issued by Clerk	7/1/08	7/1/19

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

7	710	Applications for Family Law Court Orders	1/1/99 as Rule 720	Repealed 1/1/12
7	711	Attorney Fees	1/1/99 as Rule 702	7/1/08
7	712	Meet and Confer Requirements/Settlement Efforts	1/1/99 as Rule 722	7/1/2020
7	713	Stipulations in Open Court	1/1/99 as Rule 723	7/1/08
7	714	Failure to Appear/Tardiness	1/1/99 as Rule 724	7/1/08
7	715	Preparation of Order After Hearing	1/1/99 as Rule 725	7/1/2020
7	716	Adoption of Schedule for Temporary Spousal Support Awards	7/1/08	-
7	717	Income and Expense Declaration/Financial Statement	1/1/99 as Rule 730	7/1/2020
7	718	Child Custody Recommending Counseling in Child Custody and/or Visitation Matters	1/1/99 as Rule 740	7/1/2020
7	719	Custody Evaluation	1/1/99 as Rule 741	1/1/16
7	720	Custody Orders and Agreements	1/1/99 as Rule 743	7/1/08
7	721	Settlement Conference Statement	1/1/99 as Rule 750	7/1/2020
7	722	Entry of Default	7/1/08	7/1/16
7	723	Stipulation or Objection to Superior Court Commissioner(s)	7/1/08	-
7	724	Parties Not Represented	7/1/08	-
7	725	Procedures for Entry of Judgment	7/1/08	7/1/2020
7	726	Domestic Violence Coordination Rules	7/1/08	-
7	727	Court Policies for Family Law	1/1/99	7/1/2020
7	728	Dismissal of “Special Proceeding” Petitions	1/1/09	-
7	729	Duties of Family Law Facilitator	7/15/11	-

KINGS COUNTY SUPERIOR COURT – LOCAL RULES

7	730	Judicial Notice in Family Law Matters	7/1/16	7/1/2020
7	731	Experts Pursuant to Cal. Ev. Code § 730	7/1/2020	-
7	732	Appointment of Elisor	7/1/2020	-
7	-	(Rules 733 - 739 Reserved)	-	-
7	-	<i>Part 2 – Child Support and the Kings County Department of Child Support Services</i>	-	-
7	740	Child Support Commissioner as Temporary Judge	7/1/08	-
7	741	DCSS Involvement in title IV-D Proceedings	7/1/08	-
7	742	Custody and Visitation Issues at Title IV-D Proceedings	7/1/08	1/1/14
7	743	Rules Related to the Conduct of Title IV-D Hearings	7/1/08	1/1/14
7	744	Telephonic Appearances at Title IV-D Hearings	7/1/08	-
7	-	(Rules 745 - 799 Reserved)	-	-

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS		<i>Reserved for Clerk's File Stamp</i>
PLANTIFF PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT		
ADVISEMENT AND WAIVER OF RIGHT TO COUNSEL (Faretta Waiver)	CASE NUMBER	DEPT

Instructions:

Fill out this form if you wish to act as your own attorney (also referred to as “pro per”). Initial the box for each item below only if you understand and agree with it, and sign and date the form on page 5. If you have any questions about anything on this form, ask your attorney or the judge.

I am the defendant in the above-entitled case. I can read and write.

Initials _____

CONSTITUTIONAL RIGHTS

1. I understand that my constitutional rights include the following:
 - A. **Right to an Attorney** – I understand that I have the right to be represented by an attorney at all stages of the proceedings and, if I cannot afford to hire an attorney, one will be appointed for me by the Court. *Initials* _____
 - B. **Right to a Speedy Trial and Public Jury Trial** – I understand that I have a right to a speedy trial and a public trial by a jury of twelve citizens. *Initials* _____
 - C. **Right to Subpoena Witnesses and Records** – I understand that I have a right to the reasonable use of the subpoena power of the Court to subpoena any witnesses or any records that I may need in my defense. *Initials* _____
 - D. **Right to Confront and Cross-Examine Witnesses** – I understand that I have the right to confront in open court all witnesses who will be called to testify against me. I have the right to cross-examine those witnesses at the time of trial. *Initials* _____
 - E. **Right Against Self-Incrimination** – I understand that I cannot be compelled to testify at the trial unless I so desire. *Initials* _____
 - F. **Right to Testify and Produce Evidence** – I understand that I have the right to testify at my trial and to produce evidence on my own behalf. *Initials* _____
 - G. **Right to be Released on Bail** – I understand that I may have the right to be released from jail on reasonable bail or to be released on my own recognizance (“OR”) pending the trial. *Initials* _____

- H. **Right to Self-Representation** – I understand that I have a right to act as my own attorney and may waive my right to the assistance of an attorney. I further understand that if I am permitted to represent myself, I will have to conduct my own defense without the assistance of an attorney. *Initials* _____

BIOGRAPHICAL INFORMATION

2. In support of my petition to represent myself I offer the Court the following biographical information:

A. Age _____ Year of Birth: _____

B. Education:

(1) Number of years attended school: _____

(2) High School Graduate: _____ Yes _____ No

(3) Legal Education (if any): _____

C. Employment Experience: _____

DANGERS AND DISADVANTAGES TO SELF-REPRESENTATION

3. I understand there are many dangers and disadvantages in representing myself. Among the dangers and disadvantages of not having an attorney are the following:

A. I understand that if I am permitted to represent myself it will be necessary for me, without the assistance of an attorney, to follow the rules of court, evidence and criminal law and criminal procedure. *Initials* _____

B. I understand the case against me will be handled by a prosecutor who is an experienced trial attorney. I will not be entitled to special consideration or assistance by the prosecutor, judge, or court staff. *Initials* _____

C. I understand that if I am permitted to represent myself, it will be necessary for me, without the assistance of any attorney, to defend myself, including, but not limited to: making pretrial motions; selecting a jury; making an opening statement; cross-examining the witnesses for the prosecution; subpoenaing and presenting my own witnesses; making appropriate objections and motions during the course of the trial; preparing and presenting proposed jury instructions to the Court; making the final argument; and in the event of a conviction, making appropriate motions after trial and representing myself at sentencing hearings.

Initials _____

- D. I understand that I cannot and will not receive any special consideration or assistance from the Court. I further understand that the Court will not answer any questions I have concerning how I should proceed, what law might apply, or what is the correct procedure.

Initials _____

- E. I understand that if I wish to ask the Court for funds to be used in my defense, I will have to show good cause. I will be required to keep and show the Court receipts for anything I have purchased with the money granted to me.

Initials _____

- F. I understand that if I am in jail, it may be difficult for me to contact witnesses and investigate my case. I understand that I will have limited access to a telephone, to legal research and to legal information which may make preparations for my defense more difficult.

Initials _____

- G. I understand that no continuance of the trial will be allowed without a showing of good cause. Such requests made just before the start of trial will most likely be denied.

Initials _____

- H. I understand that, depending on the stage of my case, if I change my mind and request an attorney to handle my case, the Court may deny this request, and I may have to proceed to trial without an attorney. If the Court does grant this request, the attorney will be at a disadvantage if the attorney does not have sufficient time to prepare for trial.

Initials _____

- I. I understand that in conducting the trial, I may be limited in my movements in the courtroom. All documents, for example, will be handed to witnesses when necessary through the bailiff. I may be required to remain in my seat at counsel table.

Initials _____

- J. I understand that I must act respectfully in court. I understand that the Judge may terminate my right to act as my own attorney if I engage in serious misconduct or obstruct the administration and progress of the trial. I understand that if my right to act as my own attorney is terminated, I may have to be represented by an attorney, appointed by the Judge, who will continue the case from that point.

Initials _____

- K. I understand that if an appointed attorney does take over my case, that attorney may be at a disadvantage as a result of my self-representation. Such a disadvantage will not be considered an issue on appeal.

Initials _____

- L. I understand that misconduct by me occurring outside of court may result in restriction or termination of my right to act as my own attorney. I also understand that my right to act as my

own attorney will not shield me from disciplinary actions within jail. I will be subject to the same disciplinary measures as all other inmates for misconduct occurring in the jail.

Initials _____

M. I understand that a defendant who is represented by an attorney and is convicted may complain on appeal that the attorney's assistance was ineffective. I understand that by acting as my own attorney, I am giving up any right to claim on appeal that I had ineffective assistance of counsel.

Initials _____

CHARGES AND CONSEQUENCES

4. The crimes and enhancements with which I am charged are:

_____ Initials _____

The minimum and maximum sentences for those crimes and enhancements are:

_____ Initials _____

5. I understand that I am giving up having an attorney explain to me what crime(s) I am charged with, the elements of the crimes charged, the associated mental state required, and any possible legal defenses I might have to those charges.

Initials _____

6. I understand that I am giving up the right to have an attorney determine what facts must be proved before I can be found guilty.

Initials _____

7. I understand that if I am not now a United States citizen, I am giving up having an attorney analyze whether the charges could affect my right to legally remain in or return to the United States, or to become a United States citizen. I am also giving up having an attorney advise me on how I could settle my case and not harm my right to remain in the United States.

Initials _____

8. I understand that I am giving up having an attorney determine what post-trial motions and sentencing options I may have if I am convicted, and to present these motions and options to the Court.

Initials _____

9. I understand that this Court advises and recommends that I accept a court-appointed attorney. The Court has advised me to not act as my own attorney. I understand that if I accept the appointment of a court-appointed attorney, a trial attorney will be assigned to defend me. I understand that the attorney would be able to investigate my case, file pretrial motions, and conduct the trial.

Initials _____

10. I understand that this written request to act as my own attorney will be filed and become part of the court case file. I further understand that on any appeal that may be taken from a conviction, or on the filing of a petition for an extraordinary writ, this request will be forwarded to any court of appeal and will be considered by that court in determining whether I knowingly and intelligently waived my right to any attorney. *Initials* _____

I have read, understood, and considered all the above warnings included in this petition, and I still want to act as my own attorney. I freely and voluntarily give up my right to have an attorney represent me.

Dated: _____

Signed: _____

Defendant's Signature

INTERPRETER'S STATEMENT (If applicable)

I, having been duly sworn or having a written oath on file, certify that I accurately translated this Advisement and Waiver of Right to Counsel (*Faretta* waiver) form to the defendant in the language indicated below. The defendant stated that defendant understood the contents on the form, and then initialed and signed the form.

Language: _____
(Specify)

Dated: _____

Signed: _____

Court Interpreter

Type or Print Name

The court finds that the defendant has been advised of defendant's constitutional rights and the dangers and disadvantages of self-representation. The defendant has made a voluntary, knowing, and intelligent waiver of the right to counsel. The court grants the defendant's request for self-representation.

Dated: _____

Signed: _____

Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar Number and Address</i>)		FOR COURT USE ONLY
TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____		
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT		CASE NUMBER: _____
APPLICATION/PETITION FOR RESENTENCING (Penal Code § 1170.18)		

On _____, defendant was convicted in the above-captioned case of a felony violation of a crime that has now been made a misdemeanor pursuant to Proposition 47. He/she was convicted of the following felony: _____
(code section(s), including subsection(s))

☐ Defendant does not have any conviction for an offense listed in Penal Code § 667(e)(2)(C)(iv) or which requires registration as a sex offender pursuant to Penal Code § 290(c).

For Penal Code convictions only:

☐ The amount in question is not more than \$950.

For Penal Code § 666 convictions only:

☐ Defendant is not required to register under any portion of the Sex Offender Registration Act (*Penal Code §§ 290 through 290.024*).

Applications Only

☐ Defendant has completed his/her sentence for the offense and requests that the felony conviction be designated a misdemeanor conviction pursuant to Penal Code § 1170.18(f)-(i).

Petitions Only

☐ Defendant requests that the felony sentence be recalled and that he/she be resentenced to a misdemeanor pursuant to Penal Code § 1170.18(a)-(e).

☐ Defendant is still on supervision even though he/she has completed the jail or prison term.

☐ Defendant requests that he/she be released from parole per Penal Code § 1170.18(d).

OR

☐ Defendant is currently serving a sentence for the offense in _____
(name of jail or prison)

☐ Resentencing the defendant would not pose an unreasonable risk of danger to public safety, as defined in Penal Code § 1170.18(c).

Date

Signature of Applicant/Petitioner or Attorney

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS 1640 Kings County Drive Hanford, California 93230 (559) 582-1010		<i>(COURT USE ONLY)</i>
PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT		SUPERIOR COURT CASE NUMBER
APPLICATION/ PETITION FOR RESENTENCING – RESPONSE (PC 1170.18)		DISTRICT ATTORNEY NUMBER
<p style="text-align: center;">INSTRUCTIONS</p> <ul style="list-style-type: none"> ▪ The District Attorney's Office shall complete all portions of this form. ▪ The completed form shall be filed and served within 15 days of service of the Petition. 		

Having fully reviewed the record in this case, the Petition is responded to as follows:

- ☐ People do not oppose. Defendant has completed his/her sentence and is eligible to have the felony conviction designated as a misdemeanor conviction.
- ☐ People do not oppose. Defendant is still serving his/her sentence and is eligible and suitable for resentencing. The People recommend the following sentence: _____.
- ☐ People waive presence at resentencing.
- ☐ People oppose. Defendant is ineligible for the relief requested:
- ☐ Defendant's current conviction for _____ does not qualify for Proposition 47 relief.
- ☐ Defendant is required to register pursuant to Penal Code § 290(c), or pursuant to Penal Code §§ 290 to 290.024 if the conviction is for Penal Code § 666.
- ☐ Defendant has a prior conviction for an offense listed in Penal Code § 667(e)(2)(C)(iv): _____.
- ☐ People oppose. Defendant is eligible, but unsuitable for resentencing because resentencing the defendant poses an unreasonable risk of danger to public safety pursuant to Penal Code § 1170.18(c). People request that a suitability hearing be set.

Date

Deputy District Attorney

ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NO.		FOR COURT USE ONLY	
NAME: FIRM NAME: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		STATE: Fax No.:		ZIP CODE:	
PEOPLE OF THE STATE OF CALIFORNIA V. DEFENDANT: <u>Date of Birth:</u>					
PETITION/APPLICATION - ADULT CRIMES (Health and Safety Code §11361.8)		CASE NUMBER:		DISTRICT ATTORNEY NO.	
<input type="checkbox"/> FOR RESENTENCING OR DISMISSAL (H&S §11361.8(a))		<input type="checkbox"/> REDESIGNATION OR DISMISSAL/ SEALING (H&S 11361.8(e))		RELATED CASES NOS:	
<p>The “Control, Regulate and Tax Adult Use of Marijuana Act,” commonly known as the “Adult Use of Marijuana Act” (“the Act”), was adopted by voters on November 8, 2016. This form is to be used to obtain relief under the Act in connection with the following offenses: H&S §§11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4.</p> <p style="text-align: center;">INSTRUCTIONS</p> <ul style="list-style-type: none"> • Please use ONE FORM PER CASE. <u>Do not combine multiple cases on a single form.</u> • Petitioner/applicant will be notified if a formal hearing on the petition/application is scheduled. • Please complete all sections, as appropriate. If you have more than two convictions to be addressed by the court, please attach information concerning the additional convictions to the petition/application. • Upon the filing of the petition/application, the petitioner/applicant is required to immediately serve the office of the prosecuting agency (the district attorney or city attorney, as appropriate) with a copy of the petition/application. It may be served personally or by mail. A signed Proof of Service must be filed with the court. 					

1. CONVICTION INFORMATION

Count:	Offense:	Date of Offense:

On (date): _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the identified Health and Safety Code section, which has been reclassified under the Act.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:
☐ 18 to 20 years of age; ☐ 21 years old or older.

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:

PETITION/APPLICATION - ADULT CRIMES

☐ marijuana not in the form of concentrated cannabis; ☐ concentrated cannabis; ☐ marijuana plants;
☐ other:

PEOPLE OF THE STATE OF CALIFORNIA V. DEFENDANT:	CASE NUMBER:
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Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:

☐ not more than 28.5 grams of marijuana not in the form of concentrated cannabis; ☐ not more than 4 grams of marijuana in the form of concentrated cannabis; ☐ not more than 8 grams of marijuana in the form of concentrated cannabis; ☐ not more than 6 marijuana plants.

CONVICTION INFORMATION

Count:	Offense:	Date of Offense:
---------------	-----------------	-------------------------

On (date): _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the identified Health and Safety Code section, which has been reclassified under the Act.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:

☐ 18 to 20 years of age; ☐ 21 years old or older.

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:

☐ marijuana not in the form of concentrated cannabis; ☐ concentrated cannabis; ☐ marijuana plants;
☐ other:

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:

☐ not more than 28.5 grams of marijuana not in the form of concentrated cannabis; ☐ not more than 4 grams of marijuana in the form of concentrated cannabis; ☐ not more than 8 grams of marijuana in the form of concentrated cannabis; ☐ not more than 6 marijuana plants.

☐ *Additional Conviction Information Attached*

2. REQUEST FOR RELIEF

A. ☐ RESENTENCING/DISMISSAL

Petitioner is currently serving the sentence for the crime noted above, and requests the sentence be recalled and that he/she be resentenced or the charge be dismissed as required by law.

☐ Other:

B. ☐ REDESIGNATION/DISMISSAL/SEALING

Applicant has completed the sentence for the crime noted above, and requests the sentence be recalled and the conviction be redesignated or dismissed. If the conviction is dismissed, applicant requests the court's record of conviction be sealed.

☐ Other:

PEOPLE OF THE STATE OF CALIFORNIA V. DEFENDANT:	CASE NUMBER:
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3. ☐ **WAIVER OF APPEARANCE:** Petitioner/applicant understands there is a right to personally attend any hearing in this matter. Petitioner/application further understands that a contested hearing may occur in connection with this matter at which testimony and other evidence will be considered by the court. Petitioner/applicant gives up the right to appear at all preliminary and contested hearings conducted by the court in connection with this matter. Petitioner/applicant agrees to have all hearings related to this matter heard by the court without his/her appearance.

Dated:

Signature of petitioner/applicant

PEOPLE OF THE STATE OF CALIFORNIA V. DEFENDANT:	CASE NUMBER:
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<p align="center">PETITION/APPLICATION - ADULT CRIMES (Health and Safety Code §11361.8) ATTACHMENT</p>
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CONVICTION INFORMATION

Count:	Offense:	Date of Offense:
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On (date): _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the identified Health and Safety Code section, which has been reclassified under the Act.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:
☐ 18 to 20 years of age; ☐ 21 years old or older.

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:
☐ marijuana not in the form of concentrated cannabis; ☐ concentrated cannabis; ☐ marijuana plants;
☐ other:

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:
☐ not more than 28.5 grams of marijuana not in the form of concentrated cannabis; ☐ not more than 4 grams of marijuana in the form of concentrated cannabis; ☐ not more than 8 grams of marijuana in the form of concentrated cannabis; ☐ not more than 6 marijuana plants.

CONVICTION INFORMATION

Count:	Offense:	Date of Offense:
--------	----------	------------------

On (date): _____, Petitioner/Applicant, the defendant in the above-entitled criminal action, was convicted of the identified Health and Safety Code section, which has been reclassified under the Act.

Petitioner/Applicant further states that when committing the conduct resulting in the conviction he/she was:
☐ 18 to 20 years of age; ☐ 21 years old or older.

Petitioner/Applicant further states that the nature of the substance which resulted in the conviction was:
☐ marijuana not in the form of concentrated cannabis; ☐ concentrated cannabis; ☐ marijuana plants;
☐ other:

Petitioner/Applicant further states that the quantity of the substance which resulted in the conviction was:
☐ not more than 28.5 grams of marijuana not in the form of concentrated cannabis; ☐ not more than 4 grams of marijuana in the form of concentrated cannabis; ☐ not more than 8 grams of marijuana in the form of concentrated cannabis; ☐ not more than 6 marijuana plants.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS STREET ADDRESS: 1640 Kings County Drive MAILING ADDRESS: _____ CITY AND ZIP CODE: Hanford 93230 BRANCH NAME: _____	
CASE NAME: _____	
JUVENILE PETITION/APPLICATION (Prop. 64 – Health and Safety Code, § 11361.8(m))	CASE NUMBER: _____ <div style="text-align: center;"> FOR COURT USE ONLY Date: _____ Time: _____ Department: _____ </div>

INSTRUCTIONS

- Use this form if you went to court for a marijuana-related offense when you were under the age of 18.
- Use this form to ask the court to change your dispositional orders or redesignate your marijuana-related offense.
- Use a separate petition/application for each charge that you want the court to take action on.
- You must file this form in the county where your marijuana-related offense was adjudicated.
- You need to use a different form if you also have eligible adult offenses.
- If you are currently on wardship probation for a qualified offense, you need to fill out sections 1 and 2.
- If you have completed probation, you need to fill out sections 1 and 3.
- Complete sections 4 and 5 as necessary.
- When you file this form, ask the court clerk if a formal hearing on the petition/application will be scheduled.
- When you file the petition/application with the court, the court will then serve the petition on the probation department and the prosecuting agency.

1. OFFENSE INFORMATION

On (date): _____ Petitioner was found to come within the jurisdiction of the court under Welfare and Institutions Code section 602 for a violation of Health and Safety Code section ☐ 11357 ☐ 11358 ☐ 11359 ☐ 11360, which has been reclassified as an infraction when committed by a person under the age of 18 under Proposition 64.
 Petitioner Date of birth: _____

Petitioner further declares that the nature of the substance which resulted in the adjudication was:

☐ marijuana not in the form of concentrated cannabis;
 ☐ concentrated cannabis;
 ☐ marijuana plants;
☐ Other: _____

Petitioner further declares that the quantity of the substance that resulted in the adjudication was:

☐ not more than 28.5 grams of marijuana not in the form of concentrated cannabis;
☐ not more than 4 grams of marijuana in the form of concentrated cannabis;
☐ not more than 8 grams of marijuana in the form of concentrated cannabis;
☐ not more than 6 marijuana plants.

2. REQUEST FOR A NEW DISPOSITIONAL ORDER (RESENTENCING)

☐ Petitioner is currently subject to a dispositional order of the court for the offense noted above, and requests that the order be recalled and relief be granted in accordance with Health and Safety Code section 11361.8(b).

CASE NAME:

CASE NUMBER:

3. REQUEST FOR REDESIGNATION

- ☐ Wardship has been terminated for the offense noted above, and petitioner requests the court's dispositional order be recalled and relief be granted in accordance with Health and Safety Code section 11361.8(f).

4. WAIVER OF HEARING BY ORIGINAL SENTENCING JUDGE

- ☐ Petitioner waives the right to have this matter heard by the original sentencing judge. The presiding judge of the court may designate any judge to rule on this matter.

5. WAIVER OF APPEARANCE

- ☐ Petitioner understands there is a right to personally attend any hearing held in this matter. Petitioner gives up that right; the matter may be heard without his/her appearance.

Date: _____

SIGNATURE OF PETITIONER

6. PROSECUTING AGENCY RESPONSE

- ☐ The prosecuting agency has no objection to this petition. Petitioner is entitled to the requested relief without a hearing.
- ☐ The prosecuting agency requests a hearing and objects to the granting of the petition because:
- ☐ The prosecuting agency does not agree that the petition should be granted because the offense for which petitioner was found to be within the jurisdiction of the court under Welfare and Institutions Code section 602 is not eligible for the requested relief under Health and Safety Code section 11361.8.
 - ☐ Other: _____
 - ☐ Petitioner is eligible for relief, but relief should be denied because petitioner presents an unreasonable risk of danger to public safety if he/she is resentenced.
- ☐ The prosecuting agency does not object to the petitioner's eligibility for relief, but requests a hearing on the issue of a new dispositional order.

Date: _____

SIGNATURE OF PROSECUTING AGENCY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS 1640 Kings County Drive Hanford, California 93230 (559) 582-1010				
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA DEFENDANT:				DIVERSION TYPE: Misdemeanor Diversion
Hearing Date:	Time:	Dept.	Judicial Officer Assigned	Case No.
				Review Hearing: D , Kings County Superior Court
WAIVER OF RIGHTS AND ORDER FOR MISDEMEANOR DIVERSION; ADDENDUM (Cal. Pen. Code §1001.95)				

Defendant: Initial each statement below:

1. ☐ I am the defendant in the above-captioned case, which charges the following misdemeanor violation(s) for which I am requesting Misdemeanor Diversion pursuant to California Penal Code §1001.95.

(Please list Count, Code Section, and Minimum and Maximum Sentence)

<u>Count</u>	<u>Charge</u>	<u>Sentence Range</u>	<u>Probation (Y/N + Years)</u>

2. ☐ I have been advised of, understand, and waive my right to a speedy trial in this case.
3. ☐ I understand that to be granted Misdemeanor Diversion, I may be required to provide an assessment or other written evidence confirming my compliance with the terms of such program.
4. ☐ I understand that to provide the court with proof of my compliance with the terms of diversion, it may be required that I waive confidentiality as to certain medical, mental health, or other confidential records and reports.

PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA DEFENDANT:	Case No.
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5. ☐ I understand that any failure by me to facilitate the disclosure of any confidential or other documents to the court necessary to establish my compliance with the terms and conditions of diversion will be considered a willing and voluntary violation of diversion by me and will result in my termination from the program and resumption of the criminal charge(s).
6. ☐ I understand that my Misdemeanor Diversion will be no longer than 24 months and may include completion of one or more court-ordered programs.
7. ☐ I understand that if I have complied with the imposed terms and conditions of diversion, at the end of the period of diversion, the judge shall dismiss the charges outlined in Paragraph 1.
8. ☐ I understand that if it appears to the court that I am not complying with the terms and conditions of diversion, after notice to me, the court shall hold a hearing to determine whether the criminal charges should be reinstituted. If the court finds that I have not complied with the terms and conditions of diversion, the court may end the diversion and order resumption of the criminal proceedings.
9. ☐ I understand that in addition to all other term and conditions ordered by the court, I will be required as a condition of my Misdemeanor Diversion to make full restitution to any victim who suffered monetary damages because of the conduct giving rise to the criminal charges set forth in Paragraph 1. I also understand that my inability to pay restitution due to indigence shall not be grounds for denial of diversion or a finding that I have failed to comply with the terms of diversion. A hearing must be requested by me to determine if indigency exists in this case. At such hearing, I understand it will be my burden to prove that I am unable to pay ordered victim restitution due to indigence.
10. ☐ I understand that I must comply with any court-ordered protective order, stayaway order, or order prohibiting firearm possession, if issued.
11. ☐ I understand that upon my successful completion of the terms, conditions, and programs ordered by the court pursuant to Section 1001.95, the arrest upon which diversion was imposed shall be deemed to have never occurred and that I may indicate in response to any question concerning my prior criminal record that I was not arrested. A record pertaining to an arrest resulting in successful completion of the

PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA	Case No.
DEFENDANT:	

terms, conditions, or programs ordered by the court shall not, without my consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

12. ☐ I understand that regardless of my successful completion of diversion, the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to a questionnaire or application for a position as a peace officer, as defined in Penal Code Section 830.

13. ☐ I understand that, unless otherwise expressly stated by the court, I must personally appear at any review hearing scheduled by the court in connection with my Misdemeanor Diversion and that my willful failure to appear at such hearing will be considered a violation of the terms and conditions of Misdemeanor Diversion.

14. ☐ I understand that, unless ordered by the court, my attorney may not appear on my behalf at any review hearing ordered by the court. I also understand that the court has the discretion to issue a warrant for my arrest if I fail to appear at any review hearing scheduled in connection with my Misdemeanor Diversion.

15. ☐ I accept those terms and conditions set forth in the Addendum attached hereto as requirements of my completion of Misdemeanor Diversion and understand that my failure to abide by such terms and conditions may result in the termination of diversion of the court and resumption of the criminal charge(s) pending against me.

I declare under penalty of perjury under the laws of the State of California that I have read and understand each of the foregoing 15 statements and the Addendum, and that by initialing each statement above, I agree to their contents (including the Addendum).

Date: _____

Signature of Defendant

Defendant's Address: _____ Phone: () _____

PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA

Case No.

DEFENDANT:

ATTORNEY'S STATEMENT

I, the attorney for defendant in the above-entitled case, personally read and explained to the defendant the entire contents of this form and any addendum thereto. I discussed all charges and possible defenses with the defendant, the maximum and minimum possible sentences for the charges at issue herein, and the consequences of his entry into Misdemeanor Diversion. I also discussed with him/her any immigration consequences of the charges which he faces in this case. I personally observed the defendant fill in and initial each item, or read and initial each item, to acknowledge his/her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's waiver of constitutional and statutory rights. I concur with his entry into Misdemeanor Diversion.

Date: _____

Signature of Attorney

INTERPRETER'S STATEMENT (If Applicable)

I, the sworn _____ language interpreter in this proceeding, truly translated for the defendant the entire contents of this form and any attached addendum. The defendant indicated understanding of the contents of this form and any addendum and then initialed and signed the form and any addendum.

Dated: _____

Court Interpreter Signature

COURT'S FINDINGS AND ORDER FOR REFERRAL TO MISDEMEANOR DIVERSION:

The Court, having questioned the defendant and defendant's attorney concerning the defendant's waiver of rights, execution of this form, and election to enter into Misdemeanor Diversion, finds that: The defendant understands and voluntarily and intelligently waives his/her constitutional rights; the defendant's agreement to the terms of misdemeanor diversion is freely and voluntarily made; the defendant understands the nature of the charges (s)he is facing, the possible consequences should (s)he be found guilty of those charges, and the requirements and benefits of Misdemeanor Diversion; and that he/she shall not be precluded from Misdemeanor Diversion for the reasons set forth in Section 1001.95(e). The Court accepts the defendant's waiver of constitutional rights and his/her agreement to the terms and conditions of Misdemeanor Diversion.

Dated: _____

Judge of the Kings County Superior Court

ADDENDUM TO WAIVER OF RIGHTS FOR MISDEMEANOR DIVERSION
(Cal. Pen. Code §1001.95)

- A. ☐ Complete a 14 Week Anger Management Program.
B. ☐ Attend an outpatient ☐ substance abuse [or] ☐ alcohol abuse program.

Defendant shall attend:

☐ at least _____ times per week until ☐ completion [or] ☐ further order of the court.

☐ Other: _____.

- C. ☐ Defendant shall not possess controlled substances or controlled substances paraphernalia.
D. ☐ Defendant shall not ☐ enter any bar or liquor store [and/or] ☐ consume alcohol.
C. ☐ Parenting Class of not less than _____ weeks.
D. ☐ Stay away from the following location: _____.
E. ☐ Have only peaceful contact with the following person: _____.

D.O.B.: _____ M/F

- F. ☐ Complete community service at a recognized non-profit in Kings County of _____ hours. Written proof of compliance (on the letterhead of the non-profit organization and signed by a representative of that organization) must be presented to the court at the scheduled review hearing.

- G. ☐ Obtain ☐ a valid CA driver's license [or] ☐ other: _____.

- H. ☐ Pay victim restitution to the following: _____
in the amount of \$ _____.

- I. ☐ Other: _____

_____.

SUPERIOR COURT OF CALIFORNIA COUNTY OF KINGS 1640 Kings County Drive Hanford, CA 93230	<i>FOR COURT USE ONLY</i>
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA DEFENDANT:	
PLEA OF GUILTY/NO CONTEST – MISDEMEANOR DOMESTIC VIOLENCE	Case Number _____ DA Number _____

INSTRUCTIONS: Fill out this form if you wish to plead guilty or no contest to charges against you. Initial each applicable item only if you understand it. If you have any questions about the possible sentence, or the information on this form, ask your attorney or the judge.

I, the defendant in the above-entitled case, personally and/or by my attorney, declare as follows:	INITIALS
1. I am sober, my judgment is not impaired, and I have not consumed any alcohol or other drug within the past 24 hours.	<div style="border: 1px solid black; width: 60px; height: 30px; display: inline-block;"></div> 1.
2. I am entering a plea freely and voluntarily, without threat or fear to me or anyone closely related to me.	<div style="border: 1px solid black; width: 60px; height: 30px; display: inline-block;"></div> 2.
3. I understand that a plea of No Contest is, for all purposes, the same as a plea of Guilty.	<div style="border: 1px solid black; width: 60px; height: 30px; display: inline-block;"></div> 3.
4. PLEA. Of those charges now filed against me in this case, I plead _____ to the following offenses and admit the prior convictions as follows: (GUILTY/NO CONTEST)	<div style="border: 1px solid black; width: 60px; height: 30px; display: inline-block;"></div> 4.

COUNT	CHARGE	<u>PRIORS</u>
		<div style="display: flex; justify-content: space-between; font-size: small;"> <u>Date of Conviction</u> <u>Charge</u> <u>Case Number</u> </div> <div style="border-top: 1px solid black; height: 20px; margin-top: 5px;"></div>

5. FACTUAL BASIS. I admit that on the dates charged, I (Describe facts as to each charge and allegation)	<div style="border: 1px solid black; width: 60px; height: 30px; display: inline-block;"></div> 5.

6a. AGREEMENT. I have not been induced to enter the above plea by any promise or representation of any kind, except:	<div style="border: 1px solid black; width: 60px; height: 30px; display: inline-block;"></div> 6a.
---	--

<input type="checkbox"/>	<u>SENTENCE TO COURT.</u> <input type="checkbox"/> People dismiss balance. Other: _____
<input type="checkbox"/>	<u>DENY PROBATION.</u> SENTENCE: _____ days <input type="checkbox"/> Releasable to Work Furlough/ _____ <input type="checkbox"/> Concurrent / <input type="checkbox"/> Consecutive to case/counts _____
<input type="checkbox"/>	<u>GRANT PROBATION.</u> <input type="checkbox"/> Imposition of sentence suspended for 3 / _____ years on the following terms: <input type="checkbox"/> Execution of sentence suspended for 3 / _____ years on the following terms:
CUSTODY: <input type="checkbox"/> SERVE _____ days <input type="checkbox"/> CREDIT TIME SERVED	
<input type="checkbox"/> Book and release <input type="checkbox"/> Concurrent / <input type="checkbox"/> Consecutive to case/counts _____	
<input type="checkbox"/>	<u>FINES/FEES:</u> PAY \$_____ including the following: <div style="display: flex; justify-content: space-between; font-size: small;"> \$_____ Court Ops. Assessment (PC1465.8) (\$40 per count) \$_____ Criminal Conviction Assessment (GC70373) (\$30 per count) </div> <div style="display: flex; justify-content: space-between; font-size: small;"> \$_____ Restitution Fund Fine (PC1202.4 (b)(1)) (\$150-\$1,000) \$_____ Crim. Justice Admin. Fee (GC29550 et seq) (Booking & Release Fees) </div> <div style="display: flex; justify-content: space-between; font-size: small;"> \$_____ Domestic Violence Fund Fee (PC1203.097) (Min. \$500) </div>

<input type="checkbox"/>	<u>RESTITUTION:</u> PAY restitution to _____. Hearing to be set if and when determined.
<input type="checkbox"/>	<u>PUBLIC SERVICE: PERFORM:</u> <input type="checkbox"/> _____ hours Volunteer Work.
<input type="checkbox"/>	<u>ATTEND AND COMPLETE:</u> <input type="checkbox"/> Substance Abuse Assessment <input type="checkbox"/> _____ Parenting Classes <input type="checkbox"/> _____ Elder Abuse Classes

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	Case Number
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- ☐ 52-week DV Recovery Program ☐ Individual Counseling ___ weeks/months.
☐ Residential / Outpatient treatment alcohol / drug
☐ Comply with Cal/Fed Firearms Prohibition on controlling, possessing, or having access to any firearm.
☐ Comply with terms of Protective Order ☐ including "stay away" terms. ☐ Other: _____

6b. **FIREARMS.** I ☐ do ☐ do not own, possess, or have access to any firearm. ☐ 6b.

RIGHT TO AN ATTORNEY

7a. I understand that I have the Constitutional **right to be represented by an attorney** at all stages of the proceedings including sentencing. I can hire my own attorney or the Court will appoint an attorney for me if I cannot afford one. ☐ 7a.

7b. I understand that I have the right to be present in Court to enter my plea and for sentencing. I expressly authorize my attorney to enter this plea on my behalf, in my absence. **I understand that I must be personally present at the time of sentencing.** ☐ 7b.

CERTAIN CONSTITUTIONAL RIGHTS WHICH I GIVE UP

I understand that as to all charges, allegations and prior convictions filed against me I also have the following Constitutional rights, which I now give up to enter my plea of **Guilty/No Contest**.

8. I have the right to a **speedy and public trial by jury**. **I now give up this right.** ☐ 8.

9. I have the right to **confront and cross-examine all the witnesses** against me. **I now give up this right.** ☐ 9.

10. I have the right to **remain silent** (unless I choose to testify on my own behalf). **I now give up this right.** ☐ 10.

11. I have the right to **present evidence in my behalf** and to have the Court subpoena my witnesses at no cost to me. **I now give up this right.** ☐ 11.

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

12. I understand the possible consequences of entering a plea of Guilty or No Contest include a maximum sentence of up to 12 months in jail and fine(s) of up to \$2,000, plus additional consequences specified in any attached addendum, and any other reasonable conditions of probation, which could be for a maximum of 3/5 years. ☐ 12.

13. My attorney has explained to me that other possible consequences of this plea may be (circle appropriate consequences): (a) lifetime registration as a sex offender; (b) registration as a narcotics offender; (c) limited local custody credits (290/serious/prior); (d) qualified for sentencing under PC § 1170(h)(3) in future cases. ☐ 13.

14. I understand that in addition to any fine imposed, the law requires the Court to add penalty assessments which will substantially increase the amount I must pay. In addition, I understand that I may be ordered to make restitution to the victim, if the offense involved a victim, or to a restitution fund. I understand that I shall be ordered to pay a mandatory restitution fine and a probation revocation restitution fine of the same amount if probation is revoked and not reinstated. I understand I must file a revised financial declaration if there is any balance unpaid on a restitution order or fine 120 days prior to release from probation. ☐ 14.

15. I understand that if I am not a U.S. citizen, this plea of Guilty or No Contest may result in my removal/deportation, exclusion from admission to the U.S. and denial of naturalization. Additionally, if this plea is to any offense listed on page four of this form, then I **will** be deported, excluded from admission to the U.S., and denied naturalization. ☐ 15.

16. I understand that my plea of Guilty or No Contest in this case could result in revocation of my probation, mandatory supervision, post-release supervision, or parole in other cases and the imposition of consecutive sentences. ☐ 16.

17. I understand and agree that probation terms concerning substance abuse treatment may be modified without a probation violation occurring. ☐ 17.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	Case Number
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OTHER WAIVERS

- | | |
|--|--|
| 18. (Time for Sentence). I understand that I may not be sentenced earlier than six (6) hours, nor later than five (5) days after my plea. I give up this right, waive arraignment, and agree to be sentenced at this time. | <input style="width: 50px; height: 20px; border: 1px solid black;" type="text"/> 18. |
| 19. (Certain Appeal Rights). I give up my right to appeal the following: (a) denial of my PC1538.5 motion, and (b) any sentence stipulated herein. | <input style="width: 50px; height: 20px; border: 1px solid black;" type="text"/> 19. |
| 20. (Harvey Waiver). The sentencing judge may consider my prior criminal history and the entire factual background of the case, including any unfiled, dismissed, or stricken charges or allegations or cases when granting probation, ordering restitution, or imposing sentence. | <input style="width: 50px; height: 20px; border: 1px solid black;" type="text"/> 20. |
| 21. (Arbuckle Waiver). I give up my right to be sentenced by the judge who accepts this plea. | <input style="width: 50px; height: 20px; border: 1px solid black;" type="text"/> 21. |
| 22. (Judicial Officer). I agree that a duly appointed Commissioner or Temporary Judge may act as a Judge, accept this plea, impose sentence, and conduct any other post-conviction proceedings. | <input style="width: 50px; height: 20px; border: 1px solid black;" type="text"/> 22. |
| 23. (Evidence disposal). I give up my interest in all non-biological property/evidence impounded during the investigation of this case except _____ and acknowledge that if I listed any property here, I must also file a claim with the impounding agency within 60 days after pronouncement of judgment or my ability to make a claim will expire. | <input style="width: 50px; height: 20px; border: 1px solid black;" type="text"/> 23. |

I DECLARE UNDER PENALTY OF PERJURY, under the laws of the State of California, that: (a) I have read, understood, and initialed each applicable item above and any attached addendum; and (b) everything on the form and any attached addendum is true and correct.

Date: _____

Defendant's Signature: _____

Defendant's Address: _____

City
State
Zip Code

Defendant's Telephone No. (____) _____



Obtain Thumbprint

ATTORNEY'S STATEMENT

I, the attorney for the defendant in the above-entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges and possible defenses with the defendant, and the consequences of this plea, including any immigration consequences. I personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge his/her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Date: _____

(Print Name) Attorney for Defendant (Signature) (Circle One: PD / APD / OAC / RETAINED)

INTERPRETER'S STATEMENT (If Applicable)

I, the interpreter in this proceeding, having been duly sworn, truly translated this form, and any attached addendum, and all the questions therein to the defendant in the _____ language. The defendant indicated understanding of the contents of the form and then initialed and signed the form and any attached addendum.

Date: _____

(Print Name)
Court Interpreter
(Signature)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	Case Number
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PROSECUTOR'S STATEMENT

The People of the State of California, plaintiff in the above-entitled criminal case, by and through its attorney concurs with the defendant's plea of Guilty/No Contest as set forth above.

Date: _____
(Print Name) Deputy District Attorney (Signature)

COURT'S FINDING AND ORDER

The court, having questioned the defendant/defendant's attorney concerning the defendant's plea of Guilty/No Contest and admissions of the prior convictions and allegations, if any, finds that: the defendant understands and voluntarily and intelligently waives his/her constitutional rights; the defendant's plea and admissions are freely and voluntarily made; the defendant understands the nature of the charges and the consequences of the plea and admissions; and there is a factual basis for same. The court accepts the defendant's plea and admissions, and the defendant is convicted thereby.

Date: _____
Judge of the Superior Court

CERTAIN OFFENSES DEFINED AS MISDEMEANORS UNDER STATE LAW MAY BE CONSIDERED "AGGRAVATED FELONIES" UNDER FEDERAL LAW. ANY CONVICTION OF A NON-CITIZEN FOR AN "AGGRAVATED FELONY" AS DEFINED UNDER 8 U.S.C.1101(a) (43) WILL RESULT IN REMOVAL/DEPORTATION, EXCLUSION AND DENIAL OF NATURALIZATION.

"AGGRAVATED FELONIES" include, but are not limited to, the following crimes and any attempt or conspiracy to commit such crimes, even if the conviction is a misdemeanor under state law. **(NOTE: Conviction of an aggravated felony is not the exclusive basis for which a defendant may or will be deported.)**

1. **ANY CRIME OF VIOLENCE*** (Includes any offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another (18 U.S.C. §16))
2. **BURGLARY (Except a vehicle or vessel, unless used as a residence)***
3. **CHILD PORNOGRAPHY OFFENSES**
4. **CONTROLLED SUBSTANCES****
 - a) **MISDEMEANOR POSSESSION OF ANY CONTROLLED SUBSTANCE** when the defendant has previously been convicted of a drug related offense
 - b) **POSSESSION FOR SALE OF CERTAIN CONTROLLED SUBSTANCES**
 - c) **SALE OF CERTAIN CONTROLLED SUBSTANCES**
 - d) **TRANSPORTATION OF CERTAIN CONTROLLED SUBSTANCES**
 - e) **MANUFACTURE/DISTRIBUTION OF CERTAIN CONTROLLED SUBSTANCES**
5. **FORGERY***
6. **FRAUD** (where loss to victim or victims exceeds \$10,000)
7. **MONEY LAUNDERING** (If amount over \$10,000)
8. **PERJURY/SUBORNATION** of Perjury or Bribery of a Witness
9. **PIMPING/PANDERING/OPERATING A PROSTITUTION BUSINESS**
10. **STATUTORY RAPE** ("Unlawful Sexual Intercourse")
11. **RECEIVING STOLEN PROPERTY ***
12. **SEXUAL ABUSE OF A MINOR** (Touching is not required, e.g. Indecent Exposure)
13. **THEFT** (Any type or amount)*
14. **TRAFFICKING IN VEHICLES WITH ALTERED VINS***

*Where the term imposed is at least one year, whether or not any or all of that term is stayed or suspended at the time of sentencing.

** See 21 U.S.C. 802. Note, however, federal and state statutes defining controlled substances are not identical.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS

1640 Kings County Drive
Hanford, California 93230
(559) 582-1010

For Court Use Only

PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA

DEFENDANT:

Case Number:

DA Number:

PLEA OF GUILTY/NO CONTEST-FELONY**I, the defendant in the above-entitled case, in support of my plea of Guilty/No Contest, personally declare as follows:**

1. Of those charges now filed against me in this case, I plead _____ to the following
offenses and admit the enhancements, allegations and prior convictions as follows:

COUNT	CHARGE	TRIAD	ENHANCEMENT/ALLEGATION

PRIORS: (LIST ALLEGATION SECTION, CONVICTION DATE, COUNTY, CASE NUMBER, AND CHARGE)

2. I have not been induced to enter this plea by any promise or representation of any kind, except: (State any Agreement with the District Attorney.)

3. I am entering my plea freely and voluntarily, without fear or threat to me or anyone closely related to me.
4. I understand that a plea of No Contest is the same as a plea of Guilty for all purposes.
5. I am sober and my judgment is not impaired. I have not consumed any drug, alcohol or narcotic within the past 24 hours.

CONSTITUTIONAL RIGHTS

- 6a. I understand that I have the right to be represented by a lawyer at all stages of the proceedings. I can hire my own lawyer or the Court will appoint a lawyer for me if I cannot afford one.

I understand that as to all charges, allegations and prior convictions filed against me, and as to any facts that may be used to increase my sentence, now or in the future, I also have the following constitutional rights, which I now give up to enter my plea of guilty/no contest:

- 6b. I have the right to a **speedy and public trial by jury**. I now give up this right.
6c. I have the right to **confront and cross-examine all the witnesses against me**. I now give up this right.
6d. I have the right to **remain silent** (unless I choose to testify on my own behalf). I now give up this right.
6e. I have the right to **present evidence in my behalf** and to have the court subpoena my witnesses at no cost to me. I now give up this right.

STATUTORY RIGHT TO A PRELIMINARY HEARING

7. I understand that before I have a trial, the law gives me the right to a speedy preliminary hearing at which the prosecution would produce evidence and the court must find reasonable cause to believe I committed the crimes with which I have been charged. I understand that I have all of the above Constitutional rights at the preliminary hearing, except for the right to a jury trial. I give up my right to a preliminary hearing and the constitutional rights listed in Items 6b-6e above.

Defendant: _____	CASE NUMBER: _____
------------------	--------------------

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

8a. I understand that I may receive this maximum punishment as a result of my plea:

8a(1): _____ years imprisonment or imprisonment plus a term of mandatory supervision;

8a(2): _____ fine; and

8a(3): _____ years parole or post-release community supervision, with return to custody for every violation of a condition thereof.

If I am not sentenced to imprisonment, I may be granted probation for period up to 5 years or the maximum term of imprisonment, whichever is greater. As conditions of probation I may be given up to a year in jail custody, plus the fine, and any other conditions deemed reasonable by the Court. I understand that if I violate any condition of probation I can be sentenced to imprisonment for the maximum term as stated above.

8b. I understand that I must pay a restitution fine (\$300 - \$10,000), that I will also be subject to a suspended fine in the same amount and that I must pay full restitution to all victims.

8c. I understand that my conviction in this case will be a serious/violent felony ("strike") resulting in mandatory denial of probation, substantially increased penalties, and a term in State prison in any future felony case.

8d. I understand that if I am not a U.S. Citizen, this plea of Guilty/No Contest may result in my removal/deportation, exclusion from admission to the U.S. and denial of naturalization. Additionally, if this plea is to an "Aggravated Felony" listed on the back of this form, then I will be deported, excluded from admission to the U.S., and denied naturalization.

8e. I understand that my plea of Guilty or No Contest in this case could result in revocation of my probation, mandatory supervision, parole or post-release supervision in other cases, and consecutive sentences.

8f. My attorney has explained to me that other possible consequences of this plea may be: (check applicable consequences.)

- | | | |
|---|---|---|
| <input type="checkbox"/> (1) Consecutive sentences
<input type="checkbox"/> (2) Loss of driving privileges
<input type="checkbox"/> (3) Commitment to Youth Authority
<input type="checkbox"/> (4) Lifetime registration as an arson/sex offender
<input type="checkbox"/> (5) Registration as a narcotic/gang offender
<input type="checkbox"/> (6) Cannot possess firearm or ammunition
<input type="checkbox"/> (7) Blood test and saliva sample | <input type="checkbox"/> (8) Priorable (increased punishment for future offenses)
<input type="checkbox"/> (9) Prison Prior
<input type="checkbox"/> (10) Mandatory imprisonment
<input type="checkbox"/> (11) Mandatory State Prison
<input type="checkbox"/> (12) Presumptive imprisonment
<input type="checkbox"/> (13) Presumptive State Prison
<input type="checkbox"/> (14) Sexually Violent Predator Law
<input type="checkbox"/> (15) Possible/Mandatory hormone suppression treatment | <input type="checkbox"/> (16) Reduced conduct/work credits
a. Limited Local Credits (290/serious/prior) <input type="checkbox"/>
b. Violent Felony (No credit or max. 15%) <input type="checkbox"/>
c. Prior Strike(s) (No credit to max. 20%) <input type="checkbox"/>
d. Murder on/after 6/3/98 (No credit) <input type="checkbox"/>
<input type="checkbox"/> (17) Loss of public assistance
<input type="checkbox"/> (18) AIDS education program
<input type="checkbox"/> (19) Other: _____ |
|---|---|---|

9. **(Appeal Rights)** I give up my right to appeal the following: (1) denial of my 1538.5 motion, (2) issues related to strike priors (under PC §§ 667(b)-(i) and 1170.12), and (3) any sentence stipulated herein.

10. **(Harvey Waiver)** The sentencing judge may consider my prior criminal history and the entire factual background of the case, including any unfiled, dismissed or stricken charges or allegations or cases when granting probation, ordering restitution or imposing sentence.

11. **(Blakely Waiver)** I understand that as to any fact in aggravation that may be used to increase my sentence on any count or allegation to the upper or maximum term provided by law, I have the constitutional rights listed in paragraphs 6b-6e. I now give up those rights and agree that the sentencing judge may determine the existence or non-existence of any fact in aggravation, either at the initial sentencing or at any future sentencing in the event my probation is revoked.

12. **(Cruz Waiver)** Negotiated Disposition pursuant to PC 1192.5: I understand that if pending sentencing I am arrested for or commit another crime, violation any condition of my release, or willfully fail to appear for my probation interview or my sentencing hearing, the sentence portion of this agreement will be cancelled. I will be sentenced unconditionally, and I will not be allowed to withdraw my guilty/no contest plea(s).

13. **(Arbuckle waiver)** I give up my right to be sentenced by the judge who accepts this plea.

14. **(Probation Report)** I give up my right to a full probation report before sentencing.

15. **(Evidence Disposal Waiver)** I give up my interest in all non-biological property/evidence impounded during the investigation of this case except _____ and acknowledge that if I listed any property here, I must file a claim with the impounding agency within 60 days after pronouncement of judgment or my ability to make claim will expire.

Defendant: _____	CASE NUMBER: _____
------------------	--------------------

PLEA

16. I now plead Guilty/No Contest and admit the charges, convictions and allegations described in Paragraph #1, above. I admit that on the dates charged, I: (Describe facts as to each charge and allegation)

17. I declare under penalty of perjury under the laws of the State of California that I have read, understood, and initialed each item above and any attached addendum, and everything on the form and any attached addendum is true and correct. This declaration was executed in Hanford, Kings County, California.

Dated: _____ Defendant's Signature: _____

Defendant's Address: _____ Phone: (____) _____

Street

City State Zip

ATTORNEY'S STATEMENT

I, the attorney for the defendant in the above-entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges and possible defenses with the defendant, and the consequences of this plea, including any immigration consequences. I personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge his/her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Dated: _____

(Print Name) Attorney for Defendant (Signature) (Circle One: PD/APD/OAC/Retained)

INTERPRETER'S STATEMENT (If Applicable)

I, the sworn _____ language interpreter in this proceeding, truly translated for the defendant the entire contents of this form and any attached addendum. The defendant indicated understanding of the contents of this form and any addendum and then initialed and signed the form and any addendum.

Dated: _____

(Print Name) Court Interpreter (Signature)

PROSECUTOR'S STATEMENT

The People of the State of California, plaintiff, by its attorney, the District Attorney for the County of Kings, concurs with the defendant's plea of Guilty/No Contest as set forth above.

Dated: _____

(Print Name) Deputy District Attorney (Signature)

COURT'S FINDING AND ORDER

The Court, having questioned the defendant and defendant's attorney concerning the defendant's plea of Guilty/No Contest and admissions of the prior convictions and allegations, if any, finds that: The defendant understands and voluntarily and intelligently waives his/her constitutional rights; the defendant's plea and admissions are freely and voluntarily made; the defendant understands the nature of the charges and the consequences of the plea and admissions; and there is a factual basis for the same. The Court accepts the defendant's plea and admission, and the defendant is convicted thereby.

Dated: _____

Judge of the Superior Court

AGGRAVATED FELONIES

ANY CONVICTION OF A NON-CITIZEN FOR AN “AGGRAVATED FELONY” AS DEFINED UNDER 8 U.S.C. 1101(a)(43), WILL RESULT IN REMOVAL/DEPORTATION, EXCLUSION, AND DENIAL OF NATURALIZATION.

“AGGRAVATED FELONIES” include, but are not limited to, the following crimes and any attempt or conspiracy to commit such crimes, even if the conviction is a misdemeanor under state law: [The only exception to the applicability of state misdemeanors is where the offense (as listed below) specifically requires a felony conviction.]

1. **ANY CRIME OF VIOLENCE***

(Includes any offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any felony offense that, but its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. (18 U.S.C. §16).)

2. **BURGLARY** (Except vehicle or vessel unless used as a residence.)*

3. **CHILD PORNOGRAPHY OFFENSES**

4. **CONTROLLED SUBSTANCES:**

(a) **FELONY POSSESSION OF ANY CONTROLLED SUBSTANCE.**

(b) **MISDEMEANOR POSSESSION OF ANY CONTROLLED SUBSTANCE** when the defendant has previously been convicted of any drug related offense.

(c) **POSSESSION FOR SALE OF ANY CONTROLLED SUBSTANCE.**

(d) **SALE OF ANY CONTROLLED SUBSTANCE.**

(e) **TRANSPORTATION OF ANY CONTROLLED SUBSTANCE**

(f) **MANUFACTURE/DISTRIBUTION OF ANY CONTROLLED SUBSTANCE AND CULTIVATION OF MARIJUANA.**

5. **FELONY D.U.I.** (Any type)*

6. **FAILURE TO APPEAR ON A FELONY CASE**

7. **FORGERY***

8. **FRAUD** (Where loss to victim or victims exceeds \$10,000.00.)

9. **MONEY LAUNDERING** (If amount over \$10,000.00.)

10. **MURDER**

11. **PERJURY/SUBORDINATION** of Perjury or Bribery of a Witness*

12. **PIMPING/PANDERING/OPERATING A PROSTITUTION BUSINESS**

13. **RAPE**

14. **RECEIVING STOLEN PROPERTY***

15. **ROBBERY***

16. **SEXUAL ABUSE OF A MINOR** (Touching is not required, e.g.: Indecent Exposure)

17. **THEFT** (Any type or amount)*

18. **TRAFFICKING IN FIREARMS AND EXPLOSIVES**

19. **TRAFFICKING IN VEHICLES WITH ALTERED VINS***

20. **DEMAND FOR OR RECEIPT OF RANSOM**

* Where the term imposed is at least one year, whether or not any or all of that term is stayed or suspended at the time of sentencing.

SUPERIOR COURT OF CALIFORNIA		<i>Reserved for Clerk's File Stamp</i>	
COUNTY: KINGS			
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA			
DEFENDANT:			
ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM (Vehicle Code § 14601 <i>et seq.</i> ; Vehicle Code § 12500(a))		CASE NUMBER:	DEPARTMENT:

INSTRUCTIONS

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial the box for each applicable item only if you understand it, and **sign and date the form on page 4**. If you have any questions about your case, the possible sentence, or the information on this form, ask your attorney or the judge.

RIGHT TO AN ATTORNEY

- 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 to. 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.

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

I understand that I am charged with a violation of Vehicle Code section(s):

- Check if applicable – ☐ **14601** or ☐ **14601.1** or ☐ **14601.2** or ☐ **14601.5**
Driving in knowing violation of a driver's license restriction, suspension or revocation.
- Check if applicable – ☐ **14601.3** (Habitual traffic offender) – Accumulating a driving record history in knowing violation of a driver's license suspension or revocation.
- Check if applicable – ☐ **12500(a)** – Driving without a valid driver's license.
- If applicable** – I understand that I am also charged with the following other offense(s):

2.
3.
4.
5.

TYPE OF OFFENSES AND SECTION NUMBER(S)

- If applicable** – I am also charged with the following prior **conviction(s)**:

LIST OFFENSE(S), CASE NUMBER(S) AND DATE(S)

- If applicable** – I am also charged with violating the **probation order(s)** in the following cases:

CASE NUMBER(S) AND DATE(S)

6.
7.
8.

- I understand the charge(s) against me, and the possible pleas and defenses.

CONSTITUTIONAL RIGHTS

- 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 jurors were convinced of my guilt beyond a reasonable doubt.
- RIGHT TO CONFRONT WITNESSES** – I understand that I have the right to confront and cross-examine all witnesses testifying against me.
- 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 no contest, or admitting other conviction(s) or probation violation(s), I am incriminating myself. .

9.
10.
11.

CONSTITUTIONAL RIGHTS (Continued)

INITIALS ↓

12. **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.

12.

RIGHT ON CHARGES OF PRIOR CONVICTION(S) AND PROBATION VIOLATION(S)

13. **If applicable** – I understand that I have the right to an attorney, the right to a jury trial, the right to confront witnesses, the right against self-incrimination, and the right to produce evidence and witnesses for **all** of the charges against me, including any alleged prior conviction(s) or probation violation(s). 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.

13.

WAIVER OF RIGHTS

Understanding all of the above, for all of the charges against me, including any other alleged prior conviction(s) or probation violation(s):

14. I give up my right to an attorney, and I choose to represent myself. (Does not apply if I have an attorney)
15. I give up my right to a jury trial.
16. I give up my right to confront and cross-examine witnesses.
17. I give up my right to remain silent and to not incriminate myself.
18. I give up my right to produce evidence and witnesses on my own behalf.

14.

15.

16.

17.

18.

SENTENCES FOR DRIVING IN VIOLATION OF A LICENSE SUSPENSION, REVOCATION OR RESTRICTION

Vehicle Code Section	First Offense	Second or Subsequent Offense:
		I have prior conviction in the past 5 years of sections 14601, 14601.1, 14601.2 or 14601.5.
14601	5 days to 6 months in jail, and a fine of \$300 to \$1,000.	10 days to 1 year in jail, and a fine of \$500 to 2,000. 10 days in jail required if probation is imposed.
14601.1	Up to 6 months in jail, and a fine of \$300 to \$1,000, or both.	5 days to 1 year in jail, and a fine of \$500 to \$2,000.
14601.2	10 days to 6 months in jail, and a fine of \$300 to \$1,000. 10 days in jail required if probation is imposed. If I have been designated as a habitual traffic offender within 3 years of this conviction, in addition to the penalties above, I will be sentenced to serve 180 days in jail and to pay a \$2,000 fine.	30 days to 1 year in jail, and a fine of \$500 to 2,000. 30 days in jail required if probation is imposed.
14601.5	Up to 6 months in jail, or a fine of \$300 to \$1,000, or both.	10 days to 1 year in jail, and a fine of \$500 to \$2,000. Note: section 14601.3 also constitutes a prior conviction for this offense.

Vehicle Code Section	First Offense	Second or Subsequent Offense:
		Prior conviction(s) in past 7 years of section 14601.3.
14601.3	30 days in jail, and a fine of \$1,000.	180 days in jail, and a fine of \$2,000.

ADDITIONAL PENALTIES (Ignition Interlock Device)

19. I understand that if I am convicted of a violation of VC §14601.2, or if the original charge was for a violation of that section but I am pleading to section 14601, 14601.1 or 14601.5, the Court will order me to install an ignition interlock device (IID) on any vehicle that I own or operate for a period of up to 3 years. Installation of this device, which prevents the vehicle from starting if I have alcohol in my body, does not authorize me to drive without a valid driver's license. Failure to install the IID shall result in the suspension of my driver's license by the DMV.

INITIALS ↓

19.

SENTENCE FOR DRIVING WITHOUT A VALID LICENSE

Vehicle Code
Section 12500(a)

Up to 6 months in jail, or a fine of up to \$1,000 or both

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

20. I have read and understand the penalty charts which list the minimum and maximum penalties for the offense(s) I am charged with. (See item #27 for the offenses not listed in the charts.) .
21. I understand that in addition to the fine, **the Court will add assessments which will significantly increase the amount I must pay.** I will also be ordered to make restitution and to pay a restitution fine of \$150 to \$1,000, unless the Court finds compelling and extraordinary reasons not to do so.
22. I understand that in addition to any other penalty, the Court may impound my vehicle for an additional 6 months for a first conviction of section 14601 *et seq.*, or up to 12 months for a second or subsequent conviction.
23. I understand that my vehicle will be subject to forfeiture as a nuisance if I drive in violation of a license suspension or revocation (VC § 14601 *et seq.*) or without a license (VC § 12500(a)) and I am the registered owner of the vehicle.
24. I understand that if I am not a citizen, a plea of guilty or no contest could result in my deportation, exclusion from admission to this country or denial of naturalization.
25. I understand that a plea of no contest (*nolo contendere*) will have exactly the same effect in this case as a plea of guilty, but it cannot be used against me in a civil lawsuit.
26. I understand that any plea entered in this case may be grounds for revoking probation or parole which has previously been granted to me in any other case.

INITIALS ↓

20.

21.

22.

23.

24.

25.

26.

PENALTIES FOR OTHER CHARGES

27. **If applicable** – I understand that the possible consequences for the offense(s) charged, which are not listed on the penalty charts on pages 2 and 3, include the following:

• _____
SECTION NUMBER JAIL – MIN. _____ MAX. _____ FINE – MIN. _____ MAX. _____

OTHER CONSEQUENCES: _____

• _____
SECTION NUMBER JAIL – MIN. _____ MAX. _____ FINE – MIN. _____ MAX. _____

OTHER CONSEQUENCES: _____

• _____
SECTION NUMBER JAIL – MIN. _____ MAX. _____ FINE – MIN. _____ MAX. _____

OTHER CONSEQUENCES: _____

27.

PLEA(S)

28. I hereby freely and voluntarily plead _____ to the following:

GUILTY OR NO CONTEST

LIST CHARGE(S)

29. **If applicable** – I freely and voluntarily admit the other conviction(s) that I listed on this form. I understand that this admission will increase the penalties which are imposed on me. . . .

30. **If applicable** – I freely and voluntarily admit the probation violation(s) that I listed on this form and give up my right to a hearing before a judge regarding the probation violation(s). .

31. I understand that I have the right to a delay of from 6 hours to 5 days prior to being sentenced. I give up my right and agree to be sentenced at this time.

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:

TEMPORARY JUDGE'S NAME

28.

29.

30.

31.

32.

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

DATE: _____

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.

ATTORNEY'S SIGNATURE

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): _____

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 concerning the defendant's constitutional rights and the defendant's admission of other 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(s). The Court accepts the defendant's plea(s), the defendant's admission of the other 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

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS STREET ADDRESS: 1640 KINGS COUNTY DR. MAILING ADDRESS: CITY AND ZIP CODE: HANFORD - 93230 BRANCH NAME:		Reserved for Clerk's File Stamp	
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:			
DUI ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM (Vehicle Code § 23153)		CASE NUMBER:	DEPARTMENT:

INSTRUCTIONS

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial the box for each applicable item only if you understand it, and **sign and date the form on page 5**. If you have any 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 to. 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.

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

- I understand that I am charged with a violation of Vehicle Code section(s):
2. **23153(a)** - Driving under the influence of alcohol or drugs, or both, and when driving, committing an act forbidden by law or neglecting a duty imposed by law, which causes injury to another person.
3. **23153(b)** - Driving when my blood-alcohol level was .08 percent or higher, and when driving, committing an act forbidden by law or neglecting a duty imposed by law, which causes injury to another person.
4. **23153(d)** - Driving a commercial vehicle when my blood-alcohol level was .04 percent or higher, and when driving, committing an act forbidden by law or neglecting a duty imposed by law, which causes injury to another person.
5. **Check if applicable** - ☐ **14601** or ☐ **14601.1** or ☐ **14601.2** or ☐ **14601.5**
Driving in knowing violation of a driver's license restriction, suspension, or revocation.
6. **Check if applicable** ☐ **14601.3** (Habitual traffic offender) - Accumulating a driving record history in knowing violation of a driver's license suspension or revocation.
7. **If applicable** - I understand that I am also charged with the following **other offense(s)**:

TYPE OF OFFENSE(S) AND SECTION NUMBER(S)

8. **If applicable** - I am also charged with having the following **other conviction(s)**:

LIST OFFENSE(S), CASE NUMBER(S) AND DATE(S)

9. **If applicable** - I am also charged with violating the **probation order(s)** in the following case(s):

CASE NUMBER(S) AND DATE(S)

10. I understand the charge(s) against me, and the possible pleas and defenses.

CONSTITUTIONAL RIGHTS

11. **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.

INITIALS ↓
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.
INITIALS ↓
11.

CONSTITUTIONAL RIGHTS (Continued)

12. **RIGHT TO CONFRONT WITNESSES** - I understand that I have the right to confront and cross-examine all witnesses testifying against me.
13. **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 no contest, or admitting other conviction(s) or probation violation(s), I am incriminating myself. .
14. **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. .
- 14a. I understand I have all the above rights (except jury trial) as they relate to a Preliminary Examination, which I waive.

RIGHTS ON CHARGES OF OTHER CONVICTION(S) AND PROBATION VIOLATION(S)

15. I understand that I have the right to an attorney, the right to a jury trial, the right to confront witnesses, the right against self-incrimination, and the right to produce evidence and witnesses for **all** of the charges against me, including other alleged conviction(s) or probation violation(s). 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.

WAIVER OF RIGHTS

- Understanding all of the above, for all of the charges against me, including any other alleged conviction(s) or probation violation(s):
16. I give up my right to an attorney, and I choose to represent myself. (Does not apply if you have an attorney.)
17. I give up my right to a jury trial.
18. I give up my right to confront and cross-examine witnesses.
19. I give up my right to remain silent and to not incriminate myself.
20. I give up my right to produce evidence and witnesses on my own behalf.
- 20a I give up my right to a Preliminary Examination.

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

21. I understand that if I am not a citizen, a plea of guilty or no contest (*nolo contendere*) could result in my deportation, exclusion from admission to this country, or denial of naturalization.
22. I understand that a plea of no contest will have 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.
23. I understand that any plea entered in this case may be grounds for revoking probation or parole which has previously been granted to me in any other case.
24. I understand that in addition to the fine indicated on the penalty charts on pages 3 and 4, **the Court will add assessments which will significantly increase the amount I must pay.** I will also be ordered to make restitution and to pay a restitution fine of \$100 to \$1,000 (or \$200 to \$10,000 if the offense is a felony) unless the Court finds compelling and extraordinary reasons not to do so.
25. I understand that the Department of Motor Vehicles (DMV) may consider any of my other convictions for DUI or reckless driving, **even those that are not charged in this proceeding**, and may impose a more severe driver's license suspension or revocation as a result.
26. I understand that being under the influence of alcohol or drugs, or both, impairs my ability to safely operate a motor vehicle, and it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If I continue to drive while under the influence of alcohol or drugs, or both, and as a result of my driving, someone is killed, I can be charged with murder.

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST (Continued)

27. I understand that if I am the **registered owner** of the vehicle used in the offense:

A. The Court will impound my vehicle at my expense for up to 90 days, unless it is determined that it is in the interest of justice not to do so.

B. The Court may also require me to install an ignition interlock device (IID) for up to three years. Installation of this device, which prevents the vehicle from starting if I have alcohol in my body, does not authorize me to drive without a valid driver's license.

C. The Court may declare my vehicle to be a nuisance and order it sold following a hearing if I have one or more other convictions for driving under the influence (DUI), vehicular manslaughter (Penal Code § 191.5 or 192.5(a)), or any combination thereof, in the past 7 years.

D. If I am convicted of a second or subsequent violation of driving with a suspended or revoked license (V.C. § 14601 *et seq.*) or driving without a license (V.C. § 12500(a)), my vehicle will be subject to forfeiture as a nuisance.

INITIALS ↓

27A.

27B.

27C.

27D.

SENTENCES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS (Section 23153)

Offense	Minimum and Maximum Sentences when Probation is Granted (3 to 5 Years Probation Term)	Minimum and Maximum Sentences without Probation
First offense within 10 years See Nos. 28-35 .	5 days to 1 year in county jail, a \$390 to \$1,000 fine, and completion of a 3-month alcohol/drug program (or a 9-month program if my blood-alcohol content was .20 percent or more, or if I refused a chemical test at arrest). The DMV will also impose a 1-year driver's license suspension.	16 months or 2 or 3 years in state prison (or 90 days to 1 year in county jail), and a \$390 to \$1,000 fine. The DMV will also impose a 1-year driver's license suspension.
Second offense within 10 years (other conviction of section 23152, 23153, or 23103 under 23103.5) See Nos. 28-35	Either: (A) at least 120 days in county jail, and a \$390 to \$5,000 fine; or (B) 30 days to 1 year in county jail, a \$390 to \$1,000 fine, and completion of an 18-month alcohol/drug program. Note - Under either option, the DMV will also impose a 3-year driver's license revocation.	16 months or 2 or 3 years in state prison (or 120 days to 1 year in county jail), and a \$390 to \$5,000 fine. The DMV will also impose a 3-year driver's license revocation.
Third or subsequent offense within 10 years (other convictions of section 23152, 23153, or 23103 under 23103.5) See Nos. 28-36 .	30 days to at least 1 year in county jail, a \$390 to \$5,000 fine, completion of an 18-month alcohol/drug program, and restitution or reparation to the victim as required by law. The DMV will also impose a 5-year driver's license revocation.	2, 3, or 4 years in state prison, and a \$1,015 to \$5,000 fine. The DMV will impose a 5-year driver's license revocation. (An additional 3 years in state prison will be ordered if I already have 4 or more DUI convictions and the offense caused great bodily injury to another person.)

ADDITIONAL PENALTIES FOR A VIOLATION OF SECTION 23153

28. I understand that if my alleged offense also caused **bodily injury or death to more than 1 victim**, upon a felony conviction, my sentence will be enhanced by 1 year in state prison for each additional victim, up to a maximum of 3 additional years.

29. I understand that the DMV may suspend or revoke my driver's license under a civil procedure which is separate from this criminal action. I understand that the DMV's action, if any, will be in addition to the Court's sentence and that I must obey it.

30. I understand that the DMV will revoke my driver's license for 4 years if I have a prior felony conviction in the past 10 years of Vehicle Code § 23152 or 23153 or Penal Code § 192(c)(1), or any conviction within 10 years of Penal Code § 191.5(a), 191.5(b), or 192.5(a).

INITIALS ↓

28.

29.

30.

ADDITIONAL PENALTIES FOR A VIOLATION OF SECTION 23153 (Continued)

31. I understand that the DMV will prohibit me from operating a **commercial** vehicle for one year if I am convicted of a **first** DUI offense or willful refusal to submit to or complete a chemical test to determine my blood-alcohol level which occurred in **any** vehicle. The DMV will prohibit me from operating a commercial vehicle ever again if I am convicted of a **second or subsequent** DUI offense or willful refusal to submit to or complete a chemical test in any vehicle.
32. I understand that the DMV will not restore my driving privilege following my driver's license suspension or revocation unless I provide the DMV with **proof of insurance** for 3 years.
33. I understand that proof of my successful completion of an alcohol/drug program must be received at DMV headquarters in order for me to have my driving privilege reinstated, **even if I am not ordered to attend such a program by the Court**, and that I must surrender my license to the Court.
34. I understand that if I am placed on probation, it is unlawful to drive with a blood-alcohol level of .01 percent or higher and that my license will be suspended by the DMV for up to one year if I do so.
35. I understand that if my blood-alcohol level was .15 percent or above, or if I refused to submit to a chemical test, the Court will consider this in determining whether to enhance the penalties, grant probation, or impose additional terms of probation.
36. **If applicable** - I understand that if I am convicted of a **third or subsequent** DUI violation, I will be designated as an habitual traffic offender for 3 years after my conviction, and I will receive an enhanced sentence if I drive in violation of my license revocation.

INITIALS ↓

31.

32.

33.

34.

35.

36.

SENTENCES FOR DRIVING IN VIOLATION OF A LICENSE SUSPENSION, REVOCATION, OR RESTRICTION

Vehicle Code Section	First Offense	Second or Subsequent Offense: I have one or more prior convictions in the past 5 years of either sections 14601, 14601.1, 14601.2, or 14601.5.
14601	5 days to 6 months in jail, and a fine of \$300 to \$1,000.	10 days to 1 year in jail, and a fine of \$500 to \$2,000. 10 days in jail required if probation is imposed.
14601.1	Up to 6 months in jail, or a fine of \$300 to \$1,000, or both.	5 days to 1 year in jail, and a fine of \$500 to \$2,000.
14601.2	10 days to 6 months in jail, and a fine of \$300 to \$1,000. 10 days in jail required if probation is imposed.	30 days to 1 year in jail, and a fine of \$500 to \$2,000. 30 days in jail required if probation is imposed.
	If I have been designated as an habitual traffic offender within 3 years of this conviction, in addition to the penalties above, I will also be sentenced to serve 180 days in jail and to pay a \$2,000 fine.	
14601.5	Up to 6 months in jail, or a fine of \$300 to \$1,000, or both.	10 days to 1 year in jail, and a fine of \$500 to \$2,000. Note - Section 14601.3 also constitutes a prior conviction for this offense.
Vehicle Code Section	First Offense	Second or Subsequent Offense: Prior conviction(s) in past 7 years of section 14601.3.
14601.3	30 days in jail, and a fine of \$1,000.	180 days in jail, and a fine of \$2,000.

ADDITIONAL PENALTY FOR A VIOLATION OF SECTION 14601, 14601.1, 14601.2 and 14601.5

37. **If applicable** - I understand that if I am convicted of a violation of Vehicle Code § 14601.2, or if the original charge was for a violation of that section but I am pleading to section 14601, 14601.1 or 14601.5, the Court will order me to install an ignition interlock device (IID) on any vehicle that I own or operate for up to three years. Installation of this device, which prevents the vehicle from starting if I have alcohol in my body, does not authorize me to drive without a valid driver's license. Failure to install the IID shall result in the suspension of my driver's license by the DMV.

INITIALS ↓

37.

ADDITIONAL PENALTY FOR A VIOLATION OF SECTION 14601, 14601.1, 14601.2 and 14601.5 (Continued)

38. I have read and understood the applicable charts on pages 3 and 4, which list the minimum and maximum penalties for the offense(s) I am charged with. (See No. 39 for the offenses not listed in the charts.)

39. If applicable - I understand that the possible consequences for the offense(s) charged, which are not listed on the penalty charts on pages 3 and 4, include the following:

•

SECTION NUMBER

JAIL - MIN.

MAX.

FINE - MIN.

MAX.

OTHER CONSEQUENCES :

•

SECTION NUMBER

JAIL - MIN.

MAX.

FINE - MIN.

MAX.

OTHER CONSEQUENCES :

•

SECTION NUMBER

JAIL - MIN.

MAX.

FINE - MIN.

MAX.

OTHER CONSEQUENCES :

•

SECTION NUMBER

JAIL - MIN.

MAX.

FINE - MIN.

MAX.

OTHER CONSEQUENCES :

PLEA(S)

40. I hereby freely and voluntarily plead _____ to the following:
GUILTY OR NO CONTEST

LIST CHARGE(S)

41. If applicable - I freely and voluntarily admit the other conviction(s) that I listed on this form. I understand that this admission will increase the penalties which are imposed on me.

42. If applicable - I freely and voluntarily admit the probation violation(s) that I listed on this form and give up my right to a hearing before a judge regarding the probation violation(s).

43. I understand that I have the right to a delay of from 6 hours to 5 days prior to being sentenced for a misdemeanor, and the right to a delay of up to 20 days for a felony. I give up this right and agree to be sentenced at this time.

44. 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:

TEMPORARY JUDGE'S NAME

INITIALS ↓
38.
39.
40.
41.
42.
43.
44.

PEOPLE OF THE STATE OF CALIFORNIA v.
DEFENDANT

CASE NUMBER:

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.

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 concerning the defendant's constitutional rights and the defendant's admission of other 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(s). The Court accepts the defendant's plea(s), the defendant's admission of the other 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
☐ Temporary Judge of the Superior Court

DATE

SUPERIOR COURT OF CALIFORNIA		<i>Reserved for Clerk's File Stamp</i>
COUNTY: <div style="text-align: center; padding: 5px;">COUNTY OF KINGS</div>		
PLAINTIFF: <div style="text-align: center; padding: 5px;">PEOPLE OF THE STATE OF CALIFORNIA</div>		
DEFENDANT:		
ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM FOR FELONIES AND/OR MISDEMEANORS - PROPOSITION 36 (Penal Code § 1210 <i>et seq.</i>)		<div style="display: flex; justify-content: space-between; padding: 5px;"> <div style="width: 60%; padding: 5px;">CASE NUMBER:</div> <div style="width: 35%; padding: 5px;">DEPARTMENT:</div> </div>

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 *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.

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

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

11550 H&S – UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE

TYPE OF OFFENSE(S) AND SECTION NUMBER(S)

2.

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)

3.

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)

4.

5. I understand the charge(s) against me, and the possible pleas and defenses.

5.

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.

6.
7.

CONSTITUTIONAL RIGHTS (Continued)

INITIALS ↓

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 prior conviction(s) or probation violation(s), I am incriminating myself.

8.

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.

9.

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.).

10.

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.).

11.

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.)

12.

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

13.

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

14.

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

15.

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

16.

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.

17.

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.

18.

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.

19.

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.

20.

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.

INITIALS ↓

CONSEQUENCES OF REVOCATION OF PROPOSITION 36 PROBATION

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:

• 11550 H&S 90 DAYS 1 YEAR -0- \$1000.00
SECTION NUMBER JAIL - MIN. MAX. FINE - MIN. MAX.
1 YEAR LICENSE SUSPENSION IF UNDER 21 YEARS; SUBMIT TO DRUG ABUSE TESTING AS DIRECTED;
MUST REGISTER PURSUANT TO 11590 H&S
OTHER CONSEQUENCES :

•
SECTION NUMBER JAIL - MIN. MAX. FINE - MIN. MAX.
OTHER CONSEQUENCES :

•
SECTION NUMBER JAIL - 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.

35. 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:

TEMPORARY JUDGE'S NAME

35.

PLEA

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

to: _____
LIST CHARGE(S)

36.

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

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
☐ Temporary Judge of the Superior Court

DATE

SUPERIOR COURT OF CALIFORNIA		Reserved for Clerk's File Stamp	
COUNTY: KINGS			
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA			
DEFENDANT:			
MISDEMEANOR ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM		CASE NUMBER:	DEPARTMENT:

INSTRUCTIONS

Fill out this form if you wish to plead guilty or no contest to the charges against you. Initial the box for each applicable item only if you understand it, and **sign and date the form on page 3**. If you have any 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 to. 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.

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 am also 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.

2.
3.
4.
5.

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 jurors were convinced of my guilt beyond a reasonable doubt.
7. RIGHT TO CONFRONT WITNESSES – I understand that I have the right to confront and cross-examine all witnesses testifying against me.
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 no contest, 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.

6.
7.
8.
9.

RIGHT ON CHARGES OF PRIOR CONVICTION(S) AND PROBATION VIOLATION(S)

10. If applicable – I understand that I have the right to an attorney, the right to a jury trial, the right to confront witnesses, the right against self-incrimination, and the right to produce evidence and witnesses for all of the charges against me, including any alleged prior conviction(s) or probation violation(s). 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.

INITIALS ↓
10.

WAIVER OF RIGHTS

Understanding all of the above, for all of the charges against me, including any other alleged prior conviction(s) or probation violation(s):

- 11. I give up my right to an attorney, and I choose to represent myself. (Does not apply if I have an attorney)
- 12. I give up my right to a jury trial.
- 13. I give up my right to confront and cross-examine witnesses.
- 14. I give up my right to remain silent and to not incriminate myself.
- 15. I give up my right to produce evidence and witnesses on my own behalf.

11.
12.
13.
14.
15.

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST

16. Penalty: I understand that the possible consequences for the offense(s) charged include the following:

•

SECTION NUMBER

JAIL – MIN.

MAX.

FINE – MIN.

MAX.

OTHER CONSEQUENCES:

•

SECTION NUMBER

JAIL – MIN.

MAX.

FINE – MIN.

MAX.

OTHER CONSEQUENCES:

•

SECTION NUMBER

JAIL – MIN.

MAX.

FINE – MIN.

MAX.

OTHER CONSEQUENCES:

•

SECTION NUMBER

JAIL – MIN.

MAX.

FINE – MIN.

MAX.

OTHER CONSEQUENCES:

•

SECTION NUMBER

JAIL – MIN.

MAX.

FINE – MIN.

MAX.

OTHER CONSEQUENCES:

•

SECTION NUMBER

JAIL – MIN.

MAX.

FINE – MIN.

MAX.

OTHER CONSEQUENCES:

16.
17.
18.

- 17. I understand that in addition to the fine, the Court will add assessments which will significantly increase the amount I must pay. I will also be ordered to make restitution and to pay a restitution fine of \$150 to \$1,000, unless the Court finds compelling and extraordinary reasons not to impose the fine.
- 18. I understand that if I am not a citizen, a plea of guilty or no contest could result in my deportation, exclusion from admission to this country or denial of naturalization.

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST (Continued)

INITIALS ↓

19. I understand that a plea of no contest (*nolo contendere*) will have exactly the same effect in this case as a plea of guilty, but it cannot be used against me in a civil lawsuit unless the offense is punishable as a felony.
20. I understand that any plea entered in this case may be grounds for revoking probation or parole which has previously been granted to me in any other case.

19.

20.

PLEA(S)

21. I hereby freely and voluntarily plead _____ to the following:

GUILTY OR NO CONTEST

LIST CHARGE(S)

22. I understand that I have the right to a delay of from 6 hours to 5 days prior to being sentenced. I give up my right and agree to be sentenced at this time.
23. **If applicable** – I freely and voluntarily admit the prior conviction(s) that I listed on this form. I understand that this admission will increase the penalties which are imposed on me. . . .
24. **If applicable** – I freely and voluntarily admit the probation violation(s) I listed on this form and give up my right to a hearing before a judge regarding the probation violation(s). . . .
25. **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:

21.

22.

23.

24.

25.

TEMPORARY JUDGE'S NAME

PROPOSITION 63

26. **If Applicable** - I understand that by entering this qualifying **misdemeanor** plea, I cannot own, possess purchase or have under my control any firearm, ammunition, and ammunition feeding device, including an ammunition magazine, for the next ten years, under state law. I also understand that it is a crime to possess such items. Further, I understand that as a result of my plea, I must timely turn over such items to the proper authorities, and that failure to do so may subject me to a compliance search and criminal penalties.

26.

PROPOSITION 63: THE SAFETY FOR ALL ACT OF 2016:

Upon any conviction listed below, the defendant is prohibited from owning, purchasing, receiving, possessing, or having under my custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines and I am ordered and required to relinquish all firearms as detailed in California Penal Code section 29810, based on a plea to:

Any felony, or being subject to California Penal Code section 29800

A violent offense within the meaning of Penal Code section 23515(a), (b), or (c), to wit: Penal Code sections 245(a)(2), (3), 245(d), 246, 417(a)(2), 417(c).

Penal Code section 29805 misdemeanor plea causing 10 year relinquishment of firearm and 10 year prohibition:

		Max custody
Penal Code § 71	Threatening school or public officers or employees	One year
Penal Code § 76	Threatening public officials	One year
Penal Code § 136.1	Preventing or dissuading witness or victim from testifying or doing other acts	One year
Penal Code § 136.5	Possession of deadly weapon with intent to violate Section 136.1	One year
Penal Code § 140	Use of force/ threat of force /violence against person/ property of crime wit/victim	One year
Penal Code § 148(d)	Removal of weapon from person or presence of public or peace officer	One year
Penal Code § 171b	Possessing weapon in state or local public building or public open meeting	One year
Penal Code § 171c(a)(1)	Possessing weapon in state or local public building or public open meeting	One year
Penal Code § 171d	Possessing loaded firearm in Governor's or constitutional officer's residence	One year
Penal Code § 186.28	Supplying, selling, or giving possession or control of firearm to another	One year
Penal Code § 240	Assault	6 months
Penal Code § 241	Punishment for assault; Punishment for assault against specified officers or others	
Penal Code § 242	Battery	6 months
Penal Code § 243	Punishment for battery; Punishment for battery against specified officers or others	
Penal Code § 243.4	Sexual battery; Seriously disabled or medically incapacitated victims	One year
Penal Code § 244.5	Assault with stun gun or less lethal weapon	One year
Penal Code § 245	Assault with deadly weapon or by force likely to produce great bodily injury	One year
Penal Code § 245.5	Assaults with deadly weapons on school employees	One year
Penal Code § 246.3	Discharge of firearm or BB device in grossly negligent manner	One year
Penal Code § 247	Discharge of firearm at unoccupied aircraft, motor vehicle, uninhabited building, dwelling house	One year
Penal Code § 273.5	Infliction of injury on present/ former spouse, cohabitant, dating partner, child's parent	One year
Penal Code § 273.6	Violation of protective order	One year
Penal Code § 417	Brandishing a weapon (could have mandatory minimums 30-180 days)	One year
Penal Code § 417.6	Intentional infliction of serious bodily injury in commission of specified weapons offenses	One year
Penal Code § 422	Punishment for threats	One year
Penal Code § 626.9	Possession of firearm in school zone /on grounds of public/private university/college	One year
Penal Code § 646.9	Stalking	One year
Penal Code § 830.95	Wearing uniform of peace officer while picketing/participating in other informational activities	

former Section 12100, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, Section 490.2 if the property taken was a firearm, or of the conduct punished in Section 27590(c)

DEFENDANT'S SIGNATURE: _____

DATE

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.

ATTORNEY'S SIGNATURE

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): _____

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 concerning the defendant's constitutional rights and the defendant's admission of other 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(s). The Court accepts the defendant's plea(s), the defendant's admission of the other 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

SUPERIOR COURT OF CALIFORNIA		<i>Reserved for Clerk's File Stamp</i>
COUNTY:	KINGS	
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT:		
DUI WITHOUT INJURIES ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM (Vehicle Code, §§ 23152, 23103(a)/23103.5, 23140, 23154, 14601 et seq., 12500(a)) (Misdemeanors Only)		CASE NUMBER:
		DEPARTMENT:

INSTRUCTIONS

Fill out this form if you wish to plead guilty or no contest to the charges against you and admit the truth of the special allegations. Initial the box for each applicable item only if you understand it, and **sign and date the form on page 6**. If you have any questions about your case, the possible sentence, or the information on this form, ask your attorney or the judge.

NATURE OF THE CHARGES AND SPECIAL ALLEGATIONS (Initial all items with which you are charged.)

I understand that I am charged with a violation of Vehicle Code section(s):

- | | INITIALS |
|---|----------|
| 1. 23152(A) – Driving under the influence of alcohol..... | 1. |
| 2. 23152(b) – Driving when my blood-alcohol concentration (BAC) was .08 percent or more..... | 2. |
| 3. 23152(d) – Driving a commercial vehicle when my BAC was .04 percent or more..... | 3. |
| 4. 23152(e) – Driving a vehicle for hire with a passenger when my BAS was 0.4 percent or more (operative Jul. 1, 2018)..... | 4. |
| 5. 23152(f) – Driving under the influence of drugs..... | 5. |
| 6. 23152(g) – Driving under the influence of both alcohol and drugs..... | 6. |
| 7. 23103(a), 23103.5 – Reckless driving involving alcohol or drugs, or both..... | 7. |
| 8. 23140 – Driving when my BAC was 0.05 percent or more when I was under 21 years old..... | 8. |
| 9. 23154 – Operating a vehicle while on probation for a DUI when my BAC was 0.01 percent or more..... | 9. |
| 10. Check if applicable - <input type="checkbox"/> 14601(a) or <input type="checkbox"/> 14601.1 or <input type="checkbox"/> 14601.2 or <input type="checkbox"/> 14601.5
Driving in knowing violation of a driver's license restriction, suspension, or revocation..... | 10. |
| 11. Check if applicable - <input type="checkbox"/> 14601.3(a) (habitual traffic offender) – Accumulating a driving record History in knowing violation of a driver's license suspension or revocation..... | 11. |
| 12. Check if applicable - <input type="checkbox"/> 12500(a) – Driving without a valid driver's license..... | 12. |

I understand that the following special allegations have been alleged (**check if applicable**):

- | | |
|---|-----|
| 13. <input type="checkbox"/> Driving a vehicle when my BAC was at ____ percent or above. | |
| <input type="checkbox"/> Willfully refusing to submit to or complete a peace officer's request for a chemical test. | |
| <input type="checkbox"/> Driving under the influence of alcohol or drugs, or both, in willful or wanton disregard for the under the in influence of alcohol or drugs, or both, in willful or wanton disregard for the safety of persons or property on a freeway at ____ miles per hour, which is 30 or more miles per hour over the maximum, prima facie, or posted speed limit. | |
| <input type="checkbox"/> Driving under the influence of alcohol or drugs, or both, in willful or wanton disregard for the safety of persons or property on a street or highway at ____ miles per hour, which is 20 or more miles per hour over the maximum, prima facie, or posted speed limit. | |
| <input type="checkbox"/> Driving under the influence of alcohol or drugs, or both, while a minor under 14 years of age was a passenger in the vehicle..... | |
| 14. If applicable – I understand that I am also charged with the following other offense(s) : | 14. |

TYPE OF OFFENSE(S) AND SECTION NUMBER(S)

15. If applicable – I understand that I am also charged with the following **other conviction(s)**:

LIST OFFENSE(S), CASE NUMBER(S), AND DATE(S)

16. If applicable – I am also charged with violating the **probation order(s)** in the following case(s)

CASE NUMBER(S) AND DATE(S)

17. I understand the charge(s) and allegation(s) against me, and the possible pleas and defenses.....

CONSTITUTIONAL RIGHTS AND PRIVILEGES

18. RIGHT TO AN ATTORNEY – 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 to. 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.....

19. 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.....

20. RIGHT TO CONFRONT WITNESSES – I understand that I have the right to confront and cross-examine (see, hear, and question) all witnesses testifying against me.....

21. RIGHT AGAINST SELF-INCRIMINATION – I understand that I have the right to remain silent and a right not incriminate myself, and the right to testify on my own behalf during any proceeding. I understand that by pleading guilty or no contest, or admitting other conviction(s) or probation violation(s), I am incriminating myself.....

22. RIGHT TO PRODUCE EVIDENCE – I understand that I have the right to present evidence and to have the court issue subpoenas at no cost to me to compel attendance of witnesses in court and the production of evidence favorable to me. I have the right to testify in court if I waive my privilege against self-incrimination.....

RIGHTS ON CHARGES OF OTHER CONVICTION(S), ENHANCEMENT ALLEGATION(S), AND PROBATION VIOLATION(S)

23. If applicable – I understand that I have the right to an attorney, the right to a jury trial, the right to confront witnesses, the right against self-incrimination, and the right to produce evidence and witnesses for **all** charges against me, including other alleged conviction(s), enhancement allegation(s), or probation violation(s). However, for a charge of violating probation, I do not have the right to a jury trial, but I do have the right to a hearing before a judge.....

WAIVER OF RIGHTS

Understanding all of the above, for all of the charges and allegations against me, including any other alleged conviction(s) or probation violation(s):

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

25. I give up my right to a jury trial.....

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

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

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

CONSEQUENCES OF PLEA OF GUILTY OR NO CONTEST PLEA

29. I understand that if I am not a citizen, a plea of guilty or no contest (*nolo contendere*) could result in my deportation, exclusion from admission to this country, or denial of naturalization.....

30. I understand that a plea of no contest will have the same effect in this case as a plea of guilty, but it cannot be used against me in a civil lawsuit unless the offense is punishable as a felony 30.
31. I understand that any plea entered in this case may be grounds for revoking probation or parole which has previously been granted to me in any other case 31.
32. I understand that the Department of Motor Vehicles (DMV) will consider any of my other convictions for driving under the influence of alcohol or drugs or their combined influence (DUI) or reckless driving, even those that are not charged in this proceeding, and may impose a more severe license suspension or revocation as a result 32.
33. I understand that in addition to the fine, the court will add a surcharge, assessments, and penalties, and may add fees, which will significantly increase the amount I must pay. I will be ordered to make victim restitution, if any. I will be ordered to pay a restitution fine no less than \$150 and up to \$1000 (or no less than \$300 and up to \$10,000 if the offense is a felony), unless the court finds compelling and extraordinary reasons not to do so. I will be ordered to pay \$40 Court Operations Assessment for each count for which I am convicted. I will also be ordered to pay \$30 Conviction Assessment for each felony or misdemeanor count for which I am convicted, and \$35 Criminal Conviction Assessment for each infraction count for which I am convicted. The Court may also impose a \$10 citation fee or a \$25 Administrative Screening Fee (O.R. release fee)..... 33.
34. I understand that being under the influence of alcohol or drugs, or both, impairs my ability to safely operate a motor vehicle, and it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If I continue to drive while under the influence of alcohol or drugs, or both, and as a result of my driving, someone is killed, I can be charged with murder 34.
- I understand that if I am the registered owner of the vehicle used in the offense:
35. The court may impound my vehicle at my expense for up to 90 days, unless it is in the interests of justice not to do so. The court may also declare my vehicle to be a nuisance and order it sold following a hearing if I have 2 or more other convictions for DUI, vehicular manslaughter (Pen. Code, §§191.5 or 192.5, subd.(a)), or any combination thereof, in the past 7 years..... 35.
36. The court or DMV may also require me to install and maintain a functioning, certified ignition interlock device for up to three years. Installation of this device, which prevents the vehicle from starting if I have alcohol in my body, does not authorize me to drive without a valid driver's license.. 36.
37. If I am convicted of a second or subsequent violation of driving with a suspended or revoked license (Veh. Code, §14601 et seq.) or driving without a license (Veh. Code, §12500, subd. (a)), my vehicle may be subject to forfeiture as a nuisance..... 37.

SENTENCES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS (SECTION 23152)

Offense	Minimum and Maximum Sentences when Probation is Granted (3 to 5 years Probation Term)	Minimum and Maximum Sentences without Probation
First offense within 10 years See Nos. 38-50	The court may order a jail term of 48 hours to 6 months. It will impose a fine of \$390 to \$1,000 and order me to complete a 3- month or longer alcohol/drug treatment program. If my BAC was .20% or more, or if I refused a chemical test upon my arrest, I must complete a 9-month or longer treatment program. The DMV will also impose a 6-month driver's license suspension, or a 10-month license suspension if the 9-month program is required.	96 hours to 6 months in jail, and a \$390 to \$1,000 fine. The DMV will also impose a 6-month driver's license suspension.
Second offense within 10 years See Nos. 38-50	A jail term of either: (a) 10 days to 1 year, or (b) 96-hours to 1 year; a \$390 to \$1,000 fine, and completion of at least an 18- month (or at least a 30-month) alcohol/drug treatment program. The DMV will also impose a 2-year driver's license suspension.	90 days to 1 year in jail, and a \$390 to \$1,000 fine. The DMV will also impose a 2- year driver's license suspension.
Third offense within 10 years See Nos. 38-50	120 days to 1 year in jail, a \$390 to \$1,000 fine, and completion of an 18-month (or 30-month) alcohol/drug program if I have not completed one before. The DMV will impose a 3-year driver's license revocation. The court may impose a 10-year driver's license revocation.	120 days to 1 year in jail, and a \$390 to \$1,000 fine. The DMV will impose a 3-year driver's license revocation. The court may impose a 10-year driver's license revocation.
Fourth or subsequent offense within 10 years See Nos. 38-50	180 days to 1 year in jail, a \$390 to \$1,000 fine, and completion of an 18-month alcohol/drug program if I have not completed one before. The DMV will impose a 4- year driver's license revocation. The court may impose a 10-year driver's license revocation.	16 months, or 2 or 3 years imprisonment, (or 180 days to 1 year in county jail); and a \$390 to \$1,000 fine. The DMV will impose a 4-year driver's license revocation. The court may impose a 10-year driver's license revocation.

SENTENCES FOR RECKLESS DRIVING (SECTIONS 23103(a) AND 23103.5)			
Nature of Offense	Minimum and Maximum Sentences		Other Consequences
Reckless driving reduced from driving under the influence	If Probation is granted:	A maximum of 90 days in jail, or \$1,000 fine, or both, plus attendance at a treatment program.	If alcohol or drugs are involved, this conviction will act as a separate DUI conviction if I commit a subsequent DUI offense within 10 years.
	If Probation is NOT granted:	5 days to 90 days in jail, or \$145 to \$1,000 fine, or both.	

SENTENCES FOR DRIVING IN VIOLATION OF A LICENSE SUSPENSION, REVOCATION, OR RESTRICTION			
Vehicle Code Section	First Offense	Second or Subsequent Offense	
		I have one or more prior convictions in the past 5 years of either sections 14601(a), 14601.1, 14601.2, or 14601.5.	
14601(a)	5 days to 6 months in jail, and a fine of \$300 to \$1,000.	10 days to 1 year in jail, and a fine of \$500 to \$2,000. 10 days in jail required if probation is imposed.	
14601.1	Up to 6 months in jail, or a fine of \$300 to \$1,000, or both.	5 days to 1 year in jail, and a fine of \$500 to \$2,000.	
14601.2	10 days to 6 months in jail, and a fine of \$300 to \$1,000. 10 days in jail required if probation is imposed. If I have been designated as a habitual traffic offender within 3 years of this conviction, in addition to the penalties above, I will be sentenced to serve 180 days in jail and to pay a \$2,000 fine.	30 days to 1 year in jail, and a fine of \$500 to \$2,000. 30 days in jail required if probation is imposed.	
14601.5	Up to 6 months in jail, or a fine of \$300 to \$1,000, or both.	10 days to 1 year in jail, and a fine of \$500 to \$2,000. Note - section 14601.3 also constitutes a prior conviction for this offense	

Vehicle Code Section	First Offense	Second or Subsequent Offense
		Prior conviction(s) in past 7 years of section 14601.3.
14601.3	30 days in jail, and a fine of \$1,000	180 days in jail, and a fine of \$2,000.

SENTENCE FOR DRIVING WITHOUT A VALID DRIVER'S LICENSE (SECTION 12500(a))	
Nature of Offense	Maximum Sentence
Driving without a valid driver's license.	A maximum of 6 months in jail, or \$1,000 fine, or both.

38. I have read and understand the applicable charts on pages 3 and 4 which list the minimum and maximum penalties for the offense(s) with which I am charged. (See No. 39 for the offenses not listed in the charts.)

39. If applicable - I understand that the possible consequences for the offense(s) charged, which are not listed on the penalty charts on pages 3 and 4, include the following:

<input type="checkbox"/> <input type="checkbox"/>	SECTION NUMBER	JAIL - MIN.	MAX.	JAIL - MIN.	MAX.
OTHER CONSEQUENCES: _____					
<input type="checkbox"/> <input type="checkbox"/>	SECTION NUMBER	JAIL - MIN.	MAX.	JAIL - MIN.	MAX.
OTHER CONSEQUENCES: _____					
<input type="checkbox"/> <input type="checkbox"/>	SECTION NUMBER	JAIL - MIN.	MAX.	JAIL - MIN.	MAX.
OTHER CONSEQUENCES: _____					
<input type="checkbox"/> <input type="checkbox"/>	SECTION NUMBER	JAIL - MIN.	MAX.	JAIL - MIN.	MAX.
OTHER CONSEQUENCES: _____					

38.

39.

ADDITIONAL PENALTIES

40. I understand that the DMV will suspend my driver's license under an administrative procedure which is separate from this criminal action. I understand that the DMV's action, if any, will be in addition to the court's sentence and that I must obey it
41. I understand that the DMV will notify me that I am required to install a functioning, certified ignition interlock device in all vehicles that I own or operate, and it will issue a restricted license if I comply. I understand I must keep the DMV advised of my current mailing address to receive this notice
42. I understand that the DMV will not restore my driving privilege following a driver's license suspension or revocation unless I provide the DMV with proof of insurance for 3 years
43. I understand that proof of my successful completion of an alcohol/drug program must be received at DMV headquarters in order for me to have my driving privilege reinstated, **even if I am not ordered to attend such a program by the court.** If I have not already surrendered my license, I also understand that I must surrender my license to the court
44. I understand that the DMV will prohibit me from operating a **commercial** vehicle for one year if I am convicted of a **first** DUI offense or willful refusal to submit to or complete a chemical test to determine my BAC which occurred in **any** vehicle. The DMV will prohibit me from operating a commercial vehicle ever again if I am convicted of a **second or subsequent** DUI offense or willful refusal to submit to or complete a chemical test in any vehicle
45. I understand that the DMV will revoke my driver's license for a period of 4 years if I have a prior felony conviction in the past 10 years of: Vehicle Code sections 23152 or 23153; Penal Code sections 191.5, subdivision (b) or 192, subdivision (c)(1); or any conviction within 10 years of Penal Code sections 191.5, subdivision (a) or 192.5, subdivision (a)
46. I understand that if I was **under the age of 21** at the time of my arrest, my driver's license will also be suspended for 1 year, and I must surrender my license to the court
47. I understand that if my BAC was .15 percent or more, or if I refused to submit to a chemical test, the court will consider this in determining whether to enhance the penalties, grant probation, or impose additional terms of probation
48. I understand that if I am placed on probation, it is unlawful to drive with a BAC of .01 percent or greater and that the DMV will suspend my license for up to 1 year if I do so. If I violate my probation by driving with a BAC of over 0.04 percent, the court will only grant me a new term of probation if I serve not less than 48 hours in county jail for each of these violations
49. I understand that if I am convicted of a **third or subsequent** DUI violation, I will be designated as a habitual traffic offender for 3 years after my conviction, and I may receive an enhanced sentence if I drive in violation of my license revocation. If probation is granted, I may also request to participate in a 30-month treatment program. If the court grants my request, I will be sentenced to the county jail for at least 30 days but not more than 1 year as a condition of probation
50. **If applicable** – I understand that if I am convicted of a violation of Vehicle Code section 14601.2, or if the charge was for a violation of that section but I am pleading to Vehicle Code section 14601(a), 14601.1, or 14601.5, the court will order me to install a functioning, certified ignition interlock device on any vehicle that I own or operate for up to three years. Installation of this device does not authorize me to drive without a valid driver's license

40.

41.

42.

43.

44.

45.

46.

47.

48.

49.

50.

PLEA(S)

51. I hereby freely and voluntarily plead _____ to:

GUILTY OR NO CONTEST

LIST CHARGE(S)

51.

SPECIAL ALLEGATION ADMISSIONS

If applicable – I admit the truth of the following special allegations:

52. ☐ I drove a vehicle when my BAC was at _____ percent or above.

☐ I willfully refused a peace officer's request to submit to, or willfully failed to complete, a chemical test.

☐ When I drove a vehicle under the influence of alcohol or drugs, or both, I drove in willful or wanton disregard for the safety of persons or property on a freeway at _ miles per hour, which is 30 or more miles per hour over the maximum, prima facie, or posted speed limit.

☐ When I drove a vehicle under the influence of alcohol or drugs, or both, I drove in willful or wanton disregard for the safety of persons or property on a street or highway at _____ miles per hour, which is 20 or more miles per hour over the maximum, prima facie, or posted speed limit.

☐ When I drove a vehicle under the influence of alcohol or drugs, or both, a minor under 14 years of age was a passenger in the vehicle.

53. If applicable – I freely and voluntarily admit the other conviction(s) that I listed on this form, and I understand that this admission will increase the penalties which are imposed on me.....

54. If applicable – I freely and voluntarily admit the probation violation(s) that I listed on this form and give up my right to a hearing before a judge regarding the probation violation(s)

55. I understand that I have the right to a delay of from 6 hours to 5 days prior to being sentenced for a misdemeanor, and the right to a delay of up to 20 days for a felony. I give up this right and agree to be sentenced at this time.....

56. If applicable – **Arbuckle Waiver** 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:

52.

53.

54.

55.

56.

DEFENDANT'S SIGNATURE: _____ DATE: _____

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 stipulate to a factual basis for the plea(s) and admissions(s) based on the police reports, and have explained to the defendant that he or she may enter a plea if he or she feels to do so is in his or her best interests. I concur in this plea and in the defendant's decision to waive his or her constitutional rights.

DEFENDANT'S ATTORNEY'S SIGNATURE _____

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 concerning the defendant's constitutional rights and the defendant's admission of other conviction(s), enhancement allegation(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(s). The court accepts the defendant's plea(s), the defendant's admission of the other conviction(s), enhancement allegation(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

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.:</div> <div>FAX NO. (Optional):</div> </div> EMAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS	CASE NUMBER
PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA	
DEFENDANT <div style="text-align: center;"> REQUEST FOR MILITARY DIVERSION; ADVISAL AND WAIVER OF RIGHTS </div>	

Defendant: Initial each statement below.

1. _____ I am the defendant in the above-captioned case, which charges the following misdemeanor violation(s) for which I am requesting Military Diversion (Pen. Code § 1001.80): _____.
2. _____ I have been advised of, understand, and waive my right to a speedy trial in this case.
3. _____ I understand that to be granted Military Diversion, I am required to provide an assessment or other evidence confirming I am a current or former member of the military and may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problem, as a result of my military service. I understand I am also required to provide a recommended treatment plan for my sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problem.
4. _____ I understand that the Military Diversion program, if granted, will be no longer than two years and will include a court-ordered treatment program.
5. _____ I understand that if accepted into the Military Diversion program, failure to comply with the terms of the diversion program may result in reinstatement of criminal proceedings.
6. _____ I understand that if I am arrested or charged with a new criminal offense while participating in the Military Diversion program, criminal proceedings in this case may be reinstated and I may be found no longer eligible for Military Diversion.
7. _____ I understand that if I perform satisfactorily during the period of Military Diversion, the court will dismiss the criminal charges. I understand that, upon successful completion of the Military Diversion program, the arrest upon which the diversion was based shall be deemed to have never occurred, except as stated in statement 8, below.
8. _____ I have been advised and understand that, regardless of my successful completion of Military Diversion, the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to a peace officer application request, and that I am still obligated to disclose the arrest in response to a direct question contained in a questionnaire or application for a position as a peace officer, as defined in Pen. Code § 830.

I declare under penalty of perjury under the laws of the State of California that I have read and understand each of the foregoing eight statements, and by initialing each statement I agree to their contents.

Date: _____

Type or print name

Signature of Defendant



SUPERIOR COURT OF CALIFORNIA, COUNTY OF KINGS

MILITARY DIVERSION INFORMATION SHEET

The court has compiled the following information regarding Military Diversion pursuant to California Penal Code §1001.80 (Military Diversion). This information is for guidance as to best practices only, and does not represent strict rules or guidelines.

A. ELIGIBILITY CRITERIA

1. Defendant is charged with a misdemeanor or misdemeanor only.
2. Defendant is a current or former member of the United States Military.
3. Defendant may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of his or her military service.
4. Defendant consents to being placed on Military Diversion and waives his/her right to a speedy trial.
5. Defendant has not been granted Military Diversion for any other case.

B. EXCLUSIONARY CONSIDERATIONS

1. Defendants with prior convictions for the same or similar offenses are better served by a post-conviction referral to Veteran's Treatment Court as opposed to a grant of Military Diversion. Veteran's Treatment Court provides a higher level of structure and supervisions for participants, while potentially earning a dismissal of the criminal conviction pursuant to California Penal Code §1170.9.
2. Multiple grants of Military Diversion for the same defendant prevent that person prevent that person from seeking the higher level of treatment available in Veteran's Treatment Court, and as a result, Military Diversion should only be granted on a one-time basis.

C. PROCESS OF ADMISSION

1. Defendant files a Request for Military Diversion; Advise and Waiver of Rights form at the earliest possible time prior to adjudication of the case.
2. Upon receipt of the Request for Military Diversion, the court will vacate any further hearing dates previously set and will set the matter for a hearing on Military Diversion Qualification. A

copy of the Request for Military Diversion will be sent by the court to the prosecuting agency with notice of the hearing date.

3. At least 15 calendar days prior to the hearing date, the defense must file and serve upon the prosecution a Motion for Military Diversion that includes the alleged factual basis for Military Diversion, including any supporting documentation (e.g., proof of military service and an assessment of the of defendant's condition by a mental health or other appropriate professional), as well as a proposed treatment plan from an appropriate mental health provider (e.g., from the program providers recommended in the assessment). Any opposition or response from the prosecution must be filed and served on the defense at least five calendar days before the hearing.

► If the defendant has already compiled the motion, assessment, treatment plan, and/or other necessary evidence at the time he or she files the Request for Military Diversion, defendant should request a hearing date approximately three weeks out. Otherwise, the hearing date will be set approximately 60 to 90 days out.

► If the defendant is a military veteran, the assessment may be done by a regional Veterans Center, a VA Mental Health Access Clinic, or a VA Substance Abuse Recovery and Rehabilitation Treatment Program. There is a VA Central California Health Care System in Fresno [2615 E. Clinton Avenue, Fresno, CA 93703-2286, (559) 225-6100, Ext. 5197].

4. If at the hearing the court finds the defendant is not eligible for Military Diversion, or that Military Diversion is not appropriate, the request for Military Diversion will be denied, any previously vacated dates will be reset, and the case will continue in due course.

5. If at the hearing the court finds the defendant eligible for Military Diversion and that a grant of Military Diversion is appropriate, the court will grant Military Diversion for a period not to exceed two years, postponing the criminal proceedings for that time period. The court will impose conditions of the diversion program (e.g., treatment programs). Review hearings will be set to show proof of enrollment/compliance. The court will also set the date upon which the case will be dismissed if the defendant successfully completes the diversion program.

D. EXAMPLES OF CONDITIONS OF MILITARY DIVERSION

1. 12-24 months of treatment.
2. Protective Order for the duration of the diversion program (DV cases).
3. Domestic Violence Recovery Program (DVRP) (DV cases).

4. DUI First Conviction Program (DUI Cases).
5. Random drug and alcohol testing by the treatment provider.
6. Substance abuse or other counseling, therapy or treatment.
7. Written progress reports from care/treatment providers due every 90 days.

E. SUCCESSFUL COMPLETION

1. At the end of the period of Military Diversion, if the defendant has performed satisfactorily, the court will dismiss the criminal charges.
2. The arrest will be deemed to have never occurred, except that (1) the Department of Justice will be notified of the disposition of the case; (2) the arrest upon which the diversion was based may be disclosed by the Department of Justice in response to a peace officer application request; and (3) the defendant is still obligated to disclose the arrest in response to a direct question contained in a questionnaire or application for a position as a peace officer, as defined in Penal Code §830. Defendant must be advised of (2) and (3).

F. UNSUCCESSFUL COMPLETION

If it appears to the court that the defendant is performing unsatisfactorily in the Military Diversion program, or is not benefitting from the treatment and services provided, the court will set a hearing to determine whether the defendant shall be terminated from the Military Diversion program and criminal proceedings reinstated.