

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Administrative Office of the Courts
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DATE: March 7, 2008

SUBJECT: Rules and Forms: Miscellaneous Technical Changes (amend Cal. Rules of Court, rules 1.6, 1.45, 2.306, 3.1112, 3.1350, 3.1702, 5.324, 7.1062(c), 8.32, 8.130, 8.544, 10.462, 10.491, and 10.701; amend Cal. Stds. Jud. Admin., std. 10.16; and revise forms CR-101, DE-305, FL-314-INFO, FL-632, ID-100, ID-140, JV-100, JV-446, JV-535, WG-002, and WG-003) (Action Required)

Issue Statement

Various Judicial Council advisory committee members, court personnel, members of the public, and Administrative Office of the Courts (AOC) staff have identified errors in rules and forms resulting from inadvertent omissions, typographical errors, language inconsistencies, or changes in the rule name and numbering system. It is therefore necessary to make technical changes to the rules and forms noted below.

Recommendation

AOC staff recommends that the Judicial Council make the following changes to the California Rules of Court, California Standards of Judicial Administration, and Judicial Council forms, effective July 1, 2008:

1. Amend rule 1.6(15) to clarify the definition of “party”;
2. Amend rule 1.45(a) to delete references to outdated form numbers;
3. Amend rule 2.306(d) and (e) to correctly reference relettered subdivisions;
4. Amend title 3, division 6, to rename chapter 3, add chapter 4 to provide a more logical location for rules on collections cases, and renumber subsequent chapters in the division;

5. Amend rule 3.1112(e) to correct “elating” to “relating”;
6. Amend rule 3.1350(h), separate statement for summary adjudication, to make the supporting statement, issue 1, subpart 2, consistent with the same section of the opposing statement;
7. Amend rule 3.1702(c)(1) to correct a rule reference from 8.276(d) to 8.278(c)(1);
8. Amend rule 5.324(j) to correctly reference relettered subdivisions in rule 3.670;
9. Amend rule 7.1062(c) to correct a reference from Probate Code §2250(c) to relettered §2250(e);
10. Amend rule 8.32(b)(1) to add “reviewing” before “court” and (d) to add unrepresented parties and change “office” to “address”;
11. Amend rule 8.130(f)(1) to correct a reference to a renumbered paragraph;
12. Amend rule 8.544 to correct references to renumbered rules in two places;
13. Add chapter 14 to title 10, division 4, to provide a more logical location for rule 10.960, Court self-help centers;
14. Amend rule 10.462(c)(1)(A) to add “judicial” in two places between “subordinate” and “officer”;
15. Amend rule 10.491(f)(4) to correct “court personnel” to “employees”;
16. Amend rule 10.701 to delete a reference to repealed Welfare and Institutions Code section 247;
17. Amend standard 10.16 to correct a rule reference from “10.650” to “10.670”;
18. Revise form CR-101 to correct one typographical and two other errors;
19. Revise forms DE-305 and FL-632 to comply with Assembly Bill 886 (stats. 2007, ch. 399), which amended the language in Civil Code 1189 regarding the required form for any certificate of acknowledgment executed in California. A statement under penalty of perjury has been added to the acknowledgment, and personal knowledge as a basis for the notary determining identities or facts in the acknowledgment has been deleted;
20. Revise form FL-314-INFO to delete the statutory reference to Family Code section 3022.3(a). Please see page 3 below for further details on this revision;

21. Revise forms ID-100 and ID-140 to correct the spelling of “California”;
22. Revise form JV-100 to correct the reference to form JV-101, which was renumbered as form JV-101(A) effective January 1, 2008;
23. Revise form JV-446 to correct “perspective” to “prospective” (15d) and to capitalize “services” (27b);
24. Revise form JV-535 to correct “effects” to “efforts”;
25. Revise form WG-003, page 1, “Notice,” to move the word “against” to after “judgment,” to correct several typographical errors in the Spanish translation, and on page 2, item 3, to correct “%” to “½.”

AOC staff recommends that the Judicial Council make the following change to a Judicial Council form, effective July 24, 2008:

26. Revise form WG-002 to reflect the increase of the federal minimum wage from \$5.85 to \$6.55 per hour.

The text of the amended rules is attached at pages 5–12. The revised forms are attached at pages 13–44.

Rationale for Recommendation

The changes to these rules and forms are technical in nature and necessary to correct inadvertent omissions, typographical errors, language inconsistencies, and changes in the rule name and numbering system. Additional information on a specific change follows below.

Child Custody Information Sheet (form FL-314-INFO):

The Family and Juvenile Law Advisory Committee proposes amending the *Child Custody Information Sheet* (form FL-314-INFO) by deleting the statutory reference to Family Code section 3022.3(a).

Section 4(a) of AB 402 (stats. 2006, ch. 496) mandated the Judicial Council to create and adopt a child custody information sheet, effective January 1, 2008. Section 3 of the same Assembly Bill enacted Family Code section 3022.3. Section 3 relates to statements of decision in proceedings involving the determination of child custody.

The Judicial Council adopted the *Child Custody Information Sheet*, effective January 1, 2008. The form, as adopted, references Family Code section 3022.3(a) in the lower left corner. However, the statutory reference is incorrect because section 4(a) of AB 402 pertaining to the child custody information sheet was not codified; only section 3 of AB

402 regarding statements of decision was actually enacted as Family Code section 3022.3. This statute contains no subdivision (a).

Because the Judicial Counsel mandate in AB 402 section 4(a) was not codified as Family Code section 3022.3(a), the advisory committee proposes simply deleting the statutory reference on the form.

Alternative Actions Considered

The proposed actions are necessary for proper organization and accuracy. No alternative actions were considered.

Comments From Interested Parties

These proposals were not circulated for public comment because they are noncontroversial, involve technical revisions, and are therefore within the Judicial Council's purview to adopt without prior circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Implementation Requirements and Costs

The proposed revisions will result in standard reproduction costs.

Attachments

the California Standards of Judicial Administration are amended, effective July 1, 2008, to read:

1 **Rule 1.6. Definitions and use of terms**

2
3 As used in the California Rules of Court, unless the context or subject matter
4 otherwise requires:

5
6 (1)–(14) ***

7
8 (15) “Party” is a person appearing in an action. ~~A party may be~~ Parties include
9 both self-represented or persons and persons represented by an attorney of
10 record. “Party,” “plaintiff,” “People of the State of California,” “applicant,”
11 “petitioner,” “defendant,” “respondent,” “other parent,” or any other
12 designation of a party includes the party’s attorney of record.

13
14 (16)–(23) ***

15
16
17 **Rule 1.45. Judicial Council pleading forms**

18
19 **(a) Pleading forms**

20
21 The forms listed under the “Pleading” heading on the list of Judicial Council
22 forms in Appendix A to the California Rules of Court (~~forms 982.1(1)–~~
23 ~~982.1(95))~~ are approved by the Judicial Council.

24
25 **(b)–(c) *****

26
27
28 **Rule 2.306. Service of papers by fax transmission**

29
30 **(a)–(c) *****

31
32 **(d) Notice period extended**

33
34 Except as provided in ~~(d)~~, any prescribed period of notice and any right or
35 duty to do any act or make any response within any prescribed period or on a
36 date certain after the service of a document served by fax transmission is
37 extended by two court days.

1 (e) **Extension inapplicable to certain motions**

2
3 The extension provided in (e) does not apply to extend the time for the
4 filing of:

5
6 (1)–(3) ***

7
8 (f)–(h) ***

9
10 **Title 3. Civil Rules**

11
12 **Division 6. Proceedings**

13
14 **Chapter 3. Hearings and Conferences and Proceedings**

15
16
17 **Division 7. Civil Case Management**

18
19 **Chapter 4. Management of Collections Cases**

20
21 **Rule 3.740. Collections cases**

22 ***

23
24 **Rule 3.741. Settlement of collections case**

25 ***

26 **Chapter 45. Management of Complex Cases**

27
28 **Chapter 56. Management of Class Actions**

29
30
31 **Rule 3.1112. Motions—and other pleadings**

32
33 (a)–(d) ***

34
35 (e) **Additional requirements for motions**

36
37 In addition to the requirements of this rule, a motion relating to the subjects
38 specified in chapter 6 of this division must comply with any additional
39 requirements in that chapter.

40
41 (f) ***

1 **Rule 3.1350. Motion for summary judgment or summary adjudication**

2
3 **(a)–(g) *****

4
5 **(h) Format for separate statements**

6
7 Supporting and opposing separate statements in a motion for summary
8 judgment must follow this format:

9
10 ***

11
12 Supporting and opposing separate statements in a motion for summary
13 adjudication must follow this format:

14
15 Supporting statement:

16
17 ISSUE 1—THE FIRST CAUSE OF ACTION FOR
18
19 NEGLIGENCE IS BARRED BECAUSE PLAINTIFF
20
21 EXPRESSLY ASSUMED THE RISK OF INJURY

22
23 Moving Party’s Undisputed Material
24 Facts and Supporting Evidence:

25
26 Opposing Party’s Response and
27 Supporting Evidence:

28 1. Plaintiff was injured while mountain
29 climbing on a trip with Any Company
30 USA. Plaintiff’s deposition, 12:3-4.

31 2. Before leaving on the mountain
32 climbing trip, plaintiff signed a
33 complete waiver of liability for acts
34 of negligence. Smith declaration,
35 5:4-5; waiver of liability,
36 Ex. A to Smith declaration.

37
38 Opposing statement:

39
40 ***

41 **(i) *****

1 **Rule 3.1702. Claiming attorney’s fees**

2
3 **(a)–(b) *****

4
5 **(c) Attorney’s fees on appeal**

6
7 (1) *Time for motion*

8
9 A notice of motion to claim attorney’s fees on appeal—other than the
10 attorney’s fees on appeal claimed under (b)—under a statute or contract
11 requiring the court to determine entitlement to the fees, the amount of
12 the fees, or both, must be served and filed within the time for serving
13 and filing the memorandum of costs under rule ~~8.276(d)~~ 8.278(c)(1).

14
15 (2) ***

16
17 **(d)–(e) *****

18
19
20 **Rule 5.324. Telephone appearance in title IV-D hearings and conferences**

21
22 **(a)–(i) *****

23
24 **(j) Vendors, procedure, audibility, reporting, and information**

25
26 Subdivisions ~~(f)~~ (i) through ~~(j)~~ (m) of rule 3.670 apply to telephone
27 appearances under this rule.

28
29 **(k) *****

30
31
32 **Rule 7.1062. The good cause exception to notice of the hearing on a petition**
33 **for appointment of a temporary conservator**

34
35 **(a)–(b) *****

36
37 **(c) Court may change the time or manner of giving notice**

38
39 An exception to the notice requirement of section 2250(~~ee~~) may include one
40 or any combination of the following:

41
42 (1)–(3) ***

1 (d)–(e) ***

2
3
4 **Rule 8.32. Address and telephone number of record; notice of change**

5
6 (a) ***

7
8 (b) **Notice of change**

9
10 (1) An attorney or unrepresented party whose address or telephone number
11 changes while a case is pending must promptly serve and file a written
12 notice of the change in the reviewing court in which the case is pending.

13
14 (2) ***

15
16 (c) ***

17
18 (d) **Multiple ~~offices~~addresses**

19
20 If an attorney or an unrepresented party has more than one ~~office~~ address,
21 only one ~~office~~ address for that attorney or unrepresented party may be used
22 in a given case.

23
24
25 **Rule 8.130. Reporter’s transcript**

26
27 (a)–(e) ***

28
29 (f) **Filing the transcript; copies; payment**

30
31 (1) Within 30 days after notice is received under (c)(2) or mailed under
32 (d)~~(2)~~(1), the reporter must prepare and certify an original of the
33 transcript and file it in superior court. The reporter must also file one
34 copy of the original transcript, or more than one copy if multiple
35 appellants equally share the cost of preparing the record (see rule
36 8.147(a)(2)). Only the reviewing court can extend the time to prepare
37 the reporter’s transcript (see rule 8.60).

38
39 (2)–(4) ***

40
41 (g) ***

1 **Rule 8.544. Costs and sanctions**

2
3 In a civil case, the Supreme Court may direct the Court of Appeal to award costs,
4 if any; or may order the parties to bear their own costs; or may make any other
5 award of costs the Supreme Court deems proper. The Supreme Court may impose
6 sanctions on a party or an attorney under rule 8.276(e) for committing any
7 unreasonable violation of these rules.

8
9 **Advisory Committee Comment**

10
11 If the Supreme Court makes an award of costs, the party claiming such costs must proceed under
12 rule ~~8.276(d)~~ 8.278(c).

13
14
15 **TITLE 10. JUDICIAL ADMINISTRATION RULES**

16
17 **Division 4. Trial Court Administration**

18
19 **Chapter 14. Management of Self-Help Centers**

20
21 **Rule 10.960. Court self-help centers**

22 ***

23
24
25 **Rule 10.462. Minimum education requirements and expectations for trial**
26 **court judges and subordinate judicial officers**

27
28 **(a)–(b) *****

29
30 **(c) Content-based requirements**

- 31
32 (1) Each new trial court judge and subordinate judicial officer must
33 complete the “new judge education” provided by the Administrative
34 Office of the Courts’ Education Division/Center for Judicial Education
35 and Research (CJER) as follows:
36
37 (A) The New Judge Orientation Program within six months of taking
38 the oath as a judge or subordinate judicial officer. For purposes of
39 the New Judge Orientation Program, a judge or subordinate
40 judicial officer is considered “new” only once, and any judge or
41 subordinate judicial officer who has completed the New Judge
42 Orientation Program, as required under this rule or under former
43 rule 970, is not required to complete the program again. A judge

1 or subordinate judicial officer who was appointed, elected, or
2 hired before rule 970 was adopted on January 1, 1996, is not
3 required to complete the program.
4

5 (B)–(C) ***

6
7 (2)–(4) ****

8
9 (d)–(g) ***

10
11
12 **Rule 10.491. Minimum education requirements for Administrative Office of**
13 **the Courts executives, managers, supervisors, and other employees**

14
15 (a)–(e) ***

16
17 (f) **Responsibilities of Administrative Director of the Courts and of AOC**
18 **executives, managers, and supervisors**

19
20 The Administrative Director of the Courts and each AOC executive,
21 manager, and supervisor:

22
23 (1)–(3) ***

24
25 (4) Must ensure that executives, managers, supervisors, and other
26 employees are reimbursed by the AOC in accordance with the travel
27 policies issued by the Administrative Office of the Courts for travel
28 expenses incurred in attending in-state education programs as a
29 participant in order to complete the minimum education requirements
30 in (b)–(c). Provisions for these expenses must be part of the AOC’s
31 budget. The Administrative Director of the Courts may approve
32 reimbursement of travel expenses incurred by executives, managers,
33 supervisors, and other ~~court personnel~~ employees in attending out-of-
34 state education programs as participants.
35

36
37 **Rule 10.701. Qualifications and education of subordinate judicial officers**

38
39 (a)–(c) ***
40

1 **(d) Juvenile referees and hearing officers**

2
3 A person appointed as a juvenile referee or as a hearing officer under
4 Welfare and Institutions Code sections 247, 255, or 5256.1 must meet the
5 qualification requirements established by those sections. Such a person is
6 ineligible to exercise the powers and perform the duties of another type of
7 subordinate judicial officer unless he or she meets the qualifications
8 established in (b).

9
10
11 **Standard 10.16. Model code of ethics for court employees**

12
13 Each trial and appellate court should adopt a code of ethical behavior for its
14 support staff, and in doing so should consider rule 10.650670(c)(12) of the
15 California Rules of Court, and the model Code of Ethics for the Court Employees
16 of California approved by the Judicial Council on May 17, 1994, and any
17 subsequent revisions. The approved model code is published by the
18 Administrative Office of the Courts.

<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:</p>	<p><i>FOR COURT USE ONLY</i></p>
<p>PEOPLE OF THE STATE OF CALIFORNIA</p> <p>v.</p> <p>DEFENDANT:</p>	
<p>PLEA FORM, WITH EXPLANATIONS AND WAIVER OF RIGHTS—FELONY</p>	<p>CASE NUMBER:</p>

- INSTRUCTIONS:**
- (1) Fill out this form if you want to plead guilty or no contest.
 - (2) Read this form carefully. For each item, if you understand and agree with what you read, put your initials in the box to the right of the item. For any item that does not apply to you or that you do not understand, leave the box blank.
 - (3) On page 6, sign and date the form under "DEFENDANT'S STATEMENT."
 - (4) Keep in mind that the court cannot give legal advice. If you have any questions about anything in this form, ask your attorney.

1. **CHARGES AND MAXIMUM TERM** I want to plead guilty or no contest ("nolo contendere") to the charges and allegations listed below. I understand that the minimum and maximum penalties for the charges to which I am pleading guilty or no contest are listed below.

COUNT	CHARGES (SECTION & DESCRIPTION)	YEARS/MONTHS		PRIOR CONVICTIONS, ENHANCEMENTS, & SPECIAL ALLEGATIONS (SECTION & DESCRIPTION)	YEARS/MONTHS		TOTAL MAXIMUM TIME
		MINIMUM	MAXIMUM		MINIMUM	MAXIMUM	
AGGREGATE MAXIMUM TIME OF IMPRISONMENT							

2. **PLEA AGREEMENT** I understand that I must tell the court on this form about any promises anyone has made to me about the sentence I will receive or the sentence recommendations that will be made to the court.

My attorney, the court, or the prosecutor has explained to me that if I plead guilty or no contest to the charges and admit the allegations listed above, the court will sentence me as follows:

a. **State Prison** (or the Division of Juvenile Justice) for:

- (1) _____ years and _____ months or
- (2) not less than _____ years and _____ months and/or not more than _____ years and _____ months.
- (3) Other: (*specify*):

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b. **Probation** for _____ years under conditions to be set by the court, including:

- _____ days in the **county jail** or
- up to _____ days in the **county jail**.

I understand that a violation of any of the conditions of probation, including failure to complete a drug education or treatment program, if ordered by the court, may cause the court to send me to **state prison** for up to the "**Aggregate Maximum Time of Imprisonment**" specified in item 1.

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2 c. Narcotics Addiction Confinement

I understand that if the court finds that I am addicted to or in immediate danger of becoming a narcotics addict, the court may send me to a narcotics detention, treatment, narcotics and rehabilitation facility for up to the amount of time I would otherwise have served in prison.

d. Open Plea

1. I understand the maximum and minimum sentence for the charges and allegations set forth on page 1. No one has made any other promises to me about what sentence the court may order.
2. I understand that I am not eligible for probation.
3. I understand that I will not be granted probation unless the court finds at the time of sentencing that this is an unusual case where the interests of justice would be best served by granting probation.

e. Restitution, Statutory Fees, and Assessments

I understand that the court will order me to pay the following amounts (if an amount is not yet known, "TBD" for "to be determined" is entered next to the \$); I must prepare financial disclosure statements to assist the court in determining my ability to pay; and refusal or failure to prepare the required financial disclosure statements may be used against me at sentencing:

1. \$ _____ to the Victim Restitution Fund (between \$200 and \$10,000)
2. \$ _____ restitution to actual victim(s)
3. \$ _____ restitution to the State of California, Victims of Crime Fund
4. \$ _____ court security fees
5. \$ _____ other (specify): _____
6. \$ _____ other (specify): _____
7. An (additional) amount to be determined by the court at sentencing or such other hearing as the court may set.

f. Parole Revocation or Probation Revocation Fine

I understand that if I am sentenced to **state prison**, the court **will** impose a parole revocation fine, which will be collected only if my parole is later revoked. I also understand that if I am granted probation, the court **will** impose a probation revocation fine, which will be collected only if my probation is later revoked.

g. Dismissal of Other Counts

I understand that, as part of the plea agreement bargain, the following counts will be dismissed after sentencing:

I understand and agree that the sentencing judge may consider facts underlying dismissed counts to determine restitution and to sentence me on the counts to which I am entering a plea.

h. Other Terms (specify)

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3. CONSEQUENCES OF MY PLEA

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a. No Contest ("Nolo Contendere") Plea

I understand that a no contest plea is the same as pleading guilty and that if I plead no contest I will be convicted and my no contest plea could be used against me in a civil case.

b. Parole

I understand that if I am sentenced to **state prison** or a **narcotics treatment facility**:

- (1) I will be placed on parole for up to _____ years after my release.
- (2) If I violate any of the terms or conditions of my parole, I can be returned to **state prison** for up to one year for each violation, up to a maximum of _____ years.
- (3) If I abscond from parole supervision, this can extend the total time of parole supervision.

c. Effect of Conviction on Other Cases

I understand that a conviction in this case may constitute a violation of any other current grant of parole or probation in any other case and that I may receive additional punishment as a result of that violation.

d. Registration

I understand that I will be required to register with my local police agency or sheriff's department as

- (1) an arson offender.
- (2) a gang member.
- (3) a narcotics offender.
- (4) a sex offender.
- (5) other (specify): _____.

and that if I fail to register or to keep my registration current for any reason, new felony criminal charges may be filed against me. I understand that registration as a sex offender is a life long requirement; I must register with the police or Sheriff's Department in the city or county in which I reside within five days of my birthday and within five days of any address change.

e. Prints and DNA Samples

I understand that I must provide biological samples and prints for identification purposes, including buccal (mouth) swab samples, right thumb prints, palm prints of each hand, and blood specimens or other biological samples required by law and that failure to do so constitutes a new criminal offense.

f. Serious or Violent Felony

- (1) I understand that by pleading guilty or no contest to a serious or violent felony ("strike"), the penalty for any future felony conviction will be increased as a result of my conviction in this case, depending on the number of strikes I have, up to a mandatory prison sentence of double the term otherwise provided or a term of at least 25 years to life.
- (2) I understand that jail or prison conduct/work-time credit I may accrue will not exceed 15%.
- (3) I understand that if I am admitting a prior strike conviction, prison work-time credit that I may accrue will not exceed 20% of the total term of imprisonment.
- (4) I understand that if I am convicted of murder or a third felony conviction of certain offenses, I am ineligible to receive work-time credits. Count _____ is such an offense.

g. Prior Prison Term

I understand that if I am sentenced to prison, the penalty for any future felony conviction may be increased as a result of my prison term in this case.

h. Driver's License and Vehicle Forfeiture

I understand that my privilege to drive a motor vehicle may be revoked or suspended by the court or the California Department of Motor Vehicles and my vehicle may be ordered forfeited if it was involved in the offense.

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i. Immigration Consequences

I understand that if I am not a citizen of the United States, my plea of guilty or no contest may or, with certain offenses, **will** result in my deportation, exclusion from reentry to the United States, and denial of naturalization and amnesty and that the appropriate consulate may be informed of my conviction. The offenses that **will** result in such immigration action include, but are not limited to, an aggravated felony, conspiracy, a controlled substance offense, a firearm offense, and, under certain circumstances, a moral turpitude offense.

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j. Firearms

I understand that federal and state law prohibit a convicted felon from possessing firearms for life.

k. Other Consequences (specify):

4. RIGHT TO AN ATTORNEY

I understand that I have the right to an attorney of my choice to represent me throughout the proceedings. If I cannot afford to hire an attorney, the court will appoint one to represent me.

I hereby give up my right to be represented by an attorney.

5. OTHER CONSTITUTIONAL RIGHTS

I understand that I am entitled to each of the following rights as to the charges listed in item 1 (on page 1):

a. Right to a Jury Trial

I understand that I have a right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be convicted unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were convinced beyond a reasonable doubt that I am guilty.

b. Right to a Court Trial

I understand that, as an alternative to a jury trial, if the prosecutor agrees, I may give up a jury trial and have a court trial in which the judge alone, without a jury, hears the evidence. I still could not be convicted unless, after hearing all of the evidence, the judge was convinced beyond a reasonable doubt that I am guilty.

c. Right to Confront and Cross-Examine Witnesses

I understand that I have the right to confront and cross-examine all witnesses testifying against me. This means that the prosecution must produce the witnesses in court, they must testify under oath in my presence, and my attorney may question them.

d. Right to Remain Silent and Not to Incriminate Myself

I understand that I have the right to remain silent and my silence cannot be considered as evidence against me. I understand that I also have the right not to incriminate myself and I cannot be forced to testify.

e. Right to Produce Evidence and to Present a Defense

I understand that I have a right to present evidence and to have the court issue subpoenas to bring to court all witnesses and evidence favorable to me, at no cost to me. I also have the right to testify on my own behalf.

6. BEFORE THE PLEA

a. Discussion With My Attorney

Before entering this plea, I have had a full opportunity to discuss the following with my attorney:

- (1) The facts of my case;
- (2) The elements of the charged offenses, prior convictions, enhancements, and special allegations;
- (3) Any defenses that I may have;
- (4) My constitutional and statutory rights and waiver of those rights;
- (5) The consequences of this plea; and
- (6) Anything else I think is important to my case.

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6. b. Questions

I have no further questions of the court or of my attorney with regard to my plea and admissions in this case, any of the rights, or anything else on this form.

c. Stipulation to Commissioner

I understand that I have the right to have a judge take my plea and sentence me. I give up this right and agree to have a commissioner, sitting as a temporary judge, take my plea and sentence me.

d. Medications or Controlled Substances

I am not taking any medication that affects my ability to understand this form and the consequences of my plea, have not recently consumed any alcohol or drugs, and am not suffering from any medical condition, except for the following: _____

e. Discovery of New Facts

I understand that the plea agreement in item 2 (on pages 1 and 2) is based on the facts before the court, and, if the court discovers new facts, such as an additional prior felony conviction not listed on this form, the court may refuse to accept the plea agreement. If the court discovers new facts and refuses to accept this plea agreement, I understand that I will be allowed to withdraw my plea.

7. STATUTORY RIGHT TO A PRELIMINARY HEARING

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 item 5, (on page 4).

8. WAIVER OF CONSTITUTIONAL RIGHTS

I give up, for each of the charges and allegations listed in item 1 (on page 1) my right to a jury trial, my right to a court trial, my right to confront and cross-examine witnesses, my right to remain silent and not to incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf. I understand that I am, in fact, incriminating myself with my plea.

9. THE PLEA

I freely and voluntarily plead GUILTY NO CONTEST to the charges listed in item 1 (on page 1) and admit the allegations listed in item 1 (on page 1) understanding that this plea and admission will lead to the penalties listed in item 2 (on pages 1 and 2).

a. I offer my plea of guilty or no contest freely and voluntarily and with full understanding of everything in this form. No one has made any threats; used any force against me, my family, or loved ones; or made any promises to me, except as listed in this form, in order to convince me to plead guilty or no contest.

b. I understand that the court is required to find a factual basis for my plea to make sure that I am entering a plea to the proper offenses under the facts of the case.

I offer to the court the following as the basis for my plea of guilty or no contest and any admissions:

(1) I understand that the court may consider the following as proof of the factual basis for my plea:

- (a) Preliminary hearing transcript
- (b) Police report
- (c) Probation report
- (d) Welfare investigator's declaration
- (e) Court documents regarding any alleged prior offenses
- (f) Other (specify): _____
- (g) (Specify facts): _____

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
--	--------------

9. b. (2) I am pleading guilty or no contest to take advantage of a plea agreement (my attorney will stipulate to a factual basis for the plea). (*People v. West* (1970) 3 Cal.3d 595.)

INITIALS

10. AFTER THE PLEA

a. Surrender

I understand that the court is allowing me to surrender at a later date to begin serving time in custody.

If the box to the right is initialed, I agree that if I fail to appear on the date set for surrender without a legal excuse, my plea will become an "open plea" to the court, I will not be allowed to withdraw my plea, and I may be sentenced up to the maximum allowed by law.

b. Sentencing Court

I understand that I have the right to be sentenced by the same judge or commissioner who takes my plea. I give up that right and agree that any judge or commissioner may sentence me.

c. Sentencing Date

I understand that I have the right to be sentenced within 20 court days. I give up that right and agree to a later date.

11. MANDATORY WARNING

I understand that if I am charged with violating Vehicle Code section 23103, as specified in Vehicle Code Section 23103.5, or Vehicle Code sections 23152 or 23153, the following warning applies:

You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving, someone is killed, you can be charged with murder.

DEFENDANT'S STATEMENT

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, and the effects of any prior convictions, enhancements, and special allegations have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

DEFENDANT'S SIGNATURE

DATE

ATTORNEY'S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form with my client. I have explained each of the items in the form, including the defendant's constitutional and statutory rights, to the defendant and have answered all of his or her questions with regard to those rights, the other items in this form, and the plea agreement. I have also discussed the facts of the case with the defendant and have explained the nature and elements of each charge, any possible defenses to the charges, the effect of any prior convictions, enhancements, and special allegations, and the consequences of the plea.

I concur in the plea and admissions and join in the waiver of defendant's constitutional and statutory rights, and I hereby stipulate that there is a factual basis for the plea and refer the court to the police report preliminary hearing transcript probation report other (*specify*): _____ (*People v. West* (1970) 3 Cal.3d 595.)

ATTORNEY'S SIGNATURE

DATE

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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INTERPRETER'S STATEMENT

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

Language: Spanish Other (specify): _____

Language: _____

INTERPRETER'S SIGNATURE

DATE

INTERPRETER'S NAME (TYPE OR PRINT)

DISTRICT ATTORNEY'S STATEMENT

I have read this form and understand the terms of the plea agreement.

I agree do not agree with the terms of the plea agreement and the indicated sentence.

ATTORNEY'S SIGNATURE

DATE

COURT'S FINDINGS AND ORDER

The court, having reviewed this form (and any addenda), and having orally examined the defendant, finds as follows:

1. The defendant has read or has had read to him or her and understands each of the initialed items in this form.
2. The defendant understands the nature of the crimes and allegations listed in item 1 (on page 1) and the consequences of the plea and any admissions.
3. The defendant expressly, knowingly, understandingly, and intelligently waives his or her constitutional and statutory rights.
4. The defendant's plea, admissions, and waiver of rights are made freely and voluntarily.
5. A factual basis exists for the plea and admissions, or the defendant is pleading pursuant to a plea bargain under *People v. West*.

The court accepts the defendant's plea, admissions, and waiver of rights, and the defendant is hereby convicted based thereon.

It is ordered that this document be filed with the court's records of this case and that the defendant's plea, admissions, and waiver of rights be accepted and entered in the minutes of this court.

JUDGE'S SIGNATURE

DATE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
After recording return to:

TELEPHONE NO.:
FAX NO. (Optional):
E-MAIL ADDRESS (Optional):
ATTORNEY FOR (Name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF
STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

MATTER OF (Name):

FOR RECORDER'S USE ONLY

DECEDENT

CASE NUMBER:

**AFFIDAVIT RE REAL PROPERTY OF SMALL VALUE
(\$20,000 or Less)**

FOR COURT USE ONLY

1. Decedent (name):
died on (date):
2. Decedent died at (city, state):
3. At least **six months** have elapsed since the date of death of decedent as shown in the certified copy of decedent's death certificate attached to this affidavit. (Attach a certified copy of decedent's death certificate.)
4. a. Decedent was domiciled in this county at the time of death.
b. Decedent was **not** domiciled in California at the time of death. Decedent died owning real property in this county.
5. a. The following is a **legal description** of decedent's real property claimed by the declarants (copy description from deed or other legal instrument):
 described in an attachment labeled Attachment 5a.

b. Decedent's interest in this real property is as follows (specify):

6. Each declarant is a successor of decedent (as defined in Probate Code section 13006) and a successor to decedent's interest in the real property described in item 5a, and no other person has a superior right, because each declarant is
 - a. (**will**) a beneficiary who succeeded to the property under decedent's will. (Attach a copy of the will.)
 - b. (**no will**) a person who succeeded to the property under Probate Code sections 6401 and 6402.
7. Names and addresses of each guardian or conservator of decedent's estate at date of death
 none are as follows* (specify):

8. The **gross value** of all real property in decedent's estate located in California as shown by the *Inventory and Appraisal*, excluding the real property described in Probate Code section 13050 (joint tenancy, property passing to decedent's spouse, etc.), does not exceed \$20,000.

9. An *Inventory and Appraisal* of decedent's **real property** in California is attached. The *Inventory and Appraisal* was made by a probate referee appointed for the county in which the property is located. (You may use Judicial Council form DE-160.)

10. No proceeding is now being or has been conducted in California for administration of decedent's estate.

* You must have a copy of this affidavit with attachments personally served or mailed to each person named in item 7.

MATTER OF _____ (Name): _____ DECEDENT	CASE NUMBER: _____
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11. Funeral expenses, expenses of last illness, and all known unsecured debts of the decedent have been paid. [NOTE: You may be personally liable for decedent's unsecured debts up to the fair market value of the real property and any income you receive from it.]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF DECLARANT)

Date: _____

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF DECLARANT)

SIGNATURE OF ADDITIONAL DECLARANTS ATTACHED

NOTARY ACKNOWLEDGMENTS (NOTE: No notary acknowledgment may be affixed as a rider (small strip) to this page. If additional notary acknowledgments are required, they must be attached as 8-1/2- by 11-inch pages.)

STATE OF CALIFORNIA, COUNTY OF (specify): _____
On (date): _____, before me (name and title): _____
personally appeared (name(s)): _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the instrument in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SIGNATURE OF NOTARY PUBLIC)

(NOTARY SEAL)

STATE OF CALIFORNIA, COUNTY OF (specify): _____
On (date): _____, before me (name and title): _____
personally appeared (name(s)): _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the instrument in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SIGNATURE OF NOTARY PUBLIC)

(NOTARY SEAL)

(SEAL)

CLERK'S CERTIFICATE

I certify that the foregoing, including any attached notary acknowledgments and any attached legal description of the property (but excluding other attachments), is a true and correct copy of the original affidavit on file in my office. (Certified copies of this affidavit do not include the (1) death certificate, (2) will, or (3) inventory and appraisal. See Probate Code section 13202.)

Date: _____ Clerk, by _____, Deputy

Parties who come to court about child custody and visitation face decisions about parenting plans for their children. This information sheet provides general information about child custody and visitation matters, how to get help resolving a custody dispute or making a parenting plan, where to find an attorney, and where to find other resources.

What is a parenting plan?

A parenting plan describes how the parties will divide their responsibilities for taking care of their child.

The plan may include a general or specific schedule of days, times, weekends, holidays, vacations, transportation, pick-up/drop-off, limits on travel, and other details.

What are legal and physical custody?

A parenting plan usually includes:

- **Legal custody:** who makes major decisions about the child's health, education, and welfare;
- **Physical custody:** who the child lives with; and
- **Time-share or visitation:** when the child spends time with each party.

Legal custody and *physical custody* may each be specified as *joint* (both parties have certain responsibilities) or *sole* (one party has the responsibility alone).

Can we make our own parenting plan?

Yes. You have a right to make a parenting plan agreement on your own. This agreement may be called a *stipulation*, *time-share plan*, or *parenting plan*.

If both parties can agree on a parenting plan, the judge will probably approve it. The agreement becomes a court order after it is signed by both parties, signed by the judge, and filed with the court.

What if there is domestic violence or a protective order?

If there is domestic violence or a protective order, talk with a lawyer, counselor, or mediator before making a parenting plan.

For domestic violence help, call the National Domestic Violence Hotline:
1-800-799-7233, TDD:1-800-787-3224, or call 211 (if available in your area).

What if we don't have a parenting plan?

If you can't reach an agreement, the court will refer you to mediation with family court services to try to work out a parenting plan.

What is mediation with family court services?

Family court services (FCS) provides mediation to help parties resolve disagreements about the care of their child. The mediator will meet with you and the other party to try to help you make a parenting plan. This is a free service provided by the court.

If you are concerned about meeting with the other party in mediation, or there is domestic violence or a protective order involving the other party, you may ask to meet alone with the mediator without the other party. You may also have a support person with you at mediation. The support person may not speak for you.

Do we have to agree to a parenting plan in mediation?

No. You do not have to come to an agreement in mediation. When the parties can't agree, the judge will decide.

In some courts, the judge will consider the mediator's recommendations about the parenting plan. Ask family court services about how the process works in your court.

Are there other ways to resolve our dispute?

Yes. There are other Alternative Dispute Resolution (ADR) options you may try, including:

- 1. Meet and Confer:** Parties and their lawyers (if any) may meet at any time and as often as necessary to work out a parenting plan without a court hearing. If there is a protective order limiting the contact between the parties, then the “meet and confer” can be through lawyers or a mediator in separate sessions.
- 2. Settlement Conference:** In some courts, parties may meet with a judge, neutral evaluators, or family law lawyers not involved in your case to discuss settlement. Check with your local court to find out if this is an option. If there is a protective order, the settlement discussion can be through lawyers or a mediator in separate sessions.
- 3. Private Mediation:** Parties may hire a private mediator to help them resolve their dispute.
- 4. Collaborative Law Process:** Each party hires a lawyer and agrees to resolve the dispute without going to court. The parties may also hire other experts.

Court Hearing

When the parties cannot agree to a parenting plan on their own, in mediation, or in any other ADR process, the judge will decide.

If there is domestic violence or a protective order, you may bring a support person with you to the court hearing, but the support person may not speak for you.

Where can I get help?

This information sheet gives only basic information on the child custody process and is not legal advice. If you want legal advice, ask a lawyer for assistance. You may also:

1. Contact family court services.
2. Contact the family law facilitator or self-help center for information, court forms, and referrals to local legal services providers.
3. Find a lawyer through your local bar association, the State Bar of California at <http://calbar.ca.gov>, or call the Lawyer Referral Service at 1-866-442-2529 or 415-538-2250.
4. Hire a private mediator for help with your parenting agreement. A mediator may be a lawyer or counselor. Contact your local bar association, court ADR program, or family court services for a referral to local resources.
5. Find information on the Online Self-Help Center Web site: www.courtinfo.ca.gov/selfhelp.
6. For free and low-cost legal help (if you qualify), go to: www.lawhelpcalifornia.org.
7. Find information at your local law library or ask at your public library.
8. Ask for a court hearing and let the judge decide what is best for your child.

**Requests for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courtinfo.ca.gov/forms for Request for Accommodations by Persons With Disabilities and Response (form MC-410). (Civil Code, § 54.8.)

GOVERNMENTAL AGENCY (under Family Code, §§ 17400, 17406):
 RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

 TELEPHONE NO.: _____ FAX NO.: _____

**Draft 2
 03/20/08 icb
 Not approved by
 the Judicial Council**

FOR RECORDER'S USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		FOR COURT USE ONLY
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:		
<input type="checkbox"/> NOTICE REGARDING PAYMENT OF SUPPORT <input type="checkbox"/> NOTICE OF ASSIGNED SUPPORT <input type="checkbox"/> SUBSTITUTION OF PAYEE		CASE NUMBER:

1. The obligor (the person paying support) in this proceeding is (name and last known address):

2. a. The local child support agency is providing the following services (check all that apply):
 - (1) Current support
 - (2) Support arrears
 - (3) Medical support
- b. The local child support agency is no longer providing the services under title IV-D of the Social Security Act.

3. The substituted payee is:
 - a. The local child support agency (specify):
 - b. Other (specify):

4. An abstract or notice of support judgment or support judgment was recorded as follows:

<u>County</u>	<u>Date of recording</u>	<u>Instrument number</u>	<u>Book number</u>	<u>Page number</u>
---------------	--------------------------	--------------------------	--------------------	--------------------

5. All payments must be made as follows (check all that apply):
 - a. Income withholding payments must be directed to the State Disbursement Unit at (specify address):
 - b. All current support payments other than income withholding payments must be sent to (specify):
 - c. All arrears payments other than income withholding payments must be sent to (specify):
 - d. Other (specify):

THE SUBSTITUTED PAYEE MUST BE CONTACTED WHEN NOTICE TO A LIENHOLDER MAY OR MUST BE GIVEN.

<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:</p>	<p><i>FOR COURT USE ONLY</i></p>
<p>NAME OF DEFENDANT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: HOME TELEPHONE NO.: WORK TELEPHONE NO.: DRIVER'S LICENSE NO.:</p>	
<p>ORDER TO INSTALL IGNITION INTERLOCK DEVICE</p>	<p>CASE NUMBER:</p>

Under Vehicle Code section 23575, **the court orders:** a functioning Ignition Interlock Device be installed on the following vehicles owned or operated by defendant:

- | <u>Make</u> | <u>Model</u> | <u>Year</u> | <u>Color</u> | <u>License Plate No. and/or VIN</u> |
|-------------|--------------|-------------|--------------|-------------------------------------|
| a. | | | | |
| b. | | | | |
| c. | | | | |

1. This order does not reinstate the defendant's driving privilege.
2. Installation must be no later than *(specify a date no later than 30 days from the date of conviction)*:
3. Defendant must present this form to the installer at the time of installation.
4. Defendant must return completed *Ignition Interlock Installation Verification* (form ID-110) to the court probation dept. no later than *(specify a date no later than 30 days from the date of conviction)*:
5. Defendant must take vehicles to the installer for calibration
 60 days other *(specify frequency)*:
 following the date of installation.
6. Defendant must make payments directly to the installer and must adhere to the payment plan for installation of the ignition device.
7. Without a court order, the devices may not be removed prior to *(specify a date no later than three years from the date of conviction)*:
8. Defendant's employer requires defendant to drive a vehicle owned by the employer within the course and scope of defendant's employment. Defendant must provide the employer with the *Notice to Employers of Ignition Interlock Restriction* (form ID-150) no later than *(specify date)*: . Defendant must keep a copy of the *Notice to Employers of Ignition Interlock Restriction* in defendant's possession or keep the original or a copy in the employer's vehicle.
9. Defendant must maintain current insurance and registration on all vehicles owned.
10. Other *(specify)*:

Date: _____ I acknowledge receipt of this order.

(TYPE OR PRINT NAME OF DEFENDANT) (DEFENDANT'S SIGNATURE)

Date: _____

JUDICIAL OFFICER OF THE SUPERIOR COURT Page 1 of 2

SHORT TITLE: _____	CASE NUMBER: _____
-----------------------	-----------------------

WHAT IS A VIOLATION OF THIS ORDER?

1. Failure to have ignition interlock devices installed within 30 days of the date of this order.
2. Failure to return completed *Ignition Interlock Installation Verification* (form ID-110) to the court or probation department (as indicated on the reverse) within the time limit specified in this order.
3. Failure to comply three or more times with any requirement for the maintenance or calibration of the ignition interlock devices.
4. Failure to comply with any court order.
5. Default on any payment plan arranged with the installer or ordered by the court, resulting in failure to comply herewith, absent a showing in court of good cause.
6. If defendant has a valid driver's license, driving any vehicle without an ignition interlock device except as provided below and except for employer-owned vehicles required to be operated within the course and scope of employment. A motor vehicle owned by a business entity that is wholly or partly owned or controlled by defendant is not a motor vehicle owned by an employer subject to the exemption.
7. Failure to maintain current license and registration on any vehicle owned by defendant.
8. Failure to notify any person who rents, leases, or loans a motor vehicle to defendant of the restriction imposed by this order.
9. Requesting or soliciting any person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing defendant with an operable motor vehicle.
10. Tampering with or circumventing the operation of an ignition interlock device.

Under Vehicle Code section 23575 **only**, it is an affirmative defense to Violation Numbers 7, 8, and 9 if defendant can show that he or she leased, rented, or borrowed a vehicle for emergency use when no other feasible alternative was available, or for a bona fide business purpose when away from defendant's regular place of business.

WHAT WILL HAPPEN IF YOU VIOLATE THIS ORDER?

Under Vehicle Code section 23575, if a defendant fails to provide proof of installation within the ordered time limit, absent a showing of good cause, the court must notify the Department of Motor Vehicles.

YOUR RIGHTS

1. If you are required to install ignition interlock devices under Vehicle Code section 23575, and you have a medical condition that you believe prevents you from breathing with sufficient strength to activate the devices, you have the right to present a physician's statement to the court documenting the condition and to have the court determine whether the medical condition does make use of the devices medically impossible.
2. If your driving privilege has been revoked or suspended under Vehicle Code section 23575, and it is restored before the end of the period ordered herein for installation of the ignition interlock devices, you may petition the court to review whether continued restriction is necessary.

Defendant: Call the ignition interlock device installer within 48 hours of this order and arrange for the installation of the device(s). The court will provide you with a list of manufacturers certified by the Department of Motor Vehicles. Contact a certified manufacturer to locate an installer.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY Draft 1 mec 01/03/08 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
JUVENILE DEPENDENCY PETITION (VERSION ONE) (Welf. & Inst. Code, § 300 et seq.) <input type="checkbox"/> § 300—Original <input type="checkbox"/> § 342—Subsequent <input type="checkbox"/> § 387—Supplemental	CASE NUMBER: RELATED CASES (<i>if any</i>):

1. Petitioner on information and belief alleges the following:

a. The child named below comes within the jurisdiction of the juvenile court under the following subdivisions of section 300 of the Welfare and Institutions Code (<i>check applicable boxes; see attachment 1a for concise statements of facts</i>): <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d) <input type="checkbox"/> (e) <input type="checkbox"/> (f) <input type="checkbox"/> (g) <input type="checkbox"/> (h) <input type="checkbox"/> (i) <input type="checkbox"/> (j)			
b. Child's name:	c. Age:	d. Date of birth:	e. Sex:
f. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	g. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged		
h. Name: <input type="checkbox"/> mother Address: <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (<i>check all that apply</i>): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	i. Other (<i>state name, address, and relationship to child</i>): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
j. Prior to intervention, child resided with <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> parent (<i>name</i>): <input type="checkbox"/> guardian (<i>name</i>): <input type="checkbox"/> Indian custodian (<i>name</i>): <input type="checkbox"/> other (<i>state name, address, and relationship to child</i>):	k. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained Date and time of detention: Current place of detention (<i>address</i>): <input type="checkbox"/> Relative <input type="checkbox"/> Shelter/foster care <input type="checkbox"/> Other		

2. I have asked about Indian ancestry for this child and have completed and attached the required *Indian Child Inquiry Attachment*, form ICWA-010(A). (*If this is a subsequent filing and there is no new information, the ICWA-010(A) is not required.*)

(See important notice on page 2.)

CHILD'S NAME: _____	CASE NUMBER: _____
----------------------------	---------------------------

3. Petitioner requests that the court find these allegations to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date:

_____  _____
 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

Address and telephone number (if different person signing than listed in caption above):

Number of pages attached: _____ Other children are listed on *Additional Children Attachment* (form JV-101(A))

— NOTICE —

TO PARENT

Your parental rights may be permanently terminated. To protect your rights, you must appear in court and answer this petition.

**TO PARENTS OR OTHERS LEGALLY RESPONSIBLE
FOR THE SUPPORT OF THE CHILD**

You and the estate of your child may be jointly and severally liable for the cost of the care, support, and maintenance of your child in any placement or detention facility, the cost of legal services for you or your child by a public defender or other attorney, and the cost of supervision of your child by order of the juvenile court.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. (Optional): _____</p> <p>E-MAIL ADDRESS (Optional): _____</p> <p>ATTORNEY FOR (Name): _____</p>	FOR COURT USE ONLY DRAFT 2 02/04/08 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS AFTER POSTPERMANENCY HEARING— PERMANENT PLAN OTHER THAN ADOPTION (Welf. & Inst. Code, § 366.3)	CASE NUMBER:

1. Postpermanency hearing

- | | |
|---|--|
| a. Date:
b. Department:
c. Judicial officer (name):
d. Court clerk (name): | e. Court reporter (name):
f. Bailiff (name):
g. Interpreter (name and language): |
|---|--|

h. Party (name):	Present	Attorney (name):	Present	Appointed today
(1) Child:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(2) Mother:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(3) Father—presumed:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(4) Father—biological:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(5) Father—alleged:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(6) Legal guardian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(7) Indian custodian:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(8) De facto parent:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(9) County agency social worker:	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
(10) Other (specify):	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

- i. Others present in courtroom:
- (1) Court Appointed Special Advocate (CASA) volunteer (name):
 - (2) Other (name):
 - (3) Other (name):

2. The court has read and considered and admits into evidence:

- a. Report of social worker dated:
- b. Report of CASA volunteer dated:
- c. Other (specify):
- d. Other (specify):

BASED ON THE FOREGOING AND ON ALL OTHER EVIDENCE RECEIVED, THE COURT FINDS AND ORDERS:

- 3. a. Notice of the date, time, and location of the hearing was given as required by law.
- b. **For child 10 years of age or older who is not present:** The child received proper notice of his or her right to attend the hearing.
- 4. a. The child is may be an Indian child, and notice of the proceeding and the right of the tribe to intervene was provided as required by law. Proof of such notice was filed with this court.
- b. There is reason to believe that the child may be of Indian ancestry, and notice of the proceedings was provided to the Bureau of Indian Affairs as required by law. Proof of such notice was filed with this court.
- 5. A Court Appointed Special Advocate is appointed for the child.

CHILD'S NAME: 	CASE NUMBER:
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6. Paternity

a. The court inquired of the mother others (*names and relationships*):

as to the identities and addresses of all presumed or alleged fathers. All alleged fathers present during the hearing who had not previously submitted a *Statement Regarding Parentage* (form JV-505) were provided with and ordered to complete form JV-505 and submit it to the court.

b. The clerk of the court is ordered to provide the notice required by Welf. & Inst. Code, § 316.2 to
 (1) alleged father (*name*):
 (2) alleged father (*name*):
 (3) alleged father (*name*):

Advisements and waivers

7. The court informed and advised the

mother biological father legal guardian child
 presumed father alleged father Indian custodian
 other (*specify*):

of the following: the right of each parent or guardian and the child to be present and to be represented by counsel at every stage of the proceedings and, if any of these parties is financially unable to retain counsel, any right to appointed counsel that exists, subject to the court's right to seek reimbursement; the right to assert the privilege against self-incrimination; the right to confront and cross-examine the persons who prepared the reports or documents submitted to the court by the petitioner and the witnesses called to testify against the parent, legal guardian, or Indian custodian; the right to subpoena witnesses; and the right to present evidence on one's own behalf.

8. The mother biological father legal guardian child
 presumed father alleged father Indian custodian
 other (*specify*):

has knowingly and intelligently waived the right to a court trial on the issues, the right to assert the privilege against self-incrimination, the right to confront and cross-examine adverse witnesses, the right to subpoena witnesses, and the right to present evidence on his or her own behalf.

Placement

9. **Continued out-of-home care is in the best interest of the child.**

10. **The child's out-of-home placement is necessary.**

11. **The child's current placement is appropriate.**

12. **The child's current placement is not appropriate.** The county agency must locate an appropriate placement for the child.

a. The matter is continued to the date and time indicated in item 32 for a written oral report by the county agency on the progress made in locating an appropriate placement.

b. Other (*specify*):

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13. **The child is placed outside the state of California and that out-of-state placement**
- a. does continue to be the most appropriate placement for the child and is in the best interest of the child.
 - b. does not continue to be the most appropriate placement for the child and is not in the best interest of the child. The matter is continued to the date and time indicated on in item 32 for a written oral report by the county agency on the progress made toward
 - (1) returning the child to California and locating an appropriate placement within California.
 - (2) locating an out-of-state placement that is the most appropriate placement for the child and in the best interest of the child.
 - (3) Other (*specify*):

Efforts

14. **The county agency**
- a. has
 - b. has not
- complied with the case plan by making reasonable efforts, including whatever steps are necessary to make and to finalize the permanent placement of the child.

15. **Child 10 years of age or older, placed in a group home for six months or longer from the date the child entered foster care**
- a. The child has identified the following as an individual important to him or her:
 - (1) (*name*):
 - (2) (*name*):
 - (3) (*name*):
 - b. The county child and family services agency has has not made efforts to identify individuals who are important to the child, consistent with the child's best interest.
 - c. The county child and family services agency has has not made efforts to maintain the child's relationships with the individuals who are important to the child, consistent with the child's best interest.
 - d. The county child and family services agency has has not made efforts to identify a prospective adoptive parent or a legal guardian for the child.
 - e. To identify individuals who are important to the child and to maintain the child's relationships with those individuals, the agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:
 - f. To identify a prospective adoptive or a legal guardian for the child, the agency must provide the services
 - (1) as stated on the record.
 - (2) as follows:

16. The services provided to the child have been
- a. adequate.
 - b. not adequate.

17. **The county agency**
- a. has
 - b. has not
- complied with the case plan by making reasonable efforts, including whatever steps are necessary to finalize the permanent placement of the child.

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18. **Child 16 years of age or older:**
- a. The services set forth in the case plan include those needed to assist the child in making the transition from foster care to independent living.
 - b. The services set forth in the case plan do not include those needed to assist the child in making the transition from foster care to independent living.
 - c. To assist the child in making the transition to independent living, the agency must add to the child's case plan and provide the services
 - (1) as stated on the record.
 - (2) as follows:

Siblings

19. **The child does not have siblings under the court's jurisdiction.**
20. **The child does have siblings under the court's jurisdiction.**
- a. The nature of the relationship between the child and the child's siblings is
 - (1) stated on the record.
 - (2) described in the social worker's report.
 - (3) other (*specify*):
 - b. (1) Developing or maintaining the sibling relationship with the siblings named below is appropriate.

(a) (<i>name</i>):	(d) (<i>name</i>):
(b) (<i>name</i>):	(e) (<i>name</i>):
(c) (<i>name</i>):	(f) (<i>name</i>):
 - (2) Developing or maintaining the sibling relationship with the siblings named below is not appropriate.

(a) (<i>name</i>):	(d) (<i>name</i>):
(b) (<i>name</i>):	(e) (<i>name</i>):
(c) (<i>name</i>):	(f) (<i>name</i>):
 - (3) The basis for the finding in this item b is
 - (a) stated on the record.
 - (b) described in the social worker's report.
 - (c) other (*specify*):
 - c. The impact of the sibling relationships on the child's placement and planning for legal permanence is
 - (1) stated on the record.
 - (2) described in the social worker's report.
 - (3) other (*specify*):
21. **The child and all of the child's siblings under the court's jurisdiction are placed together in the same home.**
22. **The child and all of the child's siblings under the court's jurisdiction are not placed together in the same home.**
- a. Efforts are being made to place the child and the following siblings together.
 - (1) Child's siblings:

(a) (<i>name</i>):	(d) (<i>name</i>):
(b) (<i>name</i>):	(e) (<i>name</i>):
(c) (<i>name</i>):	(f) (<i>name</i>):
 - (2) The reasons the child and these siblings are not placed together and the efforts being made to do so are
 - (a) stated on the record.
 - (b) described in the social worker's report.
 - (c) other (*specify*):

CHILD'S NAME: 	CASE NUMBER:
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22. b. Efforts to place the child with the following siblings are not appropriate.
- (1) Child's siblings:
- (a) (name):
- (b) (name):
- (c) (name):
- (2) The reasons that efforts to place the child with these siblings are not appropriate are
- (a) stated on the record.
- (b) described in the social worker's report.
- (c) other (specify):
- c. The frequency and nature of the visitation between the child and child's siblings who are not placed together are
- (1) stated on the record.
- (2) described in the social worker's report.
- (3) other (specify):

Health and education

23. The mother biological father other (specify):
 presumed father legal guardian
 is unable unwilling unavailable to make decisions regarding the child's needs for medical, surgical, dental, or other remedial care, and the right to make these decisions is suspended under Welf. & Inst. Code, § 369 and vested with the county child and family services agency.

24. The right of the mother biological father legal guardian
 presumed father alleged father Indian custodian
 other (specify):
 to make educational decisions for the child is limited as set forth in the *Findings and Orders Limiting Right to Make Educational Decisions for the Child, Appointing Educational Representative, and Determining Child's Educational Needs* (form JV-535) filed in this matter.

Permanent Plan

25. The child's permanent plan is
- a. legal guardianship. **The likely date** by which dependency jurisdiction will be dismissed is (specify date):
- b. placement with (name): _____, a fit and willing relative.
The likely date by which the child will be placed for adoption or guardianship is (specify date):
 The relative is authorized to provide consent for the child's medical, surgical, and dental care as provided in *Order Granting Authority to Consent to Medical, Surgical, and Dental Care* (form JV-448).
- c. placement with (name of placement): _____
 with a specific goal of (specify):
- (1) returning home.
- (2) adoption.
- (3) legal guardianship.
- (4) a less restrictive foster setting.
- (5) permanent placement with a fit and willing relative.
- (6) independent living with identification of a caring adult to serve as a lifelong connection for the youth.
- d. **The likely date** by which the child's specific goal will be achieved is (specify date):
26. The child's permanent plan identified in item 25 is appropriate and continues as the permanent plan.

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27. a. The child's permanent plan identified in item 25 may not be appropriate, and the matter is ordered set for a hearing under Welf. & Inst. Code, § 366.26 to select the most appropriate permanent plan for the child.
- b. The county agency and the licensed county adoption agency or the California Department of Social Services, acting as an adoption agency, will prepare and serve an assessment report as described in Welf. & Inst. Code, § 366.22(b).
- c. The court advised all parties present in court that to preserve any right to review on appeal of this order, a party must seek an extraordinary writ by filing notice of intent to file a writ petition and a request for the record, which may be submitted on *Notice of Intent to File Writ Petition and Request for Record to Review Order Setting a Hearing under Welfare and Institutions Code Section 366.26* (form JV-820) and a petition for extraordinary writ, which may be submitted on *Petition for Extraordinary Writ* (form JV-825). A copy of each form is available in the courtroom. The court further advised all parties present in court that, as to them, a notice of intent to file a writ petition and request for record must be filed with the juvenile court clerk within seven days of the date of this hearing. The clerk of the court is directed to provide written notice as set forth in rule 5.715(d)(3)(H)-(I) of the California Rules of Court to any party not present.
- d. The court advised each parent present in court of the date, time, and place of the hearing set under Welf. & Inst. Code, § 366.26; their right to counsel; the nature of the proceedings; and the requirement that at the proceedings the court must select and implement a plan of adoption, guardianship, or identified placement with a specific goal for the child. The court ordered each parent present in court to appear for the hearing set under Welf. & Inst. Code, § 366.26 and directed that each parent be notified hereafter by first-class mail to his or her usual place of residence or business only.
- e. The court orders that no notice of the hearing set under Welf. & Inst. Code, § 366.26 be provided to the person named below who is a mother, a presumed father, or an alleged father and who has relinquished the child for adoption where the relinquishment has been accepted and filed with notice under Fam. Code, § 8700, or an alleged father who has denied paternity and has executed section 1 of *Statement Regarding Parentage* (form JV-505).
- (1) (name):
- (2) (name):
- (3) (name):
- (4) (name):
- f. **The likely date** by which the child may be placed for adoption, for legal guardianship, or in an identified placement with a specific goal is (*specify date*):
28. By clear and convincing evidence there is a compelling reason for determining that a hearing under Welf. & Inst. Code, § 366.26 is not in the best interest of the child because the child is not a proper subject for adoption at this time and has no one currently willing or appropriate to accept legal guardianship.
29. **Contact with the child is ordered as set forth in** (*check appropriate box and attach indicated form*):
- a. *Visitation Attachment: Parent, Legal Guardian, Indian Custodian, Other Important Person* (form JV-400).
- b. *Visitation Attachment: Sibling* (form JV-401).
- c. *Visitation Attachment: Grandparent* (form JV-402).
30. **All prior orders not in conflict with this order remain in full force and effect.**
31. **Other findings and orders:**
- a. See attached.
- b. (*Specify*):

CHILD'S NAME: 	CASE NUMBER:
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32. **The next hearing is scheduled as follows:**

Hearing date:	Time:	Dept:	Room:
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- a. Selection and implementation hearing (Welf. & Inst. Code, § 366.26)
- b. Postpermanency hearing (Welf. & Inst. Code, § 366.3)
- c. Other (*specify*):

33. Number of pages attached: _____

Date:

JUDGE
 JUDGE PRO TEMPORE
 COMMISSIONER
 REFEREE

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i>: _____</p> <p>E-MAIL ADDRESS <i>(Optional)</i>: _____</p> <p>ATTORNEY FOR <i>(Name)</i>: _____</p>	FOR COURT USE ONLY Draft 1 mec 01/03/08 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	
FINDINGS AND ORDERS LIMITING RIGHT TO MAKE EDUCATIONAL DECISIONS FOR THE CHILD, APPOINTING EDUCATIONAL REPRESENTATIVE, AND DETERMINING CHILD'S EDUCATIONAL NEEDS	CASE NUMBER:

1. a. Date of hearing: _____ Dept.: _____ Room: _____
- b. Judicial officer *(name)*: _____
- c. Persons present:
- Child
 Child's attorney
 Mother
 Mother's attorney
 Father
 Father's attorney
 Guardian
 Deputy district attorney
 Probation officer/social worker
 Deputy county counsel
 CASA volunteer
 Other *(specify)*: _____
2. Providing the information on this form to the parent or guardian will will not create a safety risk for the child *(for example, because of the placement's confidentiality)*.
- a. The information is to be withheld from the parent or guardian *(name each)*:
- b. The information is to be provided to the parent or guardian *(name each)*:
3. Date of birth: _____
4. Child's school district: _____
5. Child's school *(name and address)*: _____
6. Child's social worker *(name and address)*: _____
7. Child's supervising social worker *(name)*: _____
8. Child's probation officer *(name and address)*: _____
9. Foster youth liaison (as defined in Education Code section 48853.5(b)) *(name and address)*: _____
10. Child's attorney *(name and address)*: _____
11. **After consideration of the evidence, the court finds and orders under Welfare and Institutions Code section 319(g), 361(a), or 726(b):**
- a. The right of the parent *(name)*: _____ parent *(name)*: _____
 guardian *(name)*: _____ guardian *(name)*: _____
- to make educational decisions for the child is *(specify)*:
 limited by this court
 temporarily limited by this court *(if before disposition)*.
- b. Parental rights have been terminated, and no one holds educational rights for this child.

CHILD'S NAME: _____	CASE NUMBER: _____
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11. c. Reunification services for the child and family have been terminated or were never ordered and the child is placed in a planned permanent living arrangement with (*identify placement or indicate if placement is confidential*):
- (1) The court finds that the identified foster parent, relative caregiver, or nonrelative extended family member (as defined in Welfare and Institutions Code section 362.7) may represent the child in all general and special educational matters under Education Code section 56055(a) and is not prohibited from doing so or excluded by Welfare and Institutions Code section 361 or 726 or 34 Code of Federal Regulations section 300.519 or 303.19.
- (2) The following foster parent, relative caregiver, or nonrelative extended family member (as defined in Welfare and Institutions Code section 362.7) may not make educational decisions for the child under Education Code section 56055(b).
- (a) Name:
(b) Address:
(c) Telephone:
(d) Relationship to child:
- d. The following responsible adult, who has no apparent conflict of interest and who is not prohibited by Education Code section 56055 or 34 Code of Federal Regulations section 300.519 or 303.19, is appointed as the child's educational representative:
- (1) Name:
(2) Address:
(3) Telephone:
(4) Relationship to child:
- e. The court cannot identify a responsible adult to make educational decisions for the child, and the child is potentially eligible for special education and related services or already has an individualized education program (IEP). Therefore, the court refers the child to the local educational agency (LEA). The LEA must make reasonable efforts to appoint a surrogate parent for the child under Government Code section 7579.5 within 30 days of the court's referral. The LEA must notify the court of the identity of the appointee on attached form JV-536 within seven calendar days of the date of the appointment, termination, resignation, or replacement of a surrogate parent.
- Note:** If box 11.e. is checked, form JV-536, *Local Educational Agency Response to JV-535—Appointment of Surrogate Parent*, must be attached when this order is served on the local education agency.
- f. The court cannot identify a responsible adult to make educational decisions for the child, and the child does not qualify for special education. The court, with input from any interested person, will make educational decisions for the child.
12. The child has the following educational and developmental needs (*check all that apply*):
- a. The child is 0–3 years old and has been identified with a disability.
- b. The child is 0–3 years old and is suspected of having a disability.
- c. The child is age 3 years or older and has been identified with a disability.
- d. The child is age 3 years or older and is suspected of having a disability.
- e. The child is currently eligible for special education, general education accommodations and modifications, early intervention services, or regional center developmental services.

CHILD'S NAME: _____	CASE NUMBER: _____
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12. f. The child is receiving services based on the following plan (*check all that apply*):
- (1) Individualized education program (IEP)
 - (2) Section 504 plan
 - (3) Individual family plan (IFP)
 - (4) Quality of life assessment
 - (5) Other (*explain*):

13. The educational representative is ordered to (*check all that apply*):
- a. submit to the local education agency a written referral for special education assessment and assessments under section 504 of the Rehabilitation Act of 1973.
 - b. submit to the regional center a written referral for an eligibility assessment.
 - c. submit to the local education agency a written referral for an assessment, evaluation, or services or a written request to convene the IEP team to review or revise the child's IEP.
 - d. submit a written request to the regional center to convene the IFP team to review or revise the child's IFP.

14. As provided under 34 Code of Federal Regulations § 300.300, the child's initial evaluation for special education services need not be postponed to await parental or guardian consent or appointment of an educational representative because one or more of the following circumstances have been met:
- a. The court has limited or temporarily limited the educational rights of the parent or guardian, and consent for an initial assessment has been given by an individual appointed by the judicial officer to represent the child.
 - b. The local education agency cannot discover the whereabouts of the parent or guardian.
 - c. The parent's rights have been terminated, or the guardianship has been set aside.

The court appoints the following person to represent the child in the request for an initial evaluation (*name, address unless confidential*):

15. The clerk will provide a copy of the completed JV-535 to the child if 10 years or older, to the child's attorney, to the social worker and probation officer, to the foster youth liaison, and to the educational representative at the end of the proceeding or no later than seven calendar days after the order. The clerk will make the form available to the parents or guardians (unless otherwise indicated on the form), the Court Appointed Special Advocate (CASA) volunteer, and, if requested, to all other persons provided notice under section 293.

16. Within seven calendar days of this order, a copy of this order must be served on the local education agency by (*choose one*):
- a. a representative of the county welfare department
 - b. a representative of the probation department
 - c. the clerk of this court
 - d. the child's attorney

17. **This order applies to any school or school district in the state of California.**

18. The educational representative, or the person whom the court appointed to represent the child for an initial evaluation, will report to the court regarding the child's education on (*date*): _____ in Dept. _____ at _____ a.m./p.m.

Date: _____

JUDICIAL OFFICER

EMPLOYEE INSTRUCTIONS

-NOTICE-

IMPORTANT LEGAL NOTICE TO EMPLOYEE ABOUT EARNINGS WITHHOLDING ORDERS (Wage Garnishment)

The **Earnings Withholding Order** requires your employer to pay part of your earnings to the sheriff or other levying officer. The levying officer will pay the money to a creditor who has a court judgment against you. The information below may help you protect the money you earn.

-NOTICIA-

NOTICIA LEGAL IMPORTANTE RESPECTO A LAS ÓRDENES DE RETENCIÓN DE SUELDO

La **Orden de Retención de Sueldo** requiere que su empleador pague una parte de su sueldo a un oficial de embargo. El oficial le pagará el dinero retenido a su acreedor que ha conseguido una decisión judicial en contra de usted. Pida usted que un amigo o su abogado le lea este papel oficial. Esta información le puede ayudar a proteger su sueldo.

CAN YOU BE FIRED BECAUSE OF THIS?

NO. You cannot be fired unless your earnings have been withheld before for a different court judgment. If this is the first judgment for which your wages will be withheld and your employer fires you because of this, the California Labor Commissioner, listed in the phone book of larger cities, can help you get your job back.

HOW MUCH OF YOUR PAY WILL BE WITHHELD?

The reverse of the Earnings Withholding Order (abbreviated in this notice as EWO) that applies to you contains Employer Instructions. These explain how much of your earnings can be withheld. Generally, the amount is about 25% of your take home pay until the amount due has been withheld. The levying officer will notify the employee of an additional assessment charged for paying out money collected under this order and that amount will also be withheld.

If you have trouble figuring this out, ask your employer for help.

IS THERE ANYTHING YOU CAN DO?

YES. There are several possibilities.

1. See an attorney. If you do not know an attorney, check with the lawyer referral service or the legal aid office in your county (both are listed in the yellow pages under "Attorneys").
An attorney may be able to help you make an agreement with your creditor, or may be able to help you stop your earnings from being withheld. You may wish to consider bankruptcy or asking the bankruptcy court to help you pay your creditors. These possibilities may stop your wages from being withheld.
An attorney can help you decide what is best for you. Take your **EWO** to the attorney to help you get the best advice and the fastest help.
2. Try to work out an agreement yourself with your creditor. Call the creditor or the creditor's attorney, listed on the **EWO**. If you make an agreement, the withholding of your wages will stop or be changed to a smaller amount you agree on. *(See item 4 on the reverse for another way to make an offer to your creditor.)*
3. You can ask for an EXEMPTION. An exemption will protect more, or maybe even all of your earnings. You can get an exemption if you need your earnings to support yourself or your family, **but you cannot get an exemption if**
 - a. You use some of your earnings for luxuries and they aren't really necessary for support; **OR**
 - b. The money you owe is for food, clothing, medical care, or housing; **OR**
 - c. You owe the debt for past due child support or spousal support (alimony); **OR**
 - d. You owe the debt to a former employee for wages.

HOW DO YOU ASK FOR AN EXEMPTION?

(See the reverse of this form for instructions about claiming an exemption.)

HOW DO YOU ASK FOR AN EXEMPTION?

1. Call or write the levying officer for three (3) copies each of the forms called "Claim of Exemption" and "Financial Statement." These forms are free. The name and address of the levying officer are in the big box on the right at the top of the **EWO**.
2. Fill out both forms. On the forms are some sentences or words which have boxes in front of them. The box means the words which follow may not apply to your case. If the words do apply, put a check in the box.

Remember, it is **your** job to prove with the Financial Statement form that your earnings are needed for support. Write down the details about your needs.
3. For example, if your child has special medical expenses, tell which child, what illnesses, who the doctor is, how often the doctor must be visited, the cost per visit, and the costs of medicines. These details should be listed in item 6. If you need more space, put "See attachment 6" and attach a typed 8½ by 11 sheet of paper on which you have explained your expenses in detail.
4. You can use the Claim of Exemption form to make an offer to the

judgment creditor to have a specified amount withheld each pay period. Complete item 3 on the form to indicate the amount you agree to have withheld **each pay day during the withholding period**. (Be sure it's less than the amount to be withheld otherwise.) If your creditor accepts your offer, he will not oppose your claim of exemption. (See (1) below.)

5. Sign the Claim of Exemption and Financial Statement forms. Be sure the Claim of Exemption form shows the address where you receive mail.
6. Mail or deliver two (2) copies of each of the two forms to the levying officer. Keep one copy for yourself in case a court hearing is necessary.

Do not use the Claim of Exemption and Financial Statement forms to seek a modification of child support or alimony payments. These payments can be modified only by the family law court that ordered them.

FILE YOUR CLAIM OF EXEMPTION AS SOON AS POSSIBLE FOR THE MOST PROTECTION.

ONE OF TWO THINGS WILL HAPPEN NEXT

(1) The judgment creditor will not oppose (object to) your claim of exemption. If this happens, after 10 days the levying officer will tell your employer to stop withholding or withhold less from your earnings. The part (or all) of your earnings needed for support will be paid to you or paid as you direct. And you will get back earnings the levying officer or your employer were holding when you asked for the exemption.

you prove your Claim of Exemption and Financial Statement are correct and your earnings are needed to support yourself or your family.

—OR—

(2) The creditor will oppose (object to) your claim of exemption. If this happens, you will receive a Notice of Opposition and Notice of Hearing on Claim of Exemption, in which the creditor states why your exemption should not be allowed. A box in the middle of the Notice of Hearing tells you the time and place of the court hearing which will be in about ten days. Be sure to go to the hearing if you can.

Perhaps you can even prove the Notice of Opposition is wrong. For example, perhaps the Notice of Opposition states that the judgment was for a common necessary of life. This term is generally taken by courts to mean only the essentials that everyone needs to live; sometimes a court will have to decide the matter. For example, while coat may be a "common necessary, a fur coat may not be.

If the judgment creditor has checked the box in item 3 on the Notice of Hearing on Claim of Exemption, the creditor will not be in court. If you are willing to have the court make its decision based on your Financial Statement and the creditor's Notice of Opposition, you need not go to the hearing.

If the judge at the hearing agrees with you, your employer will be ordered to stop withholding your earnings or withhold less money. The judge can even order that the **EWO** end before the hearing (so you would get some earnings back).

The Notice of Opposition to Claim of Exemption will tell you why the creditor thinks your claim should not be allowed. If you go to the hearing, take any bills, paycheck stubs, cancelled checks, or other evidence (including witnesses) that will help

If the judge does not agree with you, the withholding will continue unless you **appeal to** a higher court. The rules for appeals are complex so you should see an attorney if you want to appeal.

If you have one court hearing, you should not file another Claim of Exemption about the same **EWO** unless your finances have gotten worse in an important way.

If your **EWO** is to be changed or ended, the levying officer must sign the notice to your employer of the change. He may give you permission to deliver it to the employer, or it can be mailed.

WHAT HAPPENS TO YOUR EARNINGS IF YOU FILE A CLAIM OF EXEMPTION?

Your employer must continue to hold back part of your earnings for the **EWO** until he receives a notice signed by the levying officer to change the order or end it early.

The levying officer will keep your withheld earnings until your Claim of Exemption is denied or takes effect. At that time your earnings will be paid according to the law that applies to your case.

REGARDING CHILD SUPPORT

If you are obligated to make child support payments, the local child support agency may help you to have an Order Assigning Salary or Wages entered. This order has the top priority claim on your earnings. When it is in effect, little or no money may be

available to be withheld for an **EWO**. And, if the local child support agency is involved in collecting this support from you, it may agree to accept less money if this special order is entered.

WHAT IF YOU STILL HAVE QUESTIONS?

If you cannot see an attorney, or don't want to see an attorney, you might be able to answer some of your questions by reading the law in a law library. Ask the law librarian to help you find sections 706.050 and 706.105 of the California Code of Civil Procedure. Other sections of the code, beginning with section 706.010 may also answer some of your questions.

Also, the office of the Wage and Hour Division of the U.S. Department of Labor may be able to answer some of your questions. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>):	TELEPHONE AND FAX NOS.:	LEVYING OFFICER (<i>Name and Address</i>):
ATTORNEY FOR (<i>Name</i>):		
NAME OF COURT, JUDICIAL DISTRICT, AND BRANCH COURT, IF ANY:		
PLAINTIFF:	DEFENDANT:	
EARNINGS WITHHOLDING ORDER (Wage Garnishment)	LEVYING OFFICER FILE NO.:	COURT CASE NO.:

EMPLOYEE: KEEP YOUR COPY OF THIS LEGAL PAPER. EMPLEADO: GUARDE ESTE PAPEL OFICIAL.

**EMPLOYER: Enter the following date to assist your recordkeeping.
Date this order was received by employer (specify the date of personal delivery by levying officer or registered process server or the date mail receipt was signed):**

TO THE EMPLOYER REGARDING YOUR EMPLOYEE:

<input style="width: 90%; height: 20px; margin-bottom: 10px;" type="text"/> Name and address of employer	<input style="width: 90%; height: 20px; margin-bottom: 10px;" type="text"/> Name and address of employee
<input style="width: 90%; height: 20px;" type="text"/>	<input style="width: 90%; height: 20px;" type="text"/>

Social Security Number (*if known*):

1. A judgment creditor has obtained this order to collect a court judgment against your employee. You are directed to withhold part of the earnings of the employee (*see instructions on reverse of this form*). Pay the withheld sums to the **levying officer** (*name and address above*).

If the employee works for you now, you must **give the employee a copy of this order and the *Employee Instructions*** (form WG-003) within 10 days after receiving this order.

Complete both copies of the form *Employer's Return* (form WG-005) and **mail them to the levying officer** within 15 days after receiving this order, whether or not the employee works for you.

2. The total amount due is: \$

Count 10 calendar days from the date when you received this order. If your employee's pay period ends before the tenth day, **do not** withhold earnings payable for that pay period. **Do** withhold from earnings that are payable for any pay period ending on or after that tenth day.

Continue withholding for all pay periods until you withhold the amount due. The levying officer will notify you of an assessment you should withhold in addition to the amount due. Do not withhold more than the total of these amounts. Never withhold any earnings payable before the beginning of the earnings withholding period.

3. The judgment was entered in the court on (*date*):

The judgment creditor (*if different from the plaintiff*) is (*name*):

4. The **INSTRUCTIONS TO EMPLOYER** on the reverse tell you how much of the employee's earnings to withhold each payday and answer other questions you may have.

Date: _____ _____
 (TYPE OR PRINT NAME) (SIGNATURE)

LEVYING OFFICER REGISTERED PROCESS SERVER

(Employer's Instructions on reverse)

**INSTRUCTIONS TO EMPLOYER
ON EARNINGS WITHHOLDING ORDERS**

WG-002

The instructions in paragraph 1 on the reverse of this form describe your early duties to provide information to your employee and the levying officer.

Your other duties are TO WITHHOLD THE CORRECT AMOUNT OF EARNINGS (if any) and PAY IT TO THE LEVYING OFFICER during the *withholding period*.

The withholding period is the period covered by the *Earnings Withholding Order* (this order). The withholding period begins ten (10) calendar days after you receive the order and continues until the total amount due, plus additional amounts for costs and interest (which will be listed in a levying officer's notice), is withheld.

It may end sooner if (1) you receive a written notice signed by the levying officer specifying an earlier termination date, or (2) an order of higher priority (explained on the reverse of the *EMPLOYER'S RETURN*) is received.

You are entitled to rely on and must obey all written notices signed by the levying officer.

The *Employer's Return* (form WG-005) describes several situations that could affect the withholding period for this order. If you receive more than one *Earnings Withholding Order* during a withholding period, review that form (*Employer's Return*) for instructions.

If the employee stops working for you, the *Earnings Withholding Order* ends after no amounts are withheld for a continuous 180-day period. If withholding ends because the earnings are subject to an order of higher priority, the *Earnings Withholding Order* ends after a continuous two-year period during which no amounts are withheld under the order. **Return the Earnings Withholding Order to the levying officer with a statement of the reason it is being returned.**

WHAT TO DO WITH THE MONEY

The amounts withheld during the withholding period must be paid to the levying officer by the 15th of the next month after each payday. If you wish to pay more frequently than monthly, each payment must be made within 10 days after the close of the pay period.

Be sure to mark each *check* with the case number, the levying officer's file number, if different, and the employee's name so the money will be applied to the correct account.

WHAT IF YOU STILL HAVE QUESTIONS?

The garnishment law is contained in the Code of Civil Procedure beginning with section 706.010. Sections 706.022, 706.025, and 706.104 explain the employer's duties.

The Federal Wage Garnishment Law and federal rules provide the basic protections on which the California law is based. Inquiries about the federal law will be answered by mail, telephone, or personal interview at any office of the Wage and Hour Division of the U.S. Department of Labor. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing.

THE CHART BELOW AND THESE INSTRUCTIONS APPLY UNDER NORMAL CIRCUMSTANCES. THEY DO NOT APPLY TO ORDERS FOR THE SUPPORT OF A SPOUSE, FORMER SPOUSE, OR CHILD.

The chart below shows **HOW MUCH TO WITHHOLD** when the federal minimum wage is \$6.55 per hour.

If the **FEDERAL** minimum wage changes in the future, the levying officer will provide a chart showing the new withholding rates.

FEDERAL MINIMUM WAGE: \$6.55 per hour

(Beginning July 24, 2008, and continuing until July 23, 2009.)

PAY PERIOD	Daily	Weekly	Every Two Weeks	Twice a Month	Monthly
DISPOSABLE EARNINGS	\$0-\$196.50	\$0-\$196.50	\$0-\$393.00	\$0-\$425.75	\$0-\$851.50
WITHHOLD	None	None	None	None	None
DISPOSABLE EARNINGS	\$196.51-\$262.00	\$196.51-\$262.00	\$393.01-\$524.00	\$425.76-\$567.66	\$851.51-\$1,135.33
WITHHOLD	Amount above \$196.50	Amount above \$196.50	Amount above \$393.00	Amount above \$425.75	Amount above \$851.50
DISPOSABLE EARNINGS	\$262.01 or More	\$262.01 or More	\$524.01 or More	\$567.67 or More	\$1,135.34 or More
WITHHOLD	Maximum of 25% of Disposable Earnings				

COMPUTATION INSTRUCTIONS

State and federal law limits the amount of earnings that can be withheld. The limitations are based on the employee's disposable earnings, which are different from gross pay or take-home pay.

To determine the CORRECT AMOUNT OF EARNINGS TO BE WITHHELD (if any), compute the employee's *disposable earnings*.

(A) Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) that is paid by an employer to an employee for personal services. Vacation or sick pay is subject to withholding as it is received by the employee. Tips are generally not included as earnings since they are not paid by the employer.

(B) *Disposable earnings* are the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employee retirement systems. Disposable earnings will change when the required deductions change.

After the employee's *disposable earnings* are known, use the chart below to determine what amount should be withheld. In the column listed under the employee's pay period, find the employee's disposable earnings. The amount shown below that is the amount to be withheld. For example, if the employee is paid disposable earnings of \$500 twice a month (semi-monthly), the correct amount to withhold is 25 percent each payday, or \$125.

The chart below is based on the minimum wage that became effective July 24, 2008. It will change when the minimum wage changes. Restrictions are based on the minimum wage effective at the time the earnings are payable.

Occasionally, the employee's earnings will also be subject to a *Wage and Earnings Assignment Order*, an order available from family law courts for child, spousal, or family support. The amount required to be withheld for that order should be deducted from the amount to be withheld for this order.

— IMPORTANT WARNINGS —

- IT IS AGAINST THE LAW TO FIRE THE EMPLOYEE BECAUSE OF *EARNINGS WITHHOLDING ORDERS* FOR THE PAYMENT OF ONLY ONE INDEBTEDNESS. No matter how many orders you receive, so long as they all relate to a single indebtedness (no matter how many debts are represented in that judgment), the employee may not be fired.
- IT IS ILLEGAL TO AVOID AN *EARNINGS WITHHOLDING ORDER* BY POSTPONING OR ADVANCING THE PAYMENT OF EARNINGS. The employee's pay period must not be changed to prevent the order from taking effect.
- IT IS ILLEGAL NOT TO PAY AMOUNTS WITHHELD FOR THE *EARNINGS WITHHOLDING ORDER* TO THE LEVYING OFFICER. Your duty is to pay the money to the levying officer who will pay the money in accordance with the law that applies to this case.

IF YOU VIOLATE ANY OF THESE LAWS YOU MAY BE HELD LIABLE TO PAY CIVIL DAMAGES AND YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION!