

<b>SUPERIOR COURT OF CALIFORNIA</b>	<i>Reserved for Clerk's File Stamp</i>	
COUNTY: <b>COUNTY OF INYO</b>		
PLAINTIFF: <b>PEOPLE OF THE STATE OF CALIFORNIA</b>		
DEFENDANT:		
<b>ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM FOR FELONIES AND/OR MISDEMEANORS – PROPOSITION 36</b> <b>(Penal Code § 1210 et seq.)</b>	CASE NUMBER:	DEPARTMENT:

### INSTRUCTIONS

Fill out this form if you wish to plead guilty or no contest to the charges against you in order to be placed on probation pursuant to Penal Code § 1210 *et seq.* ("Proposition 36 – the Substance Abuse and Crime Prevention Act of 2000"). If you successfully complete the requirements of your probationary sentence as directed by the Court, you may petition the sentencing Court to set aside the conviction and dismiss the charges. If you do not successfully complete these requirements, the Court will revoke your probation and sentence you according to the otherwise applicable law, which may include a period of incarceration.

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

#### RIGHT TO AN ATTORNEY

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

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

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

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

3. **If applicable** - I understand that I am also charged with having the following **prior conviction(s)**:

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

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

\_\_\_\_\_  
CASE NUMBER(S) AND DATE(S)

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

#### CONSTITUTIONAL RIGHTS

6. **RIGHT TO A JURY TRIAL** - I understand that I have the right to a speedy, public jury trial. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt.

<b>INITIALS ↓</b>
1.
2.
3.
4.
5.
6.

7. **RIGHT TO CONFRONT AND CROSS-EXAMINE WITNESSES** - I understand that I have the right to confront and cross-examine all witnesses testifying against me.

INITIALS ↓

7.

**CONSTITUTIONAL RIGHTS (Continued)**

8. **RIGHT AGAINST SELF-INCRIMINATION** - I understand that I have the right to remain silent and not incriminate myself, and the right to testify on my own behalf. I understand that by pleading guilty or no contest, or admitting other conviction(s) or probation violation(s), I am incriminating myself and giving up my right to remain silent.

8.

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

9.

**PRIOR CONVICTIONS AND PROBATION VIOLATIONS**

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

10.

**SPEEDY PRELIMINARY HEARING (For charged felony offenses only)**

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

11.

**WAIVER OF RIGHTS**

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

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

12.

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

13.

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

14.

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

15.

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

16.

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

17.

**PARTICIPATION IN PROBATION UNDER PROPOSITION 36**

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

18.

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

19.

INITIALS ↓
20.
21.
22.
23.
24.
25.
26.

20. **I understand that in addition to the fine, the Court will add assessments to the base fine which will significantly increase the amount I must pay.** I understand that the court will order me to pay other assessments, which will increase the amount I must pay, including the following: For each misdemeanor count (conviction) I will be ordered to pay a \$40 court operations assessment, and a \$30 criminal conviction assessment (\$35 per infraction). **I will also be ordered to make restitution to the victim(s) for damage or loss, if any.** Also, as a term of probation, unless the Court finds compelling and extraordinary reasons not to do so, **I will be ordered to pay a restitution fine of no less than \$150 and up to \$1000 for a misdemeanor, and no less than \$300 and no more than \$10,000 for a felony.** An additional probation revocation restitution fine will be imposed, but suspended upon my successful completion of probation. (PC § 1202.44) If my felony probation is revoked, I'll be ordered to pay a parole or supervision state restitution fine under PC § 1202.45. I also understand that if I am convicted of violations of the Health & Safety Code **I will be ordered to pay a fee of \$50 under H&S Code § 11372.5, and a \$150 fee under H&S Code § 11372.7. If I am convicted of certain offenses described in Penal Code section 1463.23, including but not limited to, Health & Safety Code sections 11350, 11377, and/or 11550, I will also be ordered to pay \$287. As may be applicable, I will also be ordered to pay a \$10 cite and release fee, or a \$25 Administrative Screening (O.R.) release fee.**

21. I understand that I must register with law enforcement as a controlled substance offender. Failure to do so as provided by law will constitute a misdemeanor. (H&S Code § 11590)

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

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

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

- (A) disclose my arrest and conviction upon any application for a position as a peace officer, for public office, or for a license by a state or local agency.
- (B) refrain from owning or possession a concealable firearm; failure to comply will result in my conviction of PC § 1221 (felon or addict in possession of a firearm); and
- (C) disclose the arrest and conviction when contracting with the State of California Lottery and for purposes of serving on a jury.

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

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

- (A) **first violation** of probation based on drug-related behavior, the Court shall revoke my probation if the alleged violation is proved and I am found to pose a danger to the safety of others
- (B) **second such violation**, the Court shall revoke my probation if the drug-related violation is proved and I am found to pose a danger to others or am unamenable to drug treatment  
 Note – Under (A) and (B) above, if the Court does not revoke probation, my required drug treatment may be intensified.
- (C) **third such violation**, my probation will be revoked if the violation is proved, and I will be sentenced under the otherwise applicable law.



**ATTORNEY'S STATEMENT**

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

\_\_\_\_\_  
SIGNATURE OF DEFENDANT'S ATTORNEY

\_\_\_\_\_  
DATE

**INTERPRETER'S STATEMENT (if applicable)**

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

Language:  Spanish     Other (specify): \_\_\_\_\_

\_\_\_\_\_  
COURT INTERPRETER'S SIGNATURE

\_\_\_\_\_  
TYPE OR PRINT NAME

\_\_\_\_\_  
DATE

**COURT'S FINDINGS AND ORDER**

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

\_\_\_\_\_  
Judge of the Superior Court

\_\_\_\_\_  
DATE