



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF TUOLUMNE  
Jeanine D. Tucker, Court Executive Officer**

41 W. Yaney Avenue  
Sonora, CA 95370

March 29, 2018

## **Proposed Amendments to Local Rules and Forms to Become Effective July 1, 2018**

Pursuant to California Rules of Court, rule 10.613, subdivision (g), the following proposed amendments to the local rules and forms are hereby distributed for comment.

Public comments must be submitted in writing and directed to Jeanine D. Tucker, Court Executive Officer, Superior Court of California, County of Tuolumne, 41 W. Yaney Avenue, Sonora, CA 95370. Comments must be received no later than 3:00 p.m. on Monday, May 14, 2018.

During this cycle, we propose amendments affecting six existing local rules. We also propose adoption of one new local rule. A high-level summary of the proposed amendments, along with brief explanations of the reasons for the proposals, is provided in the first table below. Attached to this document is the text of each rule as it would appear if the proposals are adopted, accompanied by redlined changes to the existing rules that reflect exactly how the existing rules would change.

In addition, we propose amendment of three local forms. The forms are addressed in the second table below, and the revised forms are attached to this document following the text of the rules.

Finally, the third table below alerts litigants and counsel to two new local forms that were adopted earlier this year and two other local forms that were amended earlier this year. The purpose for both the adoption of two new optional local forms and the amendment of two existing mandatory local forms was to align with new laws that became effective January 1, 2018.

<b>Rule</b>	<b>Proposed Action</b>	<b>Explanation</b>
2.03.5	Add/amend	Adopt revised version of subdivision (e) of current local rule 2.04.0. Clarify that sanctions for noncompliance may include dismissal of an action. Delete the provision re "notice of status conference" as duplicative of local rule 2.02.0.
2.04.0	Amend	Relocate current subdivision (e) to new local rule 2.03.5 because it relates to a different subject than does the rest of local rule 2.04.0.
2.04.1	Amend	Mirror timelines in Code of Civil Procedure section 2016.080 re informal discovery conferences.
2.14.0	Amend	Cite the statutory authority for dismissal of an unlawful detainer action as a form of sanction for noncompliance. Conform the language of the rule more closely with statutory language. Correct typographical errors.
2.15.0	Amend	Cite the statutory authorities for imposing sanctions, including dismissal of an action, for noncompliance with delay-reduction rules.

4.12.0	Amend	Enhance procedures governing telephone appearances for certain family law matters. Among other things, require a request for telephone appearance to be filed seven rather than three court days prior to the hearing.
9.05.0	Amend	Ensure consistency with Family Code section 9001, which was revised effective January 1, 2017.

<b>Form</b>	<b>Proposed Action</b>	<b>Explanation</b>
TUO-CV-275	Amend	Reflect revisions to local rule 2.04.1 that are proposed above.
TUO-CV-300	Amend	Reflect revisions to local rule 2.04.1 that are proposed above.
TUO-CV-325	Amend	Reflect revisions to local rule 2.04.1 that are proposed above.

<b>Form</b>	<b>Action Taken</b>	<b>Explanation</b>
TUO-CR-210	Adopted	Prohibited Persons Relinquishment Form Findings (Penal Code § 29810(c)), created to conform with new law effective January 1, 2018.
TUO-CR-215	Adopted	Proposition 64 - Marijuana Initiative - Penalties and Referral, to be used in accordance with new law that became effective as of January 1, 2018.
TUO-CR-500	Amended	Amendment to the Advisement and Waiver of Rights (Felony) PC § 1170(h) form became effective January 24, 2018, to verify notice to defendants that conviction may impact citizenship, and to conform with new laws effective in January of 2018 regarding the relinquishment of firearms.
TUO-CR-525	Amended	Amendment to the Advisement and Waiver of Rights (Felony) NON PC § 1170(h) form became effective January 24, 2018, to verify notice to defendants that conviction may impact citizenship, and to conform with new laws effective in January of 2018 regarding the relinquishment of firearms.



## Rules 2.03.5 and 2.04.0

### Proposed rules as amended

**2.03.5 Service of Summons and Complaint:** Within sixty (60) days of filing the complaint, the plaintiff shall file proof of service of the summons and complaint as to all named defendants. If the plaintiff fails to file proof of service as required herein, an order to show cause shall issue to the plaintiff and, if applicable, the plaintiff's attorney requiring them to show cause why sanctions should not be imposed for their failure to file proof of timely service of the summons and complaint. Sanctions considered by the Court may include dismissal of the action. (See Code Civ. Proc., § 575.2.)

(Note also that subdivision (e) of local rule 2.04.0, having been moved to this new rule [and then revised], will be deleted.)

### Current rule with redlined amendments

**2.03.5 Complaints and Service of Summons and Complaint:** Within sixty (60) days of filing the complaint, the plaintiff shall file proof of service of the summons and complaint ~~and notice of status conference~~ as to all named defendants. ~~If in the event that the plaintiff or the plaintiff's attorney~~ fails to file proof of service ~~of the summons and complaint within sixty (60) days~~ as required herein, an order to show cause shall issue ~~directed~~ to the plaintiff and, if applicable, the plaintiff's attorney requiring them to show cause why sanctions should not be imposed for their failure to file proof of timely service of the summons and complaint ~~in a timely manner~~. Sanctions considered by the Court may include dismissal of the action. (See Code Civ. Proc., § 575.2.)

### **2.04.0 Case Management Conference**

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**e. Complaints and Service of Summons:** Within sixty (60) days of filing the complaint, the plaintiff shall file proof of service of the summons and complaint ~~and notice of status conference~~ as to all named defendants. ~~In the event that the plaintiff or the plaintiff's attorney~~ fails to file proof of service of the summons and complaint within sixty (60) days as required herein, an order to show cause shall issue ~~directed to the plaintiff and the plaintiff's attorney~~ requiring them to show cause why sanctions should not be imposed for their failure to serve the summons and complaint in a timely manner.

## Rule 2.04.1

### Proposed rule as amended

**2.04.1 Resolution of Discovery Disputes:** It is the Court's policy to attempt to resolve discovery disputes informally and efficiently. Accordingly, the Court has instituted special procedures for the resolution of discovery disputes through Informal Discovery Conferences (see Code Civ. Proc., § 2016.080), which must be scheduled on local forms that are available from the clerk's office and on the Court's Web site.

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- c. The opposition to a Request must be made using local form TUO-CV-300, must be filed within three (3) calendar days of receipt of the Request, and must be served on the party that requested the Informal Discovery Conference pursuant to any authorized or agreed-upon method of service that ensures the party receives the opposition no later than the next court day following the filing.

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f. Court's action on a Request for Informal Discovery Conference

1. If the Court acts on the Request, the parties will be notified whether it has been granted or denied and, if granted, the date and time of the Informal Discovery Conference. The Court will use local form TUO-CV-325 for this purpose. The Informal Discovery Conference will be calendared to be held within thirty (30) calendar days of the granting of the Request.
2. If the Court has not granted or denied the Request within ten (10) calendar days following the filing of the Request, then it shall be deemed to have been denied at that time.
3. If the Informal Discovery Conference is not held within thirty (30) calendar days of the granting of the Request, then the Request shall be deemed to have been denied at that time, unless the time for holding it has been extended by agreement of the parties and the Court.

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### Current rule with redlined amendments

**2.04.1 Resolution of Discovery Disputes:** It is the Court's policy to attempt to resolve discovery disputes informally and efficiently. Accordingly, the Court has instituted special procedures for the resolution of discovery disputes through Informal Discovery Conferences ([see](#)



[Code Civ. Proc., § 2016.080](#)), which must be scheduled on local forms that are available from the clerk's office and on the Court's Web site.

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- c. The opposition to a Request must be made using local form TUO-CV-300, must be filed within ~~five (5) court~~ [three \(3\) calendar](#) days of receipt of the Request, and must be served on the party that requested the Informal Discovery Conference pursuant to any authorized or agreed-upon method of service that ensures the party receives the opposition no later than the next court day following the filing.

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f. Court's action on a Request for Informal Discovery Conference

1. If the Court acts on the Request, the parties will be notified whether it has been granted or denied and, if granted, the date and time of the Informal Discovery Conference. The Court will use local form TUO-CV-325 for this purpose. The Informal Discovery Conference will be calendared to be held within thirty (30) [calendar](#) days of the ~~filing~~ [granting](#) of the Request.
2. If the Court has not granted or denied the Request within ~~fifteen (15)~~ [ten \(10\)](#) [calendar](#) days following the filing of the Request, then it shall be deemed to have been denied at that time.
3. If the Informal Discovery Conference is not held within thirty (30) [calendar](#) days of the ~~filing~~ [granting](#) of the Request, then the Request shall be deemed to have been denied at that time, unless the time for holding it has been extended by agreement of the parties and the Court.

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## Rule 2.14.0

### Proposed rule as amended

**2.14.0 Unlawful Detainer Proceedings:** If the plaintiff fails to file proof of service of the summons and complaint within sixty (60) days of the complaint's filing, an order to show cause shall issue to the plaintiff and, if applicable, the plaintiff's attorney requiring them to show cause why sanctions should not be imposed for their failure to file proof of timely service of the summons and complaint, and the Court may dismiss the unlawful detainer action without prejudice. (See Code Civ. Proc., § 1167.1.)

### Current rule with redlined amendments

**2.14.0 Unlawful Detainer Proceedings:** ~~Notwithstanding that unlawful detainer proceedings are not subject to delay reduction rules, the plaintiff shall file proof of service of the summons and complaint within sixty (60) days of the issuance of the Summons complaint. In the event that~~ If the plaintiff ~~or plaintiff's attorney~~ fails to file proof of service of ~~the~~ summons and complaint within sixty (60) days ~~as required herein~~ of the ~~complaint's filing~~, an order to show cause shall issue ~~directed to~~ ~~the~~ plaintiff and, ~~if applicable, the~~ plaintiff's attorney requiring them to show cause why sanctions should not be imposed for their failure to ~~file proof of timely service~~ ~~of~~ the summons and complaint ~~in a timely manner, and the Court may dismiss the~~ ~~unlawful detainer action without prejudice. (See Code Civ. Proc., § 1167.1.)~~



## Rule 2.15.0

### Proposed rule as amended

#### **2.15.0 Unlawful Detainer and Small Claims Time Standards**

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- c. To achieve the delay-reduction goals in this rule, the Court may issue an order to show cause as to why the plaintiff or the plaintiff's counsel shall not be sanctioned by dismissal of the action or otherwise for failure to comply with the time standards of this rule. (See Gov. Code, § 68608, subd. (b); Code Civ. Proc., § 575.2.)

### Current rule with redlined amendments

#### **2.15.0 Unlawful Detainer and Small Claims Time Standards**

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- c. To achieve the delay-reduction goals in this rule, the Court may ~~set~~issue an order to show cause as to why the plaintiff or the plaintiff's counsel shall not be sanctioned by dismissal of the action or otherwise for failure to comply with the time standards of this rule. (See Gov. Code, § 68608, subd. (b); Code Civ. Proc., § 575.2.)

## Rule 4.12.0

### Proposed rule as amended

**4.12.0 Telephone Appearances:** Telephone appearances for family law matters (except for actions for child support involving a local child support agency, which are governed by California Rules of Court, rule 5.324) must comply with California Rules of Court, rule 5.9. Any request for telephone appearance pursuant to rule 5.9 shall be made on Judicial Council form FL-679 (Request for Telephone Appearance), which is hereby adopted for this use in non-governmental family law cases; filed no later than seven (7) court days prior to the hearing, conference, or proceeding at which telephone appearance is requested; and served on all other parties by means calculated to ensure delivery by the close of business on the next court day after the request was filed. (Note that the timelines set forth in Judicial Council information sheet FL-679-INFO do not apply to requests made pursuant to local rule 4.12.0.) Any response to a request for telephone appearance shall be filed and served on the requestor and all other parties no later than three (3) court days prior to the hearing, conference, or proceeding. Judicial Council form MC-030 (Declaration) may be used for responding to the request.

### Current rule with redlined amendments

**4.12.0 Telephone Appearances:** Telephone appearances for family law matters (except for actions for child support involving a local child support agency, which are governed by California Rules of Court, rule 5.324) must comply with California Rules of Court, rule 5.9. Any request for telephone appearance pursuant to rule 5.9 ~~must shall~~ be ~~submitted to the Court in writing~~ made on Judicial Council form FL-679 (Request for Telephone Appearance), which is hereby adopted for this use in non-governmental family law cases; filed no later than ~~at least three seven~~ (37) court days prior to the hearing, conference, or proceeding at which telephone appearance is requested; and served on all other parties by means calculated to ensure delivery by the close of business on the next court day after the request was filed. (Note that the timelines set forth in Judicial Council information sheet FL-679-INFO do not apply to requests made pursuant to local rule 4.12.0.) Any response to a request for telephone appearance shall be filed and served on the requestor and all other parties no later than three (3) court days prior to the hearing, conference, or proceeding. Judicial Council form MC-030 (Declaration) may be used for responding to the request.



## Rule 9.05.0

### Proposed rule as amended

#### **9.05.0 Stepparent Adoptions:**

- a. If the petitioner has not elected an investigator pursuant to Family Code section 9001, subdivision (b), the petitioner shall, within thirty (30) days of filing, forward a file-stamped copy of the petition to the agency designated by the County of Tuolumne to perform stepparent adoption investigations. The petitioner also shall forward to the agency all documentation required by the agency and shall pay the agency fee within one (1) year of filing the petition.
- b. The Court may, on its own motion or on the motion of the investigating agency, dismiss any petition that the petitioner has failed to finalize within eighteen (18) months of the original filing date, unless the petitioner can demonstrate good cause for the delay.

### Current rule with redlined amendments

#### **9.05.0 Stepp-Parent Adoptions:**

- a. If the petitioner has not elected an investigator pursuant to Family Code section 9001, subdivision (b), the petitioner shall, ~~W~~within thirty (30) days of filing, ~~the petitioner shall~~ forward a file-stamped copy of the petition to the agency designated by the County of Tuolumne to perform step-parent adoption investigations. The petitioner also ~~must~~ shall forward to the agency all documentation required by the agency and ~~must~~ shall pay the agency fee within one (1) year of filing the petition.
- a.b. The Court may, on its own motion or on the motion of the investigating agency, dismiss any petition that the petitioner has failed to finalize within eighteen (18) months of the original filing date, unless the petitioner can demonstrate good cause for the delay.

Attorney or Unrepresented Party (name, address and phone no.): California Bar No.:	Space below for use of Court Clerk only
Attorney for (Name):  <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF TUOLUMNE</b> 41 West Yaney Avenue Sonora, CA 95370 (209) 533-5555	
Plaintiff:	Case Number:
Defendant:	
<b>REQUEST FOR INFORMAL DISCOVERY CONFERENCE</b>	

1. Deadline for Court to decide on Request: \_\_\_\_\_  
(Insert date 10 calendar days following filing of the Request.)
2. Briefly describe the nature of the discovery dispute, including the meet-and-confer efforts prior to filing this Request, the facts and legal arguments at issue, and the specific relief requested:

Continued on Page 2

This Request must be served on opposing counsel or party pursuant to any authorized or agreed-upon method of service that ensures the opposing side receives the Request no later than the next court day following the filing. Any opposition must be filed within three (3) calendar days of receipt of this Request and served on opposing counsel or party pursuant to any authorized or agreed-upon method of service that ensures the opposing counsel or party receives the opposition no later than the next court day following the filing. This form must be prepared using 12-point type and may not exceed 2 pages.



PARTIES:	CASE NO.:
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(Continued from Page 1) Briefly describe the nature of the discovery dispute, including the meet-and-confer efforts prior to filing this Request, the facts and legal arguments at issue, and the specific relief requested:

DATED: \_\_\_\_\_

\_\_\_\_\_  
Printed name of Party or Attorney for Party

\_\_\_\_\_  
Signature of Party or Attorney for Party

Attorney or Unrepresented Party (name, address and phone no.): California Bar No.:	Space below for use of Court Clerk only
Attorney for (Name): <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF TUOLUMNE</b> 41 West Yaney Avenue Sonora, CA 95370 (209) 533-5555	
Plaintiff:	Case Number:
Defendant:	
<b>OPPOSITION TO REQUEST FOR INFORMAL DISCOVERY CONFERENCE</b>	

Briefly describe why the Court should deny the requested relief, including the facts and legal arguments at issue:

Continued on page 2

This Opposition must be served on opposing counsel or party pursuant to any authorized or agreed-upon method of service that ensures the opposing side receives this Opposition no later than the next court day following the filing. Any opposition must be filed within three (3) calendar days of receipt of a Request for Informal Discovery Conference. This form must be prepared using 12-point type and may not exceed 2 pages.



PARTIES:	CASE NO.:
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(Continued from page 1) Briefly describe why the Court should deny the requested relief, including the facts and legal arguments at issue:

DATED: \_\_\_\_\_

\_\_\_\_\_  
Printed name of Party or Attorney for Party

\_\_\_\_\_  
Signature of Party or Attorney for Party

<p align="center"><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF TUOLUMNE</b>  41 West Yaney Avenue  Sonora, CA 95370  (209) 533-5555</p>	Space below for use of Court Clerk only
Plaintiff:  Defendant:	
<p align="center"><b>ORDER ON REQUEST FOR INFORMAL  DISCOVERY CONFERENCE</b></p>	Case Number:

The Request for Informal Discovery Conference is:

Granted.

The Informal Discovery Conference is set for \_\_\_\_\_ at \_\_\_\_\_ a.m./\_\_\_ p.m. in Dept. \_\_\_\_\_. (Pursuant to local rule 2.04.1, subdivision (f) (1), conferences are scheduled to be held within 30 calendar days of the granting of a request.)

The time for filing a motion to compel discovery on the disputed issues is tolled until the date set for the Informal Discovery Conference.

Refusal of any counsel or unrepresented party to participate in an Informal Discovery Conference shall be grounds, in the discretion of the Court, for entry of an order adverse to the party represented by counsel so refusing or adverse to that counsel.

Denied for the following reason(s):

- Failure to make request on the mandatory local form
- Insufficient evidence of meet-and-confer efforts prior to filing the Request
- Failure to provide a sufficient summary of the dispute
- Failure to provide a proper privilege log
- Failure to file proof of service of a copy of the Request on the opposing party
- The Court finds that the current dispute will not benefit from an Informal Discovery Conference.
- Other:

Plaintiff(s)  Defendant(s)  Cross-Complainant(s)  Cross-Defendant(s)  Other(s) may file a discovery motion limited to the dispute set out in the Request for Informal Discovery Conference.

DATED: \_\_\_\_\_

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

**ORDER ON REQUEST FOR INFORMAL DISCOVERY CONFERENCE**



<p style="text-align: center;"><b>SUPERIOR COURT OF CALIFORNIA COUNTY OF TUOLUMNE</b></p> <p><input type="checkbox"/> 60 N. Washington Street Sonora, CA 95370</p> <p><input type="checkbox"/> 41 W. Yaney Avenue Sonora, CA 95370</p>	(FOR COURT USE ONLY)
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA	
DEFENDANT:	CASE NUMBER:
<b>PROHIBITED PERSONS RELINQUISHMENT FORM FINDINGS (Penal Code § 29810(c))</b>	<p style="text-align: center;">(FOR COURT USE ONLY)</p> <p>DATE: TIME: DEPT.:</p>

The defendant is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall relinquish all firearms pursuant to Penal Code section 29810.

**The Court finds as follows:**

**Compliance:**

- Defendant has completed a Prohibited Persons Relinquishment Form; and
- Defendant relinquished all firearms per the probation officer's report and provided relinquishment receipts; or
- Defendant was allowed an alternative method of relinquishment under Penal Code section 29810(f) and relinquished all firearms under an alternative method; or
- Defendant has not reportable firearms per the probation officer's report.

**Non-Compliance:**

- Defendant has not completed a Prohibited Persons Relinquishment Form.
- Defendant has not complied with the relinquishment requirements of Penal Code section 29810(f).
- Search warrant required; matter referred to the prosecuting agency of the county for appropriate action.

Date: \_\_\_\_\_

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

<b>SUPERIOR COURT OF CALIFORNIA COUNTY OF TUOLUMNE</b>		(FOR COURT USE ONLY)
<input type="checkbox"/> 60 N. Washington Street Sonora, CA 95370		<input type="checkbox"/> 41 W. Yaney Avenue Sonora, CA 95370
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT:		CASE NUMBER:
<b>PROPOSITION 64 – MARIJUANA INITIATIVE PENALTIES AND REFERRAL</b>		(FOR COURT USE ONLY)
		DATE: TIME: DEPT.:

Those persons **under the age of 18** shall be required to complete a drug education program (Adolescent Cannabis Education (ACE)) or counseling, and community service. **First offenders** shall complete drug education/counseling and community service over a period not to exceed **60 days**. **Second offenders** shall complete drug education/counseling and community service over a period not to exceed **90 days**.

There is no cost associated with these penalties. **Drug education program/counseling:** Classes are offered weekly. You must immediately enroll in the drug education program/counseling with Behavioral Health located at 105 Hospital Road, Sonora (533-6245) between the hours of 8:00 a.m. - 5:00 p.m., Monday - Friday. **Community service:** You must immediately enroll in community service at the Probation Department, Juvenile Division, located at 12784 Justice Center Drive, Sonora (536-6701) between the hours of 8:00 a.m. - 5:00 p.m. (closed for lunch 12:00 p.m. - 1:00 p.m.), Monday - Friday. **Remember you must bring your Minute Order and this referral form to enroll for the drug education program/counseling and community service.**

The Probation Department will notify the Court when you have completed the drug education program/counseling and your community service hours have been verified.

### Possession of Marijuana – H&S Code § 11357

Possession of ≤ 28.5 grams marijuana		Possession of ≥ 28.5 grams marijuana	
	4 hours drug education (1st offense)		8 hours drug education (1st offense/infraction)
	10 hours community service		40 hours community service
	6 hours drug education (2nd offense or more)		10 hours drug education (2nd offense or more/infraction)
	20 hours community service		60 hours community service



**Possession of Concentrated Marijuana – H&S Code § 11357**

<b>≤ 4 grams</b>		<b>≥ 4 grams</b>	
4 hours drug education <b>(1st offense)</b>		8 hours drug education <b>(1st offense/infraction)</b>	
10 hours community service		40 hours community service	
6 hours drug education <b>(2nd offense or more)</b>		10 hours drug education <b>(2nd offense or more/infraction)</b>	
20 hours community service		60 hours community service	

**Possession on School Grounds – H&S Code § 11357**

8 hours drug education <b>(1st offense/infraction)</b>		10 hours drug education <b>(2nd offense or more/infraction)</b>	
40 hours community service		60 hours community service	

**Possession with Intent to Sell Marijuana – H&S Code § 11359**

8 hours drug education <b>(1st offense/infraction)</b>		10 hours drug education <b>(2nd offense or more/infraction)</b>	
40 hours community service		60 hours community service	

**Sales of Marijuana – H&S Code § 11360**

<b>Sales/Giving Away</b>			
8 hours drug education <b>(1st offense/infraction)</b>		10 hours drug education <b>(2nd offense or more/infraction)</b>	
40 hours community service		60 hours community service	

**Cultivation of Marijuana – H&S Code § 11358**

8 hours drug education <b>(1st offense/infraction)</b>		10 hours drug education <b>(2nd offense or more/infraction)</b>	
40 hours community service		60 hours community service	

**Public Use Infractions Created by Prop. 64: H&S Code § 11362.3**

<b>Smoking or Ingesting in Public</b>		<b>Smoking Where Tobacco Prohibited</b>	
4 hours drug education		4 hours drug education	
10 hours community service		20 hours community service	
<b>Smoking within 1,000 feet of school, day care, or youth center while children are present</b>		<b>Possess open container or package of marijuana while driving, operating, or riding in vehicle</b>	
4 hours drug education		4 hours drug education	
20 hours community service		20 hours community service	



<p><b>SUPERIOR COURT OF CALIFORNIA</b>  <b>COUNTY OF TUOLUMNE</b>          60 N. Washington Street          Sonora, CA 95370          (209) 533-5563</p>	<p>Space below for use of Court Clerk only</p>
<p>The People of the State of California,</p> <p style="text-align: right;">Plaintiff,</p> <p>vs.</p> <p style="text-align: right;">Defendant.</p> <p>Date of birth: _____</p>	<p>Case Number: _____</p>

**ADVISEMENT AND WAIVER OF RIGHTS (FELONY) PC § 1170(h)**

Count	Charge	F/M	Potential Sentencing Range	Potential Enhancements & Years	Total Potential Sentence

<b>You have the following trial rights in connection with the charges which are now pending against you. You will be giving up all of the following rights if you enter a plea of guilty or no contest. (Initial each box next to the applicable paragraph.)</b>	I understand this right. <i>(Initial below)</i>	I give up this right. <i>(Initial below)</i>
<b>Jury Trial:</b> You have the right to a jury trial on the charges which are pending against you.		
<b>Confrontation:</b> You have the right to confront the witnesses against you in trial; to see, hear and question all witnesses yourself or through your attorney.		
<b>Subpoena:</b> You have the right to subpoena witnesses for your defense.		
<b>Testimony:</b> You have the right to testify in your own defense.		
<b>Self-Incrimination:</b> You have the right to remain silent, and you cannot be forced to testify if you do not want to do so.		
<b>Preliminary Hearing (if applicable):</b> You have the right to a preliminary hearing to determine if there is probable cause to hold you to trial.		
<b>Waiver of Appeal:</b> I understand that I will be waiving my right to appeal and I will not be able to appeal from this Court's sentence based on the plea that I enter into in this matter.		
<b>Initial each box next to the paragraphs below to acknowledge you have read and understand the contents.</b>		<b>Initial</b>
<b>Registration Requirements:</b> I understand that I will be required to register as a narcotics offender under Health & Safety Code Section 11590.		
<b>Withdrawal of Plea:</b> I understand that the judge's acceptance of this plea is not binding; that before sentencing, the judge can withdraw approval, and that I will be allowed to withdraw my plea.		
<b>Defendant's Statement:</b> I have read and understand the front and back of this form. I have had enough time to speak with my attorney; I have told my attorney everything I know about this case; my attorney has explained to me my rights, my defenses, and the possible consequences of my plea, including the consequences explained on the second page of this form. I am entering this plea freely and voluntarily. I understand that I may not withdraw this plea without a showing of good cause.		
Dated: _____ Defendant's Signature: _____		

**ADVISEMENT AND WAIVER OF RIGHTS (FELONY) PC § 1170(h)**



<p><b>Attorney's Statement:</b> I have explained the contents of this form to my client. I have had sufficient time to discuss this case with my client, including the elements of the crime, and I have advised him/her of his/her rights, defenses, and the consequences of his/her plea. I join in the waiver of the rights made by my client, including the right to a jury trial.</p> <p>Dated: _____ Attorney's Signature: _____</p>	
<p><b>Findings:</b> The Court finds the defendant understands his/her constitutional rights, the nature of the crime(s) which he/she is admitting, the consequences of the plea, that the plea and waiver of rights have been and knowingly and voluntarily made, and that there is a factual basis for the plea.</p> <p>Dated: _____ Signature of the Court: _____</p>	
<p><b>Apprendi-Blakely Waiver:</b> I hereby give up the right to a jury or court trial as to any sentencing factors that may be used to increase my sentence on any count, sentencing enhancement or allegation to the upper or maximum term provided by law. I hereby give up the right to a jury or court trial on any sentencing factors and consent to the judge determining the existence of any sentencing factors with the judge's discretion as allowed by existing statutes and rules of court. I also agree this waiver shall apply to any future sentence imposed following the revocation of probation.</p>	<p><i>By initialing below, I acknowledge that I understand this right.</i></p> <p>_____</p>
<p><b>Vehicle Code §§ 23152, 23153:</b> 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.</p>	<p><i>By initialing below, I acknowledge that I have read and understand this advisement.</i></p> <p>_____</p>
<p><b>Fines and Restitution:</b> You may be required to pay a fine of up to \$50,000.00, plus penalty assessments. You are subject to a restitution fine of no less than \$200.00, and up to \$10,000.00. You will be required to make restitution to the victim(s) for any losses suffered as a result of the crime(s).</p>	
<p><b>Probation Terms:</b> You could be placed on probation for a period of up to five years. As a condition of probation, you could be required to serve up to one year in the county jail. You could be required to report to the court or the probation department, be subject to search and seizure without probable cause, and you could be required to comply with other terms and conditions of probation which relate to the crime or crimes to which you are pleading guilty or no contest to.</p>	
<p><b>Violation of Terms and Conditions:</b> If you violate the terms and conditions of probation, you may be sentenced to county jail for a period of time up to the maximum stated on the front of this form. At the discretion of the court, a portion of that time may be suspended by the court under the terms and conditions of post sentence release.</p>	
<p><b>Probation or Supervision:</b> If you are already on probation, parole, post release community supervision, or any form of split sentence supervision, that status will be revoked as a result of your entering this plea.</p>	
<p><b>By initialing below and to the right, I acknowledge that I have read and understand this advisement.</b></p>	
<p><b>Citizenship:</b> I understand that if I am not a citizen of the United States, the conviction for the offense(s) charged may have the consequence of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.</p>	<p><i>Initial</i></p>
<p><b>Relinquish Firearms:</b> I understand that I must comply with the provisions of CA Penal Code section 29810.</p>	
<p><b>Due Process Waiver:</b> I understand that if I am sentenced to jail pursuant to Penal Code § 1170(h), at the discretion of the court, a portion of the sentence may be suspended and I would then be placed on post sentence supervision. I understand that I will be required to comply with reasonable terms and conditions of post sentence supervision as ordered by the court. These conditions will include a waiver of due process rights, allowing a judge to incarcerate me in county jail for a period of 60 days for each violation, without a hearing.</p>	
<p><b>Modification of Terms and Conditions:</b> I understand that the court reserves the jurisdiction to modify the terms and conditions of my post sentence release at any time during the term of this sentence. I understand that if I violate the terms and conditions of my post sentence release, the court may terminate my post sentence release and I could be ordered to serve the remaining period of post sentence release in jail.</p>	
<p><b>Electronic Monitoring:</b> I understand that as a condition of probation or post sentence release, if I am placed on electronic monitoring, I waive any rights to credits other than actual days served. I further understand that I will be required to pay for equipment if I am placed on electronic monitoring.</p>	
<p><b>Promises.</b> No promises of any kind have been made to me, or any other person, to cause me to enter this plea, other than those contained on the front and back of this form, or as stated on the record in open court.</p>	
<p><b>Co-Defendants.</b> If you have co-defendants in this case, you agree that you are entering this plea because you think it is the right thing to do for yourself, and you are not doing it just to get a benefit for someone else.</p>	
<p><b>No Drugs or Alcohol:</b> By signing this form, you agree that you are now sober, and that you have not recently consumed any drugs or alcohol that may affect your ability to understand these proceedings.</p>	

**ADVISEMENT AND WAIVER OF RIGHTS (FELONY) PC § 1170(h)**



<p><b>SUPERIOR COURT OF CALIFORNIA</b>  <b>COUNTY OF TUOLUMNE</b>          60 N. Washington Street          Sonora, CA 95370          (209) 533-5563</p>	<p>Space below for use of Court Clerk only</p>
<p>The People of the State of California,</p> <p style="text-align: right;">Plaintiff,</p> <p>vs.</p> <p style="text-align: right;">Defendant.</p> <p>Date of birth: _____</p>	<p>Case Number: _____</p>

**ADVISEMENT AND WAIVER OF RIGHTS (FELONY) NON PC § 1170(h)**

Count	Charge	F/M	Potential Sentencing Range	Potential Enhancements & Years	Total Potential Sentence

<p><b>You have the following trial rights in connection with the charges which are now pending against you. You will be giving up all of the following rights if you enter a plea of guilty or no contest. (Initial each box next to the applicable paragraph.)</b></p>	<p>I understand this right. <i>(Initial below)</i></p>	<p>I give up this right. <i>(Initial below)</i></p>
<p><b>Jury Trial:</b> You have the right to a jury trial on the charges which are pending against you.</p>		
<p><b>Confrontation:</b> You have the right to confront the witnesses against you in trial; to see, hear and question all witnesses yourself or through your attorney.</p>		
<p><b>Subpoena:</b> You have the right to subpoena witnesses for your defense.</p>		
<p><b>Testimony:</b> You have the right to testify in your own defense.</p>		
<p><b>Self-Incrimination:</b> You have the right to remain silent, and you cannot be forced to testify if you do not want to do so.</p>		
<p><b>Preliminary Hearing (if applicable):</b> You have the right to a preliminary hearing to determine if there is probable cause to hold you to trial.</p>		
<p><b>Waiver of Appeal:</b> I understand that I will be waiving my right to appeal and I will not be able to appeal from this Court's sentence based on the plea that I enter into in this matter.</p>		
<p><i>Initial each box next to the paragraphs below to acknowledge you have read and understand the contents.</i></p>		<p><i>Initial</i></p>
<p><b>Registration Requirements:</b> I understand that I will be required to register as a sex offender under Penal Code § 290, or as a narcotics offender under Health &amp; Safety Code Section 11590.</p>		
<p><b>290 Registration:</b> If I am required to register under Penal Code § 290, I understand that if I am convicted of any subsequent felony, any sentence imposed for that subsequent felony will be served in prison.</p>		
<p><b>Parole:</b> I understand that if I am sentenced to state prison, either now or after a violation of probation, I will be subject to three (3) years of post release community supervision, or five (5) years or more of parole, based on the offense for which I enter my plea or pleas.</p>		
<p><b>Withdrawal of Plea:</b> I understand that the judge's acceptance of this plea is not binding; that before sentencing, the judge can withdraw approval, and that I will be allowed to withdraw my plea.</p>		
<p><b>Defendant's Statement:</b> I have read and understand the front and back of this form. I have had enough time to speak with my attorney; I have told my attorney everything I know about this case; my attorney has explained to me my rights, my defenses, and the possible consequences of my plea, including the consequences explained on the second page of this form. I am entering this plea freely and voluntarily. I understand that I may not withdraw this plea without a showing of good cause.</p>		
<p>Dated: _____ Defendant's Signature: _____</p>		

**ADVISEMENT AND WAIVER OF RIGHTS (FELONY) NON PC § 1170(h)**



**Attorney's Statement:** I have explained the contents of this form to my client. I have had sufficient time to discuss this case with my client, including the elements of the crime, and I have advised him/her of his/her rights, defenses, and the consequences of his/her plea. I join in the waiver of the rights made by my client, including the right to a jury trial.

Dated: \_\_\_\_\_ Attorney's Signature: \_\_\_\_\_

**Findings:** The Court finds the defendant understands his/her constitutional rights, the nature of the crime(s) which he/she is admitting, the consequences of the plea, that the plea and waiver of rights have been and knowingly and voluntarily made, and that there is a factual basis for the plea.

Dated: \_\_\_\_\_ Signature of the Court: \_\_\_\_\_

**Apprendi-Blakely Waiver:** I hereby give up the right to a jury or court trial as to any sentencing factors that may be used to increase my sentence on any count, sentencing enhancement or allegation to the upper or maximum term provided by law. I hereby give up the right to a jury or court trial on any sentencing factors and consent to the judge determining the existence of any sentencing factors with the judge's discretion as allowed by existing statutes and rules of court. I also agree this waiver shall apply to any future sentence imposed following the revocation of probation.

**By initialing below, I acknowledge that I understand this right.**  
\_\_\_\_\_

**By initialing below, I acknowledge that I give up this right.**  
\_\_\_\_\_

**Vehicle Code §§ 23152, 23153:** 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.

**By initialing below, I acknowledge that I have read and understand this advisement.**  
\_\_\_\_\_

**Fines and Restitution:** You may be required to pay a fine of up to \$50,000.00, plus penalty assessments. You are subject to a restitution fine of no less than \$200.00, and up to \$10,000.00. You will be required to make restitution to the victim(s) for any losses suffered as a result of the crime(s).

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**Probation or Supervision:** If you are already on probation, parole, post release community supervision, or any form of split sentence supervision, that status will be revoked as a result of your entering this plea.

**Serious or Violent Felony/Three Strikes Law:**

**By initialing below and to the right, I acknowledge that I have read and understand this advisement.**

**Initial**

I understand that I am pleading guilty or no contest in Count(s) \_\_\_\_\_ 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 (one strike prior), or a term of at least 25 years to life (two or more strikes).

I understand that I am admitting a prior strike conviction and that prison work-time credit that I may accrue will not exceed 20% of the total term of imprisonment.

I understand that Count \_\_\_\_\_ is considered a violent felony and that jail or prison conduct/work-time credit I may accrue will not exceed 15%.

**Citizenship:** I understand that if I am not a citizen of the United States, the conviction for the offense(s) charged may have the consequence of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

**Relinquish Firearms:** I understand that I must comply with the provisions of CA Penal Code section 29810.

**Co-Defendants.** If you have co-defendants in this case, you agree that you are entering this plea because you think it is the right thing to do for yourself, and you are not doing it just to get a benefit for someone else.

**No Drugs or Alcohol:** By signing this form, you agree that you are now sober, and that you have not recently consumed any drugs or alcohol that may affect your ability to understand these proceedings.

**ADVISEMENT AND WAIVER OF RIGHTS (FELONY) NON PC § 1170(h)**