

INVITATION TO COMMENT

The Superior Court of California, County of Solano, invites comments on proposed revisions to the court's local rules and forms, effective July 1, 2014.

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- Text of Proposed Changes to Local Rules (14 pages):
 - Rule 1 (General Provisions)
 - Rule 2 (Criminal)
 - Rule 3 (Civil)
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 - Rule 5 (Family)
 - Rule 8 (Compromises of Claims)
- Proposed Changes to Local Forms (9 pages)
- Response Form to Proposed Revisions (1 page)

DEADLINE FOR COMMENT: 5:00 p.m. on Friday, May 2, 2014

**Superior Court of California
County of Solano**

Rule 1 – General Provisions

1.1 ADOPTION OF LOCAL RULES

The Superior Court of California, County of Solano hereby adopts these local rules pursuant to California Government Code section 68070 and Code of Civil Procedure sections 575.1 and 575.2. Unless otherwise stated in an individual rule, the term “court” as used in these local rules shall mean the Superior Court of California, County of Solano.

(Rule 1.1 amended effective January 1, 2010; adopted effective January 1, 1998.)

1.2 DIVISIONS OF THE COURT; ASSIGNMENT OF SUPERVISING JUDGES

The court shall be divided into five judicial divisions: the Criminal Division, the Civil Division, the Family ~~and Probate~~ Division, the Juvenile Division, and the Appellate Division. The court’s Presiding Judge shall appoint the presiding judge of the Juvenile Division and the supervising judges of all other divisions.

(Rule 1.2 amended effective July 1, 2014; ~~January 1, 2010~~; adopted effective January 1, 1998; previously amended effective January 1, 2010.)

1.3 DIRECT CALENDARING

All matters pending in the court on January 1, 1998, or filed after January 1, 1998, shall be directly calendared to be heard by one judge for all purposes. If the name of the judge is announced in open court, this announcement shall be deemed adequate and appropriate notice to the parties and attorneys present of the assignment for all purposes.

(Rule 1.3 adopted as Rule 1.4 effective January 1, 1998; amended and renumbered effective January 1, 2010.)

**Superior Court of California
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**Rule 2 – Criminal and Traffic Infraction Cases
PART ONE: Rules Applicable to Misdemeanors and Felonies**

2.1 APPLICATION OF RULES

The rules in Part One of Rule 2 apply to all felony and misdemeanor criminal cases pending on, or filed on or after, January 1, 1998.

(Rule 2.1 amended effective January 1, 2013; adopted effective January 1, 1998; previously amended effective January 1, 2010.)

2.2 DIRECT CALENDARING OF CRIMINAL CASES

When a criminal case is filed either by complaint or indictment, the matter shall be assigned, after arraignment, to one judicial officer for all purposes. All criminal cases shall be heard first in an arraignment department of the court and from that department the case shall be assigned to one of the judicial officers in the Criminal Division of the court and the parties shall be notified in open court and on the record of the name of the judicial officer so assigned. The assignment to the judicial officer shall be deemed for all purposes.

If the parties are not notified of the assignment to one judicial officer for all purposes in open court, then the Clerk of the Court, after a judicial officer is selected, shall send a written notification to all parties by first class mail and file in the court file a verification of mailing.

(Rule 2.2 amended effective January 1, 2013; adopted effective January 1, 1998; previously amended effective January 1, 2010.)

2.3 PROCEDURE

a. PETITIONS PER PENAL CODE SECTION 1203.4 AND 1203.4a

Any defendant wishing to file a petition for relief per Penal Code sections 1203.4 or 1203.4a and who wishes to have their costs waived shall file a completed financial declaration on a form designated by the court. The form shall be filed concurrently with the petition.

(Subd. (a) adopted effective January 1, 2013.)

b. ORDERS SHORTENING TIME

Regarding pretrial motions governed by Rule of Court 4.111, when good cause exists, the court may prescribe a shorter time for the service and filing of a notice of motion and supporting papers sua sponte or if the party seeking to shorten the time files an Application for Ex Parte Order Shortening Time with the court. A

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PART ONE: Rules Applicable to Misdemeanors and Felonies**

party filing an Application for Ex Parte Order Shortening Time must notify all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice. Notice may be given by telephone. The application shall be accompanied by an affidavit or declaration setting forth facts showing good cause for the order and showing that notice was given to each party of the ex parte hearing. The application shall also be accompanied by a proposed order, as well as by the notice of motion and supporting papers.
(Subd. (b) adopted effective July 1, 2014.)

(Rule 2.3 amended effective July 1, 2014; adopted effective January 1, 2013; prior Rule 2.3, adopted effective January 1, 1998, repealed effective January 1, 2013.)

**2.4 PEREMPTORY CHALLENGE OF JUDGE ASSIGNED FOR ALL PURPOSES
[Repealed]**

(Rule 2.4 repealed effective January 1, 2013; adopted effective January 1, 1998.)

2.5 – 2.49 [Reserved]

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Rule 3 – Civil Cases

(Rule 3.9 amended effective July 1, 2013; adopted as Rule 3.14 effective January 1, 1998; previously amended effective October 1, 2002; amended and renumbered as Rule 3.9 effective January 1, 2010; amended effective July 1, 2010, July 1, 2011, and January 1, 2012.)

3.10 ~~TELEPHONIC APPEARANCES ORDERS AFTER HEARING [Repealed]~~

Litigants wishing to appear by telephone per California Rules of Court, rule 3.670, shall do so through CourtCall LLC, a private telephonic appearance provider with whom the court has contracted, unless the court has designated a different provider. The telephone number of CourtCall is (888) 88-COURT or (310) 342-0888. Counsel wishing to avail themselves of this service shall note and follow the rules and schedule of the individual department concerning the use of CourtCall, and shall be solely responsible for all fees and costs charged by CourtCall for this service.

(Rule 3.10 adopted effective July 1, 2014.) ~~repealed effective July 1, 2010; adopted as Rule 3.17 effective January 1, 1998; amended and renumbered as Rule 3.10 effective January 1, 2010.~~

3.11 FAILURE TO NOTIFY COURT WHEN ATTORNEY CANNOT BE PRESENT SHALL BE DEEMED SUFFICIENT CAUSE TO ORDER OFF CALENDAR

If an attorney cannot be present on time at the call of the matter on calendar, he or she must, prior to the call, inform the courtroom clerk of that department of the reason for and extent of such delay. Failure to appear or furnish such information shall be deemed sufficient cause for ordering the matter off calendar or for proceeding to hear the matter in the absence of counsel, as the court, in its discretion, may determine.

(Rule 3.11 renumbered effective January 1, 2010; adopted as Rule 3.19 effective January 1, 1998.)

3.12 OFF CALENDAR

A law and motion matter that has gone off calendar may be restored thereto only upon notice, excepting in an extraordinary situation, to be determined by the court in its discretion.

(Rule 3.12 renumbered effective January 1, 2010; adopted as Rule 3.20 effective January 1, 1998; former Rule 3.12, which concerned the California Rules of Court, repealed effective January 1, 2010.)

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**Rule 4 – Administration of Civil Litigation
(Trial Court Delay Reduction Act)**

4.12 MISCELLANEOUS

- a. **REQUEST FOR EXTENSION OF TIME**
Any request for extension of time under these rules shall be filed with due diligence and, in addition to being signed by counsel shall be endorsed by the party acknowledging that the extension of time being requested by counsel is concurred in by the party. The request shall be made on the form provided by the court.
(Subd (a) amended effective January 1, 2009; adopted effective January 1, 1998.)
- b. **KNOWLEDGE OF CASE**
Counsel and parties attending any hearing or conference set pursuant to these rules shall have sufficient knowledge of the case to inform the court as to all matters that are pertinent and relevant to the issues to be heard and have authority to enter into binding stipulations regarding any matters before the court. This rule shall apply equally to attorneys of record and specially appearing counsel.
(Subd (b) amended effective January 1, 2010; adopted effective January 1, 1998; previously amended effective January 1, 2009.)
- c. **REFERENCE TO “ATTORNEY” OR “COUNSEL”**
Any reference in these rules to “attorney” or “counsel” shall apply equally to any person representing himself or herself in a case subject to these rules.
(Subd (c) amended effective January 1, 2009; adopted effective January 1, 1998.)
- d. **REMOVAL FROM CIVIL ACTIVE LIST**
A case shall not be removed from the civil active list except by order of the court.
(Subd (d) amended effective January 1, 2009; adopted effective January 1, 1998.)
- e. **EXCUSE FROM RULE REQUIREMENT**
Any requirement of these rules may be excused by the court upon a showing of good cause.
(Subd (e) amended effective January 1, 2009; adopted effective January 1, 1998.)
- f. **UNINSURED MOTORIST CASE [Repealed]**
(Subd (f) repealed effective July 1, 2011; adopted effective January 1, 1998; amended effective January 1, 2009.)
- g. **REMOVAL TO FEDERAL COURT [Repealed]**
(Subd (g) repealed effective July 1, 2011; adopted effective January 1, 1998; amended effective January 1, 2009.)

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**Rule 4 – Administration of Civil Litigation
(Trial Court Delay Reduction Act)**

h. TELEPHONIC APPEARANCES

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(Subd (h) amended effective January 1, 2010; adopted effective January 1, 2009.)

i. BENCH COPIES OR CHAMBERS COPIES

At the discretion of the judicial officer assigned to the case, parties may be required to deposit an additional copy of specific documents directly with the assigned judicial department.

(Subd (i) adopted effective July 1, 2014.)

(Rule 4.12 amended effective July 1, 2014; previously amended effective July 1, 2011; adopted as Rule 4.14 effective January 1, 1998; previously amended effective January 1, 2009; amended and renumbered effective January 1, 2010.)

4.13 SANCTIONS

a. SANCTIONS GENERALLY

Upon the motion of a party or on the court's own motion, the court may impose sanctions for non-compliance with these rules. Sanctions will not be imposed without prior notice to, and an opportunity to be heard by, the party or attorney against whom the sanction or penalty is sought to be imposed. Available sanctions include, but are not limited to:

- (1) Monetary sanctions;
- (2) Evidentiary sanctions prohibiting the introduction of designated matters into evidence;
- (3) Striking out all or any part of any pleading;
- (4) Dismissal of an action, proceeding, or any part thereof;
- (5) Entering judgment by default against a party; and,
- (6) Contempt sanctions.

(Subd (a) amended and relettered effective January 1, 2010; adopted as unlettered part of Rule 4.15 effective January 1, 1998.)

b. ATTORNEY FEES AND COSTS

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**Rule 5 – Family Law
PART ONE: Family Law Proceedings Generally**

~~RULE 5 AMENDED AND RENUMBERED IN ITS ENTIRETY EFFECTIVE JANUARY 1, 2013.~~

5.1 MATTERS ASSIGNED TO THE FAMILY LAW DIVISION; APPLICABILITY OF RULE

a. **ASSIGNMENT OF MATTERS TO THE FAMILY LAW DIVISION**

All family law matters will be heard principally in the Family Law Division as designated by the Presiding Judge and in such additional departments to which such matters may, from time to time, otherwise be assigned for trial or hearing by the Supervising Judge of the Family Law Division.
(Subd (a) adopted effective January 1, 2013.)

b. **MATTERS TO WHICH RULE 5 APPLIES**

Rule 5 applies to all family law matters, including:

- (1) Proceedings under the Family Code for dissolution of marriage or registered domestic partnership, nullity of marriage or registered domestic partnership, legal separation, custody and support of minor children, termination of parental rights, adoptions, the Uniform Parentage Act, the Uniform Child Custody Jurisdiction and Enforcement Act, or the Uniform Interstate Family Support Act;
- (2) Local child support agency actions under the Family Code; and,
- (3) Contempt proceedings relating to family law or local child support agency actions.

Requests for protective orders under the Domestic Violence Prevention Act are governed by Rule 16, not Rule 5. However, ancillary issues (such as support, custody, and temporary possession of property) raised in such a request are governed by Rule 5.

~~Although heard in the Family Law Division, guardianships and conservatorships are governed by Rule 15, not Rule 5.~~

~~*(Subd (b) amended effective July 1, 2014; adopted effective January 1, 2013.)*~~

c. **APPLICABILITY OF RULES TO PARTIES AND COUNSEL**

Unless otherwise prohibited by law, Rule 5 applies to the parties, to the attorneys of represented parties, and to minor's counsel. References to a party's counsel or

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PART ONE: Family Law Proceedings Generally**

attorney includes a self-represented party.
(Subd (c) adopted effective January 1, 2013.)

(Rule 5.1 amended effective July 1, 2014; adopted effective January 1, 2013.)

5.2 DIRECT CALENDARING

a. ASSIGNMENT OF MATTER TO JUDICIAL OFFICER

When a family law case is filed, or received and filed as a transfer from another jurisdiction, the Clerk of the Court shall assign the case to one judicial officer for all purposes, as directed by and subject to the approval of the supervising judge of the Family Law Division. The assignment shall be designed to fairly distribute the workload among the judicial officers of the Family Law Division and best serve the court.

(Subd (a) adopted effective January 1, 2013.)

b. NOTIFICATION OF ASSIGNED JUDICIAL OFFICER

The Clerk of the Court shall notify the parties of the initial assignment of the case to a judicial officer at the time the petitioner's initial pleading is filed.

(Subd (b) adopted effective January 1, 2013.)

c. NOTIFICATION OF REASSIGNMENT

Cases may be reassigned from time to time. Reassignments may be done on the record at a hearing or by written notification from the court.

(Subd (c) adopted effective January 1, 2013.)

(Rule 5.2 adopted effective January 1, 2013.)

5.3 PREPARATION AND FILING OF FORMS AND PLEADINGS

a. USE OF SOLANO COUNTY COURT CASE NUMBER

The case number shall have the following format on all pleadings and forms filed with the court:

- | | | |
|-----|------------|--|
| (1) | SF012345: | All family law cases filed prior to December 8, 1999 (excepting adoptions and Uniform Parentage Act cases). |
| (2) | FFL012345: | All family law cases filed on or after December 8, 1999 or whose case number is equal to or higher than FFL050994 (excepting adoptions and Uniform Parentage Act cases). |

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PART ONE: Family Law Proceedings Generally

- (3) SA001234: All adoption cases filed prior to December 8, 1999.
- (4) FAD001234: All adoption cases filed on or after December 8, 1999, or whose case number is equal to or higher than FAD005778.
- (5) SL012345: All Uniform Parentage Act cases filed prior to December 8, 1999, including cases with case numbers formatted as “L012345”.
- (6) FCS012345: All Uniform Parentage Act cases filed between December 8, 1999, and September 30, 2002.
- (7) FFL012345: All Uniform Parentage Act cases filed on or after October 1, 2002, or whose case number is equal to or higher than FFL069339.

(Subd (a) adopted effective January 1, 2013.)

b. APPLICATIONS FOR ORDERS FOR PUBLICATION OF SUMMONS

A petitioner seeking an order for publication of summons pursuant to Code of Civil Procedure section 415.50 may submit the request on either a local form made available for that purpose or in a pleading that contains the same substantive information required on the form.

(Subd (b) adopted effective January 1, 2013.)

c. FORMS AND DOCUMENTS TO BE INCLUDED WITH MOVING PAPERS

In addition to any forms required by the California Rules of Court, any *Request for Order* or other moving papers served on the other party shall include a copy of the court’s local form *Meet and Confer Orders*.

A party seeking to modify a prior order or judgment shall attach a copy of the prior order or **pertinent** part of the prior judgment to his or her *Request for Order*. **A copy of the entire judgment need not be attached to the *Request for Order*.** If the *Findings and Order After Hearing* has not been filed, a copy of the minute order shall be attached instead.

A party filing an *Order to Show Cause and Affidavit for Contempt* (Judicial Council form FL-410) shall attach a copy of each order allegedly violated.

(Subd (c) adopted effective January 1, 2013.)

d. FILING OF NOTICES OF UNAVAILABILITY

The court shall not accept for filing a "Notice of Unavailability of Counsel" or other document or pleading whose sole purpose is to advise the court and/or other

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PART ONE: Family Law Proceedings Generally**

parties of an attorney's or party's unavailability. (*Carl v. Superior Court of Orange County* (2007) 157 Cal.App.4th 73.)
(Subd (d) adopted effective January 1, 2013.)

(Rule 5.3 adopted effective January 1, 2013.)

5.4 APPLICATIONS FOR EMERGENCY ORDERS (EX PARTE ORDERS)

a. APPLICABILITY

All parties shall comply with the provisions in Chapter 7 of Division 1 of Title 5 of the California Rules of Court and with these local rules.
(Subd (a) amended effective July 1, 2014; adopted effective January 1, 2013.)

b. GENERAL STATEMENT REGARDING EMERGENCY ORDERS

Applications for emergency orders are appropriate only if needed to prevent an immediate danger or irreparable harm to a party or to the children involved in the matter, prevent immediate loss or damage to property subject to disposition in the case, shorten time for hearing or service, or continue a hearing or trial.
(Subd (b) adopted effective July 1, 2014; previous subd (b) relettered as subd (c) effective January 1, 2014.)

c.b. PROCEDURES FOR REQUESTING EMERGENCY ORDERS

All parties shall comply with the following procedures:

(1) Requests for emergency orders will be considered every court day at specific times set by each department. Those times will be available on the court's website at www.solano.courts.ca.gov, or by telephoning the individual department. Per California Rules of Court, rule 5.169, the judicial officer may decide the emergency order request based on the documents submitted, or may have a hearing prior to making a decision on the request.

(2) The original *Request for Order* plus two copies and any other documents required by statute or California Rules of Court plus two copies of each document shall be submitted through the Family Law Division's clerk's office. Unless the moving party has a valid fee waiver order on file or submits a fee waiver concurrently with the *Request for Order*, the moving party is required to pay all the applicable fees set by law at the time the *Request for Order* is submitted to the Family Law Division's clerk's office.

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(3) If the Request for Order seeking emergency orders is submitted directly to the Family Law Division clerk’s office during its normal business hours, the emergency order hearing will be set for the next court day.

If the Request for Order seeking emergency orders is submitted to the Family Law Division clerk’s office outside its normal business hours (e.g. through the drop box), the emergency order hearing will be set two court days out.

<u>Papers submitted to the courthouse on:</u>		<u>Emergency hearing will be on:</u>
<u>Monday</u>	<u>During business hours</u>	<u>➔ Tuesday*</u>
	<u>Outside business hours</u>	<u>➔ Wednesday*</u>
<u>Tuesday</u>	<u>During business hours</u>	<u>➔ Wednesday*</u>
	<u>Outside business hours</u>	<u>➔ Thursday*</u>
<u>Wednesday</u>	<u>During business hours</u>	<u>➔ Thursday*</u>
	<u>Outside business hours</u>	<u>➔ Friday*</u>
<u>Thursday</u>	<u>During business hours</u>	<u>➔ Friday*</u>
	<u>Outside business hours</u>	<u>➔ Monday*</u>
<u>Friday</u>	<u>During business hours</u>	<u>➔ Monday*</u>
	<u>Outside business hours</u>	<u>➔ Tuesday*</u>
<u>* If this day is a court holiday, the hearing will be on the next court day (i.e. Wednesday instead of Tuesday, Thursday instead of Wednesday, etc.)</u>		

(Subd (c) amended effective July 1, 2014; adopted effective January 1, 2013.)

~~All Requests for Orders shall be initially submitted to the Family Law Clerk’s Office. No Request for Order shall be initially submitted directly to a judicial officer.~~

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~~Upon submission of the *Request for Order* to the clerk, a party may request that the matter be considered for emergency hearing. Upon such request, the clerk shall collect all applicable fees, and then forward the *Request for Order* and the receipt for such payment to the judicial officer assigned to the matter, for review and determination by the judicial officer as to whether the motion sets forth facts showing the necessity for an emergency hearing to:~~

- ~~(1) Avoid an immediate danger or irreparable harm to a party or to the children involved in the matter;~~
- ~~(2) Help prevent the immediate loss or damage to property subject to disposition in the case; or~~
- ~~(3) Make orders concerning procedural matters as set forth in California Rules of Court, rule 5.170.~~

~~If the judicial officer determines that good cause for an emergency hearing exists, a date and time for such hearing will be set by that judicial department as may be appropriate, and the date and time shall appear on the face of the *Request for Order* along with the date and time established for the general hearing on the *Request for Order*.~~

~~Unless otherwise indicated by the judicial officer, notice of the ex parte hearing shall be given no later than 10:00 a.m. the court day prior to the hearing date, and a declaration setting forth how notice was given, including the date and time of the notice and the actual content of the notice, shall be submitted. The adequacy of the notice given may be determined from the submittal of a completed declaration compliant with California Rules of Court, rule 5.151 et seq. The local form *Declaration re Notice for Ex Parte Hearing* may be used for this purpose. The moving party shall use all reasonable diligence to serve the responding party with a copy of the *Request for Order* prior to the emergency hearing, and shall have a copy to provide to the responding party at the hearing in the event service could not be effected earlier.~~

~~The *Request for Order*, showing the date and time of both hearings, shall be filed by the court, and an endorsed filed copy returned to the applicant. In no event shall the *Request for Order* not be filed.~~

~~Nothing in this rule shall prohibit any judicial officer from exercising his or her judicial discretion in conformity with the provisions in Chapter 7 of Division 1 of the California Rules of Court.~~

~~(Subd (b) adopted effective January 1, 2013.)~~

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Rule 8 – Compromises of Claims of Adults with Disabilities or Minors

8.1 CONTENTS OF PETITION FOR COMPROMISE OF CLAIM OF A PERSON WITH A DISABILITY AN ADULT WITH DISABILITIES OR A MINOR

A petition for court approval of a compromise or covenant not to sue regarding a person an adult with a disability disabilities or a minor shall comply in all respects with California Rules of Court, rule 3.1384, and shall be presented on the mandatory Judicial Council form MC-350. In addition, the petition shall include:

- (1) A full disclosure of all information concerning the reasonableness of the proposed compromise or covenant not to sue, including the amounts, if any, paid to other claimants.
- (2) The original or a photocopy of each bill which, if paid, shall disclose the date of payment, the amount paid, and the name of the payor.

(Rule 8.1 amended effective July 1, ~~2014~~2010; adopted effective July 1, 1988; previously amended effective July 1, 2009, and January 1, 2010, and July 1, 2010.)

8.2 FILING PETITIONS FOR COMPROMISE OF CLAIMS ATTORNEY'S FEES IN CASES INVOLVING MINORS OR ADULTS WITH DISABILITIES
{Repealed}

In cases where no action is pending, a petition to compromise either a minor's claim or a claim of an adult with disabilities shall be filed as an independent case with the Probate Division.

In cases where a civil action is pending, a petition to compromise either a minor's claim or a claim of an adult with disabilities shall be filed within the pending civil action.

(Rule 8.2 adopted effective July 1, 2014.) –repealed effective July 1, 2010; adopted effective July 1, 2008; amended effective July 1, 2009, and January 1, 2010.)

8.3 ESTABLISHMENT OF SPECIAL NEEDS TRUSTS

If a compromise of claim or covenant not to sue includes the establishment of a special needs trust with a person with a disability an adult with disabilities or a minor as beneficiary, the establishment of the trust shall comply with Solano County Local Rules, rule 7.53.

(Rule 8.3 amended effective July 1, ~~2014~~2010; adopted effective July 1, 2009; previously amended effective January 1, 2010, and July 1, 2010; previous Rule 8.3, concerning

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Rule 8 – Compromises of Claims ~~of Adults with Disabilities or Minors~~

representation of specified parties by counsel at hearings, repealed effective July 1, 2009.)

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO**

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

Case No. _____

vs.

**WAIVER OF CONSTITUTIONAL RIGHTS
AND DECLARATION IN SUPPORT OF
DEFENDANT'S MOTION TO CHANGE PLEA
(Felony)**

Defendant.

I am the defendant in this action. I am represented by: Public Defender Conflict Defender

I have fully discussed the facts, merits, and possible defenses of this case with my attorney.

I wish to change my previously-entered plea of "not guilty" to Count(s) _____

and enter a new and different plea of _____ to Count(s) _____

I also admit the truth of the following enhancements or special allegations: _____

I understand that before the Court can accept this plea, I must show that I have been advised of, understand, and waive (that is, give up) certain constitutional rights.

FOR THE PURPOSE OF THIS CHANGE OF PLEA, I UNDERSTAND:

**Def't's
Initials**

1. I have the right to a preliminary hearing within 10 court days and 60 calendar days of my arraignment. I understand at the preliminary hearing that the prosecution would be required to produce sufficient evidence to convince the judge that a crime has been committed and there is reasonable cause to believe I committed that crime. If the prosecution produced insufficient evidence, the case would be dismissed.

I give up my right to a preliminary hearing.

1. _____

2. I have a right to a speedy and public trial, either by court or by jury. I give up this right. I further understand that the jury would be composed of 12 persons from the community, and that I could not be found guilty unless all 12 jurors agreed that I was guilty. I understand that their determination must be based upon a finding that the evidence proved my guilt beyond a reasonable doubt.

I give up my right to a speedy and public trial by court or by jury.

2. _____

3. I have the right to confront the witnesses against me (that is, I have the right to see and hear the witnesses who testify against me). The witnesses may be asked questions on my behalf. This questioning of witnesses on my behalf is called "cross-examination."

I give up my right to confront the witnesses who may testify against me.

3. _____

4. I have the right to subpoena witnesses or evidence to any trial or preliminary hearing. A subpoena is a court order which compels the attendance of witnesses in court or the bringing of evidence to court. The subpoena makes it possible for me to present witnesses and evidence on my behalf.

I give up my right to subpoena witnesses and evidence into court on my behalf.

4. _____

5. I have a right against self-incrimination (that is, the right to remain silent). This means that at any trial or preliminary hearing I cannot be compelled to testify against myself. This right includes not being called to the witness stand during any trial or preliminary hearing. I understand that by entry of a plea of guilty or no contest, I am incriminating myself.

I give up my right against self-incrimination.

5. _____

WAIVER OF RIGHTS IN SUPPORT OF CHANGE OF PLEA (Felony)

6. Even though I will be convicted in this case as a result of my plea, I have the right to appeal the judgment and rulings of the court.
I give up my right of appeal. 6. _____

7. The maximum punishment which the court may impose based upon this plea is
 State Prison County Jail _____ 7. _____

8. I am of sound mind and am not now under the influence of alcohol, narcotics, drugs, or any other substance that would impair my judgment, and I understand the nature of these proceedings. 8. _____

9. **I further understand:**

- a) A conviction for this offense may increase the punishment I receive for any future convictions.
- b) If I am sentenced to state prison, I would be subject to parole supervision for a period of at least three years*, or postrelease community supervision for a period of up to three years. If I am released on parole and I violate that parole, I could be retained for the maximum period of parole. Depending on the nature of my conviction(s), longer periods of parole and parole retention, including life time parole, may apply. If I am released on postrelease community supervision or parole, and I violate the terms of that supervision, I could be incarcerated in county jail for up to 180 days per violation, subject to certain exceptions, or returned to state prison if applicable. *Penal Code Sections 3000, 3000.08, 3000.1, 3056, 3451, 3455
- c) If I am sentenced to county jail pursuant to Penal Code Section 1170(h) and a concluding portion of my sentence is suspended, I will be subject to mandatory supervision by the probation department for the remainder of my term. If I violate the terms or condition of that supervision, I could be returned to county jail to serve the remainder of my sentence.
- d) If I am not a citizen of the United States, a conviction of this offense to which I am now entering a plea may, **and with certain offenses will**, result in my deportation from this country, exclusion from admission to the United States, and/or a denial of naturalization pursuant to the laws of the United States. If represented by an attorney, I have discussed this with my attorney and I know whether or not conviction for this offense requires mandatory deportation and exclusion.
- e) No threats have been made against me or any member of my family or close friends in order to induce me to make this plea.
- f) If I am on parole, probation, postrelease supervision, mandatory supervision, or deferred entry of judgment for another offense, by entering this plea I could be found in violation of that parole, probation, postrelease supervision, mandatory supervision, or deferred entry of judgment.
- g) Whether or not I will get probation is to be determined solely by the Court. I understand the sentence I receive is solely within the discretion of the Court.
- h) A plea of no contest (nolo contendere) will have the same legal effect as a plea of guilty. If I plead no contest the Court will find me guilty based on my no contest plea.
- i) In addition to other penalties that may be ordered by the Court, I will be subjected to fines, fees and/or assessments that may vary in amount from \$10.00 to \$20,000.00 or more, and may be required to complete one or more specific programs (e.g.: 52 week domestic violence program, child abuse prevention program, theft class, weapons class, DUI program, etc.)
- j) If I am pleading guilty or no contest to a violation of Vehicle Code Section 23152 or 23153, I am hereby advised pursuant to 23593 VC that being under the influence of alcohol or drugs, or both, impairs my 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 I continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving, someone is killed, I can be charged with murder.

9. _____

10. Other than the promises listed below, no promises have been made to me or my family to induce me to enter this plea. I have been promised:

- 1. _____
- 2. _____
- 3. _____

If the court withdraws approval of these promises before judgment and sentence, I have the right to withdraw my plea(s). *Penal Code Section 1192.5*

I UNDERSTAND AND AGREE THAT IF I FAIL TO APPEAR ON THE DATE SET FOR SURRENDER OR SENTENCING WITHOUT A LEGAL EXCUSE, OR VIOLATE ANY TERMS OF MY RELEASE, 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 TERM OF IMPRISONMENT OR INCARCERATION SPECIFIED IN PART 7.

I UNDERSTAND THAT IF I AM PLACED ON PROBATION, AND VIOLATE ANY TERM OR CONDITION OF THAT PROBATION, I CAN BE SENTENCED TO THE MAXIMUM TERM OF IMPRISONMENT OR INCARCERATION SPECIFIED IN PART 7.

10. _____

11. The facts upon which this change of plea are based are:

- those contained in the preliminary transcript.
- those contained in the police report (# _____).
- stipulated.
- _____

11. _____

12. ADDITIONAL MATTERS: (e.g., Harvey waiver; 11590 H&S, 290 PC or 186.32 PC registration; Restitution; 1202.4 PC restitution fine)

12. _____

13. I declare that my attorney has read and explained this document to me, and I hereby freely and voluntarily, having full knowledge and understanding of the rights that I am giving up and the possible consequences which may result from my plea, do hereby request the Court to accept my new and different plea(s).

13. _____

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

Dated: _____

Defendant

ATTORNEY'S STATEMENT

I, _____, do hereby declare that:

I am the attorney for the defendant in this action;

I have read and explained the foregoing document to my client and I have adequately researched and advised the defendant as to the immigration consequences of this plea;

after I read and explained said document, (s)he signed his/her name thereto in my presence;

based upon my conversation with the defendant, I am satisfied that his/her plea of guilty or no contest is freely and voluntarily made;

(s)he understands the consequences of his/her plea;

his/her decision to plead guilty or no contest was made only after a full discussion with me of the facts and the law of this case;

I join in the waiver of court and jury trial.

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

Dated: _____

Attorney for defendant

INTERPRETER'S STATEMENT (if applicable)

I, _____, truly translated this waiver of rights form to the defendant, through his/her attorney, in the _____ language. I then asked the defendant, through his/her attorney, if the defendant understood what the form said, and if (s)he did understand, to sign the form **if, and only if**, (s)he still intended to plead guilty or no contest to the charge(s), and admit the truth of any enhancements or special allegations.

Dated: _____

Interpreter

ORDER AND FINDING

I find that the defendant has been fully informed of his/her constitutional rights and the consequences of his/her plea in this case and understands them. I further find that the defendant has knowingly, intelligently, and voluntarily waived his/her rights and that there is a factual basis for the defendant's plea and any applicable admissions.

IT IS ORDERED that the defendant's plea and any applicable admissions be accepted and be entered in the minutes of this Court. This executed waiver of rights form is filed in the records of this Court and incorporated in the above-numbered case by reference.

Dated: _____

Judge

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SOLANO

PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff,

Case No. _____

vs.

_____,
Defendant.

WAIVER OF RIGHTS RE VIOLATION OF:

- PROBATION DEJ PRCS
MANDATORY SUPERVISION
PAROLE

- I am the defendant in this action. I am represented by:
Public Defender Conflict Defender
I have fully discussed the facts, merits, and possible defenses to the alleged violation of probation, deferred entry of judgment, postrelease community supervision, mandatory supervision, or parole with my attorney.
I wish to admit that I violated the following conditions of my probation, deferred entry of judgment, postrelease community supervision, mandatory supervision, or parole:

I understand that by admitting to the above violation I am giving up the following rights:

- 1. I have a right to a hearing at which the district attorney would be required to prove, by a preponderance of the evidence, that I have committed a violation of probation, deferred entry of judgment, postrelease community supervision, mandatory supervision, or parole. I give up my right to a hearing.
2. I have the right to confront the witnesses against me and to have them questioned on my behalf. I give up my right to confront the witnesses who may testify against me.
3. I have a right to present evidence on my behalf at the hearing. This includes the right to subpoena witnesses and compel their attendance at the hearing. It also includes the right for me to testify at the hearing. I give up my right to subpoena witnesses and evidence into court on my behalf.
4. I have a right against self-incrimination. This means I have a right to remain silent and I can't be required to testify at the hearing. I give up my right against self-incrimination.
5. Even though judgment may be imposed as a result of my admission, I have the right to appeal the judgment and rulings of the Court. I give up my right to appeal.
6. I further understand that as a result of my violation, the Court has the power to resent me or impose sanctions. I understand that the sentence I receive is solely within the discretion of the Court. The Court may reinstate my probation, deferred entry of judgment, postrelease community supervision, mandatory supervision, or parole with new terms and conditions or the Court may sentence me to jail or prison. The maximum punishment which the Court may impose for my violation is:
State Prison County Jail
7. If I am sentenced to county jail pursuant to Penal Code Section 1170(h) and a concluding portion of my sentence is suspended, I will be subject to mandatory supervision by the probation department for the remainder of my term. If I violate the terms or condition of that supervision, I could be returned to county jail to serve the remainder of my sentence.

Deft's Initials

WAIVER OF RIGHTS RE VIOLATION OF PROBATION / DEJ / PRCS / MANDATORY SUPERVISION / PAROLE

8. If I am sentenced to state prison, I would be subject to parole supervision for a period of at least three years*, or postrelease community supervision for a period of up to three years. If I am released on parole and I violate that parole, I could be retained for the maximum period of parole. Depending on the nature of my conviction(s), longer periods of parole and parole retention, including life time parole, may apply. If I am released on postrelease community supervision or parole, and I violate the terms of that supervision, I could be incarcerated in county jail for up to 180 days per violation, subject to certain exceptions, or returned to state prison if applicable. *Penal Code Sections 3000, 3000.08, 3000.1, 3056, 3451, 3455 _____

9. The only promises made to me are listed below:

I am of sound mind and am not now under the influence of alcohol, narcotics, drugs or anything that would impair my judgment. No threats have been made against me or anyone else in order to induce me to admit this violation of probation, deferred entry of judgment, post release community supervision, mandatory supervision, or parole.

My attorney has read and explained this document to me, and I freely and voluntarily request the Court to accept my admission of violating my probation, deferred entry of judgment, post release community supervision, mandatory supervision, or parole.

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

Dated: _____ **Defendant:** _____

ATTORNEY'S STATEMENT

I, _____, do hereby declare that:
-I am the attorney for the above-named defendant;
-I have read and explained the foregoing document to the defendant;
-his/her decision to admit a violation was made only after we discussed the facts and the law of the alleged violation and the consequences of admitting said violation;
-thereafter, (s)he signed his/her name thereto in my presence;
-I am satisfied that his/her admission of a violation is freely and voluntarily made with a knowing and understanding waiver of rights.

Dated: _____ **Attorney for Defendant:** _____

INTERPRETER'S STATEMENT (if applicable)

I, _____, truly translated this waiver of rights form to the defendant, through his/her attorney, in the _____ language. I then asked the defendant, through his/her attorney, if the defendant understood what the form said, and if (s)he did understand, to sign the form, **if, and only if**, (s)he still intended to admit a violation of probation, deferred entry of judgment, post release community supervision, mandatory supervision, or parole.

Dated: _____ **Interpreter:** _____

ORDER AND FINDING

I find that the defendant has been fully informed and understands his/her constitutional rights and the consequences of his/her admission in this case. I further find that the defendant has knowingly, intelligently, and voluntarily waived his/her rights and that there is a factual basis for the defendant's admission.

IT IS ORDERED that the defendant's admission be accepted and be entered in the minutes of this Court. This executed waiver of rights form is filed in the records of this Court and incorporated in the above-numbered case by reference.

Dated: _____ **Judge:** _____

**WAIVER OF RIGHTS RE VIOLATION OF
PROBATION / DEJ / PRCS / MANDATORY SUPERVISION / PAROLE**

4. I did not give notice to (name) _____ because:
(check all that apply)

- a. Giving notice of this application would frustrate the purpose of the orders I'm asking for. (Explain in the area provided below.)
- b. Giving notice would result in immediate and irreparable harm to me (or my client) or the children who could be affected by the orders I'm asking for. (Explain in the area provided below.)
- c. Giving notice would result in immediate and irreparable damage to or loss of property subject to disposition in this case. (Explain in the area provided below.)
- d. The parties agreed in advance that notice would not be necessary with respect to the matter that is the subject of the request for emergency orders. (Explain in the area provided below.)
- e. I made reasonable and good faith efforts to notify the person but couldn't do so. (Explain in the area provided below.)

f. Explain your answer(s):

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)

YOUR EMERGENCY ORDER HEARING:

CASE NAME: _____

CASE NUMBER: _____

HEARING DATE: _____

HEARING TIME: _____

DEPARTMENT: _____

COURTROOM: _____

At the emergency hearing, the judge will decide whether to grant the temporary orders you requested.

DO THE FOLLOWING AS SOON AS POSSIBLE:

- You must have the other party (or their attorney) served with a copy of all the papers you just submitted to the court. The papers must be served at the first reasonable opportunity before the emergency hearing.
- If you don't have the other party served before the emergency hearing, you will need to explain to the judge why the papers weren't served.

Remember: **YOU** cannot serve the papers. If you are a party to the case, someone other than you who is age 18 or older must serve the papers.

ON THE DAY OF YOUR EMERGENCY HEARING:

- Come to the courthouse early enough to go through security and be on time for your hearing.
- After you go through security, go to the department listed at the top of this page and tell the bailiff you are there for an emergency hearing
- Bring the following with you:
 - A signed proof of service showing when the other party received copies of your papers (*you can use the attached Proof of Service form*)
 - A signed declaration showing you gave notice (or explaining why you didn't give notice), if you haven't already filed it

Response Form

I am commenting on the proposed revisions to the local rules or forms as follows:

- Agree with proposed changes
- Agree with proposed changes with modifications (*please explain below*)
- Do not agree with proposed changes (*please explain below*)

Comments: _____

Name: _____

Address: _____

City, State, ZIP code: _____

To SUBMIT COMMENTS:

Comments may be written on this form, prepared in a letter format, or e-mailed. If you are not commenting directly on this form, please include the information requested above. Questions may be directed to the Executive Office at (707) 207-7475.

E-mail: CourtOutreach@solano.courts.ca.gov

Mail: Superior Court of California, County of Solano
Executive Office
600 Union Avenue
Fairfield, CA 94533

FAX: (707) 426-1631

DEADLINE FOR COMMENT: 5:00 p.m. on Friday, May 2, 2014
