SUPERIOR COURT OF CALIFORNIA	Reserved for Clerk's File Stamp	
COUNTY:		
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA		
DEFENDANT:		
ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM FOR FELONIES AND/OR MISDEMEANORS - PROPOSITION 36 (Penal Code § 1210 *et seq.*)	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.

	INITIALS ↓
RIGHT TO AN ATTORNEY	
1. I understand that I have the right to be represented by an attorney throughout the proceedings. I understand that the Court will appoint a free attorney for me if I cannot afford to hire one, but at the end of the case, I may be asked to pay all or part of the cost of that attorney, if I can afford it. I understand that there are dangers and disadvantages to giving up my right to an attorney, and that it is almost always unwise to represent myself.	1.
NATURE OF THE CHARGES (Complete all items you are charged with.)	
2. I understand that I am charged with the following offense(s): _____ TYPE OF OFFENSE(S) AND SECTION NUMBER(S)	2.
3. **If applicable** - I understand that I am also charged with having the following **prior conviction(s):** _____ LIST OFFENSE(S), CASE NUMBER(S) AND DATE(S)	3.
4. **If applicable** - I understand that I am charged with violating the **probation order(s)** in the following case(s): _____ CASE NUMBER(S) AND DATE(S)	4.
5. I understand the charge(s) against me, and the possible pleas and defenses.	5.
CONSTITUTIONAL RIGHTS	
6. **RIGHT TO A JURY TRIAL** - I understand that I have the right to a speedy, public jury trial. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt.	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.	7.

INITIALS ↓

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 admitting prior conviction(s) or probation violation(s), I am incriminating myself. . . . . 8.

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

PRIOR CONVICTIONS AND PROBATION VIOLATIONS

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

SPEEDY PRELIMINARY HEARING (For charged felony offenses only)

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

WAIVER OF RIGHTS

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

12. I give up my right to an attorney, and I choose to represent myself. (Does not apply if you have an attorney.) 12.
13. I give up my right to a jury trial. (Does not apply to charged probation violations). . . . . 13.
14. I give up my right to confront and cross-examine witnesses. . . . . 14.
15. I give up my right to remain silent and to not incriminate myself. . . . . 15.
16. I give up my right to produce evidence and witnesses on my own behalf. . . . . 16.
17. **If applicable** - I give up my right to a preliminary hearing before a judge as to any felony offenses. I also give up my right to have that hearing held within the specified period. . . . . 17.

PARTICIPATION IN PROBATION UNDER PROPOSITION 36

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

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

20. I understand that I may be ordered to make restitution and to pay a restitution fine of $100 to $1,000 for a misdemeanor, or $200 to $10,000 for a felony, unless the Court finds compelling and extraordinary reasons not to impose the fine. Depending upon my ability to pay, I will also be required to pay for the cost of my placement in treatment and supervision services in a minimum amount of $200. If these fees and costs are not waived by the Court, I will not be able to have my case dismissed until both the restitution and placement fees are paid. . . . . 20.

PARTICIPATION IN PROBATION UNDER PROPOSITION 36 (Continued)

INITIALS ↓

21. I understand that I must register with the police as a controlled substance offender. Failure to do so would constitute a misdemeanor. . . . . 21.

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

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

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

    (A) disclose my arrest and conviction upon any application for a position as a peace officer, for public office, or for a license by a state or local agency.

    (B) refrain from owning or possessing a concealable firearm; failure to comply will result in my conviction of PC § 12021 (felon or addict in possession of a firearm); and

    (C) disclose the arrest and conviction when contracting with the California State Lottery and for purposes of serving on a jury. . . . . 24.

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

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

    (A) **first violation** of probation based on drug-related behavior, the Court shall revoke my probation if the alleged violation is proved and I am found to pose a danger to the safety of others.

    (B) **second such violation**, the Court shall revoke my probation if the 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. . . . . 26.

27. I understand that if I am not a citizen, my guilty or no contest plea will result in my deportation (removal), exclusion from admission to the United States, or denial of naturalization. . . . . 27.

28. I understand that my guilty plea in this case may be grounds for violating probation or parole which has previously been granted to me in any other case. . . . . 28.

29. I understand that I have a right to be sentenced by the judge who accepts my guilty or no contest plea in this case. I freely and voluntarily give up this right. . . . . 29.

30. **If applicable** - I freely and voluntarily admit any prior convictions and probation violations that I listed on this form, and I give up my right to a hearing before a judge regarding any probation violations. I understand that these admissions will increase the penalties in my case. . . . . 30.

INITIALS ↓

CONSEQUENCES OF REVOCATION OF PROPOSITION 36 PROBATION

31. I understand that if my Proposition 36 probation is revoked for any reason, the minimum and maximum sentences for the charged offenses are as follows:

o _____ _____ _____
SECTION NUMBER JAIL - MIN. MAX. FINE - MIN. MAX.

_____
OTHER CONSEQUENCES :

o _____ _____ _____
SECTION NUMBER JAIL - MIN. MAX. FINE - MIN. MAX.

_____
OTHER CONSEQUENCES :

o _____ _____ _____
SECTION NUMBER JAIL - MIN. MAX. FINE - MIN. MAX.

_____
OTHER CONSEQUENCES :

o _____ _____ _____
SECTION NUMBER JAIL - MIN. MAX. FINE - MIN. MAX.

_____+
OTHER CONSEQUENCES : 31.

32. I understand that in addition to the fine, the Court will add **assessments** which will significantly increase the amount I must pay. . . . . 32.

OTHER ADVISEMENTS

33. **If applicable** - I understand that if I am convicted of a felony, I have the right to be sentenced within 20 judicial days. If I am convicted of a misdemeanor, I have a right to be sentenced no sooner than 6 hours and no longer than 5 days from the time I enter my plea. I give up this right. . . . 33.

34. I understand that a plea of no contest (*nolo contendere*) will have exactly the same effect in this case as a plea of guilty, and it can be used against me in a civil lawsuit unless the offense is punishable only as a misdemeanor. . . . . 34.

35. **If applicable** - I understand that I have the right to enter my plea before, and to be sentenced by, a judge. I give up this right and agree to enter my plea before, and to be sentenced by:

_____
TEMPORARY JUDGE'S NAME 35.

PLEA

36. I hereby freely and voluntarily plead: _____
GUILTY OR NO CONTEST

to: _____
LIST CHARGE(S) 36.

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

ATTORNEY'S STATEMENT

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

SIGNATURE OF DEFENDANT'S ATTORNEY

DATE

INTERPRETER'S STATEMENT (if applicable)

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

Language: ☐ Spanish ☐ Other (specify): _____

COURT INTERPRETER'S SIGNATURE

TYPE OR PRINT NAME

DATE

COURT'S FINDINGS AND ORDER

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

☐ Judge of the Superior Court
☐ Temporary Judge of the Superior Court

DATE