

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</b> STREET ADDRESS: 115 Terraine Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San José, California 95113 BRANCH NAME: Juvenile Dependency Court	FOR COURT USE ONLY
In RE:	
PARTY: Relationship to Child <input type="checkbox"/> Parent <input type="checkbox"/> Guardian	
<b>ADVISEMENT AND WAIVER OF RIGHT TO COUNSEL</b>	CASE NUMBER: _____ DEPT. _____

Fill out this form if you wish to represent yourself. Initial the box for the applicable items only if you understand and agree with them, and sign and date the form where it says "PARTY'S SIGNATURE" on page 4. If you have any questions about anything on this form, please ask the judge.

### CONSTITUTIONAL RIGHTS

### INITIALS

1. I am a party in the above-entitled case, and I certify to the Court that I can read and write.
  
2. I understand that my constitutional rights include the following:
  - A. **Right to An Attorney** – I understand that I have the right to be represented by an attorney at all stages of the proceedings and, if the Court finds that I do not have funds to employ an attorney, one will be appointed for me by the Court.
  - B. **Right to Subpoena Witnesses and Records** – I understand that I have the right to the reasonable use of the process of the Court to subpoena any witnesses, records, or other evidence that I may need in my case.
  - C. **Right to Confront and Cross-Examine Witnesses** – I understand that I have the right to confront and cross-examine in open court all persons and witnesses whose statements are presented as evidence by others at a trial.
  - D. **Right Against Self-Incrimination** – I understand that I have the right to testify at a trial, but that I cannot be compelled to testify in a way that is self-incriminating at a trial unless I so desire.
  - E. **Right to Self-Representation** – I understand that I have a right to self-representation and may waive my right to counsel. I further understand that if I am permitted to represent myself, I will have to conduct my own defense WITHOUT ASSISTANCE OF A LAWYER.

### BACKGROUND

3. In support of my petition to proceed as self-represented, I offer the Court the following biographical information.

A. Age: \_\_\_\_\_ Year of Birth: \_\_\_\_\_

B. Education:

(1) High School Attended: \_\_\_\_\_

(2) High School Graduate: ☐ Yes ☐ No

(3) Additional Formal Education (if any): \_\_\_\_\_

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(4) Legal Education (if any):

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C. Employment Experience:

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D. I have previously been granted the right to represent myself in the following criminal and/or juvenile court matters.

Case	Court	Year	Result

**DISADVANTAGES TO SELF-REPRESENTATION**

**INITIALS**

5. I understand that there are many disadvantages in representing myself. Among those disadvantages of not having a licensed attorney are the following

- A. I understand that if I am permitted to represent myself it will be necessary for me, WITHOUT THE ASSISTANCE OF A LAWYER OR THE COURT, to follow all the technical rules of substantive law, juvenile court and civil procedure, and evidence.
- B. I understand the case against my parental and/or custody rights will be handled by County Counsel who is an experienced trial attorney, and that I will not be entitled to special consideration or assistance by the Court during the course of any hearing or trial.
- C. I understand that if I am permitted to represent myself, it will be necessary for me to, WITHOUT THE ASSISTANCE OF A LAWYER, conduct my own trial consisting of but not limited to: making pretrial motions; cross-examining the witnesses for the Department of Children and Family Services; subpoenaing and presenting my own witnesses and evidence presented by other counsel; making appropriate objections and motions during the course of any trial or hearing; presenting and laying the foundation for proposed exhibits to the Court; making arguments at trial and hearings; making appropriate motions after trials and Court decisions; representing myself at the time of the disposition hearing and future hearings, if any, in the event the petition is sustained.
- D. I understand that I cannot and will not receive any help or special treatment from the Court.
- E. I understand that no continuance will be allowed without a showing of good cause, and that such a request made just before trial will most likely be denied.
- F. I understand that depending on the stage of my case, if I ask to give up my self-represented status and request counsel to handle my case, the Court may deny this request and I may have to proceed with a trial or hearing without an attorney's help.

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G. I understand that I must not abuse the dignity of the Court. I understand that the Judge may terminate my right to self-representation in the event that I engage in serious misconduct or obstruct the progress of the proceedings. I understand that if my self-represented status is terminated, I may have to be represented by a lawyer, appointed by the Judge, who will then take over the case at that stage.

H. I understand that if an appointed attorney does take over my case, that attorney may be in a disadvantaged position and that such a disadvantage will not be considered an issue on appeal.

I. I understand that misconduct occurring outside of court may result in restriction or termination of my privilege to represent myself.

J. I understand in the event of the sustaining of a petition and an appeal, by acting as my own lawyer, I give up and waive my constitutional right to effective assistance of counsel as a possible ground for appeal.

K. I understand that these proceedings pose a serious threat to my parental rights, including the possibility that I may ultimately lose my parental rights.

**Disadvantages Specific to Persons in Jail or Prison:**

L. I understand that because of my custodial status, it will be difficult for me to contact witnesses and investigate my case. I understand that I will have limited access to a telephone, which will make preparations for trial more difficult, and that I will be provided no more access to the law library (if any) than any other self-represented inmate.

M. I understand that in conducting the trial while in custody, I will be limited in my movements in the courtroom. All documents, for example, will be handed to witnesses, when necessary, through the bailiff. I will be required to remain in my seat at counsel table and will not have freedom of movement in the courtroom.

N. I also understand that my self-represented status will not shield me from disciplinary actions within the jail, and that I will be subjected to the same disciplinary measures as all other inmates for misconduct occurring in jail.

**ADVISEMENTS****INITIALS**

6. By initialing the following, I acknowledge each example of information possessed by an attorney that is reasonably necessary to effectively defend my parental rights:

7. The Judge is the sole trier of fact in a Juvenile Dependency proceeding and has control over the course of legal due process in the case. An attorney's job is to ensure that proper legal due process is followed.

8. Decisions by the Judge sometimes require different levels of proof.

9. Not all decisions by the Judge are appealable. Appealable decisions require different appellate processes.

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10. If the Court takes jurisdiction over your children, it may then order you to do a case plan to either maintain custody or to reunify. The contents of a case plan are subject to legal due process.

11. Failure to follow court orders can significantly jeopardize your parental rights.

**COURT'S ADVICE AND RECOMMENDATION****INITIALS**

12. I understand that it is the advice and recommendation of this Court that I do not represent myself and that I accept court-appointed counsel. I understand that if I accept court-appointed counsel, an experienced lawyer will be assigned to my case. I understand that the lawyer would be able to investigate my case, file motions as necessary, and advise me on what to do.

13. I understand that this written waiver of my right to counsel will be filed and become part of the Court case file. I further understand that on any appeal that may be taken, or upon the filing of a petition for an Extraordinary Writ, this petition will be forwarded to any court of appeal and will be considered by the Court in determining whether I knowingly and intelligently waived my right to counsel.

14. I understand all that I have read and all that the Court has told me. It is my personal desire that I be granted permission by the Court to proceed self-represented. I understand that by making this request I am giving up the right to be represented by a lawyer.

I hereby certify that I have read, understood and considered all of the above warnings included in this petition, and I still want to represent myself. I freely and voluntarily give up my right to have a lawyer represent me.

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

Signed: \_\_\_\_\_

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

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

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

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

Signed: \_\_\_\_\_

Court Interpreter

Type or Print Name: \_\_\_\_\_