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\_\_\_\_\_, PUBLIC DEFENDER

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Attorneys for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

**PEOPLE OF THE STATE OF CALIFORNIA,**

v.

\_\_\_\_\_

Defendant.

Case No. \_\_\_\_\_

**MOTION TO WITHDRAW GUILTY  
OR NOLO CONTENDERE PLEA,  
ENTER NOT GUILTY PLEA,  
AND DISMISS THE COMPLAINT OR  
INFORMATION PURSUANT TO  
PENAL CODE SECTION 1203.43**

**TO: HONORABLE JUDGE \_\_\_\_\_ OF THE SUPERIOR COURT:**

Defendant, \_\_\_\_\_, pled guilty or nolo contendere, and  
was granted deferred entry of judgment pursuant to Penal Code section 1000 *et seq.*, for a violation  
of Section(s):

Health and Safety Code § \_\_\_\_\_

\_\_\_\_\_ Code § \_\_\_\_\_

1 Penal Code section 1203.43 states “that the statement in Section 1000.4, that ‘successful  
2 completion of a deferred entry of judgment program shall not, without the defendant's consent, be  
3 used in any way that could result in the denial of any employment, benefit, license, or certificate’  
4 constitutes misinformation about the actual consequences of making a plea in the case of some  
5 defendants, including all noncitizen defendants, because the disposition of the case may cause  
6 adverse consequences, including adverse immigration consequences... [B]ased on this  
7 misinformation and the potential harm, the defendant’s prior plea is rendered invalid.” (Pen. Code §  
8 1203.43, subd. (a).)

9 Penal Code Section 1203.43 further provides that “[f]or the above-specified reason, in any  
10 case in which a defendant was granted deferred entry of judgment on or after January 1, 1997, has  
11 performed satisfactorily during the period in which deferred entry of judgment was granted, and for  
12 whom the criminal charge or charges were dismissed pursuant to Section 1000.3, the court shall,  
13 upon request of the defendant, permit the defendant to withdraw the plea of guilty or nolo  
14 contendere and enter a plea of not guilty, and the court shall dismiss the complaint or information  
15 against the defendant. If court records showing the case resolution are no longer available, the  
16 defendant's declaration, under penalty of perjury, that the charges were dismissed after he or she  
17 completed the requirements for deferred entry of judgment, shall be presumed to be true if the  
18 defendant has submitted a copy of his or her state summary criminal history information maintained  
19 by the Department of Justice that either shows that the defendant successfully completed the  
20 deferred entry of judgment program or that the record is incomplete in that it does not show a final  
21 disposition. For purposes of this section, a final disposition means that the state summary criminal  
22 history information shows either a dismissal after completion of the program or a sentence after  
23 termination of the program.” (Pen. Code § 1203.43, subd. (b).)

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**MOTION TO WITHDRAW GUILTY OR NOLO CONTENDERE PLEA, ENTER NOT GUILTY PLEA  
AND DISMISS THE COMPLAINT OR INFORMATION**

1 During the period in which deferred entry of judgment was granted, defendant performed  
2 satisfactorily and the criminal charges or charges were dismissed pursuant to Penal Code section  
3 1000.3. Therefore, pursuant to newly enacted Penal Code section 1203.43, effective January 1,  
4 2016, the defendant respectfully requests permission to withdraw the plea of guilty or nolo  
5 contendere, enter a plea of not guilty, and also requests that this court dismiss the complaint or  
6 information.

7 **Dated:** \_\_\_\_\_

8 \_\_\_\_\_, PUBLIC DEFENDER

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10 By: \_\_\_\_\_  
Deputy Public Defender

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**ORDER**

Pursuant to Penal Code section 1203.43, the court hereby permits the defendant to withdraw his or her plea of guilty or nolo contendere, enter a plea of not guilty, and dismisses the complaint or information against the defendant.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

(Seal of Court)

\_\_\_\_\_

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