



LACBA Counsel for Justice
Veterans
Legal Services
Project

Record Clearing

Removing Legal Obstacles to Veterans' Employment

Working together for a more **just LA**

LACBA Counsel for Justice Veterans Legal Services Project



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VETERANS LEGAL SERVICES PROJECT

1. Tickets & Warrants
2. Driver's License Reinstatement
3. Expungements
4. Discharge Upgrades
5. LEAP (LACBA's Entrepreneurial Assistance Program)
6. Homelessness Prevention Advocacy Project – Housing Dispute Advocacy



CLE PROGRAM GOALS

1. Understand the veteran need for assistance with record clearing.
2. Become familiar with the substantive law, recent changes, the court process, and available remedies.
3. Learn how to obtain case information.
4. Become familiar with court forms and how to accurately complete them.
5. Discover ways to get involved!



THE NEED

- Veterans in California
 - 1.8 Million Veterans in California
 - Largest number in the country.
 - Over 270,000 Veterans in Los Angeles County (March 2022 estimate)
 - Largest number in the state.
 - Approx. 3,456 homeless veterans in LA County (September 2022)
 - Over 6,000 (6.7%) unemployed veterans in LA County



HOW RECORDS HAVE AN EFFECT ON UNEMPLOYMENT & HOMELESSNESS

- Among the top 10 unmet needs of veterans according to the VA's Community Homelessness Assessment, Local Education and Networking Groups (Project CHALENG) annual surveys.
 - Legal Assistance for Court Fees/Fines (2021)
 - Legal Assistance to Expunge Criminal Records
- Highly Competitive Job Market
 - Background checks reveal convictions & traffic warrants
- License Suspensions
 - Hindered access to interviews, training, education, and jobs.
- Housing
 - Background Checks & Financial Hardship



Tickets: What's the Big Deal?



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WHAT'S THE BIG DEAL?

Part I

- Unaffordable Fines and Fees → Insurmountable Debt
- License Suspensions
- Misdemeanor Charges
- Warrants



WHAT'S THE BIG DEAL?

Part II: Points on Driver License

- Most moving violation convictions result in “points” against DMV record
 - Most offenses = 1 pt.
 - Ex- Speeding, Failure to Stop at a Signal,
 - More serious = 2 pts.
 - Ex- DUI, Driving w/Suspended License, Hit and Run
- Negligent Operator Classification + 6 months license suspension + additional 6 months probation if:
 - 4 points w/in 12 months
 - 6 points w/in 24 months
 - 8 points w/in 36 months
- Insurance Premiums Spike
- <https://www.dmv.ca.gov/portal/driver-education-and-safety/dmv-safety-guidelines-actions/negligence/>



WHAT'S THE BIG DEAL?

Example

A Typical Traffic Stop:	Speeding, 16+ mph over 65 mph limit	Driving w/o a valid license	
Base fine	\$70	\$35	\$105
+ Additional penalties	<u>+ \$207</u>	<u>+ \$120</u>	
= Initial Penalty	\$277	\$155	
+ Various other assessments	<u>+ \$90</u>	<u>+ \$81</u>	
= Bail amount due	\$367	\$238	= \$605
+ Late fee (50% of initial penalty)	<u>+ \$138.50</u>	<u>+ \$77.50</u>	+ \$216
= TOTAL with late fee	\$505.50	\$315.50	
Total for both violations with late fee	\$821		
+ FTA 40508(a) civil assessment	<u>+ \$100</u>		
Total with FTA & late fees	<u>\$921</u>		



Tickets: Traffic Court Process



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Traffic Court Process

- Ticket Issued
- Arraignment
- Trial
- Compliance



Traffic Court Process: Ticket Issued

- Issuance and Signing of Ticket = Promise to pay or appear in court by due date
- Types of Tickets Handled in Traffic Court
 - Traffic Citations aka “Moving Violations”
 - Speeding, running red light or stop sign, etc.
 - “Quality of Life” Citations
 - Loitering, jaywalking, open container, sleeping in the park, etc.



Traffic Court Process: Arraignment

- 1st Court Date - Criminal charges are read.
- Plea Options:
 - Not Guilty
 - Guilty
 - No Contest
- Not Guilty Plea = Court will schedule a trial date.



Traffic Court Process: Trial

- Before Trial
 - Officer no-show = Case dismissed
 - Standard of Proof = BARD
 - Officer is present
 - Pretrial negotiations w/officer. Will he/she dismiss case?
 - If not, proceed with trial
- Trial
 - Present Defense: evidence, witnesses, illustrations, maps, etc.



Traffic Court Process: After Trial

- After Trial: Potential Outcomes
 - **Dismissed in the Interest of Justice (Pen. Code § 1385)**
 - **Convicted**
 - Full fines and fees.
 - **Convicted w/Financial Hardship**
 - Suspended or Reduced Fines
 - Community Service
 - Installment Payment Plan
 - **Traffic School**
 - Keeps points off DMV record
 - Eligibility
 - Once every 18 months
 - Only 1-point violations



Consequences of Non-Appearance or Non-Compliance

- **FAILURE TO APPEAR (FTA)**

(Did not pay or set hearing by initial due date OR missed scheduled hearing.)

- Separate Misdemeanor
- \$100 Civil Assessment
- DMV Hold on License Renewal → Eventual Suspension
- Debt Collection (GC Services)
- Bench Warrant

- **FAILURE TO PAY/PERFORM (FTP)**

(Did not pay or complete community service ordered after conviction.)

- Separate Misdemeanor
- \$100 Civil Assessment
- Debt Collection (GC Services)



Tickets: Addressing Unresolved Tickets



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Gathering Case Information

- **DMV Records**
 - Official Record of Complete Driving History (\$5)
 - In-person/Mail. Complete: [INF 1125](#)
 - Unofficial Record (\$2 Online)
 - <https://www.dmv.ca.gov/portal/customer-service/request-vehicle-or-driver-records/online-driver-record-request/>
- **Court Records**
 - Website: <http://www.lacourt.org/online/traffic>
 - DL and DOB
 - Ticket Number and DOB
 - In-Person/Over the Phone
 - DL and DOB
- **GC Services**
 - <https://courtpay.gcserv.com/>
 - DL and DOB/Ticket Number



DMV Printout- Official Record

- Hard to read: encrypted spy code.
- Very helpful when you learn to interpret it!
- The most comprehensive record of tickets and license status.



FEE CODE 743 (REISSUE FEE)
FEE REQ SEQ #: 05 DUE: 09-07-13 AMOUNT: \$ 055 REASON CD: 938
ORIG DUE DT: 09-07-13 FEE GROUP CODE: 003

ABSTRACTS:

VIOL DT	CONV DT	SEC VIOL	DISP	COURT	DOCKET	VEH LIC	R/C FTP
08-21-09	01-29-10	40508A VC	Z	01435	7027629	6GMB	X
DMV POINT COUNT: 0							
UPDATED: 01-29-10							
08-09-10	01-18-11	4000A1 VC	Z	19499	46985JL		X
*							
DMV POINT COUNT: 0							
UPDATED: 01-19-11							
01-18-11	03-18-11	146011 VC	C	19470	100403	3G48	
DMV POINT COUNT: 2							
UPDATED: 03-20-11							
02-26-11	04-27-11	12500A VC	C	19486	M430675	3RGB	
DMV POINT COUNT: 0							
UPDATED: 04-29-11							
10-22-11	11-22-11	23123A VC	B	30470	37682HN	6GMB	
DMV POINT COUNT: 0							
UPDATED: 11-22-11							
04-11-13	09-03-13	21663 VC	Z	19470	KS51330	6GMB	X
*							
DMV POINT COUNT: 0							
UPDATED: 09-03-13							
05-03-13	09-12-13	40508A VC	Z	15445	34061RM	15B0	X
DMV POINT COUNT: 0							
UPDATED: 09-13-13							
07-23-13	11-12-13	40508A VC	Z	19463	26596RC		X
DMV POINT COUNT: 0							
UPDATED: 11-12-13							
FTP:							
VIOL DT	CONV DT	SEC VIOL	DISP	COURT	DOCKET	VEH LIC	R/C FTP
05-03-13	09-13-13	22348B VC	C	15445	34061RM	15B0	
*							
DMV POINT COUNT: 2							
UPDATED: 04-03-14							
FTA:							
VIOL/DT	W/H DT	SEC/VIOL	COURT	DOCKET	VEH LIC		
02-18-14	05-14-14	24252A VC	19463	85958RM	6GBM		
*							
*							
UPDATED: 05-06-14							
ACCIDENTS:							
DATE/TIME	LOCATION	VEH LIC	ARC	REPORT NO	FR CASE NO		
11-16-09 03	LOS ANGELES	6GMB	3	95405019295	10-00-47683		
TYPE OF ACC		CODE: 5	SOBRIETY CODE: 5				
FATALITY CODE: 0		INJURY CODE: 0					
UPDATED: 08-30-10							
03-26-10 99 LOS ANGELES							

Official
DMV
Record:



A Public Service Agency

DMV POINT COUNT: 0

UPDATED: 11-18-13

FTA RECALLED 11-18-13

FTP: NONE*

FTA:

VIOL/DT	W/H DT	SEC/VIOL	COURT	DOCKET	VEH LIC
07-25-10	08-21-13	21453C VC	19432	N25051	3DEM763
*		40508A VC			
*		405095 VC			

UPDATED: 04-08-11

04-13-11	08-21-13	16028A VC	19432	B366747	3DEM763
*		4000A1 VC			
*		40508A VC			
*		405095 VC			

UPDATED: 06-21-11

06-06-11	08-21-13	16028A VC	19432	B439259	3DEM763
*		4000A1 VC			
*		40508A VC			
*		405095 VC			

UPDATED: 08-09-11

* 2ND W/H LTR MAILED: 08-21-13

ACCIDENTS:

DATE/TIME	LOCATION	VEH LIC	ARC	REPORT NO	FR CASE NO
10-24-03 99	N HOLLYWOOD	2SJX593			03-07-62706
UPDATED: 12-26-03					REPT CODE: 1

* * * END * * *



A Public Service Agency

680 052015 16 5415 DIR \$ 5.00

LA County Court Website:

Ticket Number: [REDACTED]	Law Enforcement Agency: Los Angeles Police Department
Name: [REDACTED]	
Court:	Metropolitan Courthouse 1945 South Hill Street, Los Angeles, CA 90007 (213)742-1884
Violation Date:	12/28/2014
Initial Due Date:	12/28/2015
Case Status:	In Collections FTP
Disposition:	Plea of Guilty/No Contest After Hearing on 9/28/2015
Last Action:	Motion Document Filed
Last Action Date:	9/21/2018
Your citation has been referred to a collection agency. Please call the GC Services Collection Agency at (800) 352-3778 for English or (800)511-0734 for Spanish. Click here to go to GC Services.	
This ticket does not qualify for any online services.	
Ineligible transaction(s): Pay and Close Your Ticket - What are the qualifications? Enroll in a Payment Plan - What are the qualifications? Request Traffic School - What are the qualifications? Make a Partial Payment to a Court Ordered Fine - What are the qualifications? Make the Payment after you are Enrolled in Traffic Payment Plan - What are the qualifications? Request an Extension of the Due Date on Your Ticket - What are the qualifications? Request an Extension to pay your fine - What are the qualifications? Request an Extension to complete Traffic School - What are the qualifications? Court Date Reservation for Arraignment Only - What are the qualifications?	



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Addressing the Ticket: Options

- **Request Dismissal (Penal Code § 1385)**
- **Trial**
 - In-Person Trial
 - Trial by Declaration
- **Ability to Pay Petition**



Addressing the Ticket: Pen. Code § 1385 Request for Dismissal

- Pen. Code § 1385(a) allows a judge to dismiss a criminal action “in furtherance of justice
- Not a defense
 - Explain why client’s circumstances warrant special consideration
 - Financial Hardship
 - Judicial Economy
 - Disability
 - Compelling Circumstances
- Can request dismissal of underlying citation and FTA/FTP
- *DISCRETIONARY*



Addressing the Ticket: Pen. Code § 1385 Request for Dismissal

- **Special Consideration for Veterans:**
 - Pen. Code § 1170.9- alternative sentencing for veterans in the criminal justice system
 - *Porter v. McCollum* (2009) – Supreme Court recognition that “Our Nation has a long tradition of according leniency to veterans in recognition of their service....”
- **Format:**
 - Oral- Arraignment/Trial
 - Informal Letter-Addressed to the Judge (reviewed in chambers)
 - Motion (ruling at a separate hearing, arraignment, or trial)
- **Example**



Addressing the Ticket: Trial

- Trial Date
 - Requires court appearance.
- Trial by Declaration
 - Raise defense by mail (no appearance).
 - <https://www.courts.ca.gov/documents/tr205.pdf>
- Citation Defense Considerations
 - Facially Deficient Tickets (wrong section cited, illegible)
 - Legal Justifications for FTA/FTP
 - Hospitalization
 - Incarceration
 - Deployment (out of state/country)



Addressing the Ticket: Ability to Pay Determination

- Submit Proof of Financial Hardship
 - GR, SSI, fixed disability income, employment income + monthly bills
- LA County Court Form
 - Ability to Pay Determination
 - Request to Reduce/Vacate Civil Assessment (FTA/FTP)
 - <http://www.lacourt.org/forms/pdf/TRAF051PetitionandOrdereCRC4106and4335.pdf>



Form: Ability to Pay

NAME, ADDRESS, AND TELEPHONE NUMBER OF DEFENDANT OR DEFENDANT'S ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
ATTORNEY FOR (Name):			
COURTHOUSE ADDRESS:			
Please Choose a Court Location			
DEFENDANT/PETITIONER:			
<input type="checkbox"/> PETITION AND ORDER TO REDUCE OR VACATE CIVIL ASSESSMENT			CITATION NUMBER:
<input type="checkbox"/> PETITION AND ORDER FOR AN ABILITY-TO-PAY DETERMINATION			

Petition to Reduce or Vacate Civil Assessment – California Rules of Court, Rule 4.106

- If you receive a notice that the court has placed a hold on your license and a civil assessment has been added to your citation, you may request that the court reduce or vacate the assessment.
To make the request, you must file a petition with the court to lower or vacate the civil assessment.
- You must file a petition within 20 calendar days from the action date on the notice the court sent you.
- There is no fee for this petition.

Note: A petition to reduce or vacate an assessment does not stay any order requiring payment of bail, fines, penalties, fees, or assessments unless specifically ordered by a judicial officer.

Petition for Ability-to-Pay Determination – California Rules of Court, Rule 4.335

- If you cannot pay your ticket, you may request that the court consider your ability to pay, lower your payment, vacate the amount you owe, create a payment plan, agree to pay with reduction in sentence - see form LASC TRAF 057, and/or complete community service (fees may apply).
- You are eligible if: (1) you were found guilty, plead guilty/no contest, or paid the ticket in full, (2) you are currently on an installment plan, (3) you are performing community service to satisfy your judgment, or (4) your judgment remains unpaid, including when your case is delinquent or in collections.
- You have the right to a review by a judicial officer. This request must be in writing and include any information you want the court to consider in making a decision.
- If an ability-to-pay determination has already occurred, another ability-to-pay determination on the same fines or penalties can be requested when there is a change in your circumstances.

Instructions: Complete and file this form and attach any additional information or documentation you wish the court to consider. (See Page 2 for more information.)

Check one: ☐ This is my first petition. ☐ I have submitted a petition before. (Please explain below.)

Reason for Petition/Change in circumstance:

- ☐ Additional sheets attached to this document.

- ☐ I want the court to make a determination based upon my declaration and supporting documents.
☐ I am requesting to go to court to appear before a judicial officer to be heard on this matter.

Reason you want to appear in court:

- ☐ Additional sheets attached to this document.

DECLARATION

I declare, under penalty of perjury and under the laws of the State of California,
that the information I have provided with this petition is true and correct.

Date:

Petitioner's Name (PRINT)

Petitioner's Signature



Addressing the Ticket: Special Considerations

- **FTA – DMV License Holds**
 - Call court to schedule arraignment.
 - Clerk may remove hold while awaiting hearing.
 - Contact DMV to renew license.
- **Warrants**
 - Same day walk-ins (some courts)
 - Faster scheduling for hearings
- **Homeless Court (HEART)**
 - LA City Atty & Homeless Engagement and Response Team
 - Community Service → Dismiss
 - Apply through Case Manager
 - Upcoming Events: 213.978.1913 or homelesscourtevents@lacity.org



Questions?



Expungement: Definition, Benefits, & Limitations

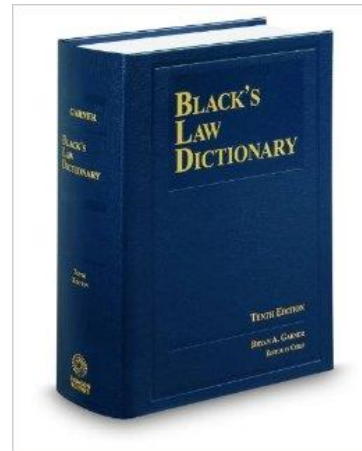


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Expungement Defined

Expunge: To destroy; blot out; obliterate; erase; to efface designedly; to obliterate; to strike out wholly; the act of physically destroying information-including criminal records-in files, computers, or other depositories

Expungement of record: Process by which record of criminal conviction is destroyed or sealed after expiration of time



Expungement in California

- Arrest record/conviction is not destroyed, erased or sealed.
- Court reopens the case, w/d guilty plea/verdict and enters NG.
- Sets aside and dismisses conviction.
- Final Disposition → Dismissed
- No longer considered convicted of the offense (for most purposes).



Expungement Benefits

- Employment: Most employers CANNOT consider expunged convictions while conducting a background check in connection with an application for employment (AB 1008)
- Job licenses and certificates
- Housing and/or loan applications
- Close a chapter of the past
- Overall employability is increased



Expungement Limitations

- Priors for Sentence Enhancement
- Three Strikes
- Firearm Restrictions
- Deportation
- Sex Offender Registry
- Required Disclosures
 - California State Lottery Commission
 - Government Jobs (local, state, federal)
- Does not Seal, Erase, or Destroy Records
 - Full Access: Law Enforcement, Court, Prosecutors
 - DMV Records



Expungement: How the Law Works



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General Eligibility Requirements

- All fines and fees must be paid.
- No unresolved criminal matters.
 - Probation
 - Serving Sentence
 - Pending Charges
- Example
 - John has 5 convictions - most recent conviction in 2010.
 - John was arrested in 2020 & has an open case in criminal court.
 - John is not eligible for any cases until his 2020 case is resolved.



Sentence/Offense Level Specific Eligibility Requirements

- If and when someone is eligible for expungement also depends on:
 - Level of Offense
 - Sentence
 - Corresponding Waiting Periods
- Most frequently used expungement laws (by LACBA CFJ VLSP)
 - Probation Granted (Pen. Code § 1203.4)
 - Jail/Fine (Pen. Code § 1203.4a)
 - State Prison Sentences (Pen. Code § § 1203.41 & 1203.42)
- Less frequent (by LACBA CFJ VLSP)
 - Pen. Code § 1203.49- Misd. convictions of human trafficking victims.
 - Pen. Code § 1203.43- Deferred Judgment after completion of Drug Treatment Program.



Eligibility: Probation (Pen. Code § 1203.4)

- Level of Offense: Felony/Misdemeanor Convictions
- Sentence: Probation was ordered as part of the sentence.
- General eligibility requirements met.
- No waiting Period!
 - Eligible as soon as probation is completed.
- Mandatory
 - Successfully completed probation or terminated early.
 - (Not revoked and terminated.)
- Discretionary
 - All terms of probation were not fulfilled.



Eligibility: Jail/Fine (Pen. Code § 1203.4a)

- Level of Offense: Misdemeanor/ Infraction Convictions
- Sentence: Probation was not granted.
 - Sentenced to jail/fine.
- General eligibility requirements met.
- Waiting period:
 - 1 year after conviction date.
- Mandatory
 - Lived an “honest and upright” life since the conviction.
- Discretionary
 - A traffic conviction can trigger discretionary relief.



Eligibility: State Prison Sentence in Jail (Pen. Code § 1203.41)

- AB 109 Realignment(October 2011)
- Level of Offense: Felony conviction after 2011.
- Sentence: Ordered to serve a State Prison sentence in County Jail.
 - “Pursuant to Pen. Code § 1170(h)”
- General eligibility requirements met.
- Waiting period
 - Straight Jail Sentence → 2 years after sentence completion
 - Mandatory Supervision → 1 year after sentence completion
- ALWAYS Discretionary
 - Hearing Required.



Eligibility: Some State Prison Sentences (Pen. Code § 1203.42)

- Equalizer Statute
 - AB 1115 eff. 01/01/2018
 - Previously, no remedy for State Prison sentences that were not eligible for reduction to a misdemeanor.
- Level of Offense: Felony conviction before Oct. 2011.
- Sentence: State Prison
 - AND after 2011, the sentence for the offense changed from State Prison to County Jail “Pursuant to Pen. Code § 1170(h).”
- General eligibility requirements met.
- Waiting Period:
 - 2 years after completion of sentence.
- ALWAYS Discretionary → Hearing Required.



Special Considerations: Motion to Modify/Terminate Probation

- Can request that the court terminate probation early (Pen. Code § 1203.3).
- Good Conduct & Reform
 - Court has authority to revoke, modify, or terminate probation at any time in the interest of justice.
- Written motion and hearing required.
- Timing suggestions/Good rule of thumb:
 - Misdemeanors: min. 12 mos.
 - Felonies: min. 18 mos.
- Discretionary



Special Considerations: Felony Reduction

- Some felonies can be reduced to misdemeanors.
- Wobblers (Pen. Code § 17(b))
- Prop 47 (Pen. Code § 1170.18)
- 2018 Marijuana law (Prop 64, HSC § 11361.8)



Wobbler Reduction (Pen. Code § 17(b))

- Certain felonies (“Wobblers”) can be reduced to misdemeanors, then expunged.
 - Wobblers = Criminal Offense can be charged either as a Misdemeanor or a Felony.
- Advantages include:
 - Restores more rights than Prop 47 and Prop 64.
 - Job Applicant can say he/she was never convicted of a felony.
- Disadvantage:
 - Discretionary



Prop 47 Reclassification

- Pen. Code § 1170.18
- Reduces certain crimes that were felonies to misdemeanors.
- Allows defendants who are serving time for such a crime to petition the Court to be resentenced to a misdemeanor.
- Allows defendants who have completed their sentence to apply to have the conviction redesignated as a misdemeanor.



Prop 47 Eligible Offenses

- Commercial Burglary
- Forgery related to financial instruments
- Passing Bad Checks
- Grand Theft
- Receiving Stolen Property
- Petty Theft With a Prior Conviction
- Unlawful Possession of a Controlled Substance



Prop 64 (HSC § 11361.8)

- Reduces certain marijuana-related crimes that were felonies to misdemeanors, some misdemeanors to infractions.
- Some things are no longer crimes!
- Allows defendants who are serving time for such a crime to Petition the Court to be resentenced to a misdemeanor.
- Allows defendants who have completed their sentence to Apply to have the conviction redesignated as a misdemeanor. Or, misdemeanor as infraction.



Prop 64 Eligible Offenses

- Felony convictions that may be reduced to Misdemeanors by the sentencing court:
 - Possession of Marijuana (more than 28.5g)
 - Cultivation of Marijuana Plants (more than 6)
 - Possession of Marijuana for Sale w/o a License
 - Possession of Marijuana for Transportation, Distribution, or Importation w/o a License



Special Considerations: Misdemeanor Reduction

- Some misdemeanors can be reduced to infractions. (Pen. Code § 17(d)(2))
- Exclusive List (Pen. Code § 19.8)
 - Common Vehicle Code Wobblettes:
 - FTA/FTP Charge
 - Driving with Suspended License
 - Driving w/o a License



Crimes Ineligible for Expungement

- Murder
- Kidnapping
- Any conviction for willfully failing or refusing to comply with a lawful order, signal, or direction of a peace officer, fire department member or traffic officer, insofar as it affects a failure to stop and submit to inspection of equipment or for an unsafe condition endangering a person.
- Sexual offenses against children.
- Crimes where State Prison was part of the sentence but Prop 47, Prop 64, Pen. Code § 1203.41, and Pen. Code § 1203.42 do not apply.



Remedy for Crimes Ineligible for Expungement

- Certificate of Rehabilitation
- Pardon



Expungement: Strategy



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Gathering Case Information

- **Case Summary**
 - In-Person/Mail from court where convicted.
 - Online, if you have a case number BUT limited info.
 - <http://www.lacourt.org/criminalcasesummary/ui/>
 - In LA County, can get a free copy of conviction records from Metropolitan Courthouse.
 - Old Cases → County Archives
- **RAP Sheet** (Record of Arrests and Prosecution)
 - Obtained from the Department of Justice (DOJ).
 - Form Accessible Online:
 - DOJ Records Request: <https://oag.ca.gov/fingerprints/record-review>
 - Complete Live Scan Form BCIA 8016RR.
 - Take the form to a Live Scan Agency.
 - \$25 waivable government fee
 - Complete and mail fee waiver form.
 - Separate Live Scan Fee (non-waivable)



Court Records:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

NO. [REDACTED]

THE PEOPLE OF THE STATE OF CALIFORNIA VS.

PAGE NO. 1

CURRENT DATE 03/07/18

DEFENDANT 01: [REDACTED]

LAW ENFORCEMENT AGENCY EFFECTING ARREST: LONG BEACH POLICE DEPT.

BAIL: APPEARANCE DATE	AMOUNT OF BAIL	DATE POSTED	RECEIPT OR BOND NO.	SURETY COMPANY	REGISTER NUMBER
--------------------------	-------------------	----------------	------------------------	----------------	--------------------

CASE FILED ON 12/15/15.

COMPLAINT FILED, DECLARED OR SWORN TO CHARGING DEFENDANT WITH HAVING
COMMITTED, ON OR ABOUT 10/20/15 IN THE COUNTY OF LOS ANGELES, THE FOLLOWING

OFFENSE(S) OF:

COUNT 01: 484(A) PC MISD

NEXT SCHEDULED EVENT:

01/20/16 830 AM ARRAIGNMENT DIST GOV DEUKMEJIAN-LNG BEACH DEPT S02

ON 01/20/16 AT 830 AM IN GOV DEUKMEJIAN-LNG BEACH DEPT S02

CASE CALLED FOR ARRAIGNMENT

PARTIES: [REDACTED] (JUDGE) [REDACTED] (CLERK)

[REDACTED] (REP)

[REDACTED] (CP)

DEFENDANT IS PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL

DEFENDANT APPEARS IN PRO PER

DEFENDANT ADVISED OF THE FOLLOWING RIGHTS ORALLY:

DEFENDANT ARRAIGNED, AND ADVISED OF THE FOLLOWING RIGHTS: PLEAS
AVAILABLE TO DEFENDANT; EXPLANATION OF NOLO CONTENDERE PLEA; TO
THE AID OF AN ATTORNEY AT ALL STAGES OF THE PROCEEDINGS; TO A
REASONABLE LENGTH OF TIME TO CONSULT AN ATTORNEY; THAT THE
COURT WOULD APPOINT AN ATTORNEY FREE OF CHARGE IF DEFENDANT DOES
NOT HAVE THE FINANCIAL MEANS TO RETAIN OWN; THAT UPON CONCLUSION
OF THE CASE, THE COURT MAY ORDER A HEARING TO DETERMINE THE
DEFENDANT'S THEN ABILITY TO PAY FOR ALL OR ANY PART OF THE COST
OF APPOINTED COUNSEL, AND THAT DEFENDANT MAY BE ORDERED TO PAY
ALL OR THAT PART OF SAID COSTS WITHIN DEFENDANT'S ABILITY TO
PAY; RIGHT TO REPRESENT HIMSELF IN PRO PER AND ADVISED OF
DISADVANTAGES OF SELF REPRESENTATION; NO SPECIAL TREATMENT BY
COURT; PROSECUTOR EXPERIENCED ATTORNEY; CANNOT LATER CLAIM ERROR
FOR INADEQUACY OF REPRESENTATION; THE DEFENDANT HAS BEEN ADVISED

THAT THERE MAY BE DEFENSES THAT HE/SHE IS UNAWARE OF; TO PUBLIC
TRIAL BY JURY OR COURT IN LONG BEACH; TO DISMISSAL IF NOT TRIED
WITHIN 30 DAYS IF IN CUSTODY; WITHIN 45 DAYS IF NOT; TO THE AID
OF THE COURT TO SUBPOENA AND PRODUCE WITNESSES ON OWN BEHALF; TO
REASONABLE BAIL PENDING TRIAL; TO CONFRONT AND EXAMINE ADVERSE
WITNESSES; TO EXERCISE PRIVILEGE AGAINST SELF INCRIMINATION AND
REMAIN SILENT; INFORMED THAT BY ENTERING A PLEA OF GUILTY, THESE
RIGHTS WOULD BE WAIVED; ADVISED RIGHT TO BE SENTENCED IN NOT
LESS THAN 6 HOURS OR MORE THAN 5 DAYS UNLESS REFERRED TO THE
PROBATION OFFICE; ADVISED MAXIMUM SENTENCE, UNLESS COURT
INDICATED OTHERWISE, WOULD BE 1 YEAR COUNTY JAIL, \$1,000 FINE OR
BOTH; ADVISED MEANING OF PROBATION AND POSSIBLE OF LATER
SENTENCE IF COURT DETERMINES VIOLATION; ADVISED IF ON PROBATION
TO ANOTHER COURT THAT PLEA/CONVICTION MAY RESULT IN REVOCATION;
THE RIGHT TO HAVE A JUDGE REVIEW THE EVIDENCE TO DETERMINE IF

THERE IS PROBABLE CAUSE TO KEEP THE DEFENDANT IN CUSTODY UNTIL TRIAL, THAT CONVICTION OF THE OFFENSE MAY HAVE THE CONSEQUENCES OF DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF NATURALIZATION
DEFENDANT PERSONALLY WAIVES RIGHT TO COUNSEL, APPEARING IN PROPRIA PERSONA.
COURT ADVISES DEFENDANT THAT SELF-REPRESENTATION IS ALMOST ALWAYS AN UNWISE CHOICE, AND WILL NOT WORK TO HIS ADVANTAGE; FURTHER, THAT HE WILL NOT BE HELPED OR TREATED WITH SPECIAL LENIENCY BY THE COURT OR THE PROSECUTOR, AND THAT HE WILL BE HELD TO THE SAME STANDARDS OF CONDUCT AS AN ATTORNEY.
FURTHER, IF HE WISHES TO REPRESENT HIMSELF, HE WILL NOT BE ABLE TO CLAIM LATER THAT HE MADE A MISTAKE, OR THAT HE RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL.
COURT FINDS THAT THE DEFENDANT VOLUNTARILY AND INTELLIGENTLY CHOOSES SELF-REPRESENTATION, AND THAT HE KNOWINGLY, INTELLIGENTLY, UNDERSTANDINGLY, AND EXPLICITLY WAIVES HIS RIGHT TO COUNSEL, AND DETERMINES THAT DEFENDANT IS COMPETENT TO REPRESENT HIMSELF.
DEFENDANT WAIVES ARRAIGNMENT, READING OF COMPLAINT, AND STATEMENT OF CONSTITUTIONAL AND STATUTORY RIGHTS.

DEFENDANT WAIVES FURTHER ARRAIGNMENT.
DEFENDANT ADVISED OF AND PERSONALLY AND EXPLICITLY WAIVES THE FOLLOWING RIGHTS:
TRIAL BY COURT AND TRIAL BY JURY
CONFRONTATION AND CROSS-EXAMINATION OF WITNESSES;
SUBPOENA OF WITNESSES INTO COURT TO TESTIFY IN YOUR DEFENSE;
AGAINST SELF-INCRIMINATION;
DEFENDANT ADVISED OF THE FOLLOWING:
THE NATURE OF THE CHARGES AGAINST HIM, THE ELEMENTS OF THE OFFENSE IN THE COMPLAINT, AND POSSIBLE DEFENSES TO SUCH CHARGES;
THE POSSIBLE CONSEQUENCES OF A PLEA OF GUILTY OR NOLO CONTENDERE, INCLUDING THE MAXIMUM PENALTY AND ADMINISTRATIVE SANCTIONS AND THE POSSIBLE LEGAL EFFECTS AND MAXIMUM PENALTIES INCIDENT TO SUBSEQUENT CONVICTIONS FOR THE SAME OR SIMILAR OFFENSES;
THE EFFECTS OF PROBATION;
IF YOU ARE NOT A CITIZEN, YOU ARE HEREBY ADVISED THAT A CONVICTION OF THE OFFENSE FOR WHICH YOU HAVE BEEN CHARGED WILL HAVE THE CONSEQUENCES OF DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES.
THE DEFENDANT WITH THE COURTS APPROVAL, PLEADS NOLO CONTENDERE TO COUNT 01 A VIOLATION OF SECTION 484(A) PC. THE COURT FINDS THE DEFENDANT GUILTY.
COUNT (01) : DISPOSITION: CONVICTED

DEFENDANT IS ADVISED OF HIS RIGHT TO A SPEEDY TRIAL AND WAIVES STATUTORY TIME FOR TRIAL.
COURT ACCEPTS PLEA
WAIVES TIME FOR SENTENCE.
NEXT SCHEDULED EVENT:
SENTENCING
DEFENDANT WAIVES ARRAIGNMENT FOR JUDGMENT AND STATES THERE IS NO LEGAL CAUSE WHY SENTENCE SHOULD NOT BE PRONOUNCED. THE COURT ORDERED THE FOLLOWING JUDGMENT:

AS TO COUNT (01):
IMPOSITION OF SENTENCE SUSPENDED
DEFENDANT PLACED ON SUMMARY PROBATION
FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:
PLUS \$10.00 CITATION PROCESSING FEE (PURSUANT TO 1463.07 P.C.)
\$40.00 COURT OPERATIONS ASSESSMENT (PURSUANT TO 1465.8(A)(1) P.C.)

Felony Expungement Strategy

FELONY CONVICTIONS

→ Check eligibility for Misdemeanor Reduction under Pen. Code § 17(b), Prop 47, and Prop 64.

→ If eligible:

- Prop 47 or Prop 64 offenses = separate application + hearing before proceeding with expungement.
- Pen. Code § 17(b)- requested simultaneously with expungement petition.
- File petition to expunge.

→ Ineligible + Probation = Expunge as a Felony under Pen. Code §1203.4.

- Still on Probation? → Request Early Termination of Probation after 18 months (Pen. Code §1203.3)
 - If granted, file petition to expunge Pen. Code §1203.4.

→ Ineligible + No Probation

- Sentenced to Jail and/or Mandatory Supervision?
 - Wait 2yrs/1yr after completion of sentence to file petition under Pen. Code §1203.41.
- Sentenced to State Prison before 2011?
 - Review statutory language- Is crime eligible for jail sentence purs. to Pen. Code §1170(h)?
 - Yes = Expunge as Felony under Pen. Code § 1203.42
 - No = Certificate of Rehabilitation/Pardon



Misdemeanor Expungement Strategy

MISDEMEANOR CONVICTIONS

- ➔ Determine if Misdemeanor is eligible for a reduction to an Infraction under Pen. Code § 17(d)(2)
Most common “Wobblettes”: Veh. Code § § 12500, 14601.1, 23109, 40508, and 5201.1; and Pen. Code § 853.7
 - ➔ If eligible, request reduction to an Infraction, in addition to following the appropriate steps below.
 - ➔ If ineligible, proceed with steps below.
- ➔ Probation = Expunge at completion of probation (Pen. Code § 1203.4).
 - Still on Probation?
 - ➔ Early Termination of Probation after 12 months (Pen. Code § 1203.3).
- ➔ Jail/Fine = 1yr Waiting Period from Date of Conviction ➔ Expunge (Pen. Code § 1203.4a)



Expungement: Forms



Working together for a more **just LA**

Expungement Forms

- Judicial Council Forms
 - Petition for Dismissal ([CR-180](#))
 - Declaration ([MC-031](#))
 - Order for Dismissal ([CR-181](#))
 - Proof of Service ([POS-040](#))
- Fee Waiver Forms
 - Request to Waive Court Fees ([FW-001](#))
 - Request to waive add'l court fees ([FW-002](#))
 - Order on Court Fee Waiver ([FW-003](#))
- LA County
 - Defendants Statement of Assets ([CR-115](#))
 - Order re: Ability to Reimburse Costs (CRIM 243)



Expungement Forms

- Felony Reductions
 - Wobblers – ([CR-180](#))
 - Request is made on the same form as the Petition for Dismissal.
- Prop 47 Reclassification
 - Application/Petition for Resentencing ([CRIM-235](#))
 - Proof of Service ([CRIM 237](#))
- Prop 64 Resentencing/Redesignation or Dismissal/Sealing
 - Petition/Application ([CR-400](#))
 - Proof of Service ([CR-401](#))
 - Order After Petition/Application ([CR-403](#))



PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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- Page 3 of 3

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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DECLARATION

(This form must be attached to another form or court paper before it can be filed in court.)

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)

☐ Attorney for ☐ Plaintiff ☐ Petitioner ☐ Defendant
☐ Respondent ☐ Other (Specify):



CR-181

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT: DATE OF BIRTH:		
ORDER FOR DISMISSAL (Pen. Code, §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, 1203.49)		

CASE NUMBER:

The court finds from the records on file in this case, and from the foregoing petition, that the petitioner (*the defendant in the above-entitled criminal action*) is eligible for the following requested relief:

1. The court **GRANTS** the petition for reduction of a felony to a misdemeanor (maximum punishment of 364 days per Pen. Code, § 18.5) under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) and reduces

a. ☐ ALL FELONY CONVICTIONS in the above-entitled action.

b. ☐ ALL MISDEMEANOR CONVICTIONS in the above-entitled action.

c. ☐ only the following convictions in the above-entitled action (*specify charges and date of conviction*):

2. The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and/or for reduction of a misdemeanor to an infraction under Penal Code section 17(d)(2) for

a. ☐ ALL FELONY CONVICTIONS in the above-entitled action.

b. ☐ ALL MISDEMEANOR CONVICTIONS in the above-entitled action.

c. ☐ only the following convictions in the above-entitled action (*specify charges and date of conviction*):

3. The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code (*check all that apply*)

☐ § 1203.4 ☐ § 1203.4a ☐ § 1203.41 ☐ § 1203.42 ☐ § 1203.43 ☐ § 1203.49

and it is ordered that the pleas of guilty or nolo contendere or verdicts or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint or information be, and is hereby, dismissed for (*check one*)

a. ☐ ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.

b. ☐ only the following convictions or pleas for deferred entry of judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

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PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:	CASE NUMBER:
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4. The court **DENIES** the petition for dismissal under Penal Code (*check all that apply*)

☐ § 1203.4 ☐ § 1203.4a ☐ § 1203.41 ☐ § 1203.42 ☐ § 1203.43 ☐ § 1203.49 for (*check one*)

a. ☐ ALL CONVICTIONS OR PLEAS FOR DEFERRED ENTRY OF JUDGMENT in the above-entitled action.

b. ☐ only the following convictions or pleas for deferred entry of judgment in the above-entitled action (*specify charges and date of conviction or plea for deferred entry of judgment*):

5. In granting this order under the provisions of Penal Code section 1203.49, the court finds that the petitioner was a victim of human trafficking when he or she committed the crime. The court orders (*check one*)

a. ☐ the relief described in section 1203.4.

b. ☐ the relief described in section 1203.4, with the following exceptions (*specify*):

6. If the order is granted under the provisions of Penal Code section 1203.49, the Department of Justice is hereby notified that petitioner was a victim of human trafficking when he or she committed the crime, and of the relief ordered.

7. If this order is granted under the provisions of Penal Code section 1203.4, 1203.41, or 1203.42,

a. the petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency, or for contracting with the California State Lottery Commission; and

b. dismissal of the conviction does not *automatically* relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 290.5.)

8. If the order is granted under the provisions of Penal Code section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 29800 or 29900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

9. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.49 does *not* release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if petitioner was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).

10. The basis for an order of dismissal granted under the provisions of Penal Code section 1203.43 is the invalidity of defendant's prior plea due to misinformation in former Penal Code section 1000.4 regarding the actual consequences of making a plea and successful completion of a deferred entry of judgment program.

Date:

(JUDICIAL OFFICER)

FOR COURT USE ONLY

CR-181 [Rev. January 1, 2019]

ORDER FOR DISMISSAL

Page 2 of 2

POS-040

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
PROOF OF SERVICE—CIVIL Check method of service (only one): <input type="checkbox"/> By Personal Service <input type="checkbox"/> By Mail <input type="checkbox"/> By Overnight Delivery <input type="checkbox"/> By Messenger Service <input type="checkbox"/> By Fax	JUDICIAL OFFICER:
	DEPARTMENT:

Do not use this form to show service of a summons and complaint or for electronic service.
See USE OF THIS FORM on page 3.

1. At the time of service I was over 18 years of age and not a party to this action.

2. My residence or business address is:

3. ☐ The fax number from which I served the documents is (complete if service was by fax):

4. On (date): I served the following documents (specify):
Petition for Dismissal; Declaration; Order for Dismissal

☐ The documents are listed in the Attachment to Proof of Service—Civil (Documents Served) (form POS-040(D)).

5. I served the documents on the person or persons below, as follows:

a. Name of person served:
b. ☐ (Complete if service was by personal service, mail, overnight delivery, or messenger service.)
Business or residential address where person was served:

c. ☐ (Complete if service was by fax.)
Fax number where person was served:

☐ The names, addresses, and other applicable information about persons served is on the Attachment to Proof of Service—Civil (Persons Served) (form POS-040(P)).

6. The documents were served by the following means (specify):

a. ☐ By personal service. I personally delivered the documents to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and eight in the evening.

POS-040

CASE NAME:	CASE NUMBER:
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6. b. ☐ By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and (specify one):
- (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (city and state):
- c. ☐ By overnight delivery. I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. ☐ By messenger service. I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. (A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.)
- e. ☐ By fax transmission. Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

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 OF DECLARANT)

(SIGNATURE OF DECLARANT)

(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

DECLARATION OF MESSENGER

☐ By personal service. I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and eight in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (date):

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

Date: _____

(NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

Questions?



WAYS TO GET INVOLVED

- **Volunteer Opportunities**

- Intake/Interview
 - @ our monthly clinics, every 3rd Wed. of the month.
- Document Preparation
 - Drafting Motions, Petitions, and Letters.
- All volunteer opportunities can be completed outside of business hours.

- **Donation** ← Click here

- All LACBA CFJ VLSP services are provided to Veterans Free of Charge.
- A little bit goes a long way!

- **For More information:**

- Visit our website: counselforjustice.org
- Follow us on [Facebook](#) and [Twitter](#)
- Sign up for our Newsletter: <https://lp.constantcontactpages.com/su/bWDHkMz/LACBAveterans>



THANK YOU FOR YOUR SUPPORT



Working together for a more **just LA**