

EPHRAIM JUSTICE COURT, STATE OF UTAH
RIGHTS, INSTRUCTIONS, WAIVER, AND RIGHT TO COUNSEL FORM ^{9/12/17}

Defendant: _____ Date of Birth: _____ Case No.: _____

Address: _____ City: _____ State: _____ Zip Code: _____ Phone #: _____

(If you desire notices emailed, provide address- Please write clearly) **Email:** _____

RIGHTS:

- (1) You have the right to be represented by an attorney at all court proceedings. If you would like to hire your own attorney, the court will give you some time to accomplish that.
- (2) You have the right to petition the court for the services of a public defender. The court will appoint a public defender at no cost to you if: (a) you cannot afford an attorney; and (b) there is the possibility of a jail sentence for the offense. At the conclusion of the case, however, you may be required to pay a portion of the cost for public defender services, if the court determines you are able to do so.
- (3) You have the right to represent yourself. If you do so, the court cannot advise you on how to handle your case, and you will be required to comply with technical legal rules. There may be disadvantages to proceeding without an attorney.
For any future hearing you must (a) represent yourself; (b) hire an attorney; or (c) if you cannot afford an attorney, request a court-appointed attorney by filing an affidavit at least 10 days before the proceeding. Failure to exercise option b or c will be treated as an implied waiver of your right to counsel.
- (4) You have the right to a speedy public trial before an impartial (unbiased) jury, or you may ask the judge to decide the case. If you want a jury trial, you must make a written demand at least 10 days prior to trial. You are not entitled to a jury trial if you are charged only with an infraction.
- (5) You have the right to confront and cross-examine the prosecution witnesses in open court.
- (6) You have the right to call witnesses and compel by subpoena their attendance and testimony. If you cannot afford to pay for the attendance of witnesses, the prosecution will pay those costs.
- (7) You have the right to testify on your behalf. You are not required to testify, make any statement, or give evidence against yourself. Your refusal to testify cannot be held against you.
- (8) You are presumed innocent until: (a) you plead guilty or no contest; or (b) the prosecution proves you guilty. The prosecution has the burden of proving each of the elements of the crime beyond a reasonable doubt. A jury verdict must be unanimous.
- (9) You have the right to bail. If you post bail, you will be released on: (a) the condition you appear in court for future proceedings; and (b) any other conditions the court imposes. Bail may be modified on proper motion, notice, and findings.
- (10) You have the right to an information (formal charging document) filed by the prosecution. That document would replace the citation filed in this case. This right is waived if you plead guilty or no contest at any time. If you desire to have an information filed, you need to let the judge know.

If you plead guilty or no contest at any time, you are choosing to waive all of these rights, and your plea constitutes an admission of all the elements of the crime(s).

ENTRY OF PLEA: At this stage of the proceedings, the court is likely to accept the pleas outlined in numbers 1-3 below:

- (1) You can enter a plea of **“not guilty.”** A plea of not guilty means you question the charge against you and you would like either a trial on the matter or you would like to discuss the charge with the prosecutor at a pretrial conference.
- (2) You can plead **“guilty.”** A plea of guilty is an admission that you committed each element of the offense charged.

You are saying to the court that you have violated the law as stated in the charge. If you enter a plea of guilty, you may give an explanation to the court before sentencing.

- (3) You can plead “no contest” with the consent of the court. A plea of no contest means that you do not challenge the charge before the court. You should understand that a plea of no contest has the same effect as a guilty plea. A sentence may be rendered in the same manner as if a plea of guilty had been entered.
- (4) A plea of guilty and mentally ill, not guilty by reason of insanity, guilty with a mental illness at the time of the offense (77-16a-103) or other may require a special hearing with the court.

WITHDRAWAL OF PLEA: A motion to withdraw a guilty or no-contest plea must be made before you are sentenced or within 28 days of a plea held in abeyance. To withdraw your plea, you must show it was not knowingly and voluntarily made.


APPEAL: The right to appeal is limited. If you choose to appeal, you must file a written Notice of Appeal within 28 days of the sentence or order from which you are appealing.

MINIMUM/MAXIMUM PENALTIES: Class B Misdemeanor (0 days up to 180 days in jail, \$0 up to \$1,950 in fines and surcharges, plus interest); Class C Misdemeanor (0 to 90 days jail, \$0 to \$1062.50 in fines and surcharges, plus interest); Infraction (no jail, \$0 to \$1062.50 in fines and surcharges, plus interest). The court may also order restitution to any victim, if appropriate, or impose costs or additional terms of probation.

SENTENCING: Sentencing recommendations are not binding on the court. The court may order any jail sentence to run consecutively (one after the other) with the other charges in this case and with any other case.

ORDER TO SHOW CAUSE: If you are here for an order to show cause, that means you previously entered a guilty or no contest plea or were convicted at trial. If you admit to violating a term of probation, your probation could be revoked. If you admit to violation of a plea in abeyance agreement, a conviction may be entered and you would be subject to sentencing. If you admit to violating an order of the court, you may be found in contempt of court. If any of those things happen, you could receive any penalty up to and including the maximum sentence under the law.

I have read (or have had read to me) and I understand the foregoing rights and instructions. I understand the charge(s) and penalties. Any plea I enter is voluntary and of my own free will and choice. No force, threats, or unlawful influence have been made to get me to plead. If I choose to plead guilty or no contest, I know I am waiving the rights listed above. I am not presently under the influence of any drug, medication, or intoxicant which impairs my judgment.

_____ (Date) _____ (Defendant's signature) 

RIGHT TO COUNSEL

1. The Right to an Attorney.

You have been charged with the criminal offense(s) listed in the citation or information. You have the constitutional right to be represented by an attorney throughout all proceedings. If the offense is one for which the court may impose jail time – even suspended jail time – and you cannot afford an attorney, the court will appoint an attorney to represent you. You also have the right to represent yourself. At the end of this document you will choose how you would like to proceed at this time.

2. If You Cannot Afford an Attorney.

If the charges include the potential for a jail sentence (i.e., any of the charges is a Class A, B, or C misdemeanor or felony charge) and you do not have enough income or assets to hire your own attorney, the court will appoint an attorney to represent you, unless you choose to represent yourself. Let the court know if you would like to determine whether you qualify for a court-appointed attorney.

If you do not meet the eligibility guidelines to have a court-appointed attorney, you still have the right to an attorney, but the attorney must then be retained at your own expense.

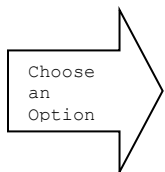
3. The Right to Represent Yourself.

You also have the constitutional right to represent yourself and to proceed without an attorney. Before choosing this option you should consider the following risks and responsibilities associated with self-representation:

- Criminal defense is a highly specialized and technical area of the law.
- A criminal conviction may result in consequences consisting of financial penalties and jail time.
- There may be factual, legal, or other defenses to the charge(s) that an attorney may be able to discover and explain to you.
- There may be issues related to the conduct of trial or the entering of a guilty plea that you may not know and it would be your attorney's responsibility to be aware of those issues and to properly address them before the court. The court cannot advise you on how to proceed with or try your case.
- There may be collateral consequences based on a conviction or guilty plea, such as increased penalties for subsequent offenses, suspension of your driver's license, restriction of your right to possess firearms and ammunition, or consequences on your immigration status. An attorney could advise you about those consequences.
- If you exercise your right to proceed without the services of an attorney, you are responsible for complying with the rules of court, including rules of evidence and other rules of procedure.
- You will be expected to exhibit proper behavior before the judge and jury.
- You will be required to pay for all defense expenses that could be provided as part of a public defender's representation, including the costs of investigators and expert witnesses.
- Given the above considerations, the court encourages you not to represent yourself.

4. Meeting with a Prosecutor. If you plead not guilty at the arraignment, your case may be set for a pre-trial conference with a prosecutor. If you wish, you can explain your situation and try to get the case resolved. This is likely to happen after you have seen the judge for arraignment. Any time you meet with a prosecutor, you need to know that you can have your own attorney present. If you meet with a prosecutor, including without an attorney representing you, you should keep in mind that the prosecutor represents the governmental entity that has brought these charges against you. The prosecutor is not your lawyer. If you choose to meet with a prosecutor without an attorney representing you, you have the right to request an attorney at any later time before a final resolution of the case.

I state that I have fully and completely read this document regarding the right to counsel, and that I understand it. I have appeared before the judge and had my questions answered to my complete satisfaction. At this time, (choose one)



OPTION 1 (___) I want additional time to retain my own attorney.

OPTION 2 (___) I wish to be screened for a court-appointed attorney.

OPTION 3 (___) I wish to represent myself. I do not want an attorney and I am waiving my right to be represented by an attorney. I understand that I have a right to request to be represented by an attorney at a later time, if I change my mind.

OPTION 4 (___) I have an attorney named _____.

_____ (Date)

_____ (Defendant's signature)

