

Sample Script for Advisements of Trial Rights and Procedures in Traffic Cases

RIGHT TO CHANGE PLEA

You still have the opportunity to change your mind about going to trial. You may withdraw your not guilty plea and enter a plea of guilty or no contest to the charges against you. You may also enter a plea of guilty with an explanation. If I find your explanation to be reasonable, I will consider imposing a reduced penalty for the charged offense.

[If this is an accident case, add:]

You may wish to enter a no-contest plea because it will not have any effect on a civil lawsuit or claim brought against you for injuries or property damage.

[If several cases are set on your trial calendar, add:]

After the advisement is given, I will call for the people who wish to change their pleas and will immediately process their cases before the rest of the calendar.

RIGHT TO REMAIN SILENT

If you still want to go to trial, you have the right not to testify in your case. This is your constitutional right to remain silent and avoid incriminating yourself. If you choose not to testify, it cannot be used against you in any way.

When you have heard the officer or the People's witnesses testify in establishing a case against you, you may choose to testify—present your version of the facts and your defenses. By testifying you waive the right to remain silent, and you will be subject to cross-examination by me or the district attorney's representative on matters that you have brought up in your testimony, as well as other, related matters.

RIGHT TO CONFRONT WITNESSES

You also have the right to confront or cross-examine the People's witnesses who testify against you. Upon completion of the testimony by each of these witnesses, I will ask you whether you want to cross-examine the witness. Cross-examination means asking the witness questions about matters brought up in his or her testimony and other, related matters concerning the case.

Cross-examination does not mean introducing your own testimony. I will warn you if you are testifying, because at that stage of the trial, you have not waived your right against self-incrimination.

RIGHT TO HAVE SENTENCING DELAYED

If I find you guilty, you have the right to have the sentencing delayed for a period of 6 hours to 5 days from this date. If you want to come back to this court during that period and then have this court issue its sentence, please request delayed sentencing. If you don't request it, I will assume you want to be sentenced immediately.

RIGHT TO APPEAL

If I find you guilty, you have the right to appeal my decision. You must file your appeal 30 days from today. Please ask the fines clerk about the procedure for filing an appeal.

Any fine that I impose today must be paid before you appeal. If you win the appeal, the fine will be refunded to you.

TRIAL PROCEDURES

When your case is called, you, the officer, and any witnesses to the case should step forward to the counsel table. [*Point to the appropriate seat.*] If you have any photographs or written documents that you want me to consider, please give them to the bailiff at that time. The officer will take the witness stand, and the witnesses can be seated in the front row. The officer will testify first and state the facts that led to issuance of the citation. It is the people's responsibility to prove the case against you beyond a reasonable doubt.

At the conclusion of the officer's testimony, you may cross-examine the officer. At this time you may ask any questions that you have of the officer. This questioning may serve several purposes:

- The first purpose is to clear up any factual questions you have regarding the circumstances of the offense.
- Second, you may want to ask questions to set the stage for your testimony.
- Third, you may want to ask questions to confirm your own observations.

At this time, please don't give your side of what happened or argue with the witness. Later, when you testify, you will have an opportunity to fully explain your side. Let me know when you have finished asking questions.

If there are no other witnesses against you, it is then your turn to present your side of the case. You always have a constitutional right to remain silent, but you may give up that right and testify. You may also call witnesses on your own behalf and present photographs, charts, or other written materials.

The case is normally submitted to the court for decision based on the evidence. However, you may make a closing argument if you wish to do so. Once both sides have been heard, I will announce my decision.

If you are found not guilty or if your case is dismissed, you are free to leave.

If you are found guilty, most likely a fine will be assessed. You can pay the fine in three ways: (1) today, (2) in 30 days, or (3) in installment payments. If you don't pay the fine today, a processing fee will be added to your fine. If you cannot pay the fine, you may be able to satisfy the fine by performing community service.

If you are found guilty, you may appeal the decision. Any appeal must be made within 30 days of today's date. An appeal is not a new trial, and you are not allowed to submit new or different evidence. Another judge will review a record of today's trial to determine whether good cause exists to support the decision of this court. If that judge upholds the decision of this court, the decision will stand. If you win on appeal, your traffic record will be corrected and any fines you have paid will be refunded. Even though you may wish to appeal, you still must pay your fine in one of the three ways I have stated.