

TRAFFIC ARRAIGNMENT SPEECH

Welcome to the Santa Clara County Superior Court Traffic Court. All matters on calendar today are here for arraignment or plea on traffic infractions. We will begin this session with a short discussion of your Constitutional Rights and the process here in Traffic Court.

All parties have a right to have an attorney present with them, and giving them legal advice, at all stages of these proceedings. Because you are here only for an infraction, you do not have a right to a Court appointed attorney. If you would like an opportunity to hire an attorney of your choosing, please make that known when you come forward. I will grant you a continuance for that purpose.

If you choose to do so, you have a right to speedy and public Court trial, where this Court will decide both law and fact, beyond a reasonable doubt, whether an offense was committed and you did commit it. At your Court trial, you would be entitled to a presumption of innocence. Also at your Court trial, you would have a right to confront and cross examine the witnesses against you and present an affirmative defense if you choose to do so. You would have the right to use the subpoena power of this Court to compel the attendance of witnesses or production of real evidence. And at all stages of the case against you, you have the right to remain silent. This is your right against self-incrimination. What this right means is that you could refuse to testify at any proceeding and your silence could not be used against you for any purpose whatsoever.

Next, I am a certified temporary judge and a qualified member of the State Bar who will be hearing the matters on today's calendar. You have a right to have your matter heard by a commissioner of the Court. If your matter is a misdemeanor, you have a right to have your matter heard by a judge of the Court. If you object to your matter being heard by me, please see the courtroom clerk or bailiff before the calendar begins so that your matter may be rescheduled to a commissioner or, if you are charged with a misdemeanor, a judge. You are deemed to have agreed to me serving as a temporary judge if you do not notify the court that you object to the matter being heard by me before I begin the proceedings.

These are all your Constitutional Rights related to a Traffic Infraction.

I will call you forward one at a time. When you hear your name, please come forward to the table in the front of the courtroom with a sign containing the word "Defendant." When you get to that table, please use the microphone. The reason we ask you to do that is you have a right to a verbatim recording of the proceedings against you. You may request a copy of that recording at the Clerk's Office.

If you resolve your case today, you would have the right to be sentenced no less than 6 hours, nor more than 5 days from today's date. This would mean returning to Court on another date and time for the purposes of a sentencing hearing. Most people do not want to return to Court for that purpose. Unless I hear otherwise, I will assume that you wish to give up this right and to resolve your case in its entirety right here and now.

If you choose to proceed to trial, and are convicted at that hearing, you have the right to appeal that decision within 30 days of the date of your conviction. You must file that appeal in writing and at the Clerk's Office.

Most of you are here for a moving violation. Examples of moving violations are speeding, red light violations, stop sign violations and unsafe turning movements. When I call your case, I will announce your name, the allegation against you, whether it is a moving violation and if you are traffic school eligible.

You may wish to attend traffic school for two different reasons. First, if you are convicted of a moving violation, one point will be added to your driver's license. If you have too many points on your license, the Department of Motor Vehicles will suspend your driving privilege. Second, any points added to your driver's license will likely result in an increase in your insurance premiums. If instead you choose to attend traffic school, and complete the program, no points will be added to your driver's license and you would avoid these two potential collateral consequences.

Please remember that you can only attend traffic school one time in any 18-month period. This period is measured from date of offense to date of offense.

If you are here for a speeding citation the Court has the authority and discretion to suspend your driving privilege for up to 30 days for the first offense, 60 days for the second offense and 90 days for the third offense.

Some of you are here for correctable offenses. You may know them as “fix it” tickets. Examples of correctable offenses are driving without a license, driving without insurance, driving without registration or a mechanical defect with your car such as a broken headlight, tail light or unlawful window tinting.

If such an offense has brought you to court, and have corrected the issue, please take out your proof now. Do not wait for the Court to call your case. If you can provide proof of correction, the Court will dismiss the case against you for a \$25 Dismissal fee per count.

If the Court orders fines and fees today, they are due not later than one week from today’s date. If you need more time to pay, the Court can grant you a stay on your payment of up to 90 days or arrange for a payment plan. Neither accommodation would result in any cost to you.

When I call you forward for your arraignment, you have three basic options. First, you could enter a plea of Not Guilty. A Not Guilty plea means that you would like to have a Court trial. Your only decision after electing a trial is whether you would like that trial to occur within 45 days of today’s date or thereafter.

If instead, you would like to resolve your matter for fines and fees, for traffic school, or you are seeking a reduction based upon your ability to pay, you must first enter a plea of Guilty or No Contest. In a Guilty plea, you are admitting that you did commit the offense alleged in the citation. In a No Contest plea, you are not admitting Guilt. Instead, you are announcing to this Court that you do not intend to contest, or are not fighting, the ticket. The Court will find you Guilty following either a Guilty or No Contest plea. But, the Court will treat each plea exactly the same for purposes of this hearing.

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