

(1) _____
(2) _____

(zip) _____
Phone: _____

**IN THE JUSTICE COURT OF THE STATE OF MONTANA
IN AND FOR THE COUNTY OF CARTER BEFORE
HON. KATHLEEN "KATHY" ROSENCRANZ, JUSTICE OF THE PEACE
214 PARK STREET, BOX 72, EKALAKA, MT 59324
Office # 406-775-8754 Fax # 406-775-8755
Email: CarterJusticeCourt@mt.gov**

(3) STATE OF MONTANA,

Plaintiff,

VS.

(4) _____,

Defendant.

Case No: (5) _____

MOTION

COMES NOW, (6) _____ and requests the Court to (7) _____

For what reason. (8) _____

Dated this (9) _____ day of (9) _____, 20____.

(10) _____

Certificate of Service

I hereby certify that a true and correct copy of the Motion was served upon the Defendant(s)/Plaintiff(s) or Defendant(s)/Plaintiff(s) attorney by placing the same in the U.S. mail, postage prepaid, addressed as follows:

Address:

(11) _____

(zip) _____

(12) _____

Motion Form Instructions

The numbers below are instructions for the corresponding numbered blanks on the Motion Form.

- (1) Print your name as the responsible party.
- (2) Print your mailing address and phone number.
- (3) Print the name of the Plaintiff or Plaintiffs (In criminal or traffic cases, the Plaintiff is the State of Montana)
- (4) Print the name of the Defendant or Defendants.
- (5) Fill in the case number that has been assigned by the Court.
- (6) Print your name.
- (7) State what action you are requesting the Court to take.
- (8) State the reason for your request. You must be specific. You must include adequate information for the Judge to consider your Motion. Remember that you must have good cause for any request you make.
- (9) Fill in the date you are signing your Motion.
- (10) Sign the Motion.

(11) If you are the Plaintiff, put the Defendant's name and address and **mail a copy of your motion to the Defendant**. If you are the Defendant, put the Plaintiff's name and address and **mail a copy of your motion to the Plaintiff**. You **MUST** provide a copy of your Motion to the opposing party. **PLEASE MAKE SURE THAT THE COPY FOR THE DEFENDANT(S) IS STAMPED BY THE JUSTICE COURT BEFORE MAILING. THIS MAY BE DONE BY EMAILING THE MOTION TO THE COURT, AND THE COURT WILL STAMP AND RETURN IN AN EMAIL TO YOU.**

- (12) Sign the Certificate of Service.

Email a copy of the Motion and Certificate of Service to the Court then file the original Motion with the Court by Mailing.

These Motions need to be Filed with the Court in a timely manner as the other party has **10 days** to respond to the Motion before the Court will rule on the Motion. Per MCA § 25-23-1 Rule 9.

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STATE OF MONTANA

Plaintiff,

Vs.

Defendant.

Case No: TK 255-

**DEFENDANT INFORMATION
SHEET**

PLEASE PRINT THIS INFORMATION

First, M.I., Last Name: _____

Social Security No.: _____ **Birth Date:** _____

Mailing Address: _____

Home Phone: _____ **Cell Phone:** _____

Physical Address: _____ ☐ X if same as Mailing

Email Address: _____

Employer Name and Address _____

Attorney's Name: _____

Defendant Signature: _____ **Date:** _____

(Return a copy to the court, prior your Court Hearing, along with copies of your photo I.D., Motion for video conference, Dangers of Self Representation signed and dated and the MCA Codes with your signature indicating that you have read these codes. You will then need to mail all documents with your original signature [in blue ink] to the Court after your Court Hearing)

HOW TO APPEAR IN COURT USING ZOOM

This information will help you get the most of your hearings resolved without having to travel to these hearings. (You, however, cannot appear for trial using this method.) This is not something that the Court must provide.

USE BLUE INK TO FILL OUT ANY FORMS AND SIGNATURES

FIRST STEP:

Motion the court to appear via ZOOM for your Initial Appearance. You can connect to this network at most courthouses across the nation. If this is not available to you in your area, please download the app that is available (directions are attached).

Mail a Motion, copy of Photo ID, Conditions for use of ZOOM, bond payment and information sheet, filled out and signed to the court, then put the actual pages in this packet in the mail to the Court, after making yourself a copy for your records.

SECOND STEP:

The Court will notify you as to whether the Motion was granted or denied and will send notification of the day and time for your appearance. In the days prior to your court hearing. You will be sent a Zoom Meeting Link prior to your hearing. You will need to be able to receive and print by email or fax machine the day you are scheduled for your proceeding.

THIRD STEP:

You will be emailed the documents for signature after the hearing. You are instructed to sign and date in all of the places indicated. Use blue ink as you will email a signed copy back to the Court upon signing. It is your Original and it must be mailed back to the Court for your file. It needs to be back to the Court within 7-10 days or you could be charged with Contempt of Court which carries up to a \$500.00 fine and up to six (6) months in jail.

PLEASE NOTE:

ZOOM Hearings qualifies as an Open Court Proceeding, in the State of Montana § 53-21-122, MCA, which is always at the discretion of the Court; ALL OPEN COURT RULES APPLY. There will be no outside interference during the proceeding. No phones, radios, people moving around, etc. Any person in violation of court rules or respect for the court while using ZOOM may be held in Contempt of Court.

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ZOOM CONFERENCE CONDITIONS

Please read and initial after each sentence, after reading. Use Blue Ink, Only

1. I understand that the Court does not have to allow video conferencing, that it is at the discretion of the Court (46-7-101(2) MCA; 46-12-201 MCA and 46-12-210 MCA). This method has been approved by the Montana Supreme Court as Open Court. (46-12-201 MCA). However, it is always at the Court's discretion. _____
2. I understand that since it is an Open Court proceeding that all Court Etiquette applies.

 - A. Turn off all phones, radio's or anything that would make noise.
 - B. Make sure you are in a quiet place without people moving around.
 - C. No cigarettes, gum, or food during the proceedings.
 - D. Wear clothing appropriate for business, church, wedding. NO T-SHIRTS, NO REVEILING TOPS.
 - E. Refer to the Judge as "Your Honor".
 - F. Stand when the Judge and/or Jury enter or leave the room. Stand until the Judge instructs you to sit down.
 - G. Be on time.
 - H. Be polite and DO NOT interrupt.
 - I. BE PREPARED.
3. Since you will not be able to sign the documents required in a courtroom, you will need to be where you can receive an email or fax, you **MUST** be able to print these, sign them and email or fax them back to the Court. The Court also requires that you use a pen with blue ink, only. _____
4. I understand that the documents that I physically signed are the "Originals" and **must be mailed back** to the Court. They will need to be in the Court File within 7 -10 days. You may be found in Contempt of Court, with a fine of up to \$500.00, your driver's license suspended and/or an arrest warrant issued for failing to do so. _____

5. I understand that if I am representing myself that there will be documents that will have to be filed and it is my responsibility to obtain these documents and file them with the Court in a timely matter. It is not the job of the Court to provide these documents.

6. I understand that the Clerk of Justice Court and/or the Judge cannot give legal advice of any nature, at any time. _____
7. I understand that there are instances that the video does not work properly. If, a solution cannot be arranged within a relatively short time frame, I may have to appear in person in the Carter County Justice Court located at 214 Park St., Ekalaka, Montana, at a date set by the Court. _____
8. I understand that the Court has a Standing Order that the appearance bond, **MUST** be on file with the Court prior to my court hearing date. I understand that there are conditions on this bond that could affect a timely outcome. _____ (see conditions of bond document)(If you have not provided the Court with this bond, include it with the mailing of these documents).
9. I understand that I have to include a clear copy of my driver's license or photo ID with the mailing of these documents, so that the Court can identify that they are speaking to the correct defendant. _____
10. I UNDERSTAND THAT I MUST FOLLOW ALL ORDERS OF THE COURT, even if I do not agree with the ruling. _____

I have read, understood, and initialed all the conditions above.

Date: _____ Signature: _____

FAILURE TO COMPLY WITH THESE CONDITIONS FOR THE USE OF VIDEO CONFERENCING WILL BE A FAILURE TO COMPLY and you may be found in Contempt of Court, which has up to a \$500.00 fine, loss of your driver's license and/or could include jail time.

Once you have initialed every statement and signed and dated this document, you need to email or fax this document back to the Court as well as mailing this document original back to the Court Office. You cannot be seen by video until you get the original back to the Court.

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STATE OF MONTANA

Plaintiff,

Vs.

Defendant.

Case No:

**DANGERS OF SELF
REPRESENTATION,
(PRO SE)
ADVISEMENT**

You have the right to represent yourself in this court. However, you must understand that representing yourself has certain dangers and disadvantages and does not give you the right to abuse the dignity of the court. You must understand that there are procedures and laws that must be followed while conducting a defense, regardless of whether you are represented by a lawyer or choose to represent yourself. You must follow the rules of evidence and comply with the rulings made by the judge even if you do not agree with them. Any waiver of your right to a lawyer must be unequivocal. If you cannot afford an attorney one can be appointed by the court, if you qualify.

The charge or charges against may be complex. A successful defense may require a great deal of legal work, to include filing of motions, suppression of evidence, selection of jurors, making objections during trial, cross examination of witnesses, calling of witnesses and eliciting from them testimony favorable to your case, admitting physical objects into evidence, writing jury instructions that correctly state the law of the case and making opening and closing statements to the court or to the jury that summarize the evidence and your case. In the event that you are convicted then you must be able to argue to the court for an appropriate sentence taking into account mitigating and aggravating factors. These are just a few of the things that a lawyer would be able to do for you. This does not mean that this warning should be taken as a threat, that if you decide to represent yourself the court will be predisposed against you. The choice is entirely up to you as long as the choice is made in a timely fashion, unequivocally

without reservation, voluntarily and with complete understanding of what is at stake.

You should carefully consider your decision; it should not be taken lightly. Your choice may have long term effects upon you and your life.

I, _____ have read this advisement on Dangers of Self Representation, and understand that if I choice to represent myself in this matter before the Court, UNDERSTAND THAT THERE ARE PROCEDURES THAT NEED TO FOLLOWED, THAT I WILL BE RESPONSIBLE FOR GETTING DONE, WITHOUT HELP OR ADVISE FROM THE COURT OR ITS STAFF. I ALSO UNDERSTAND THAT ALL COMMUNICATION WITH THE COURT WILL NEED TO BE SENT/OR COPIED TO THE PROSECUTOR AS WELL, WITH A CERTIFICATE OF SERVICE.

Date: _____

Signature of Defendant

Printed name of Defendant

(<http://courts.mt.gov/> can help you find the forms and information on procedure that you may need.)

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State of Montana,

Plaintiff,

Vs.

Defendant.

Case No: TK-255-

**WAIVER OF RIGHT TO
COUNSEL (LAWYER)**

I, *(your name)* _____, have read and understand the following rights.

1. I have the right to have a lawyer represent me in this case. If I cannot afford a lawyer, the Court will appoint a lawyer to me.
2. I do not have an impairment or disability that keeps me from understanding this decision.
3. **WARNING: There are real dangers and disadvantages to not having a lawyer.**

I may have certain problems not having a lawyer. My case may be complicated. I may have to complete a great deal of legal work, including filing motions and following court rules.

I am required to follow all of the Judge's orders even if I don't agree with them.

If my case goes to trial, I must know how to:

- select jurors;
 - follow the rules of evidence;
 - ask witnesses questions;
 - get physical objects such as photographs into evidence;
 - write jury instructions that correctly state the law;
 - make opening statements and closing arguments;
 - If convicted, ask the judge for an appropriate sentence. The prosecutor may argue that the maximum fine or jail term be given. I may argue for a different sentence. I must understand how to present facts at the sentencing that may lessen the sentence.
4. I have thought about the seriousness of my charge(s) and the maximum penalties.
 5. I know that lawyers have special training in the law and the rules that apply to my case. I am

responsible for knowing the law and the court's rules even if I am not familiar with them.

The judge can't tell me how to handle my case.

6. **I can change my mind before my case is resolved and hire a lawyer or ask the court to give me a lawyer.**
7. **WARNING:** The court may not give me a continuance for a trial or other important hearing if I wait too long to ask for a lawyer.
8. **WARNING:** If the court gives me a continuance, the court may count the delay against me in determining when the prosecutor must bring this case to trial.
9. **I give up my right to a lawyer and my right to a court-appointed lawyer.**

Dated: _____

Defendant's Signature

For Court's use only.

I find that the Defendant did knowingly, voluntarily, and intelligently, with full awareness of the Defendant's constitutional rights, waive the right to counsel on this:

_____ day of _____, 20 ____.

Hon. Kathleen "Kathy" Rosencranz,
Justice of the Peace
