

IF YOU DO NOT RESPOND TO THIS  
DOCUMENT WITHIN APPLICABLE  
TIME LIMITS, JUDGMENT BY DEFAULT  
COULD BE ENTERED AGAINST YOU AS  
REQUESTED.

TIMOTHY S. DEANS - 13193  
CARR | WOODALL, LLC  
Attorneys for Plaintiff  
1309 W South Jordan Parkway, Suite 200  
South Jordan, Utah 84095  
Telephone: (801) 254-9450  
email: tim@carrwoodall.com

**IN THE SECOND JUDICIAL DISTRICT COURT  
OF DAVIS COUNTY, UTAH**

<b>DPW ENTERPRISES, LLC, MOUNTAIN PRIME 2018, LLC,</b> Plaintiff,  vs.  <b>GERHARD W.H. KOENIG,</b> Defendant(s).	<b>COMPLAINT FOR EVICTION</b>  Case No.  Judge
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Plaintiff, by and through counsel, alleges the following cause of action against  
Defendant(s):

1. Defendant(s) is a resident of Davis County, State of Utah. DOES 1  
through 10 are persons unknown to Plaintiff, who may be residing at the subject property.
2. Plaintiff is the owner of real property located at 1627 North 2800 East,  
Layton, Utah 84040 ("Property").
3. Defendant defaulted under a Trust Deed resulting in a foreclosure of the  
property. A copy of the Trustee's Deed is attached as Exhibit A.
4. Defendant is a tenant at will of the property.
5. Fair market rent is \$3,200. Daily rent is \$105.21.

6. On September 24, 2024 Plaintiff posted a notice to vacate tenant at will ("Notice") on the Property. The Notice expired September 29, 2024. The Notice is attached as Exhibit B.

7. Defendant(s) has not complied with the Notice and, therefore, is in unlawful detainer of the property.

8. As a direct and proximate result of the Defendant(s)' unlawful detainer, the Plaintiff has and continues to accrue treble damages on a daily basis. Pursuant to Utah Code 78B-6-811, Plaintiff is entitled to treble damages of \$315.63 per day for rent and \$0.00 per day for late fees from and including September 30, 2024 until Defendant(s) vacates. The trebled amount is calculated by taking the daily rent (or late fees) and multiplying it by three.

9. Defendant(s) is not a member of the United States Military or on active duty status.

10. Pursuant to Utah Code 78B-6-811, Plaintiff is entitled to reasonable attorney's fees for the necessity of bringing this eviction proceeding before this Court.

11. As of the date of this Complaint, Plaintiff has incurred \$450.00 in reasonable attorney fees.

12. The total due and owing is attorney fees and treble damages.

WHEREFORE, Plaintiff prays for judgment against the Defendant(s), as follows:

1. For the forthwith issuance of an Order of Restitution to evict the Defendant(s) within three calendar days of the date the Order is entered, and all others claiming by, through or under them, and to restore possession of the Property to the Plaintiff herein:

2. For an Order awarding Plaintiff judgment against Defendant(s) for attorney fees and treble damages, representing the total due and owing as of September 30, 2024:

3. For such other relief as this Court deems appropriate.

DATED this 30 day of September 2024.

/s/ Timothy S. Deans  
TIMOTHY S. DEANS  
Attorney for plaintiff

### **RULE 26.3 URCP NOTICE**

**(a) Scope.** This rule applies to all actions for eviction or damages arising out of an unlawful detainer under Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer.

**(b) Plaintiff's disclosures.**

**(b)(1) Disclosures served with complaint and summons.** Instead of the disclosures and timing of disclosures required by Rule 26(a), and unless included in the complaint, the plaintiff must serve on the defendant with the summons and complaint:

- (b)(1)(A) any written rental agreement;
- (b)(1)(B) the eviction notice that was served;
- (b)(1)(C) an itemized calculation of rent past due, damages, costs and attorney fees at the time of filing;
- (b)(1)(D) an explanation of the factual basis for the eviction; and
- (b)(1)(E) notice to the defendant of the defendant's obligation to serve the disclosures required by paragraph (c).

**(b)(2) Disclosures for evidentiary hearing.**

- (b)(2)(A) If the plaintiff requests an evidentiary hearing under Section 78B-6-810, the plaintiff must serve on the defendant with the request:
  - (b)(2)(A)(i) any document not yet disclosed that the plaintiff will offer at the hearing; and
  - (b)(2)(A)(ii) the name and, if known, the address and telephone number of each fact witness the plaintiff may call at the evidentiary hearing and, except for an adverse party, a summary of the expected testimony.
- (b)(2)(B) If the defendant requests an evidentiary hearing under Section 78B-6-810, the plaintiff must serve the disclosures required by paragraph (b)(2)(A) on the defendant no less than 2 days before the hearing. The plaintiff must serve the disclosures by the method most likely to be promptly received.

**(c) Defendant's disclosures for evidentiary hearing.**

- (c)(1) If the defendant requests an evidentiary hearing under Section 78B-6-810, the defendant must serve on the plaintiff with the request:
  - (c)(1)(A) any document not yet disclosed that the defendant will offer at the hearing; and
  - (c)(1)(B) the name and, if known, the address and telephone number of each fact witness the defendant may call at the evidentiary hearing and, except for an adverse party, a summary of the expected testimony.
- (c)(2) If the plaintiff requests an evidentiary hearing under Section 78B-6-810, the defendant must serve the disclosures required by paragraph (c)(1) on the plaintiff no less than 2 days before the hearing. The defendant must serve the disclosures by the method most likely to be promptly received.

**(d) Pretrial disclosures; objections.** No later than 14 days before trial, the parties must serve the disclosures required by Rule 26(a)(5)(A). No later than 7 days before trial, each party must serve and file counter designations of deposition testimony, objections and grounds for the objections to the use of a deposition and to the admissibility of exhibits.

# EXHIBIT A

3587946  
BK 8589 PG 1102

E 3587946 B 8589 P 1102-1103  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
09/20/2024 01:53:39 PM  
FEE: \$40.00 Pgs: 2  
DEP eCASH REC'D FOR: HALLIDAY, WATKINS &  
MANN, P.C.

AFTER RECORDING RETURN TO:  
Halliday, Watkins & Mann, P.C.  
376 East 400 South, Suite 300  
Salt Lake City, UT 84111

**MAIL TAX NOTICE TO:**  
**DPW Enterprises L.L.C. and Mountain Prime**  
**2018 L.L.C**  
**3138 N 1250 W**  
**Pleasant View, UT 84414**

**File Number: 47694**

**TAX #: 09-144-0046**

### **TRUSTEE'S DEED**

This Deed is made by the law firm of Halliday, Watkins & Mann, P.C., Successor Trustee, under the Trust Deed described below, in favor of **DPW Enterprises L.L.C. and Mountain Prime 2018 L.L.C., 3138 N 1250 W, Pleasant View, UT 84414**, as Grantee.

WHEREAS, on October 27, 2014, Gerhard W.H. Koenig, as Trustor, executed and delivered to Founders Title Company, as Trustee, for the benefit of Mortgage Electronic Registration Systems, Inc. as Beneficiary, as nominee for Bay Equity LLC, its successors and assigns, as Beneficiary, a certain Trust Deed to secure the performance by the Trustor of obligations under a Promissory Note of the same date executed and delivered for a valid consideration to the Beneficiary and the Trust Deed having been recorded in the office of the Davis County Recorder on October 31, 2014, as Entry No. 2831548, in Book 6136, at Page 65-77, describing the property set forth below; and

WHEREAS, a breach and default occurred under the terms of the Note and Trust Deed in the particulars set forth in the Notice of Default in this matter; and

WHEREAS, Halliday, Watkins & Mann, P.C., was duly appointed by the Beneficiary as Successor Trustee by a Substitution of Trustee recorded in the Office of the County Recorder of Davis County, State of Utah, on April 4, 2024, as Entry No. 3566635, in Book 8474, at Page 125; and

WHEREAS, Halliday, Watkins & Mann, P.C., as Successor Trustee under the Trust Deed, executed and recorded in the Office of the County Recorder of Davis County, a Notice of Default containing an election to sell the trust property, which was recorded on March 29, 2024, as Entry No. 3566059, in Book 8470, at Page 1433-1434; and that no later than ten days after the Notice of Default was filed for record, the Trustee mailed, by certified mail, a copy of the Notice of Default to the Trustor, and to each person whose name and address were set forth in a request for notice filed for record prior to the filing of the Notice of Default; and

WHEREAS, Halliday, Watkins & Mann, P.C., as Successor Trustee, pursuant to the Notice of Default, and in accordance with the Trust Deed, did execute its Notice of Trustee's Sale stating that as Successor Trustee, it would sell at public auction to the highest bidder for cash, in lawful money of the United States of America, the property described, and fixing the time and place of sale as August 6, 2024, at 10:00 AM of said day, at the main entrance of the Davis County District Court, Farmington Department, 800 West State Street, Farmington, Utah, and did cause copies of the Notice of Sale to be posted for not less than 20 days before the date of the sale in a conspicuous place on the property to be sold and also at the office of the County Recorder of each County in which the trust property, or some part of it, is located; and the Successor Trustee did cause a copy of the Notice of Sale to be published once a week for three consecutive weeks in the Deseret News, a newspaper having a general circulation in the county in which the property to be sold is situated, the last publication being at least 10 days but not more than 30 days before the date the sale is

scheduled, and also published on utahlegals.com, the website established by Utah's newspapers for legal notices, for not less than 30 days before the date the sale is scheduled; and that no later than 20 days before the date of the sale, the Trustee also mailed, by certified mail, a copy of the Notice of Sale to the Trustor and to each person whose name and address were set forth in a request for notice filed for record prior to the filing of the Notice of Default; and

WHEREAS, by oral announcement at the time and place of the original sale of August 6, 2024, the sale was postponed to September 17, 2024 to be cried at the same time and location.

WHEREAS, all applicable statutory provisions of the State of Utah and all of the provisions of the Trust Deed have been complied with as to the acts to be performed and the notices to be given; and

WHEREAS, the Successor Trustee did at the time and place of sale by public auction sell, to Grantee, being the highest bidder, the property described for the sum of \$351,759.00 paid in cash in lawful money of the United States of America.

NOW THEREFORE, the Successor Trustee, in consideration of the premises recited and of the sum above mentioned, bid and paid by Grantee, the receipt of which is acknowledged, and by virtue of the authority vested in it by the Trust Deed, does by these presents grant and convey to the Grantee above named, but without any covenant or warranty, express or implied, all of that certain real property situated in Davis County, State of Utah, described as follows:

Lot 46, COTTONWOOD UNIT NO. 1, according to the official plat thereof, as recorded in the office of the Davis County Recorder, State of Utah. TAX #: 09-144-0046

TOGETHER WITH any and all improvements, fixtures, appurtenances and easements now situated on or pertaining to the property.

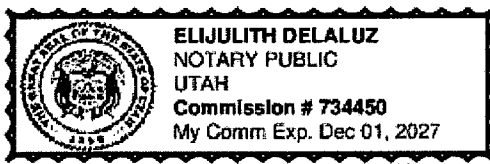
DATED: 09/20/2024

HALLIDAY, WATKINS & MANN, P.C.:

By: Jessica Oliveri  
Name: Jessica Oliveri  
Attorney and authorized agent of the law firm of  
Halliday, Watkins & Mann, P.C., Successor Trustee

State of Utah                    )  
  :SS.  
County of Salt Lake         )

The foregoing instrument was acknowledged before me this 09/20/2024, by Jessica Oliveri as an attorney and authorized agent of the law firm of Halliday, Watkins & Mann, P.C., the Successor Trustee.



Notarial act performed by audio-visual communication

[Signature]  
Notary Public

# EXHIBIT B



**NOTICE TO VACATE TENANT AT WILL**  
**www.utaheviction.com**

\_\_\_\_\_  
(Date Served)

To: Gerhard W.H. Koenig and any other tenant or occupant.  
(Occupant(s))  
Address: 1627 North 2800 East  
Layton, Utah 84040

**BE ADVISED THAT YOU ARE A TENANT AT WILL AND DEMAND IS MADE ON YOU TO VACATE THE PREMISES WITHIN FIVE CALENDAR DAYS OF THIS NOTICE OR BE SERVED WITH A SUMMONS AND COMPLAINT FOR UNLAWFUL DETAINER.**

COMMUNICATIONS SHALL BE MADE TO:

Name: Timothy S. Deans attorney for DPW Enterprises LLC and Mountain Prime 2018 LLC  
Address: 1309 West South Jordan Parkway, Suite 200  
South Jordan, Utah 84095  
Phone: 801-254-9450

If you do not comply with this Notice, in accordance with Utah Code 78B-6-811, damages will be pursued against you for 1) waste; 2) attorney fees; and 3) court costs. We will request that judgment be entered against you and thereafter pursue enforcement of that judgment until it is fully satisfied.

Pursuant to Utah Code 78B-5-705, I declare under criminal penalty of the State of Utah that that a copy of this Notice was served on \_\_\_\_\_, the Tenant, in accordance with Utah Code 78B-6-805 on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by:

- ☐ Personally delivering a copy to the Tenant.
- ☐ Personally delivering a copy to \_\_\_\_\_, a person of suitable age and discretion at the Property because the Tenant was absent and by mailing a second copy to the Tenant at the Property.
- ☐ Sending a copy through registered or certified mail to the Tenant at the Property.
- ☐ Affixing a copy in a conspicuous place on the Property after knocking and failing to find anyone there.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Notice prepared by K. Bradley Carr the Law Offices of James H. Woodall, PLLC. Use of this form does not constitute legal representation. If you are a **landlord** and you need assistance evicting a tenant please contact Mr. Carr at 801-254-9450.

Please see  
attach ment.

DAVIS COUNTY, 2nd DISTRICT COURT, FARMINGTON DEPARTMENT, COUNTY OF DAVIS

Plaintiff/Petitioner: **Timothy S Deans attorney for DPW Enterprises LLC and Mountain Prime 2018 LLC**

**PROOF OF SERVICE**

VS.

Defendant/Respondent: **Gerhard W.H. Koenig and any other tenant or occupant**

Case No: **GKooenig**

Court Date/Time: **00/00/0000 / 12:00 AM**

Court Room:

Legal documents received by Statewide Process Servers on the 24th day of September, 2024 at 10:11 AM to be served on:

**Gerhard W.H. Koenig and any other tenant or occupant**  
1627 N 2800 E  
Layton, UT 84040

I, **Adam Robins**, am over the age of 18, I am not a party to this action, and I am not an attorney for a party to this action. On the **24th September, 2024 at 04:20 PM**, I did the following:

**POSTED AND MAILED** a true copy of the **NOITCE TO VACATE TENANT AT WILL** to the door at the address of: **1627 N 2800 E, Layton, UT 84040**, the same being the defendant/respondent's Abode

After knocking at the door and receiving no answer I posted the above mentioned documents.

**Supplemental Data Appropriate to this Service:**

I have not included any non-public information in this document.

I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

X

Adam Robins - A132411  
Statewide Process Servers  
PO Box 845  
West Jordan, UT, 84084  
801-809-4133  
Carr & Woodall, Law offices of  
10808 River Front Parkway, Suite 175  
South Jordan, UT 84095  
(801) 254-9450  
Atty File#: GKoenig  
ch@carrwoodall.com

Service  
Fee:  
**\$40.00**



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