

## CONTEST YOUR TRAFFIC INFRACTION TICKET/CITATION (PLEAD NOT GUILTY)

### ASKING FOR A TRIAL:

You have two options when it comes to having a trial:

1. You can ask for a court trial, or
2. You can ask for a trial by written declaration.

### COURT TRIAL:

- A court trial is a hearing where you appear in person to testify about the facts in the case.
- The officer(s) who issued the citation will be subpoenaed to appear, and other prosecution witnesses may be summoned to appear and testify.
- You have the right to subpoena witnesses and have a lawyer present, if you retain one.
- You do not have to pay the fine (post bail) to request a court trial.
- See the Frequently Asked Questions (FAQ) for more information

### THREE WAYS TO REQUEST A COURT TRIAL:

1. **Appear in court to request a court trial.** If you wish to appear, you must reserve an arraignment hearing to plead not guilty and request a court trial. In the arraignment hearing you will appear before a judicial officer, enter a not guilty plea, request a court trial and then return for the scheduled court trial. You may reserve an arraignment hearing by doing one of the following:
  - a. Speak to a clerk at the traffic window of any San Bernardino Superior courthouse, or
  - b. Call the clerk's office at the phone number on your citation or reminder notice.
2. **Mail your request for a court trial.** The notice you mail to the court must state that you wish to plead not guilty and would like a court trial. It must be mailed to the court district named on the bottom of your citation at least 5 calendar days prior to the due date. You will be notified by mail of the scheduled court trial hearing, which will be set approximately 30 days later. Make sure to report any address changes when you write your letter to the clerk.
3. **Request a court trial at the traffic counter.** You may speak to a clerk to plead not guilty and request a court trial. The clerk will set the court trial hearing approximately 30 days later, giving you paperwork that shows your court trial date. They will also send a subpoena to the officer(s).

The Judicial Council of California Self-Help page has additional information regarding Traffic Court Trials: <http://www.courts.ca.gov/selfhelp-traffic.htm>

- **Do I need to deposit bail to obtain a court trial date?**

No, you do not need to deposit bail to obtain a court trial date. See “Three Ways to Request a Court Trial” for the process to request a court trial date.

- **What if I need to postpone the trial?**

You must file a written request at least 10 court (business) days prior to your trial date. You will be notified by mail of a new hearing date if your request was filed timely. The officer(s) who issued the ticket may also submit a request to postpone the trial. If this occurs, you will be notified of the judicial officer’s decision regarding the officer’s request by mail.

- **How long will the trial take?**

You should plan to be at court for three hours or more on the day of trial. Remember to check the date, time, and location.

- **Should I bring my evidence?**

Yes, if you have photos, diagrams, reports, or any other exhibits that you plan to present, bring them with you on the date of your trial.

- **Should my witnesses attend the trial?**

Yes, and if needed, the court will issue subpoenas upon request at no cost to you. Pursuant to state law the clerks must issue blank subpoenas. They will place the court seal and their signature on the blank subpoena. You must complete the rest of the form and arrange to have the subpoena served.

- **What should I do when I arrive at the courthouse?**

Report directly to the department in which your court trial is scheduled. For your convenience, each court district has an electronic calendar displayed in the lobby where you can find that information.

- **Do I need an attorney when I go to court?**

An attorney is not required in Traffic Court; however, if you wish to hire an attorney and have the attorney appear at your court trial, you may do so.

- **What if I am found not guilty?**

If you are found not guilty, the charge(s) are dismissed. Any money you may have posted as bail will be refunded to you for the charges for which you were found not guilty.

Important: If your mailing address changes, it is your responsibility to provide your new mailing address to the Court to ensure that you receive your refund.

- **What if I do not appear at the time of trial?**

Your trial may be heard in absentia (without your presence). You may be found guilty, ordered to pay a fine and a conviction will be reported to the DMV, if applicable.

- **Will the officer who issued the ticket be in court?**

The officer(s) will be subpoenaed to appear in court.

- **What if I disagree with the judicial officer's decision?**

You may file an appeal within 30 days of the judicial officer's decision in your case.

Important: an appeal does not postpone the deadline for you to pay your fine or complete any part of your sentence. See the Judicial Council's Self-Help Traffic Appeal web page for more information: <http://www.courts.ca.gov/11581.htm>.

### **TRIAL BY WRITTEN DECLARATION:**

- A trial by written declaration is a method to plead not guilty and present your case to a judicial officer without being present in a courtroom.
- Your written testimony and the testimony of the officer(s) will be presented in writing on declaration forms.
- The California Judicial Council provides instructions (form [TR-200](#)) and the Request for Trial by Written Declaration (form [TR-205](#)), to contest a ticket in writing. **The declaration (form TR-205) is a mandatory form, which means you must use it for this process.** See the Judicial Council's Self-Help Traffic Trial page for more information: <http://www.courts.ca.gov/8450.htm#tab9275>.
- To request a written trial by declaration, you then must waive your right to appear, to testify in person and to subpoena witnesses. If you do not wish to waive these rights, you may choose a court trial and appear in person.
- Both you and the officer(s) will submit your written declaration of the facts for judicial review. After review, the judicial officer will make a decision and you will be notified of the decision by mail.
- **Deposit of bail for a trial by written declaration: you must deposit bail to proceed by Trial by Written Declaration.** Pursuant to California Vehicle Code §40519(a) defendants are required to post the full amount of the bail when pleading not guilty and proceeding by a trial by written declaration. If you did not receive your reminder notice or do not know how much your bail is, you may contact the court at the number listed on your citation or visit the court website [www.sb-court.org](http://www.sb-court.org). Mail your payment and trial by written declaration paperwork to the court named on the bottom of your citation at least 5 calendar days prior to the due date listed on your traffic ticket/citation. *If you are requesting a Trial by Written Declaration, payment must be made to the court and not online.*

## **FREQUENTLY ASKED QUESTIONS (FAQ) ABOUT TRIAL BY WRITTEN DECLARATIONS:**

- **If I file a trial by declaration, do I still need to appear in court?**

No. A trial by “written declaration” is a trial in writing, which is a method of pleading not guilty that avoids the need to make an appearance in court. You and the officer who cited you will each submit your statements to the court by mail. The judicial officer will review both statements and render a decision.

- **Do I get to talk to a judge?**

No. A judicial officer will decide your case based on the documents you submit and the documents submitted by the officer. Once a decision has been made a Decision and Notice of Decision will be mailed to you to notify you of the judicial officer’s findings.

- **How can I challenge inaccuracies in the officer's statement?**

You will not see the officer’s statement and the officer(s) will not see yours. When you file a trial by written declaration, you agree to give up certain rights, among them the right to confront witnesses testifying against you.

- **Why should I have to pay a fine before trial when I'm not guilty of the offense?**

California law (Vehicle Code §40519(a) requires defendants to post the full amount of the bail when pleading not guilty (trial by written declaration).

- **What if I disagree with the judicial officer's decision?**

You may file a Request for Trial de Novo (New Trial) within 20 days from the date the Decision and Notice of Decision was mailed to you telling you the judicial officer’s decision. Once that request is approved, your case will be set for a court trial. See the Court Trial section for information on that process.

- **What if I have a financial hardship?**

If you have a financial hardship and can show that you are unable to pay the full amount for the offenses on your traffic ticket, you may request the court to consider your ability to pay. However, you must appear before the court to do so.