



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

TRIAL BY WRITTEN DECLARATION INFORMATION AND INSTRUCTIONS TO DEFENDANT

Vehicle Code section 40902 allows a defendant to contest citations in writing, without making a personal court appearance. This procedure is called a “trial by written declaration.” Trials by written declaration are available in cases involving infraction violations of the Vehicle Code, with the exception of Vehicle Code offenses involving alcohol and/or drugs, or of local ordinances adopted under the Vehicle Code. The following instructions tell you how to proceed with a trial by written declaration. Forms may be found on the court’s website at www.sdcourt.ca.gov.

1. Complete a Request for Trial by Written Declaration (Judicial Council [JC] Form #TR-205) and sign it. You may submit supporting evidence that is in compliance with San Diego Superior Court Local Rules, rule 3.1.5. On the back of the TR-205 is the Declaration of Facts. In this section, provide your written statement of what happened and explain all the items of evidence (if any) that you are including with your request. You may attach additional pages to your declaration, but you must sign and date each page.

BE ADVISED: With the exception of supporting evidence lodged pursuant to SDSC Local Rules, rule 3.1.5, these cases are imaged and the imaged copy of the filed document(s) will be the official court record pursuant to Government Code section 68150. The paper filings will be imaged and held for 30 days, at which point the original documents may be destroyed and recycled. DO NOT file original documents or supporting evidence.

2. Return the completed and signed Request for Trial by Written Declaration (JC Form #TR-205) along with any supporting evidence you are including, and pay the required bail amount to the court. Both must be received by the clerk by the due date, which is either the original appearance date indicated on your citation or, if you received a continuance, the date indicated in Item A on the request form (JC Form #TR-205). If the clerk receives the form and/or the bail after the due date, you will not be eligible for trial by written declaration and any bail posted may be forfeited to settle your case. In addition, failure to deposit bail by the due date may subject you to other charges, penalties, assessments, and actions.

Note: Credit card/Debit card payments cannot be accepted for a trial by written declaration.

3. After the clerk receives the Request for Trial by Written Declaration (JC Form #TR-205) and full bail, the clerk will notify the officer who issued your citation. The officer will be given an opportunity to submit a declaration regarding the citation by a specified due date.
4. Your declaration (JC Form #TR-205) and any supporting evidence you submitted, along with the officer’s information, will be submitted to a judicial officer for consideration. You will be notified by mail of the court’s decision. If you are found not guilty, your bail will be refunded. If you are found guilty, your bail may be applied towards any fine imposed. If supporting evidence was lodged with the court, see San Diego Superior Court Local Rules, rule 3.1.5 for information about its return or destruction.
5. If you are dissatisfied with the court’s decision, you may ask for a new trial (“trial de novo”). To request a new trial, you must file a Request for New Trial (Trial de Novo) (JC Form #TR-220) within 20 days of the date the court’s decision was mailed to you.
6. Always include your citation number with any correspondence to the court.
7. **IMPORTANT:** You have the right to an in-person trial before a judicial officer (rather than a trial by written declaration). You also have a right to a new trial if you are dissatisfied with the court’s decision in your trial by written declaration. At a court trial you have the following rights:
 - To be represented by an attorney employed by you.
 - To have a speedy and public trial.
 - To testify, to present evidence, and to use court orders without cost to compel the attendance of witnesses and the production of evidence on your behalf.
 - To have the witnesses against you testify under oath in court and to question such witnesses.
 - To remain silent and not testify and not incriminate yourself.

If at any time you decide to plead guilty or no contest instead of proceeding by trial by written declaration, you will be deemed to have waived these rights. By filing a request for trial by written declaration, you will be deemed to have waived these rights for purposes of the trial by written declaration.

8. If charged with an infraction violation of Pen. Code, §§ 193.8, 272(b)(1), 330, 415, 485, 490.1, 490.7, 555, 532b(c), 602(o), 602.13 or 853.7; Bus. & Prof. Code, §§ 2052, 2054, 2630, 2903, 3660, 3760, 3761, 4080, 4825, 4935, 4980, 4996, 5536, 6704, 6980.10, 7317, 7502, 7574.10, 7582, 7592, 7520, 7617, 7641, 7872(a), 8016, 8505, 8725, 9681, 9840, 9891.24(c), 19049, 21672, 25658(b), 25661 or 25662; Gov. Code, § 27204; or Veh. Code, §§ 5201.1, 12500, 14601.1, 23109(c), 27150.1, 40508 or 42005: you have the right to elect to have the case proceed as a misdemeanor and, if you so elect, you will have all the rights and be subject to the potential penalties associated with a misdemeanor prosecution, and you will be ordered to appear in court on a future date. The prosecuting agency might not have reviewed your case before the Citation/Notice to Appear was filed with the court and, if you elect to proceed as a misdemeanor, the prosecuting agency might review your case and add, delete, or amend the charges.

By filing a request for trial by written declaration in a case charging an infraction listed above, you will be deemed to have waived your right to have your case proceed as a misdemeanor.