

DO NOT SEND THIS PAGE TO THE COURTS



Here is everything you need to put together your GetDismissed Request for New Trial Package!

Please follow the list below to help you make sure everything has been completed and placed in the correct order. Please read the included FAQs if you have any questions.

1. Download and Print All Your Forms

Download and print your defense statement (document with your name on it) and TR-220 Request for New Trial form (found on page 3 of this document).

2. Complete The "TR-220" Form and Sign

This form can be found on page 3 of this document. Just fill out the green areas specified in the example shown on page 2 of this document.

3. Please Assemble Your New Trial Package In This Order

- *TR-220 Form (1 Page)*
- *Defense Statement (All Pages)*

4. Mail Everything To The Court Via CERTIFIED Mail.

*Everything must be received by the courts **WITHIN 20 DAYS OF THE DATE STATED ON YOUR COURT NOTICE OF DECISION.** If necessary choose a faster shipping method or personally walk your documents into court.*

5. Wait To Receive A Response From The Court

Check your mail. You'll be mailed a response from the court in about 45 days notifying you of when you will need to appear and be present in court for the New Trial.

6. Review Court Information Tips and FAQs

This is a helpful resource provided in addition to your defense statement (you are welcome to use the defenses that we have provided for you, just remember to rework them to fit for an in-court trial.) to help you feel confident and prepared when you appear in court.

Notice to Consumer/Disclaimer: These instructions are only a general guideline and any specific instructions or requirements from the court should supersede these instructions. The information provided in these instructions is not legal advice, but general information about a Trial De Novo. GetDismissed.com is not a law firm and purchasing a legal document is not a substitute for legal advice from an attorney. GetDismissed.com is owned and operated by The Ticket Advocate LLC., a bonded and registered Legal Document Assistant (Los Angeles County LDA registration no. 2015010851). A Legal Document Assistant cannot provide legal advice and can only provide self-help services like preparing, completing, or filing legal documents or forms at your specific direction and supplying you with attorney - approved written material for your self-help needs. If you choose to use this site or GetDismissed.com services you agree that the information provided on this website and information given by GetDismissed.com employees is not legal advice and no Attorney - Client relationship is created. **We are not an attorney. We cannot perform the legal services that an attorney performs. We cannot engage in the practice of law. This includes providing any kind of advice, explanation, opinion, or recommendation about possible legal rights, remedies, defenses, options, selection of forms, or strategies.** GetDismissed.com's registration is valid until January 9, 2019, after which it must be renewed. To confirm that GetDismissed.com is registered, you may contact the Los Angeles County Registrar-Recorder/County Clerk at P.O. Box 1208 Norwalk, CA 90650-1208, or 562-462-2177, or <https://www.lavote.net/>. Our corporate offices are located at 5716 Corsa Ave, Suite 104, Westlake Village, CA 91362. Please note that your access to and use of GetDismissed.com is subject to additional Terms & Conditions. You may call us at 800.580.3769 with any questions or concerns.

DO NOT SEND THIS PAGE TO COURT – INSTRUCTION PAGE ONLY

EXAMPLE

Fill in all the green areas if not auto populated.

TR-220

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		<i>FOR COURT USE ONLY</i>
PEOPLE OF THE STATE OF CALIFORNIA vs.		
DEFENDANT:		
REQUEST FOR NEW TRIAL (TRIAL DE NOVO) (Trial by Written Declaration—Vehicle Code, § 40902)		
		CITATION NUMBER:
		CASE NUMBER: Optional

1. The clerk mailed the court's *Decision and Notice of Decision* (form TR-215) in my trial by written declaration to me on (date):
2. I am submitting this request to the court within 20 days of the date in item 1. (*The court must receive this request within 20 days of the date in item 1.*)
3. I am dissatisfied with the court's decision. I request a new trial (trial de novo) for the following violations (*specify*):

See Attached.

Date:

[Green box for date]

[Green box for name]

(TYPE OR PRINT NAME)



[Green box for signature]

(SIGNATURE)

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY CITATION NUMBER: CASE NUMBER:
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
REQUEST FOR NEW TRIAL (TRIAL DE NOVO) (Trial by Written Declaration—Vehicle Code, § 40902)	

1. The clerk mailed the court's *Decision and Notice of Decision* (form TR-215) in my trial by written declaration to me on *(date)*:
2. I am submitting this request to the court within 20 days of the date in item 1. *(The court must receive this request within 20 days of the date in item 1.)*
3. I am dissatisfied with the court's decision. I request a new trial (trial de novo) for the following violations *(specify)*:

See Attached.

Date:

.....
(TYPE OR PRINT NAME)



(SIGNATURE)

IF YOU WISH TO REQUEST A NEW TRIAL, YOU MUST SUBMIT A *REQUEST FOR NEW TRIAL (TRIAL DE NOVO)* WITHIN 20 DAYS OF THE DATE STATED IN THE CLERK'S CERTIFICATE OF MAILING *(see item 1 above)*.

Frequently Asked Questions

Do I need to appear in court?

The court requires you to appear in court for the new trial. You will need to be in court on your court date to present your case to the court in your own words. You will need to formulate your own presentation as the information provided by GetDismissed is not legal advice rather it is provided to you for informational purposes only.

What is my citation number?

The citation number can be found on your ticket. It should be in the upper right hand corner and also down the right hand side. For Camera tickets, it may be referred to as “Automated Enforcement Number.”

Should I attach any photos or extra documents to my Request for New Trial Form?

No. However, any photographs or extra documents that you wish to show the court, you can take with you when you appear in court.

Do I include my courtesy notice and/or ticket with my Request for New Trial Form?

Unless otherwise noted, you will not need to include these items.

Where do I send the Request for New Trial?

Send all of your documents certified mail to the courthouse mailing address on your ticket, unless otherwise directed by the court.

Why do I need to send all of my documents to the court via Certified Mail?

Just in case the court never receives your documents, you will want to have proof that you sent them before the deadline. Make sure to hold onto your certified receipt.

I forgot to send my documents certified mail, what do I do?

Check in with the courts in about a week to make sure they received your documents.

Can I drop the documents off at the courthouse?

Yes. You can put them in the drop-box (make sure it's time stamped) or hand them to a court clerk.

Can I send my documents via UPS or Fed-Ex?

You can as long as you can retain proof that shows you mailed the documents.

How long does the whole process take?

After sending in your request for New Trial package to the courts, you'll receive your New Trial date in the mail within about 45 days. Please contact the courts directly to check the status of your case. GetDismissed will not know the status of your case. The court will notify you of the New Trial date that you will be required to appear in court. If you cannot make it to court on the date given you will need to contact the court directly and see if they will change to a different date.

We recommend you request for the court to grant you an extension on the court date. If you need help requesting the extension, let us know and we will provide you with a form you can use to request the extension from the court. You will fill out the form with your information, then mail in

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your request for an extension to the court. You should mail this letter certified mail to ensure the court receives it. Based on feedback from our clients, the chances of the ticket being dismissed due to the officer not appearing in court are increased when the court date is pushed back at least 3 months! Remember your appearance is required for the New Trial so you must comply with the deadlines given to you by the court.

What happens if my case gets dismissed?

The bail money that you posted with the court originally will be refunded to you in approximately 30-60 days. The ticket is dismissed from your record, will not negatively affect your driving record, and you do not need to attend traffic school. If your ticket is not dismissed, you already paid your bail amount so you may wish to stop here. Don't be too hard on yourself; with the help of our services you gave it a valiant attempt. You may want to consider requesting the judge to allow you to attend traffic school since you were found guilty in order to keep your driving record from being affected.

What is the purpose of the New Trial?

The New Trial provides you a second opportunity to have your ticket dismissed and you can present any information you wish to the court, you do not have to use the same information provided to the court in the Trial by Written Declaration if you do not want to. You'll present your case in front of a judge in court. Please review the FAQs and Trial Tips for additional helpful information.

Does Anyone from GetDismissed go to court with me or represent me?

No. **GetDismissed is not a law firm** and as such we do not represent you, nor can we appear with you in court. You may represent yourself or hire an attorney to represent you. Please review the FAQs and Trial Tips, a helpful resource to help you feel confident and prepared when you appear in court.

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About the New Trial

If you were found guilty after submitting a Trial by Written Declaration and want to contest the results, you should consider requesting a **New Trial** or Trial De Novo (see court form TR220)

Going to court for the New Trial is a good thing

The New Trial provides you a second opportunity to have your ticket dismissed. Your original Trial by Written Declaration should not be taken into account - you can change any of the information you present in court, add any new facts you wish to, and you can bring witnesses to testify on your behalf as well as photographs, diagrams, etc., for the judge to consider.

Many cases where the officer doesn't show up are dismissed!

Generally, the only witnesses at the trial are the officer and you (the defendant). If the officer fails to appear at trial the judge may dismiss the case entirely. The court can dismiss the case in the interest of justice based on the lack of prosecution (the officer not being present in court means there is no witness to disprove your innocence). “The judge or magistrate may, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed.” (see Penal Code Section 1385 (a).)

Be Prepared for Court

You should dress nicely (no shorts, tank tops, caps, sandals, or sun glasses) and show up to court at least 30 minutes prior to your trial time to ensure you make it to your court room on time. If you are not sure where to go, check in with a court clerk. Bring notes to help you remember how you plan to present your case to the court.

Deciding whether to allow your case to be heard by a temporary Judge.

Temporary judges are usually unpaid volunteers, may not have as much practical experience in the legal issues commonly heard in traffic matters, and although they receive some training, they may lack the same experience and/or training that a full-time judge or commissioner has.

You don't have to accept a temporary judge!

If there is going to be a temporary judge deciding your case then you will be asked to “stipulate” (give your consent) to this and if not then you may have to come back on another day when a non-temporary judge is available. It is a matter of personal preference and you will have to make the decision yourself but some believe they have a better shot if they go before a “real judge” full-time judge or commissioner.

What to Expect in Court

First, the judge would generally welcome all parties to the courtroom and explain to how the trial will proceed (either verbally or some courts will give you an information sheet). You will be sworn in under oath to tell the truth and once your name/case is called you and the officer will be directed to go to your respective seats.

Next, the officer will be asked to state his/her name and then be instructed to begin with his or her testimony.

The officer testifies first.

When the officer finishes testifying you will be given opportunity to question (cross examine) the officer.

Questioning the Officer

Questioning the officer can serve several purposes. Common sense should tell you to refrain from becoming argumentative with the officer. Questioning the officer provides you the opportunity to:

Clear up factual questions about the circumstances of the violation

For example, if you are not sure how the officer was able to clock your speed while he was driving in the opposite direction, ask him to explain how he clocked your speed.

Ask questions to confirm your own observations.

For example, if you think you remember the weather was foggy and there was heavy traffic at the time you were cited you can ask the officer what the traffic and weather were like at the time to confirm.

Ask questions to set the stage for your own testimony

For example: If you ask the officer when his radar was last calibrated and he tells you it was calibrated 3½ years prior to the date of the ticket, you can make note of this and bring it up during your testimony that the radar was not calibrated within the last 3 years as required.

For example: If you ask the officer if there was notice of the speed limit in question (i.e. a visible speed limit sign posted) and whether he can testify beyond reasonable doubt that you passed by it and he says he cannot, you can make note of this and bring it up during your testimony (think: How could you be found guilty of doing say 55 mph in a 45 mph zone when the officer cannot testify that you passed a visible 45 mph sign in that area?).

For example: If you ask the officer if there was notice of the stop sign (or other type of sign it is alleged you failed to obey) and whether he can testify beyond reasonable doubt that it was visible when you passed by that sign and he says he cannot, you can make note of this and bring it up during your testimony (think: How can you be found guilty of violating the sign if the officer can't even testify that you actually passed a visible sign in that area).

Ask any other questions you have.

You may find it helpful to stick to questions that require a "yes" or "no" answer or a brief, factual response rather than questions that give the officer a chance to state his opinion.

Ask questions that might uncover whether or not the officer was in a position to see your vehicle clearly (if you can discount the officer's testimony you can show there is reasonable doubt that you are actually guilty).

When it's Your Turn to Testify

Asking the officer questions about his testimony or about other matters that are related to your case, is not you testifying. When it's your turn to testify the judge will have explained to you that you have a constitutional right to remain silent, but you give up that right when you testify.

If you testify you will have the opportunity to explain your version of what happened but this may also subject you to being questioned/cross examined by the officer (or even the judge in some instances but the judge's questioning has to be fair or it is improper).

The benefit of the officer going first is you get to hear what type of case he has against you. You had the benefit of hearing him talk first and now have the opportunity to attack the weak or inconsistent parts of his testimony. Additionally if you received a copy of the officer's declaration before trial (can usually be obtained by contacting the traffic division of the court) there may be a difference in what the officer says in court and what's written in his declaration. This will give you the opportunity to bring up any inconsistencies and inaccuracies which may discount the officer's testimony and be advantageous to you.

You can create doubt that the officer's observations of your vehicle were accurate. If the officer made mistakes on the ticket this could also go to show he was not paying full attention to detail that day and may have misinterpreted the events leading up to the citation. You may find it helpful to work this into your testimony.

Driving conditions on day you were ticketed can work to your advantage

If there was for example: heavy traffic around you, limited visibility at the time, a curved and hilly roadway, these are all factors that can go to show the officer could not have had a clear view of your vehicle. (think: Without a clear view how could the officer have accurately observed your vehicle to determine whether you committed the violation?).

If the officer is alleging you were issued the ticket because your driving was unsafe think of factors that would show your driving was not unsafe, for example: there was no traffic; the weather was clear; there were no pedestrians anywhere around.

You should take notes with you to refer to so you don't forget the points you want to bring up. Avoid just reading your notes directly word for word.

Tips for How to Present Your Case

When you are asked to speak you should be truthful and speak in a clear, honest and convincing manner and avoid "iffy" type words i.e. "like," "possibly," "maybe," "if," or other similar words. Speak respectfully and control your emotions, and if you do not understand a question asked of you or a comment, address the judge as "your honor" and politely ask the judge to explain it to you.

Stick to the relevant facts of the case as you may only have a few minutes to present your case. Have your evidence in order (such as photographs, diagrams, medical records, car repair receipts, driver's license, auto insurance, or car registration documents) and have three copies of everything in case the judge requests a copy for himself and the officer to view; that way you will still have a copy for yourself.

Note: Know what your witness will say ahead of time.

Red Light Photo Tickets

Many people are intimidated to go to court for these types of tickets since they feel the evidence is right there in black in white (or rather color photograph). We felt it was worth having a separate section just for these types of tickets.

The officer may be a no show.

First don't forget, as we discussed before, the officer may not show up and your ticket might automatically be dismissed.

Even if the officer does show up, there are a lot of rules and regulations relating to Red Light Camera Enforcement and sometimes these tickets can be dismissed on a technicality if you find out a rule was not followed properly. One of these examples below may apply to your situation:

15 Day Rule

If you ARE the registered owner of the vehicle and the mailing date on the ticket is more than 15 days past the violation date listed on the top of the ticket, then you might try to get to get the judge to dismiss your ticket based on California Vehicle Code section 40518 (a) (“a written notice to appear based on an alleged violation of VC§21453 must be delivered to the registered owner within 15-days of the violation”).

No Clear Photo of the Driver

If the photo of the driver is blurry or looks nothing like you, you might ask the judge for a dismissal based on lack of proof beyond a reasonable doubt that it was you driving the vehicle

Mitigating Circumstances

Maybe you had a valid reason as to why it wasn't safe to stop (wet pavement, car tailgating), maybe you have a witness who will testify as to your reason for not being able to stop in time, or maybe you couldn't see the light due to some obstruction (like the sun, or a tall vehicle ahead of you).

A Few (Quite a Few) Last Words

Changing or Postponing the Court Date

If you need to change or postpone your court date you will need to contact the court as soon as you know you cannot make it. If the request is made when there is less than 14 days prior to your court date it is unlikely that the court will be able to honor your request.

If you fail to appear in court you may be penalized by a bail forfeiture (if you have previously posted bail with the court you will not be getting this money back), a conviction being placed on your driving record, a warrant for your arrest, or you may just be found guilty in your absence. The penalty will depend on the court, every judge is different.

Getting a Copy of the Traffic Survey or Similar Documents Relevant to Your Case Before the Trial

If you want to get your hands on something like a traffic survey for the street you were cited on to see if the speed limit is justified, most times a simple public records request to the public works department in the city of where you were cited or the City Hall will do the trick.

You could, of course, conduct your own discovery or subpoena documents from the police department where the officer who issued your ticket is employed for items relating to your traffic infraction case (example: the officer's notes or calibration records for the officer's radar), but this can be a time consuming process and it's also rarely done at the infraction level.

Furthermore, if you have a copy of the Officer's Declaration (can usually be obtained by contacting or going into court), check this first as it may provide you with some of the same information you would have obtained had you sent a request to the police department like the radar calibration record.

Asking to Have the Violation be Reduced

A reduction to a zero point or non-moving violation does not necessarily mean you will be getting any money refunded to from the court of the fine you paid for the ticket. It does however mean that no point would be going on your driving record and since there would be no point to affect your driver record, you would not need to pay the extra money or waste your time attending traffic school, so for many it is as good as a dismissal.

Speeding

If you are fighting a speeding ticket, you could respectfully ask to have the violation lowered to a zero point violation, such as a coasting infraction 21710 (VC) (“Coasting in Neutral on Downgrade Prohibited”) so it does not affect your driving privilege. Specify you are making this request with the intention that the reduced violation is to be in lieu of the court entering a finding of guilty as to the California Vehicle Code section you were originally cited for.

Red Light

If this is a red light ticket, stop sign ticket, or other ticket involving a sign or signal, you could respectfully ask the court to lower it to a zero point violation, such as 38300 (VC) (“Unlawful to Disobey Specified Sign, Signal, or Traffic Control Device”) so it does not affect your driving privilege. Specify you are making this request with the intention that the reduced violation is to be in lieu of the court entering a finding of guilty as to the California Vehicle Code section you were originally cited for.

Other

If this is NOT a speeding, red light or other type of ticket involving a sign, you could respectfully ask this honorable court to amend the alleged violation to add a violation of the local Municipal Code that is *not* a moving violation so it does not affect your driving privilege. Specify you are making this request with the intention that the reduced violation is to be in lieu of the court entering a finding of guilty as to the California Vehicle Code section you were originally cited for.

Requesting Traffic School

If you are requesting Traffic School, politely make the request. It can be beneficial to state a reason why traffic school would benefit you. The trial judge has the power to order you to attend traffic school. If the trial judge believes that your circumstances indicate that you would benefit from attending school, such attendance should be authorized.

If the judge denies you traffic school due to you having already been found guilty, be aware that according to Vehicle Code section 42005 (a) and pertaining to *People v. Enochs* (1976) 62 Cal.App.3d Supp. 42 and *People v. Wozniak* (1987) 197 Cal. App. 3d Supp. 43, you can still

request to attend traffic school even after you have been found guilty of the alleged violation, if you were eligible for traffic school prior to being found guilty. The question of such imposition of traffic school should not be affected by the order in which plea, explanation and request (for school) are presented. To decide on your entitlement to traffic school on the basis of the order of presentation rather than the facts of the case is capricious and arbitrary.

Receiving a Verdict

If the court has ruled against you (found you guilty) the decision is final however you may be able to appeal it if you feel the judge made an error. You can contact the clerk of the court for the necessary appeal forms and instructions for filing an appeal if you feel an appeal is necessary. If you do plan on appealing the ticket, generally you only have about 30 days to do so.

If the court has ruled in your favor (found you not guilty or dismissed your case), congratulations! Get a copy of the decision notice so you have it for your records and if you previously posted bail (paid the fine for the ticket to the court) you will receive a refund from the court in the mail (usually within about 60 days).