

## Defendant's Request For Order Instructions - Traffic

Use this form to ask the Court to make an order in your case on one or more of the following issues:

- Petition to Vacate Civil Assessment
- Petition for Ability to Pay Determination
- Request for Order to Modify Fine Amount
- Request for Order to Pay Fine in Installments
- Request to Perform Community Service in lieu of Total Fine
- Request for the court to take action on other issues

Your packet includes:

- **Defendant's Request for Order**
  - Your options under the California Rules of Court are provided.
  - Instructions on completing forms are provided.
- **Forms:**
  - **Defendant's Request for Order – Traffic**
  - **Financial Declaration** (required if your ability to pay any fine or fee is the reason for your request.)
  - **Advisement, Waiver of Rights and Plea** (required if you have not previously entered a plea. See page 9 for more information.)
  - **Order on Defendant's Request for Order – Traffic**
  - **Defendant's Declaration and Proof of Completion of Court Ordered Community Service**

Your options are listed below per the California Rules of Court. You have the right to request one or all of the following, depending on the status of your case:

1. **Petition to Reduce or Vacate Civil Assessment – California Rules of Court, Rule 4.106**
  - If you received a notice that a civil assessment has been added to your citation, you may petition the court to reduce or vacate the assessment.
  - A petition to reduce or vacate an assessment does not stay (stop) any order requiring payment of bail, fines, penalties, fees, or assessments unless specifically ordered by a judicial officer.
  - If you do not establish good cause as to why you didn't appear or did not pay, the court can still impose the civil assessment.
  - The court may consider such factors as your due diligence in appearing or paying after notice of the assessment has been given.
2. **Petition for Ability-to-Pay Determination – California Rules of Court, Rule 4.335**
  - You may request an ability-to-pay determination at sentencing if you are currently on an installment plan, or while your judgment remains unpaid, including when your case is delinquent or in collections.
  - You have the right to a review by a judicial officer. When you submit your request in writing, include any information you want the court to consider, including any attachment(s) that would help support your request.
  - The court will make a decision based on the information and supporting documentation that you provide in your written request. Specific documentation as to your financial status may be required for the court to make a determination.
  - If an ability-to-pay determination has already occurred, a subsequent ability-to-pay determination can be requested only if there is a change in circumstances. The change in circumstances must be supported with written documentation in order for the court to consider your request.
3. **Right to Appear in Court for Arraignment and Trial without Deposit of Bail – California Rules of Court, Rule 4.105**
  - If you have not already been arraigned or previously waived formal arraignment, which resulted in a conviction:
    - You have the right to appear in court for arraignment and trial without deposit of bail.

- If you have already been convicted, your options include:
  - Submitting a Request for Order (considered on your paperwork and written statements and documentation).
  - Filing a motion to schedule a hearing date (considered on your paperwork and verbal statements).
- If you have been convicted “in absentia” (in your absence), you have only 21 days to file a Request for Trial De Novo in order to appear in court to contest your case from the date of mailing on your Notice of Decision on Trial in Absentia.

If you need additional information regarding your options, or other self-help information, you can visit the Judicial Branch of California’s self-help website at: <http://www.courts.ca.gov/selfhelp-traffic.htm>

**Instructions for Completing Forms:**

You may use this form to request one or all of the following actions:

- Petition to Vacate Civil Assessment
- Petition for Ability to Pay Determination
- Request for Order to Modify Fine Amount
- Request for Order to Pay Fine in Installments
- Request to Perform Community Service in lieu of Total Fine
- Request for the court to take action on other issues

**You will need to complete the following forms**

- Defendant’s Request for Order – Traffic You must also submit an Advisement, Waiver of Rights & Plea if no pleas has been entered previously in Court, or in writing. See page 9 for information on the form provided at the end of this packet.
- Order on Defendant’s Request for Order – Traffic

**If any of your requests involve the ability to pay a fine due to financial hardship, you will also be required to complete the following form, with current supporting documentation:**

- Financial Declaration
  - Current proof of your financial situation must be submitted with your financial declaration. Examples of proof can be a current government assistance statement, recent check stubs, Medi-cal card, WIC card, recent bank statement of deposit of government assistance or pension, or of any income sources. Other documentation could be any recent statements for your bills you pay – child support payments, credit card statement, housing costs/rent receipt, insurance costs, medical expenses, funeral expenses, or any other documentation that supports your financial declaration.

**Defendant’s Request for Order – Traffic**

- Complete all questions to the best of your ability.

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY:          Name: _____          Address: <b>1</b> _____          Phone: _____</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS          TRAFFIC DIVISION          2260 Floyd Avenue          Modesto, CA 95355</p> <p>PEOPLE OF THE STATE OF CALIFORNIA,          Plaintiff  <b>2</b></p>	<p>FOR COURT USE ONLY  <input type="checkbox"/> CAG <input type="checkbox"/> CAH <input type="checkbox"/> TIA</p> <p><b>SAMPLE</b></p>
<p>DEFENDANT'S REQUEST FOR ORDER - TRAFFIC:          (Check all that apply):</p> <p><input checked="" type="checkbox"/> To Vacate Civil Assessment <b>3</b></p> <p><input checked="" type="checkbox"/> To Modify Fine Amount</p> <p><input checked="" type="checkbox"/> To Pay Fine Amount in Installments</p> <p><input checked="" type="checkbox"/> To Release Driver's License Hold with Department of Motor Vehicles</p> <p><input checked="" type="checkbox"/> To Perform Community Service in lieu of Total Fine</p> <p><input type="checkbox"/> Other _____</p>	<p>CASE #0: _____ <b>4</b></p> <p>Date and Time of Hearing _____</p>

- Complete the upper left corner (#1) with your name, address and phone number (or message #).
- Complete the 2<sup>nd</sup> section with your name on the line above the word "Defendant"
- Complete the 3<sup>rd</sup> section by checking any box that will apply to what you are asking the court to order.
- Complete the 4<sup>th</sup> section with only your case number. If a hearing is later required, the clerk will fill out date and time of hearing.
- **Completing Section 1. Request to Vacate Civil Assessment.** If you failed to appear or failed to pay a fine and you had extra civil assessment fees added to your case, you can request to have the fees either waived or modified, however, you are required to tell the court why you failed to appear or pay when ordered. Mark all boxes that apply to your situation, and *if you are claiming a financial hardship, you must complete the financial declaration form in this packet.* You must also attach any supporting documents that will help the court understand why you did not appear at your hearing or why you did not pay a court ordered fine. Explain the situation as completely as possible.

1.  **Request to Vacate Civil Assessment** – I did not appear in court or did not pay a fine ordered by the court because of the following reasons (check all that apply):

<input checked="" type="checkbox"/> HOSPITALIZATION	<input checked="" type="checkbox"/> MILITARY DUTY
<input checked="" type="checkbox"/> RESIDENTIAL DRUG/ALCOHOL TREATMENT	<input checked="" type="checkbox"/> THE DEATH OF FAMILY MEMBER
<input checked="" type="checkbox"/> INCARCERATION (in jail or state prison)	<input checked="" type="checkbox"/> NOT PERSON CITED
<input checked="" type="checkbox"/> A FINANCIAL HARDSHIP	<input checked="" type="checkbox"/> OTHER (Explain below)

**SAMPLE**

The Court will not consider your request unless you attach documents that support your request (if available) and provide a detailed explanation of why you failed to appear in court or pay your fine. **If you are claiming a financial hardship, you must complete and submit a Financial Hardship Declaration.**

The following is my explanation of my failure to appear and/or pay (please print):

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- **Completing Section 2. Request to Modify Fine Amount.** If your reason to request modification of the fine is due to a financial hardship (in addition to, or other than, the civil assessment in Section 1): Check the box to Request to Modify Fine Amount. Check either of the two boxes as to whether it is the first time you have requested this or if you have previously requested a fine modification in this case.

2.  **Request to Modify Fine Amount** – I am requesting the court to modify my fine based on my inability to pay due to a financial hardship. I have completed a Financial Hardship Declaration and submitted it to the court.

(Please mark one of the following):

- This is my first request to modify fine amount.  
 I have submitted a previous request to modify fine amount in this case.

**SAMPLE**

**Completing Page 2:**

- **Completing Section 3: Request to Pay Fine Amount in Installments.** If your financial situation requires your paying it in monthly installment payments, you can check this section. Fill out the amount you can pay each month in the "\$\_\_\_\_\_" section. **Please note it must be a minimum of \$10.00 per month.** You must also be sure you complete the Financial Declaration form. Read the

information in bold letters. This is important information that tells you if you miss your payments and do not contact the court for an extension in a timely manner, your case can be sent to the Franchise Tax Board or other collection agency for collection proceedings.

3.  **Request To Pay Fine Amount In Installments**

Due to a financial hardship, I am requesting to pay the fine amount, including the Civil Assessment, in installments of \$\_\_\_\_\_ per month (the installment payment must be at least \$10.00 per month). I have also completed a Financial Hardship Declaration and submitted it to the court with my Defendant's Request For Order - Traffic.

**SAMPLE**

I understand that if I miss an installment payment, the court may consider the entire unpaid balance is immediately due and payable and the court may send my case to the Franchise Tax Board (FTB) or other agency for collection. I also understand that if I need an extension of time, I must contact the Court to arrange an extension on or before my due date.

- **Completing Section 4: Request to perform Community Service in lieu of Total Fine.** If you are experiencing financial hardship and payment of the total fine would pose a hardship to you or your family, mark the box to Request to perform Community Service in lieu of Total Fine. You must also complete the Financial Declaration form.

4.  **Request to perform Community Service in lieu of Total Fine** – Due to a financial hardship, I am requesting the court to allow me to perform community service in lieu of my total fine. For the purposes of this section, the term "total fine" means the total bail, including the base fine and all assessments, penalties, and additional moneys to be paid.

**SAMPLE**

I understand that if I fail to perform and submit proof of completion for court ordered community service, the court may consider the entire unpaid balance is immediately due and payable and the court may send my case to the Franchise Tax Board (FTB) or other agency for collection. I also understand that if I need an extension of time, I must contact the Court to arrange an extension on or before my due date.

- **Completing Section 5: Request for Other Orders.** You can ask the court to review other issues, however, you must be specific as to what you are requesting and why you are requesting it. If there is any documentation to support your reasons for this request, you are encouraged to attach copies, so the court is able to make an order on your case without having to schedule your case for a hearing to have you appear in court at a later date to make the determination. The more information you provide, the more information the court has to consider in support of your request.

5.  **Request for Other Order(s):** I request the court make the following other order(s): (Please include a detailed explanation for what you are requesting and why you are making this request.) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SAMPLE**

I understand that I am required to provide proof of any statements related to my financial declarations if I am asking the Court to consider a financial hardship. In the event that I have not been able to provide this documentation, I understand that my request may be denied by the Court.

- **Completing the declaration under penalty of perjury**, listing your address, telephone number, date of signature, and signing your name where it says "Defendant's signature". The copy you file with the Court must be an original copy, therefore you are encouraged to **sign it in a blue pen**, so it easier to identify as an original.

I understand that I am required to provide proof of any statements related to my financial declarations if I am asking the Court to consider a financial hardship. In the event that I have not been able to provide this documentation, I understand that ~~my request may be denied by the Court.~~

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and that any written proof ~~is attached~~ to this form.

Executed at: \_\_\_\_\_ On \_\_\_\_\_  
City and State Date Signed

Address of defendant: \_\_\_\_\_  
Mailing Address, City, State and Zip **SAMPLE**

Telephone or Message Phone Number: (\_\_\_\_\_) \_\_\_\_\_

Signature \_\_\_\_\_  
(Defendant's Signature)

## Completing the Financial Declaration

### Personal Information:

This form requires you to provide personal information, including your name, address, birthdate, phone number, marital status, social security number, number of dependents, and any court ordered child support you pay.

<b>PERSONAL INFORMATION</b>	<b>SAMPLE</b>
Name: _____ Birthdate: _____ CASE # _____	
Address: _____ Phone #: _____	
Marital Status: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Separated	
Social Security number: _____	
Number of dependents: _____	
Court ordered child support payments: \$ _____	

### Employment Information:

You must tell the court if you are currently employed. If you are not currently employed, how long you have been unemployed. If you are employed, you must tell the court who your employer is, how long you have worked there, and your monthly income. You must also provide this information for your spouse's employment, if applicable.

<b>EMPLOYMENT</b>	<b>SAMPLE</b>
Are you currently employed? <input type="checkbox"/> Yes <input type="checkbox"/> No   How long have you been unemployed?: _____	
Employer: _____ How long: _____ Monthly Income: \$ _____	
Spouse's employer: _____ How long: _____ Monthly Income: \$ _____	

### Other Monthly Income:

You must tell the court how much you receive in any of the areas listed on the form:

<b>OTHER MONTHLY INCOME</b>				
Unemployment \$	Disability \$	Retirement \$	Child Support \$	Spousal Support \$
General Relief \$	Social Security \$	SSI \$ <b>SAMPLE</b>	AFDC \$	Other \$

### Housing

You must tell the Court if you are renting or buying and your share of the monthly payment. You must also tell the Court with whom you reside. If you are not renting or buying, please explain your housing situation.

<b>HOUSING:</b> <input type="checkbox"/> Renting <input type="checkbox"/> Own	Your share of the monthly payment: \$ _____ <b>SAMPLE</b>
Other, please explain? _____	

**Motor Vehicles**

You must tell the Court if you have any motorcycles, boats, motor homes, trailers, and automobiles:

<b>MOTOR VEHICLES</b> (Including motorcycles, boats motor homes, trailers, etc.)	<b>SAMPLE</b>
Year & Make _____ <input type="checkbox"/> Own <input type="checkbox"/> Lease Monthly payment: \$ _____	
Year & Make _____ <input type="checkbox"/> Own <input type="checkbox"/> Lease Monthly payment: \$ _____	

**Creditors** (Money you owe, bills you're paying)

You must tell the Court if you owe money for any bills, ie: credit cards, department stores, medical bills, etc.

<small>(Bills that you pay/owe)</small>	<b>SAMPLE</b>
<b>CREDITORS</b> (VISA, department stores, medical bills, etc.)	
Creditor _____	Monthly payment: \$ _____
Creditor _____	Monthly payment: \$ _____
Creditor _____	Monthly payment: \$ _____

**Assets**

This is very important. You must list any of the following assets you have. Do not leave any blanks. **If the answer is \$0.0, then enter it as 0, but do not leave it blank.**

<b>ASSETS</b>	<b>SAMPLE</b>										
<p><b>IMPORTANT:</b> Each of the questions about assets must be answered. Do not leave any of the lines blank. If the answer is \$0.00 then enter a 0.</p>	<table style="width: 100%;"> <tr> <td>Checking Account Balance</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Savings Account Balance</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Money owed to you</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Equity in property you own</td> <td style="text-align: right;">\$ _____</td> </tr> <tr> <td>Other assets</td> <td style="text-align: right;">\$ _____</td> </tr> </table>	Checking Account Balance	\$ _____	Savings Account Balance	\$ _____	Money owed to you	\$ _____	Equity in property you own	\$ _____	Other assets	\$ _____
Checking Account Balance	\$ _____										
Savings Account Balance	\$ _____										
Money owed to you	\$ _____										
Equity in property you own	\$ _____										
Other assets	\$ _____										

**Completing the Financial Declaration – page 2:**

**Declaration Under Penalty of Perjury:**

You will be signing under penalty of perjury that the information you have provided to the court is true and correct. If it is not completed it cannot be filed. Be sure you have read this, as states that you must provide written documentation of your statements and financial situation. Be sure to submit your written documentation along with the Request for Order.

If there is a very good reason why you do not have any documentation, you can tell the Court why you were unable to provide it, as well as any efforts you have taken to obtain this documentation. You will then sign and date the Financial Declaration (example below):

**Declaration Under Penalty of Perjury:**

I understand that I am required to provide proof of any statements related to my financial declarations if I am asking the Court to consider a financial hardship. In the event that I have not been able to provide this documentation, I understand that my request may be denied by the Court.

I am unable to provide proof of (specify) \_\_\_\_\_ **SAMPLE**

for the following reason(s): \_\_\_\_\_

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I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and that all available written proof is attached to this form.

Executed at: \_\_\_\_\_ on \_\_\_\_\_  
City and State Date Signed

Signature \_\_\_\_\_ **SAMPLE**

### Instructions for Order On Defendant's Request for Order – Traffic

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY:</p> <p>Name: _____</p> <p>Address: <b>1</b></p> <p>Phone: _____</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS          TRAFFIC DIVISION          2260 Floyd Avenue          Modesto, CA 95355</p>	<p>FOR COURT USE ONLY</p> <p><input type="checkbox"/> CIVIL <input type="checkbox"/> CRIMINAL</p> <p><b>SAMPLE</b></p>
<p>PEOPLE OF THE STATE OF CALIFORNIA,          Plaintiff</p> <p>vs. <b>2</b></p> <p>Defendant</p>	
<p>DEFENDANT'S REQUEST FOR ORDER - TRAFFIC:</p> <p>(Check all that apply):</p> <p><input checked="" type="checkbox"/> To Vacate Civil Assessment <b>3</b></p> <p><input checked="" type="checkbox"/> To Modify Fine Amount</p> <p><input checked="" type="checkbox"/> To Pay Fine Amount in Installments</p> <p><input checked="" type="checkbox"/> To Release Driver's License Hold with Department of Motor Vehicles</p> <p><input checked="" type="checkbox"/> To Perform Community Service in lieu of Total Fine</p> <p><input type="checkbox"/> Other: _____</p>	<p>CASE NO: _____ <b>4</b></p> <p>Date and Time of Hearing: _____</p>

- Complete the upper left corner (#1) with your name, address and phone number.
- Complete the 2<sup>nd</sup> section with your name on the line above the word "Defendant"
- Complete the 3<sup>rd</sup> section by checking all boxes that you checked in your Defendant's Request for Order – Traffic. **These are sections you asked the Court to consider in your request.**
- Complete the 4<sup>th</sup> section listing only your case number. If the Judicial Officer sets it for hearing, the clerk will fill in the date and time of the hearing on your order and send it to you by mail.
- Turn to page 2 of your order, and fill in your name and case number at the top of the page.

**Leave the rest of the document blank. The Court will complete it.**

You have now finished filling out your Request For Order packet, and you must now make sure you provide any proof or documents required to be submitted to support your statements and situation you have provided to the Court for consideration. Your attachments to support your statements can be copied by



the clerk, and your original documents can be given back to you so you have them if needed. You can ask the Clerk at the window to make a copy of your documents so you can keep your originals. Once you have your documents attached to your "Request for Order", "Financial Declaration" (if this applies), and your "Order" you can now submit all three documents to the Traffic Court Clerk.

**Tips:**

- **Signature** - Check to be sure you have dated and signed your documents before turning them in to be filed.
- **Self-addressed-stamped envelope** - Be sure to submit your documents with a self-addressed stamped envelope, so the clerk can return the documents to you once the court makes an order on your request. If you don't have one, you can purchase one at the clerk's office counter.
- Please be patient, as the orders will take time to be reviewed and processed. They are processed in the order they are submitted to the Court. Once the order has been processed, your documents will be sent to you by mail.
- **To avoid delays, please be sure you have completed and attached your required written verifying documents required to support your written statements.**

**If you have additional questions, you can contact the Traffic Court Clerk's office as follows:**

**Email:** [traffic.requests@stanct.org](mailto:traffic.requests@stanct.org)

**Location:** Traffic Division 2260 Floyd Avenue, Modesto, CA 95355

**Phone:** (209) 530-3100, option 1, between the hours of 10:00 a.m. and 2:00 p.m. on business days

**Office hours:** Monday through Friday, 8:15 a.m. to 4:00 p.m. \*\*

**A DROP BOX IS AVAILABLE:** You can drop your documents into the filing and payment drop box on the external door of the Traffic Division. The clerk's office will process all documents and payments left in the drop box.

Please note - an additional Advisement, Waiver of Rights, and Plea form has been added to this packet. You are required to complete this form if you haven't ever previously entered a plea of either guilty, not guilty, or no contest in this case.

A plea is usually entered when you have appeared in court for arraignment, or started a payment plan, which requires a plea entry as well. If you are asking the Court to consider your request for order and your case has not yet been adjudicated (no outcome ordered), and if you are letting the court know you are now pleading guilty or no contest and requesting fine/fee reductions, you must enter a written plea. If you fail to submit this form, the Court cannot consider your request, and it will be returned to you to submit the required form.