

TRAFFIC COURT TEMPORARY JUDGES TRAINING

TRIALS BY DECLARATION AND CIVIL ASSESSMENTS

While sitting as a temporary judge on a traffic arraignment or trial calendar you may have occasion to do a trial by declaration pursuant to Vehicle Code § 40903. Note that not all cases are eligible for application of this procedure. The exceptions include: mandatory court appearances, photo red light violations, cases with corporate summons, unsafe speed citations where radar/lidar was used (except for those cases alleging a violation of the maximum speed laws), municipal code citations, local and county ordinance violations, unsigned citations and notice to correct citations. If a defendant fails to appear on one of the above then a bench warrant should be ordered.

If a defendant fails to appear in court on an eligible violation, the bench officer will review the notice to appear and any other evidence that may be available in the envelope and make a judgment in the matter. If the defendant is found guilty, he or she is notified of the finding, assessed a fine based on the bail set for the violations in the citation and is given 20 days to pay the fine or file a request for a trial de novo. If no trial de novo is requested and the fine is not paid, the defendant will be notified that the fine is past due and a civil assessment of \$300 is added pursuant to Penal Code § 1214.1. The defendant has 10 days after this notification to file a Petition to Vacate Civil Assessment. You may also have occasion to address these in court. If you believe there is good cause to do so, you may vacate the civil assessment and the defendant will be required to pay the underlying fine. If good cause is not established the petition should be denied and the defendant referred to the Department of Revenue to make payment arrangements.

Use of the civil assessment procedure allows the court to bring closure to cases where there is a failure to appear or failure to pay a fine and eliminates the issuance of a bench warrant in these cases. It also provides a mechanism for the court to have the DMV place a hold/suspension on the defendant's license until the traffic matter is completed pursuant to Vehicle Code § 40509.5.

Penal Code 1214.1 allows for a civil assessment of up to \$300 to be imposed against any defendant, charged with an infraction, misdemeanor or felony who fails, after notice and without good cause, to appear in court for any proceeding, who fails to pay any or all of a fine ordered by the court, or who fails to pay an installment of bail. If a civil assessment is imposed, no bench warrant or arrest warrant shall be served for the failure to appear in court. Outstanding warrants must be recalled before a civil assessment can be imposed.