

HOW TO OBTAIN A HARASSMENT RESTRAINING ORDER

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UCLA Student Legal Services (February 2006)

1. In addition to these instructions, you will need to obtain a packet of forms from the court. You should go to a California Superior Court and ask for the forms to obtain a Civil Harassment Restraining Order. The forms also may be obtained online at <http://www.courtinfo.ca.gov/forms>. Complete the Request for Orders to Stop Harassment (CH-100) (the "Request") and the Notice of Hearing and Temporary Restraining Order (CH-120) ("Notice/TRO"). You also will need to complete the Civil Case Cover Sheet and Civil Case Cover Sheet Addendum. You should type the documents, although you may print clearly in black ink.

2. Make six copies of each document before you go to the courthouse. You must punch the top of your documents with two holes (each hole should be approximately 3 inches from each margin). Special two hole punches are available at the filing window for you to use. If you have questions about how to punch your documents properly, ask the clerk at the filing window before you appear before the judge.

3. Before going to the courthouse, you are supposed to give the person who is harassing you (the "defendant") advance notice that you are going to ask the court to issue a Temporary Restraining Order (a "TRO") against him or her, unless you believe it would be dangerous to do so. You should attempt to tell the defendant, either by telephone or in person, at least 24 hours before you appear in court that you will be seeking a TRO, and the date, time, and place (i.e., the address of the courthouse and the Department number) that you will be seeking the order. If you are unable to reach the defendant, you may try to reach the defendant's attorney or someone else who would be able to give the defendant notice of your attempt to get a TRO. If you are unable to give the defendant this notice, you may ask someone else to do it for you. Whoever does give this notice to the defendant should fill out the Declaration of Ex Parte Notice. You should fill in your name, address, and telephone number at the top; then put the courthouse address, your name, and the defendant's name. Print the name of the person who gave the notice on the line before paragraph 1. In paragraph 1, fill in the name of the person informed and the date and time that notice was given. Then check one of the methods of notification listed. Fill in the Department number, the location of the court where you will be seeking the order, and the date; the hearing will be in Department 7 if you are filing downtown and Department E if you are filing in Santa Monica. In paragraph 2, check the applicable boxes. At the bottom of the page, put the date on which the person who gave notice is signing it and have that person sign the declaration. There may be times when you believe it would be dangerous to give advance notification to the defendant. If that is the case, you should complete the Declaration Re: Notice of Ex Parte Request (No Notice Given).

4. Go to the courthouse to file the Request and the Notice/TRO. If you live in Santa Monica or in West Los Angeles (i.e., west of La Cienega Boulevard), you should file in

the Superior Court in Santa Monica at 1725 Main Street, Santa Monica, CA 90401. If you live closer to downtown, you should file in the Superior Court downtown at 111 N. Hill Street, Los Angeles, CA 90012. If you are not sure which courthouse you should go to, call (213) 974-5195 and ask for the clerk who handles jurisdiction questions; give that clerk your address and ask which is the proper court for your case.

5. If you are filing downtown, first go to the Superior Court filing window in room 102 to file your Request and get a case number; then take your completed forms to Department 6 in room 247 to appear before a judge. If you are filing in Santa Monica and your forms are already filled out, go directly to Department E in room 111 to appear before a judge. If you file downtown, you will have to appear before the judge during the hours of 8:30 a.m. - 11:30 a.m. and 1:30 p.m. - 3:30 p.m.; in Santa Monica, you must appear at 8:30 a.m. if you have given notice to the defendant, although the judge sometimes will waive the notice requirement if the defendant has been violent and will hear these cases during the hours of 8:30 a.m. - 11:30 a.m. and 1:30 p.m. - 3:30 p.m.. You should arrive at the courthouse in advance of these hours so you will have ample time to process your case. The judge will then review your Request and Notice/TRO. The judge may ask you a few questions concerning the harassment. If the judge determines that there is sufficient cause to grant the TRO, the judge will sign the Notice/TRO and a date will be set for a hearing in approximately two weeks.

6. Generally, you must pay a \$320.00 fee to file the Request. If the harassment has included violence or threats of violence, however, there is no filing fee pursuant to California Code of Civil Procedure section 527(h). Also, if you cannot afford to pay the \$320.00 filing fee, you may request that this filing fee be waived. You will need to obtain an Application for Waiver of Court Fees and Costs (Form 982(a)(17)) and an Order on Application for Waiver of Court Fees and Costs (Form 982(a)(18)) at the filing window or online at www.courtinfo.ca.gov/forms. You should fill out all of the financial information requested on the Application for Waiver. You also should complete the top portion of the Order. In Santa Monica, the judge in Department E (room 111) will review your Application for Waiver at the same time he or she reviews the harassment papers. Downtown, you should go to room 102 first to file your papers and get a case number, and then to room 208 for the fee waiver; afterwards, the judge in Department 7 (room 240) will review your harassment papers. If the judge determines that you qualify to have your fee waived, the judge will give you a document stating that your application has been granted. You take this document to the clerk at the filing window, and you will be able to file the Request and Notice/TRO without having to pay a filing fee. If the judge denies your application, you will be required to pay the filing fee in order to obtain a restraining order.

7. After the judge signs the Notice/TRO, go to the Superior Court filing window (room 102 in Santa Monica and room 102 downtown) and give the clerk the following: the original and all of the copies of the Request; the original and all of the copies of the Notice/TRO; and a check for \$320.00 (you also may pay by cash) or the fee waiver order the judge gave you. The clerk will stamp the original documents with the case number and will stamp the copies as "Filed." The clerk will keep the original documents and will

return the copies to you. You also will need to complete and deliver to the sheriff Form DV-260, Confidential CLETS Information, along with a copy of the TRO; the sheriff will enter the information in a computer database. The sheriff's office is located in room 525 in the downtown courthouse and room 114 in the Santa Monica courthouse.

8. In order for the TRO to become effective, the defendant must be personally served with the Request, the Notice/TRO, and a blank Answer to Request for Orders to Stop Harassment (CH-110); you also may want to serve the Proof of Firearms Turned In or Sold (CH-145) and How Can I Answer a Request for Orders to Stop Harassment (CH-151) forms. It usually takes the sheriff more than a week to serve papers on the defendant and may cost approximately \$30.00. Thus, for faster service it generally is better to ask a friend (who is over 18 years old and is not a party to the lawsuit) or to hire a professional process server to serve the Notice/TRO on the defendant. A professional process server will cost you at least \$40.00, but you may wish to hire such a person if the defendant is likely to become violent when he or she is served. If the defendant is a member of the UCLA community, the UCPD frequently is willing to help with service. If you do not wish to spend the money hiring a private process server or the UCPD is unable to help, you may ask a friend of yours simply to hand the papers to the defendant; that is all it takes to serve the defendant. Be sure to serve a copy that has the date, time, and place of the hearing noted in paragraph 3 of the Notice/TRO. The defendant must be served at least five days before the hearing.

9. Once the Notice/TRO has been served on the defendant, the person serving the defendant must complete the Proof of Personal Service form (CH-130). Put your name in paragraph 1 and the name of the person who is harassing you in paragraph 2. In paragraph 3, check off the boxes by the documents that were served on the defendant (in most cases, you will mark boxes a, b, c, d, and e at this stage). In paragraph 5, note the exact date, time, and place of service. In paragraph 6, state the name, address, and telephone number of the person who served the defendant. The person who served the defendant should then date and sign the Proof of Personal Service and print his or her name to the left of the signature. Make at least six copies of this document before you file the original with the court. File the original Proof of Personal Service with the court as soon as possible after service and have the copies stamped "Filed."

10. Once the Notice/TRO has been served on the defendant and the Proof of Personal Service has been completed, you should deliver a copy of both of these documents to your local police department. For example, if you live in West Los Angeles and attend classes at UCLA, you would want to deliver a copy both to the West Los Angeles Police at 1663 Butler Avenue and a copy to the University of California Police Department at 601 Westwood Plaza. It also is advisable to list the police department where you work. (These are the law enforcement agencies listed in paragraph 11 of the Notice/TRO and in paragraph 13 of the Request).

11. The TRO becomes effective and enforceable only when it is served on the defendant. Delivering a copy of it to the police makes it easier to enforce. Thus, if the defendant does anything prohibited in the TRO, you should call the police (the department to which

you have delivered the Notice/TRO). The police should respond immediately and arrest the defendant for violating a court order. It generally is a good idea to carry a copy of the TRO and the Proof of Personal Service form with you at all times so that if the defendant violates the TRO, you can show it to any police officer, even if the officer is not from a branch to which you already have delivered a copy of the Notice/TRO and Proof of Personal Service.

12. When the judge signed the Notice/TRO, a date was set for a hearing to determine whether the restraining order should be effective for longer than two weeks. Before going to the hearing, you should prepare a Restraining Order After Hearing to Stop Harassment form (CH-140) (the "Order After Hearing"). Fill in your name and address in paragraph 1. In paragraph 2, fill in the defendant's name, description (as accurately as possible), age, and date of birth. In paragraphs 6 and 7, you should check off the boxes that you believe are applicable to your case. If there are other orders you believe are necessary that are not covered in paragraphs 6 and 7, you should state them in paragraph 10. List the full names of the other people to be protected by the order in paragraph 11. In paragraph 12, you should specify which law enforcement agencies you would like to have copies of the injunction (e.g., the police where you live or work, the UCPD). The judge may modify the requests that you have made in the Order After Hearing when he or she signs it. The Order After Hearing is enforceable only if the judge signs it and, if the judge makes changes in the Order After Hearing that you present to the court (e.g., crosses out provisions, changes the wording, etc.), it is only the modified terms that are enforceable.

13. The TRO is effective only until the date of the hearing (which is specified in paragraph 3 of the Notice/TRO). You must attend the hearing and the defendant also has the right to attend the hearing. You should be prepared to present your case and whatever evidence you have (e.g., personal testimony of people who have witnessed the harassment, any documents reflecting the harassment, medical records if you had to seek treatment, or police reports) to convince the judge that you have been a victim of harassment. The defendant also will have an opportunity to rebut your allegations of harassment. The judge probably will ask both of you questions. The judge will decide whether to grant your request for a restraining order and for how long the restraining order will remain in effect. The judge can decide to impose the restraining order for a period of up to three years.

14. If the judge issues a restraining order against the defendant, you will need to arrange for the defendant to be served in the same way as he or she was served with the Notice/TRO (see paragraph 8 of these instructions). A Proof of Service also will need to be completed, and copies of the Order After Hearing and the Proof of Service should be filed with the appropriate police departments (see paragraphs 9 and 10). Once again, you will need to complete and deliver to the sheriff Form DV-260, Confidential CLETS Information, along with a copy of the Order After Hearing.

15. As long as the Order After Hearing is in effect, the defendant may not engage in any activity that is prohibited in the Order. If the defendant does, you should call the police and tell them the defendant is violating a restraining order. The police then will arrest the

defendant for violating the Order. It generally is a good idea to carry a copy of the Order After Hearing and the Proof of Personal Service form with you at all times so that if the defendant violates the Order, you can show it to any police officer, even if the officer is not from a branch to which you already have delivered a copy of the Order After Hearing and Proof of Personal Service.

16. If you have questions, the court clerks often can provide you with information. If you file in Santa Monica, call Department E at (310) 260-3609; if you file downtown, call Department 8 at (213) 974-5588. If you qualify for service, you may call UCLA Student Legal Services at (310) 825-9894 or the following legal clinics:

For Assistance Completing Forms at the Courthouse:

DOWNTOWN COURTHOUSE:

DOMESTIC VIOLENCE PROJECT OF LA COUNTY BAR ASSOCIATION – BARRISTER SECTION

Los Angeles Superior Court

111 N. Hill Street, Dept. 8, Room 245, Second Floor, Los Angeles, CA 90012

(213) 624-3665

Mon-Fri: 9:00 a.m. - 11:30 a.m., 1:30 p.m. - 3:30 p.m.

<http://www.lacba.org/showpage.cfm?pageid=420>

\$20 fee, which may be waived depending on income level. Volunteer attorneys and law students provide legal assistance to abused victims and their children by preparing the legal documents required to obtain temporary, and ultimately permanent, restraining orders which can include orders for custody, restricted visitation and child support. The Project also provides legal assistance to elderly individuals and to minor children seeking protection against sexual abuse by family members.

INFO LINE OF LOS ANGELES

Los Angeles Superior Court

111 N. Hill Street, 2nd Floor, Room 227, Los Angeles, CA 90012

(213) 974-2649 (Located in the Family Law Information Center)

(800) 339-6993 in Los Angeles County or

(323) 686-0950 in Los Angeles County

(310) 551-2929 West Los Angeles

Mon/Wed: 8:00 a.m. – 12:00 noon, 1:00 p.m. – 4:30 p.m.

<http://www.infoline-la.org>

Info Line of Los Angeles provides information about and referrals for more than 4,500 services in Los Angeles County. An advisor assists in identifying appropriate programs and community resources for individuals, children, and families involved in the court system. All services are confidential, and may include referrals to legal support services, public benefits, substance abuse programs, counseling, job training programs, and many other needed services.

SANTA MONICA COURTHOUSE:

LEGAL AID FOUNDATION OF LOS ANGELES/DOMESTIC VIOLENCE CLINIC

Los Angeles County Superior Court, West District
1725 Main Street, Room 121, Santa Monica, CA 90401
(310) 260-3524

<http://www.lafla.org>

Walk-ins: Mon–Fri: 8:30 a.m. - 11:00 a.m.
Domestic violence restraining orders. No fee.

LONG BEACH COURTHOUSE:

DOMESTIC VIOLENCE RESTRAINING ORDER PROJECT

(Project of Legal Aid Foundation of Long Beach)

Los Angeles County Superior Court, South District
415 W. Ocean Blvd., Room 102, Long Beach, CA 90802
(562) 435-3501

Walk-ins: Mon–Thur: 12:30 p.m. - 3:30 p.m.

<http://www.lafla.org>

Domestic violence and civil harassment TRO's in pro per. No fee.

PASADENA COURTHOUSE:

BARRISTERS DOMESTIC VIOLENCE COUNSELING PROJECT

300 East Walnut Street, Room 100, Pasadena, CA 91101

<http://www.lacba.org/showpage.cfm?pageid=420>

Mon-Fri: 9:00 a.m. - 11:00 a.m.

Domestic violence restraining orders (in pro per). \$20 fee.

For General Assistance:

EQUAL RIGHTS ADVOCATES

1663 Mission Street, Suite 250, San Francisco, CA 94013

(415) 621-0672 (Office)

(800) 839-4372 (Hotline)

Mon.-Fri. 9:00 a.m. – 5:30 p.m.

Hotline counselors are available Mon & Tue: 2:00 p.m. – 4:00 p.m.; Wed: 5:00 p.m. – 7:00 p.m.; Fri: 10:00 a.m. – 12:00 noon.

<http://www.equalrights.org>

Provides assistance and referrals to women who have been the victim of sex discrimination and harassment only.

FULLER PSYCHOLOGICAL AND FAMILY SERVICES

135 N. Oakland Avenue, Pasadena, CA 91182

(626) 584-5200

Mon-Fri 8:30 a.m. - 4:30 p.m.

http://www.fuller.edu/sop/main/psychological_center.asp

Individual, marital, child, & family counseling; by appointment. Sliding fee scale, counseling only.

LEGAL PROTECTION FOR WOMEN

5300 E. Beverly Blvd., Ste. D, East Los Angeles, CA 90022

(323) 721-9882

Mon-Fri: 9:00 a.m. – 5:00 p.m.

Counseling & referral; simple divorce; interprets Spanish to English. Fees range from \$350-500.

LOS ANGELES COMMISSION ON ASSAULTS AGAINST WOMEN

605 W. Olympic Blvd., Suite 400, Los Angeles, CA 90015

(213) 955-9090 – Main Office

(310) 392-8381 – Los Angeles County Rape and Battering 24 hr Hotline

(213) 626-3393 – Central Los Angeles Rape 24 hr Hotline

(626) 793-3385 – West San Gabriel Valley Rape 24 hr Hotline

Mon-Fri: 9:00 a.m. – 5:00 p.m.

<http://www.lacaaw.org>

POMONA SELF-HELP LEGAL ACCESS CENTER

Pomona Courthouse

400 Civic Center Plaza, 7th Floor Room 702, Pomona, CA 91766

(909) 620-3006

Mon-Fri: 8:30 a.m. – 12:30 p.m., 1:30 p.m. – 4:30 p.m.

VAN NUYS SELF-HELP ACCESS CENTER

6280 Sylmar Ave., Rm G-130, Van Nuys, CA 91401

Mon-Fri: 8:30 a.m. Family law cases: 1:30 p.m.

All other civil matters including answering evictions and small claims cases.

WORKING PEOPLES LAW CENTER

1475 Echo Park Avenue, Los Angeles, CA 90026

(213) 250-5500

Mon-Fri: 9:00 a.m. – 5:00 p.m.

Call for appointment. PI (plaintiff only). Family law actions for child & spousal support, visitation rights; domestic violence TRO's (outside of legal action). No adoptions. Free advice.