



SAN MATEO COUNTY LAW LIBRARY

RESEARCH GUIDE #6

RESPONDING TO A CIVIL HARASSMENT RESTRAINING ORDER

This resource guide only provides guidance, and does not constitute legal advice. If you need legal advice you need to speak with an attorney. To find an attorney to assist you, you may contact the San Mateo County Lawyer Referral Service at (650) 369-4149.

WHAT IS A CIVIL HARASSMENT RESTRAINING ORDER?

It is a court order that prohibits you from doing certain things, or going to certain places. The court order can order you to refrain from contacting the person who requested the order, and to stay away from that person's home and/or workplace. All forms referenced are available on the Judicial Council website – www.courts.ca.gov.

IF I'VE BEEN SERVED WITH A CIVIL HARASSMENT RESTRAINING ORDER, WHAT DO I DO NEXT?

Read the papers that have been served to you. The *Notice of Court Hearing* date tells you when you need to appear in court. There may also have been a *Temporary Restraining Order* issued that forbids you from doing certain things. You must obey the order(s) until the hearing.

WHAT IF I DON'T OBEY THE ORDER(S)?

The police can arrest you. You could go to jail, and/or have to pay a fine.

WHAT IF I DISAGREE WITH THE ORDER?

You must still obey the order even if you do not agree with it. If you disagree with the order(s), you need to fill out and file Judicial Council form CH-120: *Response to Request for Civil Harassment Restraining Orders*, prior to your court hearing. If you need to include attachments, use MC-025: *Attachment* form. These forms are available on the Judicial Council Website at www.courts.ca.gov

DO I NEED TO SERVE THE OTHER PERSON WITH A COPY OF MY RESPONSE?

Yes. Someone aged 18 years or older (not you) needs to mail a copy of the completed form CH-120: *Response to Request for Civil Harassment Restraining Orders* to the person who is requesting the order (or the attorney for the person who is requesting the order). This is called “Service by Mail”. The person who mailed the copy needs to complete form CH-250: *Proof of Service of Response by Mail*. These forms are available on the Judicial Council Website at www.courts.ca.gov

The person who performed the service needs to sign the original form. You need to take the completed form back to the Clerk’s office, or bring it with you to the hearing. To see an explanation of what “Service” means, please see the “What Is Service?” Research Guide #10.

DO I NEED TO ATTEND THE HEARING?

Yes. You should go to court on the date listed on the CH-109: *Notice of Court Hearing* form that you received from the Court. These forms are available on the Judicial Council Website at www.courts.ca.gov. If you do not go to the hearing, the judge can make orders against you without you being present.

HOW LONG WILL THE ORDER LAST?

If the order that was issued is a temporary order, it will last until the court hearing. At that time, the court can choose to continue the order, or cancel it. Any order that is issued at the hearing can last up to five years.

WILL I SEE THE PERSON WHO IS REQUESTING THE ORDER AT THE HEARING?

Assume that the person who is requesting the order will attend the hearing. Do not speak to him or her, unless the judge or that person’s attorney says that you can.

MAY I BRING WITNESSES TO THE HEARING?

Yes. You can bring witnesses or any documents that support your case. You should also bring the statements of your witnesses in writing. Their statements must be made in writing using MC-030: *Declaration* for this.

WHAT IF I DON’T SPEAK ENGLISH?

If you do not speak English well, bring someone to interpret for you. Do not ask a child or a witness to interpret for you. Get tips to help you work with a court interpreter (<http://www.courts.ca.gov/documents/Tri-CutUseInterpreter.pdf>).

WHAT IF I OWN A GUN?

If a restraining order is issued, you cannot own, possess, or have a firearm, or any ammunition while the order is in effect. If you do own a gun, or have another firearm in your immediate possession or control, you must sell it to a licensed gun dealer, turn it in to a law enforcement agency, or store it with a licensed gun dealer for the duration of the restraining order.

CAN I AGREE WITH THE PROTECTED PERSON TO CANCEL THE ORDER?

No. Once the order is in effect, only a judge can change or cancel it. You or the protected person would need to file a request to cancel the order.