

## INSTRUCTIONS FOR LAWSUITS TO PROHIBIT HARASSMENT

Under California law (Code of Civil Procedure section 527.6), courts can make orders to protect people from being harassed by others. These orders will be enforced by law enforcement agencies.

The person asking for these orders is called the "plaintiff." The plaintiff needs to file a petition in superior court against the other person ("defendant") to get these orders. There will be a court hearing within 15 days of the filing. The plaintiff can sometimes get a temporary court order against the defendant even before the hearing.

This instruction booklet tells what court orders a victim of harassment can get and how to get them. It also includes directions for a person charged with harassment.

These instructions cannot cover all of the problems and questions that may arise in a particular case. If you do not know what to do to protect your rights, you should see an attorney.

## GENERAL INFORMATION

### Who can get orders prohibiting harassment?

Most people who are victims of harassment can ask the court for these orders. A person may seek protection under this law if:

- (1) the defendant's conduct is *intentional*; and
- (2) the defendant has done a *series of acts* (more than one) which seriously alarms, annoys, or harasses the plaintiff; and
- (3) plaintiff has suffered a lot of emotional distress; and
- (4) the defendant's conduct has no legitimate reason and is not protected by the constitution.

The court may require the losing party—whether the plaintiff or defendant—to pay the winning parties court costs and attorney fees.

### What do you need to get the court orders or to object to them?

1. Harassment forms, available from the court clerk's office or legal publishers. The clerk can tell you where to get the forms. You can also obtain them on the Judicial Council's website:  
<http://www.courtinfo.ca.gov/forms/>.
2. You may need a typewriter to fill out the forms. Ask the clerk. If there is a requirement that the forms be typed, some women's shelters and volunteer legal service groups have typewriters you can use. In some libraries you can use a typewriter for a small fee. If you do not type, print clearly.
3. Money for a court filing fee unless the petition is exempt. You are not required to pay a filing fee if the petition alleges that the defendant has inflicted or threatened violence against the plaintiff, or stalked the plaintiff, or acted or spoken in any other manner that has placed the plaintiff in reasonable fear of violence. If you cannot afford to pay the court filing fee, ask the clerk for the *Information Sheet on Waiver of Court Fees and Costs*.
4. Someone, other than yourself, 18 years of age or older, to deliver (**serve**) certain papers to the other party.

### What forms are to be used for suing under the harassment law and for opposing those suits?

1. *Petition for Injunction Prohibiting Harassment* [**Petition**]. This form tells the judge the facts of the plaintiff's case and what orders the plaintiff wants the court to make. This form is **mandatory**, i.e., it must be used to petition for injunctive relief.

2. *Order to Show Cause [OSC] and Temporary Restraining Order [TRO]*. The **OSC**, when signed by the judge, tells the defendant to come to court for the hearing. It may include one or more temporary orders (**TRO**) which take effect immediately and stay in effect until the hearing.
3. *Response to Petition for Injunction Prohibiting Harassment [Response]*. The defendant must complete and file this **mandatory** form to object to the orders the plaintiff has requested and to give his or her side.
4. *Order After Hearing on Petition for Injunction Prohibiting Harassment [Order]*. This is the form signed by the court following the hearing. The order will stay in effect for up to three years depending on what the judge rules.
5. *Proof of Personal Service (Harassment) and Proof of Service by Mail (Harassment)*. These forms are used to show that the other party has been **served** with the legal documents as required by law.

### Should you see a lawyer?

You have the right to file or defend the suit and to go to court with or without an attorney. You should seek the advice of an attorney since any lawsuit may involve technical problems that cannot be explained in a printed form. Whether or not you have an attorney, the other party may have one.

You may hire a lawyer to represent you, but you can also just visit a lawyer for advice. Do not be afraid to ask the lawyer in advance what the fee will be. After hearing about your personal situation, an attorney can help by advising whether a civil harassment order is the best protection or what defenses, if any, exist to the orders requested.

Ask friends and co-workers and check the yellow pages of your telephone book under "Attorneys" or "Attorney Referral Services" for organizations that can help you find a lawyer. You can get information about free or low-cost legal services through the bar association in your county. In some areas, you can also call a women's shelter for recommendations. In many cases you can find an attorney who charges either no fee or a small fee for your first visit, but you may need to call several attorneys and compare fees and services. In some areas, there are groups (clinics or agencies) that will help you fill out the forms.

## INSTRUCTIONS FOR THE PLAINTIFF

### What steps need to be taken to get the court orders?

1. You will need at least five copies of each harassment form: one for a worksheet, the original to file with the court, a copy to be personally delivered (**served**) on the defendant and two copies for yourself. In addition, you will need extra copies of the **OSC**, the **Order**, and the **Proof of Service** form. Get one for

*each* law enforcement agency you want to enforce your orders, and two extras for yourself.

2. Fill in the **Petition** and the **OSC** except for the date of the court hearing and the judge's signature. (Reminder: courts may require that the forms be typewritten.)

- a. If you are not represented by an attorney, fill in your name, mailing address, and phone number at the top of each form. If you do not want to disclose your home or work address or phone number, you may use an address or phone number where you will be able to receive any communications. You may, but are not required to, provide a fax number or e-mail address where you may be contacted.
  - b. Fill in the name of the county where the action will be filed and the address of the superior court.
  - c. Type your full name and the defendant's full name.
  - d. Check ("X") all boxes that apply to your case. Read each item carefully and fill in the necessary information. Be specific.
  - e. Remember to date and sign the **Petition**.
3. If you are requesting a temporary restraining order, you must give the details of the recent acts of harassment and the problems they have caused you. Place an "X" in the box in the caption marked "Application for Temporary Restraining Order."
  4. Take all your completed forms and all copies to the clerk's office in the superior court. The clerk will tell you where to take your papers and when to pay your filing fee, if required.
  5. If the judge signs the **OSC**, take the original and all copies back to the court clerk. The clerk will stamp all the papers with a case number. The copies will be stamped with an "Endorsed-Filed" stamp (showing the date of filing), the judge's signature, and the date of signing. The clerk will file the originals and give you the copies. **KEEP TWO ENDORSED-FILED COPIES FOR YOURSELF**. Carry one with you and keep one in a safe place. You may need one if you have to call the police.
  6. Have the defendant personally **served** with copies of the **Petition**, **OSC**, and a blank copy of the **Response**. You *cannot* serve the defendant yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you.

## INSTRUCTIONS FOR THE DEFENDANT

1. If you are served with an *Order to Show Cause (Harassment)* [**OSC**] and a *Petition for Injunction Prohibiting Harassment* [**Petition**], you should promptly seek legal advice. If you have no attorney, the attorney's reference service of your local bar association may be of assistance.
  2. Whether or not you choose to consult an attorney, you should read this entire instruction booklet and other documents you have received.
  3. Read the papers served on you very carefully. The *Order to Show Cause* [**OSC**] tells you when to appear in court and may contain temporary orders forbidding you from doing certain things. **If you disobey the court's orders, criminal charges may be filed against you.**
  4. If you wish to oppose the **Petition**, or make your own request for court orders, you must file a *Response to Petition for Injunction Prohibiting Harassment* [**Response**].
- Service** is very important. It tells the defendant about the order and the hearing. Without it there will not be a court hearing and your temporary orders will no longer be good unless they are extended by the court. The defendant must be personally served at least five days before the hearing—unless the court, for good cause, on motion of the plaintiff or on its own motion, shortens the time for service on the defendant.
7. If you have requested any temporary orders and the judge has granted them, get copies stamped with an "Endorsed-Filed" stamp and immediately deliver an Endorsed-Filed copy of the **TRO** to each law enforcement agency (police, marshal, or sheriff's office) that you want to enforce the order.
  8. After the defendant has been personally **served**, the person who served the defendant must complete and sign the original of the **Proof of Personal Service** form. You should take the signed original and the copies back to the court clerk. The clerk will file the original and stamp "Endorsed-Filed" on the copies. Take one of the Endorsed-Filed copies to each of the law enforcement agencies where you filed your **TRO**. Keep two Endorsed-Filed copies for yourself.
  9. Go to the court hearing with any evidence you might have. The **Order** should be filed in and given to the judge for signing. If there are any witnesses to the defendant's conduct or your emotional distress they should also be there.
  10. If the judge signs the **Order**, file the original with the clerk, get the copies stamped with an "Endorsed-Filed" stamp, and immediately deliver copies to law enforcement agencies.  
If the defendant was not present in court for the hearing, arrange to have defendant personally **served** with a copy of the order. File the completed **Proof of Personal Service** with the court and deliver copies stamped "Endorsed-Filed" to law enforcement agencies. **KEEP TWO COPIES FOR YOURSELF**. Carry one with you and keep one in a safe place.
- In addition to the **Response**, you may file and serve declarations signed by persons who have personal knowledge of the facts. If you do not know how to prepare a declaration, you should see an attorney. After you have filed the **Response** with the court clerk, a copy must be delivered personally or by mail to the plaintiff or the plaintiff's attorney.
- You cannot serve the plaintiff yourself. The person should complete and sign a *Proof of Service (Harassment)* form. You should take the completed form back to the court clerk or bring it with you to the hearing.
5. If you wish to oppose the lawsuit, you should file a **Response** and also be present at the hearing. If you have any witnesses, they must also be present.
  6. If you wish to file a cross-complaint against the plaintiff for harassing you, you must file a completed form called *Petition for Injunction Prohibiting Harassment* [**Petition**].

The next three pages show a **Petition** which has been completed with examples of the kind of information a court is likely to want.

If you are not represented by an attorney, fill in your name, mailing address, and phone number at the top of each form.

If you do not want the defendant to know where you are living, you can use a friend's address and telephone number. Be sure you can be contacted with the information you put in this box.

Court where you are filing your case. Call the court clerk if do not know the address.

Your full name.

The full name of the person you want the orders against.

Check this box if you are asking for orders to go into effect immediately when the **TRO** is signed by the judge. You will also need to check the box at item 13 and give the necessary information.

Insert your name in item 1 and the names and descriptions of the other persons to be protected in item 2.

Insert the name, description, and other information about the defendant in item 3.

Put an "X" in all the boxes that apply to you in items 4 and 6.

Describe how you know the defendant in item 5.

The court clerk will give you this number. Use it on all forms you file later.

After this form is filed, the clerk will stamp this box on the copies so everyone knows it is a copy of an official paper. This is the place for the "Endorsed-Filed" stamp.

**CH-100**

<small>NAME OF PARTY OR ATTORNEY (and state bar number if attorney):</small> Terry Roe <small>ADDRESS WHERE YOU WANT MAIL SENT:</small> P.O. Box 500 Anytown, California 91234 <small>FAX NUMBER (Optional):</small> <small>E-MAIL ADDRESS (Optional):</small> ATTORNEY FOR (Name): In Pro Per	<small>TELEPHONE NUMBER (Optional):</small>	<small>FOR COURT USE ONLY</small>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Any County <small>STREET ADDRESS:</small> 100 Elm Street <small>MAILING ADDRESS:</small> P.O. Box 109 <small>CITY AND ZIP CODE:</small> Anytown, California 91235 <small>BRANCH NAME:</small>		
<small>PLAINTIFF:</small> Terry Doe  <small>DEFENDANT:</small> Pat Roe		
<b>PETITION FOR INJUNCTION PROHIBITING HARASSMENT</b> <input checked="" type="checkbox"/> Application for Temporary Restraining Order		<small>CASE NUMBER:</small>

**(THIS IS NOT AN ORDER)**

*Read the Instructions for Lawsuits to Prohibit Harassment (form CH-150) before completing this form.*

1. Plaintiff (name each): Terry Doe
2.  OTHER PERSONS TO BE PROTECTED (List names and ages of all family or household members who reside with plaintiff and are to be protected by the requested orders and their relationship to plaintiff):
 

Name	Age	Relationship to plaintiff
Mary Doe	9	Daughter
John Doe	6	Son
3. a. Defendant (name): Pat Roe
 

Sex:  M    F    Ht.: 6'   Wt.: 190   Hair color: Br   Eye color: Br   Race: White   Age: 51   Date of birth: 2/10/51

b. Defendant's residence address (if known):  
555 Fifth Street  
Anytown, California 94124

c. Defendant's work address and name of business (if known):  
Apex Industries  
9420 Commercial Street  
Anytown, California 94125
4. This action is filed in this county because
  - a.  defendant resides in this county.
  - b.  defendant has caused physical or emotional injury to plaintiff in this county.
  - c.  other (specify):
5. Describe how plaintiff knows defendant (e.g., landlord/tenant, neighbor, etc.):  
Defendant is a former neighbor.
6. Defendant has
  - a.  threatened to commit acts of violence against plaintiff as described in item 10.
  - b.  committed acts of violence against plaintiff as described in item 10.
  - c.  not threatened to commit and has not committed any acts of violence.

Form Adopted for Mandatory Use  
 Judicial Council of California  
 CH-100 (Rev. July 1, 2001)

**PETITION FOR INJUNCTION PROHIBITING HARASSMENT**  
**(CIVIL HARASSMENT)**

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 Code of Civil Procedure, § 527.6

Fill this in.

Leave this blank.

PLAINTIFF (Name): Terry Doe	CASE NUMBER:
DEFENDANT (Name): Pat Roe	

- 7. Defendant has committed a series of acts that seriously alarm, annoy, or harass plaintiff as described in item 10.
- 8. Plaintiff has actually suffered substantial emotional distress as a direct result of defendant's conduct described in item 10, and defendant's conduct would have caused a reasonable person to suffer substantial emotional distress.
- 9. Defendant's continuing course of conduct has been directed specifically against plaintiff and is knowing, willful, not constitutionally protected, and without legitimate purpose.

10. DESCRIPTION OF CONDUCT

Describe in detail the harassment (including the dates, who did what to whom, and any injuries):

Defendant and I are former neighbors. Two months ago I had to move because defendant kept making physical threats against me and blocked my passage into my house. On the morning of January 10, 2002, as I was leaving my home with my son and daughter, we saw the defendant in front of the house in the act of slashing the tires on my car. When he saw us, he yelled physical threats at me. Since I've moved, defendant constantly follows me and phones me at all hours of the day and night. On May 15, 2002, defendant followed me to a restaurant where I was having dinner with a friend. Defendant kept calling me names and threatened to "cut me to pieces." Defendant left before the police got there. On May 18, 19, and 20, 2002, defendant called me at work at least 45 times each day. I can't do my job because of the constant interruptions. I've had to go to the doctor for medication to calm to calm my nerves. I've lost weight and can't sleep at night.

Item 10 is the most important part of your petition. This information is all the judge will know about your case until the hearing. Give details of the most recent incidents.

If you have so many facts that they will not all fit, put an "X" in this box and write the facts on a separate piece of paper and attach it at the end of your petition.

Put an "X" in the boxes that apply to your case. Leave the boxes empty if they do not apply to your case.

You do not need to give specific addresses in item 12. However, it may be easier for the police to enforce your orders if they know the defendant knows the addresses to stay away from.

(If more space is needed, check the box and add additional pages as Attachment 10.)

**PLAINTIFF REQUESTS THE COURT TO MAKE THE ORDERS INDICATED BY THE CHECK MARKS IN THE BOXES BELOW.**

11.  **PERSONAL CONDUCT ORDERS**  To be ordered now and effective until the hearing.  
 Defendant must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, send any messages to, follow, stalk, destroy any personal property, disturb the peace, keep under surveillance, or block movements in public places or thoroughfares, or otherwise harass plaintiff  and the other protected persons identified in item 2.

12.  **STAY-AWAY ORDERS**  To be ordered now and effective until the hearing

- a. Defendant must stay at least (specify): 150 yards away from the following persons and places (the addresses of the places are optional and you do not have to reveal them):
- (1) Plaintiff  and the other protected persons identified in item 2.
  - (2)  Plaintiff's residence (address optional):
  - (3)  Plaintiff's place of work (address optional):
  - (4)  Plaintiff's children's school or place of child care (address optional):
  - (5)  Plaintiff's vehicle (specify): 1998 Green Ford Sedan (Lic. No.: 9NQR321)
  - (6)  Other (specify):

Whenever you check these boxes, you are asking for the order to go into effect immediately, as soon as the TRO is signed by the judge. You will also need to check the box at item 10 and give the necessary information.

Fill this in.

Leave this blank.

You must check one of the boxes in item 12b.

If you are asking for the orders to go into effect immediately, as soon as the judge signs the **TRO**, you *must* check this box and state the reasons. State what harm would result to you if the orders are not made immediately.

In item 14 explain the reasons that the orders should include other persons to be protected.

If you ask for attorney fees and costs, bring receipts or bills for these to your hearing.

This space is where you ask for other orders you need. If you use this space, be sure to put in facts and dates in item 10 of your **Petition** that would give the court a reason to order what you ask for here.

List all the agencies you may want to enforce your order. The court will either tell the clerk to mail copies of the orders to the agencies or direct you or your attorney (if you have one) to deliver them personally.

PLAINTIFF (Name): Terry Doe DEFENDANT (Name): Pat Roe	CASE NUMBER:
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12. b. Granting any of the stay-away orders

(1)  will **not** interfere with defendant's access to defendant's residence or place of employment.

(2)  will interfere with defendant's access to defendant's residence or place of employment (*explain*):

13.  Plaintiff will suffer great and irreparable harm before this petition can be heard in court unless the court makes the orders requested above effective now and until the hearing (*specify the harm and why it will occur before the hearing*):  
 If defendant isn't ordered to stop harassing me immediately, I will lose my job. My employer has threatened me with loss of my job because of the numerous phone calls defendant makes to me. I'm afraid to go anywhere because defendant keeps following me.

14.  There is good cause to include in the orders requested above the other protected persons identified in item 2 (*explain*):  
 Defendant's actions, including his threats and slashing of my car tires, have been witnessed by my daughter and son. This has caused them great distress. Defendant should be prohibited from getting near them as well as myself.

15.  **ATTORNEY FEES AND COSTS**  
 Plaintiff requests that defendant be ordered to pay plaintiff's attorney fees and costs as follows (*specify*):  
 I request \$125 for consultation with an attorney about what I should do to prevent the harassment. I will bring the bill and documents showing payment to the hearing.

16.  **OTHER ORDERS** (*specify other orders you are requesting*):

17. Plaintiff requests that copies of orders be given to the following law enforcement agencies:

Law enforcement agency	Address
Anytown Police Department	100 Oak Street Anytown, California 94123
Any County Sheriff's Department	200 Main Street Anytown, California 94125

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