

## **NOTICES TO BE GIVEN TO DEFENDANT:**

The court may require that you give advance notice of your application for Civil Harassment restraining orders to a defendant before issuing a temporary restraining order (TRO). Should this be required by the Court, such notice should be given 24 hours before applying for the TRO. This may be by telephone or in writing by an adult, but not by yourself, who can sign a declaration explaining when, how and what notice was given.

Notice must be given of the court hearing date at least 5 days before the hearing (unless a shorter time is specified by the court) by personal service of the Order to Show Cause and the Application on the defendant by an adult, not by yourself, or by the Sheriff's office or a professional process server. You should bring the signed proof of service (form CH-135 or a Sheriff's form) to the court hearing. If the defendant does not appear at the hearing, the court will not be able to proceed unless you have a completed proof of service.

## **ALTERNATE DISPUTE RESOLUTION (ADR):**

If you wish to resolve your dispute without a lawsuit, or without Restraining Orders, you may contact the following organizations which provide mediation services for no charge:

- Los Angeles County Settlement Service (213) 974-0825
- Los Angeles County Department of Community and Senior Services Voluntary Mediation; San Pedro (emphasis on low-income and Spanish speaking) (310) 519-6248
- Center for Conflict Resolution (626) 585-9729
- Los Angeles County Bar Association Dispute Resolution Services (213) 896-6533
  - Long Beach Field Office (562) 570-1019
  - South Bay Field Office (310) 453-2525
- Los Angeles County Superior Court ADR Offices (213) 974-5424
- Los Angeles City Attorney Dispute Resolution Program (213) 978-0057

## **INFORMATION FOR CIVIL HARASSMENT RESTRAINING ORDER (INJUNCTION) CASES**

Please read this before you decide to file a case.

### **CAUTION:**

**You should obtain legal advice from a licensed attorney before starting any legal proceedings.**

## **WHAT IS CIVIL HARASSMENT?**

Civil Harassment is either:

1. Unlawful violence, such as assault or battery;
2. A credible threat of unlawful violence; or,
3. A course of conduct (a series of acts) that seriously alarms, annoys or harasses you and which has no legitimate purpose. This could include, among other acts, repeated following, stalking, or repeated harassing phone calls, mail or visits.

Reasonable efforts to collect a debt, complaints to you or to the police or others or rude conduct alone are not civil harassment.

These legal terms are further defined in the California Code of Civil Procedure (CCP) section 527.6. That code section also describes the legal process and requirements necessary to obtain such orders.

## **WHO CAN GET RESTRAINING ORDERS?**

If you have been unlawfully harassed, you may be able to obtain Civil Harassment restraining orders against a person who has harassed you. The forms and instructions for this type of legal proceeding are available from the Clerk of the Superior Court. (Forms numbered CH-100 to CH-150).

If you present sufficient evidence to the court, you may be able to obtain a Temporary Restraining Order (TRO) that would be good until the court hearing (usually set 15 days later). At the court hearing, you may be able to obtain an injunction (a more permanent form of a Restraining Order) that could be good for up to three years.

**NOT FOR DOMESTIC VIOLENCE:**

If you have a close relationship to the offending person (such as marriage, dating, parent of your child, or your child, parent or sibling), you may be eligible for Domestic Violence protective orders in which case you should not use the Civil Harassment forms and procedures.

**SIGNIFICANT EVIDENCE REQUIRED:**

You must prove the facts of your case by “clear and convincing evidence” of unlawful harassment. This is a higher standard of proof than in most civil cases, including small claims. You may need corroboration (additional evidence) of the unlawful harassment, such as declarations or testimony of other persons who have seen or heard the unlawful harassment. If you have tape recordings, you should provide copies of the tape and a written transcript to the court and the other party. You should bring at least two copies of any documents, declarations or pictures that you wish to show to the court, as you will need to give one copy to the other party.

You are not entitled to Restraining Orders just because a police officer or any other person told you to get one. If a police officer could not find enough evidence to make an arrest, it is possible that you would not have enough evidence to prove your case.

If you do not have enough evidence to obtain the Restraining Orders at the time of the court hearing, you could be required to pay the costs and attorney fees, if any, of the other party.

**CONTINUANCES:**

You do not have the right to continue the case at the hearing. The defendant has the right to one continuance without a reason. Any other continuance must be for good cause as determined by the court. Therefore, you must be ready to proceed at the time of any hearing. If the defendant has not been served in time, the clerk’s office can set a new hearing date for you.

**LANDLORD/TENANT AND NEIGHBOR DISPUTES:**

A Civil Harassment case is not intended to resolve all disputes between neighbors or between landlords and tenants. The court cannot make an order evicting someone from a residence or requiring a neighbor, landlord or tenant to stay away from his or her own residence or place of employment. Loud noises or other annoying activities may not be harassment if not proven to be directed to you.

**NO DISCOVERY:**

A Civil Harassment case is a summary proceeding, intended to be fully resolved at the first hearing. Therefore, there is no opportunity for discovery, such as depositions, interrogatories, some types of subpoenas and document requests. If you wish to have discovery rights, or if you wish to avoid the higher standard of proof required in this type of case, you may file a superior court unlimited jurisdiction civil case and an application for preliminary injunction.

**NO MONEY DAMAGES:**

The Civil Harassment procedure cannot be used to recover money for any loss or damage caused by the offending person. If you have suffered some loss and wish to obtain an award of monetary damages (money judgment) you may file a small claims case [for up to \$5,000], or a limited jurisdiction civil case [for up to \$25,000].

**NOT FOR PROPERTY DISPUTES:**

This procedure is not intended to be used to resolve disputes over any type of property or property rights, such as property line disputes, homeowners or condominium association disputes or over the use of jointly owned real estate, businesses, automobiles or other property, use of parking spaces or other common areas. You will need to file an appropriate civil action to address these problems.

**NOT FOR CHILD CUSTODY OR VISITATION DISPUTES:**

These matters should be resolved in a family law court or guardianship child custody case.