

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
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Probate and Mental Health Advisory Committee
Hon. Marjorie Laird Carter, Chair
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DATE: August 25, 2009

SUBJECT: Protective Orders: Prevention of Elder and Dependent Adult Abuse (revise forms EA-100, DV-260/CH-102/EA-102, EA-120, and EA-130) (Action Required)

Issue Statement

Four Judicial Council forms used for elder and adult abuse prevention should be revised to include new items and language implementing legislation enacted in 2008 that will become effective on January 1, 2010. The revised forms will enable petitioners to request protection for, and courts to issue orders, protecting other named family and household members and the conservator of the petitioner.

Recommendation

The Civil and Small Claims Advisory Committee and the Probate and Mental Health Advisory Committee recommend that the Judicial Council, effective January 1, 2010:

1. Revise *Request for Orders to Stop Elder or Dependent Adult Abuse* (form EA-100);
2. Revise *Confidential CLETS Information* (form DV-260/CH-102/EA-102);
3. Revise *Notice of Hearing and Temporary Restraining Order* (form EA-120); and

4. Revise *Order After Hearing Restraining Elder or Dependent Adult Abuse* (form EA-130).

The revisions will make the forms consistent with the legislation that becomes effective on January 1, 2010.

Copies of the revised forms are attached at pages 4-19.

Rationale for Recommendation

Assembly Bill 225 (Beall; Stats. 2008, ch. 480), enacted last year, amends the section of the Welfare and Institutions Code that enables elder and dependent adults who have suffered abuse to seek protective orders. Specifically, the amendments make this type of protective order, at the discretion of the court and on a showing of good cause, available for the protection not only of the petitioner but also of other named household or family members or the petitioner's conservator, if one exists.

The amendments further provide that when a person named in a protective order after a hearing has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order. These changes in the law become effective January 1, 2010. This proposal would revise four Judicial Council forms to implement AB 225.

First, the *Request for Orders to Stop Elder or Dependent Adult Abuse* (form EA-100) would be revised to include a new item 3 for the petitioner to list any additional persons for whom protection is sought. A new item 4 would be added on the form for the petitioner to explain why those persons need protection. References to other persons would be added in other appropriate places on the form.

Second, *Confidential CLETS Information* (form DV-260/CH-102/EA-102) would be revised to delete the following italicized statement about other protective persons: “(only in domestic violence and civil harassment cases).” This parenthetical instruction will no longer be accurate once AB 225 becomes effective, thus providing for protection of other persons in elder and dependent adult abuse prevention cases.

Third, *Notice of Hearing and Temporary Restraining Order* (form EA-120) would be revised to include a new item 5 where the court can specify any other persons besides the petitioner who are protected by the order. Other references to those persons have been added to appropriate items on the form.

Fourth, *Order After Hearing Restraining Elder or Dependent Adult Abuse* (form EA-130) would be revised to include a new item 5 where the court can list any other protected persons. Other references to those persons have been added to appropriate items on the

form. Also, a new item 15 has been added to give effect to a new statutory provision that provides: when a person named in a protective order after a hearing has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

Alternative Actions Considered

Because AB 225 requires that the forms be revised to implement the changes in the law on protective orders that will become effective January 1, 2010, the committees did not consider any alternative to making the proposed changes.

An additional possibility was to make some of the more comprehensive changes in the forms that are being considered by the Protective Orders Working Group. But the committees decided that it was premature to make those at this time. The work on harmonizing and improving all the forms is still ongoing and further changes in the forms would be likely even if some of the changes being considered were adopted now.

Comments from Interested Parties

Three comments were received in connection with this forms proposal.¹ Two commentators approved the proposed revisions to the forms, without providing any specific comments. Only one commentator made any particular suggestions as to the forms.

Most of that commentator's suggestions relate to the elder abuse forms generally rather than to the specific changes being made at this time to implement AB 225. These suggestions have been referred to the Protective Orders Working Group, which is in the process of undertaking a comprehensive review of all the protective order forms, including the forms to prevent abuse of elders and dependent adults. However, in response to the commentator's suggestions about clarifying the captions on the forms, a few of the captions have been modified on an interim basis at this time to more clearly identify the person to be protected in the first item on the forms.

Implementation Requirements and Costs

There will be some implementation and minor costs involved in replacing the current forms with the revised forms. The use of the revised forms is required, however, in order to implement the new statutory provision authorizing courts to order protection for the family, household members, and conservators of elder and dependent adults.

Attachments

¹ Only three comments specifically addressed the revised forms. A fourth commentator submitted comments about several aspects of elder abuse law, but did not specifically mention the forms. A chart summarizing the comments and the committees' responses is attached at pages 20-22.

Clerk stamps date here when form is filed.

1 Name of the person to be protected:

Address of the person (Skip this if you have a lawyer. If you want your address to be private, give a mailing address instead):

City: _____ State: _____ Zip: _____

Person's telephone number (optional): (____) _____

Person's lawyer (if you have one): (Name, address, telephone number, and State Bar number): _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Name of the person you want protection from:

Describe the person: Sex: M F Weight: _____

Height: _____ Race: _____ Hair color: _____

Eye color: _____ Age: _____ Date of birth: _____

Home address (if you know): _____

City: _____ State: _____ Zip: _____

Work address (if you know): _____

City: _____ State: _____ Zip: _____

3 Are you asking for protection for any other family or household members or the conservator of the person in 1? If "yes," list those persons:

<u>Name</u>	<u>Sex</u>	<u>Age</u>	<u>Lives with you?</u>	<u>How are they related to you?</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are more persons. Attach a sheet of paper and write "EA-100, item 3—Additional Protected Persons" for a title.

4 If you are asking for protection for any other family or household members or the conservator, why do they need protection?

Check here if you need more space for your answer. Attach a sheet of paper and write "EA-100, item 4—Why Others Need Protection" for a title.

This is not a Court Order.



Your name: _____

5

Who is asking the court for protection?

- You, to protect yourself.
- A person acting on your behalf: Name: _____
 - A conservator Another person with legal authority to represent you.

If you are requesting protection for yourself, indicate that and go on to 6. If someone else is making this request, that person must attach a statement of who he or she is, his or her legal authority to make this request, and information about this representation, including any court appointments, the case numbers, and other relevant matters. Attach a sheet of paper and write "EA-100, item 5—Information About Person Requesting Orders" for a title.

6

Describe the person to be protected:

- a. Age: _____
- b. If you are under age 65, do you have any physical or mental limitations that prevent you from carrying out normal activities or protecting your rights? Yes No *(If yes, describe):* _____

Check here if you need more space. Attach a sheet of paper and write "EA-100, item 6—Describe Protected Person" for a title.

7

How do you know the person in 2? *(Describe):*

8

Why are you filing in this court? *(Check all that apply):*

- I was abused physically or emotionally in this county by the person in 2.
- The person in 2 lives in this county.
- Other *(explain):* _____

9

a. Have you or any of the persons named in 3 and the person in 2 been involved in another court case?

- Yes No
- If yes, where? County: _____ State: _____

What is the case number? *(If you know):* _____

What kind of case? *(Check all that apply):*

- Elder abuse Dependent adult abuse Civil harassment
- Domestic violence Criminal
- Other *(specify):* _____

b. Are there now any protective or restraining orders relating to you or any of the persons in 3 and the person in 2?

- Yes No *If yes, attach a copy if you have one.*
- Check here if you need more space. Attach a sheet of paper and write "EA-100, item 9—Describe Other Cases" for a title.

This is not a Court Order.



Case Number: _____

Your name: _____

10 Is this your first request for a protective order against the person in 2? Yes No

If no, are you asking for the renewal of an earlier protective order? Yes No

If you are asking for the renewal of an earlier order, provide the following information:

a. What was the case number of the earlier order? _____

b. How long do you want the renewed order to last? _____ years permanently

11 Describe in a. through i. how the person in 2 has abused you.

a. When was the most recent abuse (provide date or estimated date): _____

b. Who was there? _____

c. In the most recent abuse, did the person in 2 do any of the following to you: physically abuse, financially abuse, intimidate, molest, attack, assault (sexually or otherwise), hit, follow, stalk, threaten, harass, destroy personal property, keep under surveillance, block movements, or contact you (directly or indirectly) by telephone, mail, e-mail, messenger, or by any other means?

Yes No

If yes, describe: _____

d. Has the person in 2 previously abused you? Yes No

If yes, describe: _____

e. Describe any use or threatened use of guns or other weapons: _____

f. Did the police come? Yes No

If yes, did they give you an Emergency Protective Order? Yes No I don't know

Attach a copy, if you have one.

This is not a Court Order.



Your name: _____

11 g. Is the person in 2 a caregiver who didn't allow you to have goods or services you needed to avoid physical harm or mental suffering? Yes No

If yes, describe how that affected you: _____

h. Did the case involve solely financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse?

- Yes, only financial abuse.
- No, it included other abuse described above.

i. Describe any injuries or harm you suffered as a result of the actions or deprivation described above:

Check here if you need more space to explain any of the subparts in item 11. Attach a sheet of paper and write "EA-100, item 11, subpart ___—Describe Abuse" for a title.

Check the orders you want

12 Personal Conduct Orders

I ask the court to order the person in 2 to not do the following things to me:

- a. Physically abuse, financially abuse, intimidate, molest, attack, assault (sexually or otherwise), hit, follow, stalk, threaten, harass, destroy my personal property, keep me under surveillance, or block my movements.
- b. Contact (either directly or indirectly), or telephone, or send messages or mail or e-mail.

The person in 2 will be ordered not to take any action to get the addresses or locations of any protected person, or of that person's family members or caretakers, unless the court finds good cause not to make the order.

13 Stay-Away Orders

I ask the court to order the person in 2 to stay at least (specify): _____ yards away from me and the places listed below (check all that apply):

- a. My home
- b. My job or workplace
- c. My vehicle
- d. Each person listed in 3
- e. Other (specify): _____

If the court orders the person in 2 to stay away from all the places checked above, will that person be able to get to his or her home or job? Yes No

If no, explain: _____

This is not a Court Order.



Your name: _____

Check the orders you want (continued)

14 **Move-Out Order**

I ask the court to order the person in **(2)** to move out from and not return to my residence at (*address*):

I will suffer physical or emotional harm if the person in **(2)** does not leave the residence.

The title or lease to the residence is not in the sole name of the person in **(2)** or the name of the person in **(2)** and another person.

I ask for this move-out order right away to last until the hearing, because:

a. I have the right to live at the above residence (*explain*): _____

b. The person in **(2)** assaulted or threatened me.

15 **Order About Guns or Other Firearms**

I ask the court to order the person in **(2)** to be prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive, firearms **and** to sell or turn in any guns or firearms that he or she controls.

The abuse in this case is **not solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

16 **Other Orders**

What other orders are you asking for? (*Describe*): _____

Check here if you need more space. Attach a sheet of paper and write "EA-100, item 16—Other Orders" for a title.

17 **Temporary Orders**

Do you want the court to make orders right now on matters listed in **(12)** through **(16)**? Yes No

If yes, explain why: _____

Check here if you need more space. Attach a sheet of paper and write "EA-100, item 17—Temporary Orders" for a title.

18 **Delivery of Orders to Law Enforcement Agencies**

I request that copies of the court's orders be given by (*check one*):

The court clerk Myself My lawyer to the following law enforcement agencies:

Name of Agency: _____

Address: _____

City: _____ State: _____ Zip: _____

Check here if there are more law enforcement agencies. Attach a sheet of paper and write "EA-100, item 18—Law Enforcement Agencies" for a title.

This is not a Court Order.



California Law Enforcement Telecommunications System (CLETS) Information Form

Important Notice: This form MUST NOT become part of the public court file. It is confidential and private. If the court issues a restraining order, this form will provide law enforcement with information that will assist them in enforcing a restraining order.

Person to Be Protected: Fill out this form as much as you can, and give it to the court clerk. The clerk will provide the confidential information on this form to CLETS, a statewide system that lets police know about your order. In addition to providing the information on this form, you must provide a public mailing address on your request for a restraining order filed with the court. This will allow the court to contact you if needed and allow the other side to have their response to your petition served on you. If you want to keep your place of residence confidential, you can use a post office box or "in care of" address on the request that you file.

Case number for your restraining order (if you know it):

1 Person to Be Protected (name): Sex: M F Height: Weight: Race: Hair Color: Eye Color: Age: Date of Birth: (mailing address listed on restraining order) (city, state, zip) (telephone number [optional]) Vehicle (type, model, year): Vehicle license number and state:

2 Person to Be Restrained (name): Sex: M F Height: Weight: Race: Hair Color: Eye Color: Age: Date of Birth: (residence address) (city, state, zip) (telephone number) (work place) (occupation/title) (work hours) (business address) (city, state, zip) (telephone number) Driver's license number and state: Vehicle license number and state: Vehicle (type, model, year): Social Security Number: Describe any marks, scars, or tattoos: Other names used by the restrained person: Describe any guns or firearms you believe the restrained person owns or has access to (number, types, and locations):

3 Other People to Be Protected Name Date of Birth Sex Race

This is not a Court Order—Do not file in court file.

**Notice of Hearing and
Temporary Restraining Order**

Clerk stamps date here when form is filed.

1 Name of person to be protected:

Address (Skip this if you have a lawyer. If you want your address to be private, give a mailing address instead):

City: _____ State: _____ Zip: _____

Your telephone number (optional): _____

Your lawyer (if you have one): (Name, address, telephone number, and State Bar number): _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

2 Name of person to be restrained:

Description of that person:

Sex: M F Height: _____ Weight: _____ Race: _____

Hair Color: _____ Eye Color: _____ Age: _____ Date of Birth: _____

Home Address (if known): _____

City: _____ State: _____ Zip: _____

Work Address (if known): _____

City: _____ State: _____ Zip: _____

To the person in ②:

3 Notice of Hearing

A court hearing is scheduled on the request for orders against you to stop abuse:

Name and address of court if different from above:

**Hearing
Date** →

Date: _____ Time: _____

Dept.: _____ Rm.: _____

If you do not want the court to make orders against you, file Form EA-110. Then go to the hearing and tell the court why you disagree. You may bring witnesses and other evidence. If you do not go to this hearing, the court may make restraining orders against you that could last up to 3 years.

4 Court Orders

The court (check a or b):

- a. Has scheduled the hearing stated in ③. No orders are issued against you at this time.
- b. Has scheduled the hearing stated in ③ **and** has issued the temporary orders against you specified on pages 2, 3, and 4. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail, pay a fine of up to \$1,000, or both.

This is a Court Order.

**Notice of Hearing and Temporary
Restraining Order (CLETS-TEA or TEF)
(Elder or Dependent Adult Abuse Protection)**



Case Number: _____

Your name: _____

5 **Additional Protected Persons**

In addition to the person named in ①, the following family or household members or conservator of the elder or dependent adult named in ① are protected by the orders indicated below:

<u>Name</u>	<u>Sex</u>	<u>Age</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Additional protected persons are listed at the end of this Order as EA-120 Attachment 5.

Temporary Orders Against the Restrained Person

(Write the name of the person in ②): _____

The court has made the temporary orders indicated below against you. You must obey all these orders. These orders will expire on the date of the hearing listed in ③ unless they are extended by the court.

6 **Personal Conduct Orders**

You must **not** do the following things to the person listed in ① and each person listed in ⑤:

- a. Physically abuse, financially abuse, intimidate, molest, attack, assault (sexually or otherwise), hit, follow, stalk, threaten, harass, destroy personal property, keep under surveillance, or block movements.
- b. Contact (directly or indirectly), telephone, send messages, mail, or e-mail.
- c. Take any action, directly or through others, to obtain the addresses or locations of the person in ① or of that person's family or caretakers. (If item c. is not checked, the court has found good cause not to make this order.)

Peaceful written contact through a lawyer or a process server or any other person for service of legal papers related to a court case is allowed and does not violate this order.

7 **Stay-Away Orders**

You **must** stay at least (specify): _____ yards away from:

- a. The person listed in ①
- b. The home of the person in ①
- c. The job or workplace of the person in ①
- d. The vehicle of person in ①
- e. The persons listed in ⑤
- f. Other (specify): _____

8 **Move-Out Order**

You must immediately move out from and not return to (address): _____

and must take only the personal clothing and belongings you need until the hearing.

9 **No Guns or Other Firearms**

You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get a gun or firearm.

This is a Court Order.



Your name: _____

10 **Turn In or Sell Guns or Firearms**

You must:

- Sell to a licensed gun dealer or turn in to police any guns or firearms that you possess or control. This must be done within 24 hours of being served with this order.
- File a receipt with the court within 48 hours of receiving this order that proves guns have been turned in or sold. (*You may use Form EA-145, Proof of Firearms Turned In or Sold, for this.*)

11 **Financial Abuse**

This case does **not** does involve **solely financial abuse** unaccompanied by force, threat, harassment, intimidation or any other form of abuse.

12 **Other Orders** (*specify*): _____

Additional orders are attached at the end of this Order as EA-120 Attachment 12.

Instructions for the Protected Person

To the person in ①: (*Write the name of the person in ①*): _____

13 **Service of Order on Law Enforcement**

If the court issues temporary restraining orders, by the close of business on the date the orders are made,

you your lawyer the court clerk

should deliver a copy of this Order and any proof of service forms to each law enforcement agency listed below.

Name of Law Enforcement Agency

Address (City, State, Zip)

_____	_____
_____	_____
_____	_____

14 **Service of Documents**

You must have someone personally deliver to the person in ② a copy of all the documents below:

- Form EA-120, *Notice of Hearing and Temporary Restraining Order* (completed and filed-stamped)
- Form EA-100, *Request for Orders to Stop Elder or Dependent Adult Abuse* (completed and filed-stamped)
- Form EA-110, *Response to Request for Orders to Stop Elder or Dependent Adult Abuse* (blank form)
- Form EA-151-INFO, *How Can I Respond to a Request for Orders to Stop Elder or Dependent Adult Abuse?*

If the boxes below are checked, you must also have someone personally deliver to the person in ② a copy of all the documents checked below:

e. Form EA-145, *Proof of Firearms Turned In or Sold* (blank form)

f. **Other** (*specify*): _____

You must file with the court before the hearing a proof of service of these documents on the person in ②.

(*For help with service, read Forms EA-142-INFO and EA-150-INFO.*)

This is a Court Order.



Your name: _____

Order to Both Parties on Service

15 **Time for Service**

A To: Person Asking for Order

Someone 18 or over—**not you or anyone protected by this order**—must personally “serve” a copy of this order on the person in **2** at least _____ days before the hearing.

B To: Person Served With Order

If you want to respond in writing, someone 18 or over—**not you**—must “serve” Form EA-110 on the person in **1**, then file it with the court at least _____ days before the hearing.

(For help with service or responding, read Forms EA-142-INFO and EA-151-INFO .)

16 No Fee to Notify (Serve) Restrained Person

If the sheriff or marshal serves this Order, he or she will do it for free.

Date: _____

Judicial Officer

Warnings and Notices to the Restrained Person in 2

You Cannot Have Guns or Firearms

17 If the court orders, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get a gun while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a licensed gun dealer or turn in to police any guns or firearms that you have or control in accordance with item **10** above. The court will require proof that you did so. If you do not obey this order, you can be charged with a crime.

18 After You Have Been Served With a Restraining Order

- Obey all the orders.
- If you want to respond, fill out Form EA-110 and file it with the court clerk. You do not have to pay any fee to file your response.
- Serve Form EA-110 on the person in **1** or that person’s attorney by the date listed in **15** of this form. You cannot serve the person in **1**. The person who serves the person in **1** should complete and sign a *Proof of Service*. Form EA-141 may be used for this purpose. You should take the completed form back to the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and serve declarations signed by you and other persons who have personal knowledge of the facts. Form MC-030, *Declaration*, is available from the clerk’s office at the court shown on page 1 of this form. If you do not know how to prepare a declaration, you should see a lawyer. After you have filed the response with the clerk of the court, a copy must be delivered personally or by mail to the person in **2** to his or her lawyer.
- If you wish to oppose the request for orders, in addition to filing a response, you should be present at the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, tell the judge if you agree or disagree with the orders requested.
- Even if you do not go to the hearing, the judge can make the restraining orders last for 3 years.

This is a Court Order.



Your name: _____

19 Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that does not differ from the previous or temporary restraining order is issued at the hearing, a copy of the order will be served on you by mail at the following address (*insert the address of the person in 2*):

If that address is not correct or you wish to verify that the temporary order was made permanent without substantive change, contact the clerk of the court.

If both you and the person in 1 are personally present at the hearing where the order is issued, no additional proof of service will be required.

Instructions for Law Enforcement Agencies

20 This order is effective when made. It is enforceable anywhere in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the order and then shall enforce it. Violations of this order are subject to criminal penalties.

Information for All Parties



Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before the hearing. Contact the clerk's office or go to www.courtinfo.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8)

(Clerk will fill out this part.)

—Clerk's Certificate—

Clerk's Certificate
[seal]

I certify that this *Notice of Hearing and Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

Clerk stamps date here when form is filed.

1 Name of protected person:

Address (*Skip this if you have a lawyer. If you want your address to be private, give a mailing address instead*):

City: _____ State: _____ Zip: _____

Your telephone number (*optional*): _____

Your lawyer (*if you have one*): (*Name, address, telephone number, and State Bar number*): _____

Fill in court name and street address:

Superior Court of California, County of

2 Name of person to be restrained:

Description of that person:

Fill in case number:

Case Number:

Sex: M F Height: _____ Weight: _____ Race: _____

Hair Color: _____ Eye Color: _____ Age: _____ Date of Birth: _____

Home Address (*if known*): _____

City: _____ State: _____ Zip: _____

Work Address (*if known*): _____

City: _____ State: _____ Zip: _____

3 **Hearing**

There was a hearing:

on (*date*): _____ at (*time*): _____ a.m. p.m. Dept.: _____ Rm: _____

_____ made the orders at the hearing.

(*Name of judicial officer*)

These people were at the hearing:

a. The person in ①. c. Lawyer of the person in ① (*name*): _____

b. The person in ②. d. Lawyer of the person in ② (*name*): _____

4 **Expiration Date of Order**

This Order, except for an award of lawyer's fees, expires at:

(*time*): _____ a.m. p.m. or midnight on (*date*): _____

If no expiration date is written here, this Order expires 3 years from the date of issuance.

This renewal Order remains in effect permanently.

This is a Court Order.



Your name: _____

5 **Additional Protected Persons**

In addition to the person named in ①, the following family or household members or conservator of the person are protected by the orders indicated below:

<u>Name</u>	<u>Sex</u>	<u>Age</u>
_____	_____	_____
_____	_____	_____

Additional protected persons are listed at the end of this Order as EA-130 Attachment 5.

Orders Against the Restrained Person

(Write the name of the person in ②): _____

6 **This Is a Court Order**

To the person in ②: You must obey all the orders indicated below. If you do not obey these orders, you can be arrested and charged with a crime. You may have to go to jail, pay a fine of up to \$1,000, or both.

7 **Personal Conduct Orders**

You **must not** do the following things to the person listed in ① and each person listed in ⑤:

- a. Physically abuse, financially abuse, intimidate, molest, attack, assault (sexually or otherwise), hit, follow, stalk, threaten, harass, destroy personal property, keep under surveillance, or block movements.
- b. Contact (directly or indirectly), telephone, send messages, mail, or e-mail.
- c. Take any action to obtain the address or location of the person in ① or of that person’s family or caretakers.

Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

8 **Stay-Away Orders**

You **must** stay at least (specify): _____ yards away from:

- a. The person listed in ①
- b. The home of the person in ①
- c. The job or workplace of the person in ①
- d. The vehicle of the person in ①
- e. The persons in ⑤
- f. Other (specify): _____

9 **Move-Out Order**

You must move out immediately from and not return to (address): _____

10 **No Guns or Other Firearms**

You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get a gun or firearm.

11 **Turn In or Sell Guns or Firearms**

You must:

- Sell to a licensed gun dealer or turn in to police any guns or firearms that you possess or control. This must be done within 24 hours of being served with this order.
- File a receipt with the court within 48 hours of receiving this order that proves guns have been turned in or sold. (You may use Form EA-145, Proof of Firearms Turned In or Sold, for this.)

This is a Court Order.



Case Number: _____

Your name: _____

12 Financial Abuse

This case does **not** does involve **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

13 **Other Orders** (*specify*): _____

Additional orders are attached at the end of this Order as Attachment 13.

Instructions for the Protected Person

To the person in ① (*Write the name of the person in ①*): _____

14 **Delivery to Law Enforcement Agency**

If the court issues restraining orders, by the close of business on the date this Order is made, you or your attorney must deliver a copy of this Order and any proof of service forms to each law enforcement agency listed below:

Name of Law Enforcement Agency	Address (City, State, Zip)
_____	_____
_____	_____
_____	_____

Additional law enforcement agencies are listed at the end of this Order as EA-130 Attachment 14.

15 Service

- a. The people in ① and ② were at the hearing or agreed in writing to this order. No other proof of service is needed.
- b. The person in ① was at the hearing. The person in ② was not.
 - (1) Proof of service of Form EA-120, *Notice of Hearing and Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are the same as in Form EA-120 except for the end date. The person in ② must be served with this Order. Service may be by mail.
 - (2) Proof of service of Form EA-120, *Notice of Hearing and Temporary Restraining Order*, was presented to the court. The judge’s orders in this form are different from the orders in Form EA-120. Someone—but not anyone in ① or ⑤—must personally serve a copy of this Order to the person in ②.

16 No Fee to Notify (Serve) Restrained Person

If the sheriff or marshal serves this Order, he or she will do so for free.

Date: _____

Judicial Officer

This is a Court Order.



Case Number: _____

Your name: _____

Warnings and Notices to the Restrained Person in 2

You Cannot Have Guns or Firearms

If the court orders, you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get a gun while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a licensed gun dealer or turn in to police any guns or firearms that you have or control in accordance with ⑩ above. The court will require proof that you did so. If you do not obey this Order, you can be charged with a crime.

Instructions for Law Enforcement Agencies

This Order is effective when made. It is enforceable anywhere in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an Order of that jurisdiction by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency shall advise the restrained person of the terms of the Order and then shall enforce it. Violations of this restraining order are subject to criminal penalties.

(Clerk will fill out this part.)

Clerk's Certificate

Clerk's Certificate
[seal]

I certify that this *Order After Hearing Restraining Elder or Dependent Adult Abuse* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

SPR09-04

Title: Protective Orders: Elder and Dependent Adult Abuse Prevention (revise forms EA-100, DV-260/CH-102/EA-102, EA-120, and EA-130)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committees' Response
1.	Superior Court of San Diego County Michael M. Roddy Executive Officer	A	No additional comments.	No specific response required
2.	Orange County Bar Association By Michael G. Yoder President	A	No additional comments.	No specific response required
3.	Superior Court of Orange County Linda Daeley Family Law Manager	AM	<p><u>General suggestion for all EA forms:</u></p> <p>It should be clear in item 1 who is bringing the action; it is often an interested person on behalf of the elderly/dependent adult. Additional lines should be added for the person bringing the action and their relationship to the person to be protected.</p> <p><u>Form EA-100:</u></p> <p>Item 2: Information should include the relationship of the person to be restrained to the protected person.</p>	<p><u>General suggestion for all EA forms:</u></p> <p>To clarify the forms, some of the captions have been modified to refer to the person to be protected. On the current and revised form EA-100 the relationship of the person to be protected and the person bringing the action is explained in item 5. The issue of clarifying who is protected and who is bringing the action in the captions and elsewhere in the forms will be considered further by the Protective Orders Working Group, which is in the process of reviewing all the protective order forms.</p> <p><u>Form EA-100:</u></p> <p>Item 2: On the current and revised forms, item 7 provides information about this relationship ("How do you know the person in (2)? (<i>Describe</i>): "). The suggestion to include this information in item 2 will be considered by the Protective Orders Working Group.</p>

SPR09-04

Title: Protective Orders: Elder and Dependent Adult Abuse Prevention (revise forms EA-100, DV-260/CH-102/EA-102, EA-120, and EA-130)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committees' Response
			<p>Item 3:</p> <p>(1) The heading should include “conservator of the estate” as this person is in control of monies and may be in need of protection.</p> <p>(2) Suggest changing “How are they related to you” to “Relationship.” The former could be answered with a simple “blood,” “marriage,” etc.</p> <p><u>Form EA-120:</u></p> <p>Item 14: Should provide for service in court if the restrained person appeared.</p> <p><u>Form EA-130:</u></p> <p>Item 5: Include relationship to the protected person or a box to check if they live with the protected person. Also, include conservator of the estate.</p>	<p>Item 3:</p> <p>(1) The revised form tracks the language in AB 225, which provides protection for the “conservator of the petitioner.” Under current law, it is unclear whether this language includes both the conservator of the person and the conservator of the estate. While such an interpretation is plausible, the statute would benefit from clarification. For the present, the circulated language should remain on the form. The Protective Orders Working Group will consider this issue further in connection with the comprehensive revision of the elder/dependency forms.</p> <p>(2) The Working Group will consider this suggestion in connection with further revisions to the form.</p> <p><u>Form EA-120:</u></p> <p>Item 14: The Working Group will consider this suggestion as part of its comprehensive review of the protective order forms.</p> <p><u>Form EA-130:</u></p> <p>Item 5: The Protective Order Working Group will consider the suggestion to include a box as part the comprehensive review of the protective order forms. On the suggestion regarding adding the conservator of the estate, see response to comment on form EA-100, item 3 above.</p>

SPR09-04**Title: Protective Orders: Elder and Dependent Adult Abuse Prevention (revise forms EA-100, DV-260/CH-102/EA-102, EA-120, and EA-130)**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committees' Response
			Item 13: Suggest additional space be provided. Clerks report having to attach another page to accommodate orders for retrieval of personal property and/or visitation orders.	Item 13: There is not sufficient space on the current form to add more lines to item 13. However, the Protective Orders Working Group will consider this suggestion in connection with the comprehensive review of the forms.
4.	Elizabeth Tahamtanzadeh San Jose	AM	*This commentator provided comments regarding elder abuse law generally, but not about the specific forms that were circulated for comment. The commentator's observations and suggestions concerned the need for speedier trials, problems with the mediation process, and the desirability of changing or eliminating the statute of limitations.	The comments have been referred to the Protective Orders Working Group for its consideration.