

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR20-26

Title	Action Requested
Protective Orders: Elder or Dependent Adult Abuse Prevention Forms	Review and submit comments by June 9, 2020
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise forms EA-100, EA-120, and EA-130	January 1, 2021
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Ann I. Jones, Chair	Kristi Morioka, Attorney, 916-643-7056, kristi.morioka@jud.ca.gov

Executive Summary and Origin

Assembly Bill 1396 (Obernolte; Stats. 2019, ch. 628) provides that a court, when issuing an order for elder or dependent adult abuse prevention, may, if appropriate, also issue an order requiring the restrained party to attend mandatory clinical counseling or anger management courses. The legislation also requires the Judicial Council to revise or adopt forms to do so. The Civil and Small Claims Advisory Committee recommends revising three mandatory elder or dependent adult abuse prevention forms to implement this legislation.

Background

Elder or dependent adult abuse is a significant problem for a large portion of the population in California. In 2009, the California Senate Office of Oversight and Outcomes reported that 13 percent of all complaints to the California Office of the State Long-Term Care Ombudsman involved abuse, gross neglect, or exploitation—over twice the national rate of 5 percent.¹ A bill to create a civil action for elder or dependent adult abuse prevention was passed in 1992 (Sen. Bill 679 (Mello); Stats. 1991, ch. 774). The author of AB 1396, Assembly Member Jay Obernolte (R-Hesperia), states that elder or dependent adult abuse prevention (elder abuse) cases and domestic violence prevention cases are similar “in that almost 60% of elder and dependent adult abuse and neglect incidents, the perpetrator is a family member. However, in domestic violence cases more tools are available to prevent reoccurrence of the abuse.”²

¹ California Senate Office of Oversight and Outcomes, *California’s Elder Abuse Investigators: Ombudsmen Shackled by Conflicting Laws and Duties* (Nov. 3, 2009), p. 7.

² Jay Obernolte, *Fact Sheet Assembly Bill 1396—Elder Abuse Prevention Programs* (no date), p. 1.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. It is circulated for comment purposes only.

The goal of AB 1396 is to help prevent ongoing elder and dependent adult abuse by giving judges the ability to order the restrained person to attend clinical counseling or to enroll in anger management courses.³

Different prevention tool provided in domestic violence restraining order cases

In domestic violence restraining order (DVRO) cases, a court may order that the restrained person complete a certified 52-week batterer intervention program that has been approved by the probation department.⁴ Batterer intervention programs (BIPs) were created to address the unique challenges of domestic violence cases. Courts can order a restrained person to attend a BIP in a civil DVRO case and that person is required as a condition of probation to complete a BIP if convicted of domestic violence in criminal court. Until recently, the required length of certified programs was at least 52 weeks. Currently, there are six counties piloting alternative lengths of programming.⁵

AB 1396 does not include BIPs as a treatment option. Anger management courses generally do not address coercive behaviors and power dynamics. Instead, the focus is on preventing loss of control. AB 1396 also authorizes the court to order the restrained party to participate in clinical counseling, which could address other issues such as mental health issues or substance use disorders.

The Proposal

This proposal would add items to the elder or dependent adult abuse prevention forms to reflect the new types of orders a judge may consider under AB 1396. The following forms are proposed to be revised:

- *Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-100);
- *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-120); and
- *Elder or Dependent Adult Abuse Restraining Order After Hearing* (CLETS-EAR or EAF) (form EA-130).

The recommended revisions are discussed below.

Request for Elder or Dependent Adult Abuse Restraining Orders (form EA-100) would be revised to add an item that allows the protected person to request that the restrained party be ordered to attend clinical counseling or anger management courses (item 14). The statute requires specific provider types to deliver the clinical counseling or anger management courses, which are listed in the item. The description of abuse would be moved from item 10 to item 8 so the relevant information the judge considers when reviewing the petition is grouped together.

³ *Id.* at p. 1.

⁴ Fam. Code, § 6343.

⁵ Assembly Bill 372 (Stats. 2018, ch. 290) authorized the creation of alternative pilot programs.

And the items following would be renumbered accordingly. The committee also would revise the order of the items to move the description of abuse higher on the form because it is important information to have closer to the beginning of the form.

Response to Request for Elder or Dependent Adult Abuse Restraining Orders (form EA-120) would be revised to add an item with check boxes (item 7) for the party responding to the petition to respond to these orders requested by the protected person on form EA-100. This item is modeled after existing items on form EA-120 that allow the respondent to indicate whether the respondent agrees or disagrees with the orders requested or agrees to other orders that are specified.

Elder or Dependent Adult Abuse Restraining Order After Hearing (CLETS-EAR or EAF) (form EA-130) would be revised to include an option (item 9) for the judge to order clinical counseling or an anger management course and a required date of enrollment or a default of 30 days if there is no date specified. In addition, there is an option to allow a judge to order a person to submit proof of completion of clinical counseling or an anger management course or appear for a hearing on a specified date.

Alternatives Considered

The committee considered including on form EA-100 the option for the petitioner to request either clinical counseling or anger management, and to provide lines for the petitioner to explain why they made the specific request. However, the committee thought that the petitioner might not understand the distinction between clinical counseling and anger management courses or know what is appropriate in the circumstances. The committee requests comments on whether the petitioner should be able to request either clinical counseling or anger management courses, and whether there should be a line asking for more information.

The committee also considered revising two information sheets, *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?* (form EA-100-INFO) and *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?* (form EA-120-INFO), to add information about the new types of orders, but determined that it is not necessary, as the current information on the information sheets will remain accurate without these revisions. In addition, the elder abuse forms are proposed to be redesigned next year with special attention to the information sheets. Making changes to these forms during this rule-making cycle would not be an efficient use of time or resources.

Fiscal and Operational Impacts

The cost and operational impacts from this proposal would be minimal. The forms are currently in existence and there are no requirements for enforcement or additional court hearings as a result of the changes to the forms. Courts may incur minimal costs and operational impacts in training staff and adding the new forms to case management systems.

Request for Specific Comments

The advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should form EA-100, new item 14, include an option for the petitioner to request either clinical counseling or anger management?
- Should form EA-100, new item 14, include lines asking for the reasons why the petitioner is requesting clinical counseling or an anger management course?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments

1. Forms EA-100, EA-120, and EA-130, at pages XX–XX

Clerk stamps date here when form is filed.

Read *Can an Elder or Dependent Adult Abuse Restraining Order Help Me?* (form EA-100-INFO) before completing this form. Also fill out *Confidential CLETS Information* (form CLETS-001) with as much information as you know.

1 Elder or Dependent Adult in Need of Protection

Full Name: _____

Sex: M F Age: _____**2 Person From Whom Protection Is Sought**

Full Name: _____

Address (if known): _____

City: _____ State: ____ Zip: _____

Fill in court name and street address:

Superior Court of California, County of

3 Person Requesting Order

Who is asking the court for protection? (Check a, b, or c):

a. The elder or dependent adult named in ①.
 b. Name: _____
 conservator of the person estate person and estate
 of the person named in ①, appointed by (name of court): _____

Case No.: _____

c. Other (name) _____

(Show this person's legal authority to make this request on an attached sheet of paper. Write "Attachment 3c—Information About Person Requesting Protective Order" for a title. You may use form MC-025, Attachment.)

Court fills in case number when form is filed.

Case Number:

4 Contact Information

Contact information for the person asking the court for protection

a. Your Lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. The person in ① does not have to give telephone, fax, or e-mail.)

Address: _____

City: _____ State: ____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

This is not a Court Order.

5 Description of Protected Person

The person named in ① (check a or b):

- a. Is age 65 or older and a resident of California.
- b. Is a resident of California and an adult under age 65. This person has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights. (Briefly describe limitations on the attached sheet of paper or form MC-025. Write "Attachment 5b—Description of Protected Person" for a title.)

6 Additional Protected Persons

a. Are you asking for protection for any other family or household members or for the conservator of the elder or dependent adult listed in ①? Yes No (If yes, list them):

<u>Full 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 "Attachment 6a—Additional Protected Persons" for a title. You may use form MC-025, Attachment.

b. Why do these people need protection? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 6b—Why Others Need Protection" for a title.

7 Relationship of Parties

How does the person in ① know the person in ②? (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 7—Relationship of Parties" for a title.

This is not a Court Order.



8 Description of Abuse

a. Abuse means either:

- (1) Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or
- (2) The withholding by a caretaker of goods or services that are necessary to avoid physical harm or mental suffering.

b. Tell the court about the last time the person in (2) abused the person in (1).

(1) When did it happen? *(Provide date or estimated date)*: _____

(2) Who else was there?

(3) Describe what happened below.

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(3)—Describe Abuse" for a title.

(4) Was the abuse **solely financial abuse** unaccompanied by force, threat, harassment, intimidation, or any other form of abuse?

Yes, only financial abuse. No, the abuse included other forms of abuse described above.

(5) Did the person in (2) use or threaten to use a gun or any other weapon?

Yes No *(If yes, explain below)*:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(5)—Use of Weapons" for a title.

(6) Was the person in (1) harmed or injured as a result of the acts of abuse described above?

Yes No *(If yes, explain below)*:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8b(6)—Harm or Injury" for a title.

(7) Did the police come? Yes No

If yes, did they give the person in (1) or the person in (2) an Emergency Protective Order? Yes No

If yes, the order protects *(check all that apply)*:

the person in (1) the person in (2) the persons in (6).

(Attach a copy of the order if you have one.)

This is not a Court Order.



- 8 c. Is the person in 2 a care custodian who deprived the person in 1 of (kept from him or her, did not allow him or her to have or receive, or did not provide him or her with) goods or services that the person needed to avoid physical harm or mental suffering? Yes No

(If yes, describe below what the person was deprived of and how that affected him or her):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8c—Deprivation by Care Custodian" for a title.

- d. Has the person in 2 abused the person in 1 at other times?

Yes No (If yes, describe prior incidents and provide dates below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 8d—Previous Abuse" for a title.

9 **Venue**

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

- a. The person in 2 lives in this county.
 b. The person in 1 was abused by the person in 2 in this county.
 c. Other (specify): _____

10 **Other Court Cases**

- a. Has the person in 1 or any of the persons named in 6 been involved in another court case with the person in 2? No Yes (If yes, specify the kind of each case and indicate where and when each was filed):

	Kind of Case	Filed in (County/State)	Year Filed	Case Number (if known)
(1)	<input type="checkbox"/> Elder or Dependent Adult Abuse	_____	_____	_____
(2)	<input type="checkbox"/> Civil Harassment	_____	_____	_____
(3)	<input type="checkbox"/> Domestic Violence	_____	_____	_____
(4)	<input type="checkbox"/> Divorce, Nullity, Legal Separation	_____	_____	_____
(5)	<input type="checkbox"/> Paternity, Parentage, Child Custody	_____	_____	_____
(6)	<input type="checkbox"/> Eviction	_____	_____	_____
(7)	<input type="checkbox"/> Guardianship	_____	_____	_____
(8)	<input type="checkbox"/> Workplace Violence	_____	_____	_____
(9)	<input type="checkbox"/> Small Claims	_____	_____	_____
(10)	<input type="checkbox"/> Criminal	_____	_____	_____
(11)	<input type="checkbox"/> Other (specify): _____	_____	_____	_____

- b. Are there now any protective or restraining orders in effect relating to the person in 1 or any of the persons named in 6 and the person in 2? No Yes (If yes, attach a copy if you have one.)

This is not a Court Order.



Check the orders you want.

11 Personal Conduct Orders

I ask the court to order the person in **(2)** **not** to do any of the following things to the person in **(1)** or to any person to be protected listed in **(6)**:

- a. Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy the personal property of, or disturb the peace of the person.
- b. Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
- c. Other (*specify*):
 - Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 11c—Other Personal Conduct Orders" for a title.*

*The person in **(2)** will be ordered not to take any action to get the addresses or locations of any protected person unless the court finds good cause not to make the order.*

12 Stay-Away Orders

a. I ask the court to order the person in **(2)** to stay at least _____ yards away from (*check all that apply*):

- (1) The elder or dependent adult in **(1)**.
- (2) The persons in **(6)**.
- (3) The home of the elder or dependent adult.
- (4) The job or workplace of the elder or dependent adult.
- (5) The vehicle of the elder or dependent adult.
- (6) Other (*specify*): _____

b. If the court orders the person in **(2)** to stay away from all the places listed above, will he or she still be able to get to his or her home, school, or job? Yes No (*If no, explain below*):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 12b—Stay-Away Orders" for a title.

This is not a Court Order.



13 **Move-Out Order**

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

The person in (1) will suffer physical or emotional harm if the person in (2) does not leave the residence. The person in (2) is not named in the title or lease of the residence, either alone or with others beside the person in (1).

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

a. The person in (2) assaulted or threatened the person in (1); and

b. The person in (1) has the right to live at the above residence. (Explain below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 13b—My Right to Residence" for a title.

14 **Order for Counseling or Anger Management Courses**

I request the person in item (2) be ordered by the court to attend clinical counseling or anger management courses provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the state of California to provide counseling or anger management courses).

15 **Guns or Other Firearms and Ammunition**

Does the person in (2) own or possess any guns or other firearms? Yes No I don't know

Unless the abuse is only financial, if the judge grants a protective order, the person in (2) will be prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a gun, other firearm, and ammunition while the protective order is in effect. The person in (2) will also be ordered to turn in to law enforcement, or sell to or store with a gun dealer, any guns or firearms within his or her immediate possession or control.

16 **Temporary Restraining Order**

I request that a Temporary Restraining Order (TRO) be issued against the person in (2) to last until the hearing. I am presenting form EA-110, *Temporary Restraining Order*, for the court's signature together with this *Request*.

Has the person in (2) been told that you were going to go to court to seek a TRO against them?

Yes No (If you answered no, explain why below):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 16—Temporary Restraining Order" for a title.

This is not a Court Order.



17 **Request to Give Less Than Five Days' Notice of Hearing**

You must have your papers personally served on the person in (2) at least five days before the hearing, unless the court orders a shorter time for service. (Read form EA-200-INFO, What Is "Proof of Personal Service"?, to learn about serving legal papers. Form EA-200, Proof of Personal Service, may be used to show the court that the papers have been served.)

If you want there to be less than five days between service and the hearing, explain why:

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 17—Request to Give Less Than Five Days' Notice" for a title.

18 **Lawyer's Fees and Costs**

I ask the court to order payment of my lawyer's fees court costs.

The amounts requested are:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Check here if there are more items. Put the items and amounts on the attached sheet of paper or form MC-025 and write "Attachment 18—Lawyer's Fees and Costs" for a title.

19 **Possession and Protection of Animals**

I ask the court to order the following:

- a. That the person in (1) be given the sole possession, care, and control of the animals listed below, which they own, possess, lease, keep, or hold, or which reside in their household.
(Identify animals by, e.g., type, breed, name, color, sex.)

I request sole possession of the animals because (specify good cause for granting order):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 19a—Possession of Animals" for a title.

- b. That the person in (2) must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

This is not a Court Order.



20 No Fee to Serve Orders *If you want the sheriff or marshal to serve (notify) the person in 2 about the orders for free, ask the court clerk what you need to do.*

21 **Additional Orders Requested**

I ask the court to make the following additional orders (*specify*):

Check here if there is not enough space for your answer. Put your complete answer on the attached sheet of paper or form MC-025 and write "Attachment 21—Additional Orders Requested" for a title.

22 Number of pages attached to this form, if any: _____

Date: _____

Lawyer's name (if any)

▶ _____
Lawyer's signature

I declare under penalty of perjury under the laws of the State of California that the information above and on all attachments is true and correct.

Date: _____

Type or print your name

▶ _____
Signature of person filling out this request

This is not a Court Order.

Response to Request for Elder or Dependent Adult Abuse Restraining Orders

Clerk stamps date here when form is filed.

Use this form to respond to the Request (form EA-100)

- Read *How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?* (form EA-120-INFO) to protect your rights.
- Fill out this form and take it to the court clerk.
- Have someone age 18 or older—**not you**—serve the person requesting protection in ① by mail with a copy of this form and any attached pages. (Use form EA-250, Proof of Service of Response by Mail.)

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

① Elder or Dependent Adult Seeking Protection

Name: _____

Name of person asking for the protection, if different (This is the person named in item ③ of the request (form EA-100).)

② Person From Whom Protection Is Sought

a. Your Name: _____

Your Lawyer (if you have one for this case)

Name: _____ State Bar No.: _____

Firm Name: _____

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.)

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Present your response and any opposition at the hearing. Write your hearing date, time, and place from form EA-109, item ③, here:

Hearing Date → Date: _____ Time: _____
Dept.: _____ Room: _____

If you were served with a Temporary Restraining Order, you must obey it until the hearing. At the hearing, the court may make orders against you that last for up to five years.

③ Personal Conduct Orders

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (Specify why you disagree in item ⑬ on page 4.)
- c. I agree to the following orders (specify below or in item ⑬ on page 4):

④ Stay-Away Orders

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (Specify why you disagree in item ⑬ on page 4.)
- c. I agree to the following orders (specify below or in item ⑬ on page 4):



5 **Move-Out Orders**

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (Specify why you disagree in item **13** on page 4.)
- c. I agree to the following orders (specify below or in item **13** on page 4):
-
-

6 **Additional Protected Persons**

- a. I agree that the persons listed in item **6** of form EA-100 may be protected by the order requested.
- b. I do not agree that the persons listed in item **6** of form EA-100 may be protected by the order requested.

7 **Order for Counseling or Anger Management Courses**

- a. I agree to the orders requested.
- b. I do not agree to the orders requested. (Specify why you disagree in item **13** on page 4.)
- c. I agree to the following orders (specify below or in item **13** on page 4):
-
-

8 **Guns or Other Firearms and Ammunition**

If you were served with form EA-110, *Temporary Restraining Order*, you cannot own or possess any guns, other firearms, or ammunition. (See item **8** of form EA-110.) You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control within 24 hours of being served with form EA-110. You must file a receipt with the court. You may use form EA-800, *Proof of Firearms Turned In, Sold, or Stored*, for the receipt.

- a. I do not own or control any guns, firearms, magazines or ammunition.
- b. I ask for an exemption from the firearms prohibition under Code of Civil Procedure section 527.9(f) because carrying a firearm is a condition of my employment, and my employer is unable to reassign me to another position where a firearm is unnecessary. (Explain):
- Check here if there is not enough space below for your answer. Put your complete answer on an attached sheet of paper and write "Attachment **8b**—Firearms Surrender Exemption" as a title. You may use form MC-025, Attachment.
-
-

- c. I have turned in my guns and firearms to the police or sold them to or stored them with a licensed gun dealer.
- A copy of the receipt is attached. has already been filed with the court.



Clerk stamps date here when form is filed.

Person in ① must complete items ①, ②, and ③ only.

① Elder or Dependent Adult Seeking Protection

- a. Full Name: _____
 Name of person asking for the protection, if different (*This is the person named in item ③ of the request (form EA-100).*)
 Full Name: _____
 Lawyer for person named above (*if any for this case*):
 Name: _____ State Bar No.: _____
 Firm Name: _____
- b. Your Address (*If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.*)
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-Mail Address: _____

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 Restrained Person

Full Name: _____

Description

Sex: M F Height: _____ Weight: _____ Date of Birth: _____
 Hair Color: _____ Eye Color: _____ Age: _____ Race: _____
 Home Address (*if known*): _____
 City: _____ State: _____ Zip: _____
 Relationship to Protected Person: _____

③ Additional Protected Persons

In addition to the elder or dependent adult 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>Full Name</u>	<u>Sex</u>	<u>Age</u>	<u>Lives with you?</u>	<u>Relation to Protected Person</u>
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

Check here if there are additional protected persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.

④ Expiration Date

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

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

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

This is a Court Order.



5 Hearing

- a. There was a hearing on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____
(Name of judicial officer): _____ made the orders at the hearing.
- b. These people were at the hearing:
- (1) The elder or dependent adult in need of protection
- (2) The lawyer for the elder or dependent adult *(name)*: _____
- (3) The person in ① asking for protection (if not the elder or dependent adult)
- (4) The lawyer for the person in ① asking for protection *(name)*: _____
- (5) The person in ②
- (6) The lawyer for the person in ② *(name)*: _____
- Additional persons present are listed at the end of this Order on Attachment 5.
- c. The hearing is continued. The parties must return to court on *(date)*: _____ at *(time)*: _____.

To the Person in ②:

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

6 Personal Conduct Orders

- a. You must **not** do the following things to the elder or dependent adult named in ①
- and to the other protected persons listed in ③:
- (1) Physically abuse, financially abuse, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, harass, destroy personal property of, or disturb the peace of the person.
- (2) Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
- (3) Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
- (4) Other *(specify)*: _____
- Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. 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.

7 Stay-Away Orders

- a. You **must** stay at least _____ yards away from *(check all that apply)*:
- (1) The elder or dependent adult in ①. (5) The vehicle of the elder or dependent adult.
- (2) Each person in ③. (6) Other *(specify)*: _____
- (3) The home of the elder or dependent adult. _____
- (4) The job or workplace of the elder or dependent adult. _____
- b. This stay-away order does not prevent you from going to or from your home or place of employment.

This is a Court Order.

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.

9 **Order for Counseling or Anger Management**

a. The person in item **2** is ordered to attend:

- clinical counseling for _____ (*specify number*) sessions; or
- an anger management course

provided by a professional (a counselor, psychologist, psychiatrist, therapist, clinical social worker, or mental or behavioral health professional licensed in the state of California to provide counseling or anger management courses).

b. The person in item **2** must enroll in clinical counseling or an anger management course by (*date*): _____, or if no date is listed, within 30 days after this order is made. The person in item **2** is ordered to file written proof of scheduling or enrollment with the court.

c. Written proof of completion of the ordered number of clinical counseling sessions or written proof of completion of the court-ordered anger management course must be filed with the court by _____ (*date*) or the person in item **2** must appear for a court date on _____ (*date*) at _____ (*time*) in _____ Dept./ Room.

10 **No Guns or Other Firearms and Ammunition**

This Order must be granted unless the abuse is financial only.

- a. **You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.**
- b. If you have not already done so, you must:
- Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession 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 that your guns or firearms have been turned in, sold, or stored. (*You may use form EA-800, Proof of Firearms Turned In, Sold, or Stored, for the receipt.*)
- c. The court has received information that you own or possess a firearm.
- d. The court has made the necessary findings and applies the firearm relinquishment exemption under Code of Civil Procedure section 527.9(f). Under California law, the person in **2** is not required to relinquish this firearm (*specify make, model, and serial number of firearm*): _____

The firearm must be in his or her physical possession only during scheduled work hours and during travel to and from his or her place of employment. Even if exempt under California law, the person in **2** may be subject to federal prosecution for possessing or controlling a firearm.

This is a Court Order.



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 Possession and Protection of Animals

a. The person in ① is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.

(Identify animals by, e.g., type, breed, name, color, sex.)

b. The person in ② must stay at least _____ yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

13 Lawyer's Fees and Costs

You must pay to the person in ① the following amounts for lawyer's fees costs:

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional amounts are attached at the end of this Order on Attachment 13.

14 Other Orders (specify):

Additional orders are attached at the end of this Order on Attachment 14.

This is a Court Order.



To the Person in ①:

15 Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

- a. The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. By the close of business on the date that this Order is made, you or your lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

- Additional law enforcement agencies are listed at the end of this Order on Attachment 15.

16 Service of Order on Restrained Person

- a. The person in ② personally attended the hearing. 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-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in form EA-110 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-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are different from the orders in form EA-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.

17 No Fee to Serve (Notify) Restrained Person

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

18 Number of pages attached to this Order, if any: _____

Date: _____

 _____
 Judicial Officer

This is a Court Order.



Warning and Notice to the Restrained Person in ②:**You Cannot Have Guns or Firearms**

If the court grants the orders in item ⑩ on page 3 (unless item 10d is checked), you cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control as stated in item ⑩. The court will require you to prove that you did so.

Instructions for Law Enforcement**Enforcing the Restraining Order**

This order is enforceable 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 Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Order

This order *starts* on the date next to the judge's signature on page 5. The order *ends* on the expiration date in item ④ on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

This is a Court Order.

Instructions for Law Enforcement

Conflicting Orders—Priority of Enforcement

If more than one restraining order has been issued, the orders must be enforced in the following order of precedence: *(See Pen. Code, § 136.2; Fam. Code, §§ 6383(h)(2), 6405(b).)*

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No-Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no-contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)

—Clerk's Certificate—

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

Date: _____ Clerk, by _____, Deputy