

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

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu M. Berle, Chair
Case Management Subcommittee, Hon. Arthur E. Wallace, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665,
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DATE: October 1, 2004

SUBJECT: Workplace Violence (revise forms WV-100, WV-120, WV-130,
WV-131, WV-132, WV-140, and WV-150) (Action Required)

Issue Statement

Senate bill 226 added a new section to the Code of Civil Procedure relating to firearms relinquishment. (See Code Civ. Proc., § 527.9.) This section provides procedures for firearm relinquishment for persons subject to civil harassment, elder and dependent adult abuse, and workplace violence orders. To reflect the new legislation, the Judicial Council revised the workplace violence forms, effective July 1, 2004, without circulating the forms for public comment. The forms were circulated for public comment in spring 2004. Based on the comments, some additional revisions are appropriate.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2005, further revise the following forms:

1. *Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence)* (form WV-100);
2. *Order to Show Cause and Temporary Restraining Order (CLETS) (Workplace Violence)* (form WV-120);
3. *Proof of Personal Service (Workplace Violence)* (form WV-130);
4. *Proof of Service by Mail of Completed Response (Workplace Violence)* (form WV-131);

5. *Proof of Service by Personal Delivery of Completed Response (Workplace Violence)* (form WV-132);
6. *Order After Hearing on Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (CLETS) (Workplace Violence)* (form WV-140); and
7. *Instructions for Petitions to Prevent Workplace Violence* (form WV-150).

The revised forms are attached at pages 5–30.

Rationale for Recommendation

The rationale for revising the workplace violence forms, effective July 1, 2004, was that Senate Bill 226 added a new section to the Code of Civil Procedure that requires persons subject to certain temporary restraining orders or injunctions to relinquish firearms. (Code Civ. Proc., § 527.9.) This section specifies procedures for relinquishment of firearms that apply to civil harassment, elder and dependent adult abuse, and workplace violence prevention petitions. Thus, the workplace violence forms needed to be revised to be consistent with and effectively implement SB 226. To comply with the new statutes, the forms were revised effective July 1, 2004, without being circulated for public comment. They were subsequently circulated for comment.

Notices regarding the availability of assisted listening devices, which were not included on the forms revised effective July 1, 2004, were added to two forms that were circulated for public comment. Based on the public comments, the addition of these notices to form WV-120 and some other revisions to the workplace violence forms are appropriate at this time.

Alternative Actions Considered

The workplace violence forms could be left unchanged. But based on the public comments, several forms would benefit from further revisions.

Comments From Interested Parties

Five comments were received on the forms. The commentators included a court rules and forms committee, a local bar association, and two attorneys from the Department of Justice. A chart summarizing the comments and the committee's responses is attached at pages 31–36. The main changes that the advisory committee recommends be made to the forms in response to the comments are described below.

Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence) (form WV-100)

A court rules committee expressed a concern that this petition form requires that separate case numbers be assigned to each protected employee at a place of

business. As a result, court clerks and courtrooms hearing multiple cases for the same incident or place of business sometimes find it difficult to coordinate actions. The committee regarded assigning case numbers to be the responsibility of the courts and not directly a function of the forms; however, it concluded that form WV-100 could be modified to identify related cases more easily. Thus, it proposes moving items 14 and 15 to the first page under the heading “Related Actions” in item 5. Also, in the parenthetical comment next to the box in item 2, instructions were added indicating that petitioners should identify related actions in item 5. These changes should make it easier for courts to identify related cases at the time of the filing of petitions.

A local bar association suggested it was not necessary to include the notice for persons with hearing disabilities on form WV-100 because this notice would also be provided on form WV-120. The committee agreed that the notice should be given only once on form WV-120, which gives the respondent notice of the court hearing.

Order to Show Cause and Temporary Restraining Order (CLETS) (Workplace Violence) (form WV-120)

In item 11, the list of documents to be served has been augmented to include a blank form for *Proof of Sale or Turning In of Firearms* (form WV-145).

A notice of availability of assisted listening devices has been included in this revised form.

Finally, the committee agreed with the recommendation that this form should be mandatory. (See Code Civ. Proc., § 527.8(n): “A temporary restraining order... issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California...”)

Proof of Personal Service (Workplace Violence) (form WV-130)

In item 2, the list of documents served has been augmented to include a blank *Proof of Sale or Turning In of Firearms* (form WV-145).

Proof of Service by Mail of Completed Response (Workplace Violence) (form WV-131)

In the footer of this form, the title has been changed by adding “by Mail” after “Proof of Service.” This will distinguish it more clearly from forms WV-130 and WV-132.

Proof of Service By Personal Delivery of Completed Response (Workplace Violence) (form WV-132)

In the footer of this form, the title has been changed by adding “by Personal Delivery” after “Proof of Service.” This will distinguish it more clearly from forms WV-130 and WV-131.

Order After Hearing on Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (CLETS)(Workplace Violence) (form WV-140)

The advisory committee agreed with the recommendation that this form should be made mandatory. (See Code Civ. Proc., § 527.8(n): “[An] injunction ... issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California”)

Instructions for Petitions to Prevent Workplace Violence (form WV-150)

The local bar association commented that the statements under “Should you see a lawyer?” are misleading. The committee agreed and modified the statement to indicate that a corporation must be represented by an attorney.

Implementation Requirements and Costs

The courts will incur some incidental costs in replacing the current forms with the revised versions.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT 8</h2> <h2 style="margin: 0;">09-21-04</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT: EMPLOYEE:	
PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (Workplace Violence) AND <input type="checkbox"/> APPLICATION FOR TEMPORARY RESTRAINING ORDER	CASE NUMBER:

Read the Instructions for Petitions to Prohibit Workplace Violence (form WV-150) before completing this form. NOTE: Plaintiff **must** be an employer with standing to bring this action under Code of Civil Procedure section 527.8.

1. **Plaintiff (name):** _____ is a corporation sole proprietorship
 other (specify): _____ and is filing this suit on behalf of the employee identified in item 2.

2. **Employee (name):** _____
 Sex: M F Date of birth: _____ (Use a separate petition for each employee you are seeking to protect. Identify related actions in item 5.)

3. **Defendant (name):** _____
 Sex: M F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____

- a. Resides at (address, if known): _____
- b. Works at (address, if known): _____
- c. Is Is not a current employee of plaintiff (explain if defendant is still an employee): _____

4. This suit is filed in this county because

- a. defendant resides in this county.
- b. defendant has caused physical or emotional injury to plaintiff's employee in this county.
- c. other (specify): _____

5. **Related Actions**

- a. Plaintiff has asked, or is asking, for restraining orders against the defendant in (specify): _____ County,
 case no. (specify): _____
- b. Employee has asked, or is asking, for restraining orders against defendant in (specify): _____ County,
 case no. (specify): _____
- c. Other related actions (describe): _____

(This is not a Court Order.)

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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6. Defendant has assaulted battered stalked made a credible threat of violence against the employee by knowing or willing statements or a course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family.
- a. One or more of these acts can reasonably be construed to be carried out or to have been carried out at the employee's workplace at (address):
- b. Describe what happened (including the dates, who did what to whom, and any injuries):

Continued on Attachment 6b.

7. Employee will suffer great and irreparable harm before this petition can be heard in court unless the court makes those orders requested below effective now and until the hearing. (Specify the harm and why it will occur before the hearing):

Continued on Attachment 7.

8. Defendant's conduct has been directed against employee and is knowing and willful, is not constitutionally protected, and does not constitute lawful acts of self-defense or defense of others.

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

9. **PERSONAL CONDUCT ORDERS** **To be ordered now and effective until the hearing**
- a. **Defendant shall not engage in unlawful violence or make threats of violence against the employee and the following members of employee's family or household who reside with the employee:**

(1) (Name):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Date of birth: _____

(2) (Name):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Date of birth: _____

(3) (Name):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Date of birth: _____

Continued on Attachment 9a.

b. Specifically, defendant

- (1) shall not assault, batter, or stalk the employee and other protected persons.
- (2) shall not follow or stalk the employee and other protected persons to or from the place of work.
- (3) shall not follow the employee and other protected persons during hours of employment.
- (4) shall not telephone or send correspondence to the employee and other protected persons by **any** means including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.
- (5) shall not enter the workplace of the employee and other protected persons.
- (6) other (specify):

(This is not a Court Order.)

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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10. **STAY-AWAY ORDERS** **To be ordered now and effective until the hearing**
- a. **Defendant** shall stay at least (specify): _____ yards away from the following places and persons (the addresses of the places are optional and may be kept confidential):
- (1) Employee and other protected person identified in item 9a.
 - (2) Employee's residence (address optional):
 - (3) Employee's place of work (address optional):
 - (4) Employee's children's school or place of child care (address optional):
 - (5) Employee's vehicle (specify):
 - (6) Other (specify):
- b. Will granting of any of the stay-away orders in item 10a deprive defendant of access to his or her residence or place of employment?
 Yes No (If yes, explain):

11. **FIREARMS PROHIBITION AND RELINQUISHMENT ORDER**

Plaintiff requests an order under section 527.9 of the Code of Civil Procedure that the restrained person is prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive a firearm, and must relinquish any firearm that he or she owns or possesses.

12. **OTHER ORDERS** (specify other orders you request to help carry out the orders previously requested):

13. **DELIVERY TO LAW ENFORCEMENT**

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

<u>Law enforcement agency</u>	<u>Address</u>
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14. **TIME FOR SERVICE**

Plaintiff requests that time for service of the *Order to Show Cause and Temporary Restraining Order* (form WV-120) and accompanying papers be no less than (check one): 5 days (specify number): _____ days before the date set for the hearing. (If you need an order shortening the time to fewer than 5 days, explain the reasons):

(This is not a Court Order.)

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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15. **COSTS**
 Defendant should be ordered to pay costs as follows (specify):

16. Plaintiff requests additional relief as may be proper.

17. **NO FEE FOR FILING**
 Plaintiff is not required to pay a fee for filing this petition because the petition alleges that the defendant has inflicted or threatened violence against an employee of the plaintiff, or stalked the employee, or acted or spoke in any other manner that has placed the employee in reasonable fear of violence, and seeks protective or restraining orders or injunctions restraining stalking or future violence or threats of violence in an action brought under Code of Civil Procedure § 527.8.

18. Plaintiff understands that if the court issues an *Order to Show Cause* (form WV-120), a hearing will be held on the date shown in item 2 of the *Order to Show Cause*. At that hearing, plaintiff will be prepared to present evidence supporting the petition.

19. Number of pages attached: _____

 (TYPE OR PRINT NAME OF ATTORNEY)

▶

 (SIGNATURE OF ATTORNEY)

I declare under penalty of perjury under the laws of the State of California that I am aware of the facts stated,
 a. on the basis of my own personal knowledge.
 b. on the basis that I have been informed and believe that the facts stated are true. (NOTE: If this petition is made solely on the basis of plaintiff's information and belief, plaintiff must attach declarations by one or more persons who have personal knowledge of the facts stated.)

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF PLAINTIFF)

Title of person signing:

(This is not a Court Order.)

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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TEMPORARY RESTRAINING ORDER

THE COURT FINDS

5. a. The defendant is (name):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____

b. The protected employee is (name):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Date of birth: _____

c. Protected family or household members who reside with employee are:

(1) (Name):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Date of birth: _____

(2) (Name):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Date of birth: _____

(3) (Name):

Sex: <input type="checkbox"/> M <input type="checkbox"/> F Date of birth: _____

Continued on Attachment 5c.

UNTIL THE TIME OF HEARING, IT IS ORDERED

6. **CONDUCT ORDERS**

Defendant is prohibited from further violence or threats of violence against the protected persons **and SPECIFICALLY IT IS ORDERED THAT DEFENDANT**

- a. shall not assault, batter, or stalk the employee and other protected persons
- b. shall not follow or stalk the employee and other protected persons to or from the place of work
- c. shall not follow the employee and other protected persons during hours of employment
- d. shall not telephone or send correspondence to the employee and other protected persons by **any** means including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail
- e. shall not enter the workplace of the employee and other protected persons
- f. other (specify):

7. **STAY-AWAY ORDER**

Defendant is ordered to stay at least (specify): _____ yards away from the following persons and places (the addresses of the places are optional and may be kept confidential):

- a. Employee and other protected persons named in item 5.
- b. Residence of employee and other protected persons (address optional):
- c. Place of work of employee and other protected persons (address optional):
- d. School or place of child care of children of employee and other protected persons (address optional):
- e. The employee's and other protected persons' vehicles
- f. Other (specify):
(address optional):

8. Contacts relating to pickup and delivery of children under a court order or a court-approved stipulation of the parties arrived at during mediation shall be permitted, unless a criminal protective or other restraining order prohibits such contacts.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

9. MANDATORY FIREARM RELINQUISHMENT ORDER

The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

- a. 24 hours after issuance of this order (if restrained person is present at hearing).
- b. 48 hours after service of this order (if restrained person is not present at hearing).
- c. other (specify):

If the restrained person owns, possesses, or controls any firearms, he or she **must** file a receipt with the court showing compliance with this order within 72 hours of receiving this order. (Form WV-145 is available for this purpose.)

10. **OTHER ORDERS** (specify):

Continued on Attachment 10.

11. SERVICE ON DEFENDANT

The documents listed below must be personally served on the defendant:

- a. Order to Show Cause and Temporary Restraining Order (CLETS) (Workplace Violence) (form WV-120)
- b. Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence) (WV-100)
- c. Blank Response to Petition of Employer for injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence) (WV-110)
- d. Blank Proof of Service By Mail of Completed Response (Workplace Violence) (form WV-131)
- e. Blank Proof of Sale or Turning In of Firearms (form WV-145)
- f. Other (specify):

12. **ORDER SHORTENING TIME**

Application for an order shortening time is granted and the documents listed in item 11 shall be personally served on the defendant by the date specified in item 4a.

13. DELIVERY TO LAW ENFORCEMENT

By the close of business on the date of this order, a copy of this order and any proof of service shall be given to the law enforcement agencies listed below as follows:

- a. Plaintiff shall deliver.
- b. Plaintiff's attorney shall deliver.

Law enforcement agency

Address

Date:

JUDICIAL OFFICER
 SIGNATURE FOLLOWS LAST ATTACHMENT

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). Violations of this restraining order are subject to criminal penalties.

NOTICE REGARDING FIREARMS

Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate control in accordance with item 9 above.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

INSTRUCTIONS FOR THE DEFENDANT

1. If you are served with an *Order to Show Cause (Workplace Violence) [OSC]* (form WV-120) and a *Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee [Petition]* (form WV-100), 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. Read the papers served on you very carefully. The **OSC** tells you when to appear in court and may contain a temporary restraining order forbidding you from doing certain things. **If you disobey the court's orders, criminal charges may be filed against you.**
3. If you wish to oppose the **Petition**, or make your own request for court orders, you should file a *Response to Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee [Response]* (form WV-110).

In addition to the **Response**, you may file and serve declarations signed by persons who have personal knowledge of the facts. A declaration form (form MC-031) is available from the clerk's office of the court shown on page one of this form. If you do not know how to prepare a declaration, you should see an attorney. After you have filed the **Response** with the clerk of the court, 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 who serves the plaintiff should complete and sign a *Proof of Service by Mail of Completed Response (Workplace Violence)* (form WV-131). You should take the completed form back to the court clerk or bring it with you to the hearing.

4. If you wish to oppose the petition, in addition to filing a **Response** you should be present at the hearing. If you have any witnesses, they must also be present.
5. An instruction booklet entitled *Instructions for Petitions to Prohibit Workplace Violence* (form WV-150) is available from the clerk's office at the court shown on page one of this form.

Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons With Disabilities and Order* (form MC-410). (Civil Code section 54.8.)



ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY DRAFT 7 9-22-04
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT: EMPLOYEE:	
PROOF OF SERVICE BY MAIL OF COMPLETED RESPONSE (Workplace Violence)	CASE NUMBER: _____

Instructions to Defendant: *After having the plaintiff served by mail with any of the documents identified in item 2, have the person who mailed the documents complete this Proof of Service by Mail. Give the completed Proof to the clerk for filing. You cannot serve these papers. An unsigned copy of the Proof of Completed Response (Workplace Violence) should be attached to and served with the document.*

1. I am over the age of 18 and **not a party to this legal action**. I am a resident of or employed in the county where the mailing occurred. My residence **or** business address is *(specify)*:

2. I served a copy of the following documents:
 - a Completed *Response to Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence)* (form WV-110)
 - b Other *(specify)*:

3. I deposited a true copy of each of the foregoing documents in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
 - a. Name of person served:

 - b. Address:

 - c. Date of mailing:

 - d. Place of mailing *(city and state)*:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE)

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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THE COURT ORDERS

6. **PERSONAL CONDUCT ORDER**

Defendant is prohibited from further violence or threats of violence against the employee listed in item 5b and the protected persons listed in item 5c. Specifically, defendant

- a. shall not assault, batter, or stalk the employee and other protected persons.
- b. shall not follow or stalk the employee and other protected persons to or from the place of work.
- c. shall not follow the employee and other protected persons during hours of employment.
- d. shall not telephone or send correspondence to the employee and other protected persons by **any** means including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.
- e. shall not enter the workplace of the employee and other protected persons.
- f. other (*specify*):

7. **STAY AWAY ORDER**

a. Defendant is ordered to stay at least (*specify*): _____ **yards** away from the following persons and places (*the addresses of the places are optional and may be kept confidential*):

- (1) Employee and other protected persons named in item 5.
- (2) Employee's residence (*address optional*):

- (3) Employee's place of work (*address optional*):

- (4) Employee's children's school or place of child care (*address optional*):

- (5) Employee's and other protected persons' vehicles
- (6) Other (*specify*):

b. Contacts relating to pickup and delivery of children under a court order or a court-approved stipulation of the parties arrived at during mediation are permitted, unless a criminal protective or other restraining order prohibits such contacts.

8. **MANDATORY FIREARM RELINQUISHMENT ORDER**

The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

- a. 24 hours after issuance of this order (if restrained person is present at hearing).
- b. 48 hours after service of this order (if restrained person is not present at hearing).
- c. other (*specify*):

If the restrained person owns, possesses, or controls any firearms, he or she **must** file a receipt with the court showing compliance with this order within 72 hours of receiving this order. (*Form WV-145 is available for this purpose.*)

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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9. **OTHER ORDERS** (specify):

10. DELIVERY TO LAW ENFORCEMENT

By the close of business on the date of this order, a copy of this order and any proof of service shall be given to the law enforcement agencies listed below as follows:

- a. Plaintiff shall deliver.
- b. Plaintiff's attorney shall deliver.

Law enforcement agency

Address

Date: _____

JUDICIAL OFFICER

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). Violations of this restraining order are subject to criminal penalties.

NOTICE REGARDING FIREARMS

Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control in accordance with item 8 above. The person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control in accordance with item 8 above.

INSTRUCTIONS FOR PETITIONS TO PROHIBIT WORKPLACE VIOLENCE

Under California law (Code of Civil Procedure section 527.8), courts can make orders to protect an employee from suffering unlawful violence or credible threats of violence. These orders can be requested by the employer of a person who is suffering unlawful violence or credible threats of violence, and will be enforced by law enforcement agencies.

The employer asking for these orders is called the "plaintiff." The plaintiff needs to file a petition in superior court, on behalf of his or her employee, 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 an employer can get and how to get them. It also includes directions for a defendant who wants to oppose the employer's petition.

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.

Please note: These forms can be used only by an **employer** of a person who is suffering unlawful violence or a credible threat of violence. If anyone other than the employer wishes to apply to the court for an order prohibiting harassment, see the Judicial Council's *Instructions for Lawsuits to Prohibit Civil Harassment* (form CH-150).

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons With Disabilities and Order* (form MC-410). (Civil Code section 54.8.)



GENERAL INFORMATION

Who can get a court order under this law?

This statute allows **employers** to obtain court orders prohibiting unlawful violence or credible threats of violence against their employees. The statute differs from other California laws that allow victims of unlawful violence or credible threats of violence to ask the court for these orders **themselves**. To get an order under this law, the plaintiff **must** be an employer. An employer is defined as the following:

- Every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether such person is the owner of the business or is operating on a concessionaire or other basis. (Lab. Code, § 350(a).)
- A federal, state, or local public agency; a city, county, district, or public corporation. (Code Civ. Proc., § 527.8(d).)

Before completing the forms needed to obtain court orders under this statute, make certain you meet the definition of "employer" as stated.

Whom can an employer protect under this law?

Under this statute, employers can obtain court orders which last up to 3 years on behalf of their employees only and up to 15 days on behalf of employees and certain family or household members. California law defines employees as:

- Every person, including aliens and minors, rendering actual service in any business for an employer, whether gratuitously or for wages or pay, and whether such wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation and whether such service is rendered on a commission, concessionaire, or other basis. (Lab. Code, § 350(b).)
- Members of boards of directors and public officers.
- Volunteers or independent contractors who perform services for the employer at the employer's work site.

An employer may seek protection under this law if:

1. An employee has suffered unlawful violence or a credible threat of violence from any individual;
2. The unlawful violence or credible threat of violence can reasonably be construed to have been carried out in the workplace;
3. The defendant's conduct is not allowable as part of a legitimate labor dispute as permitted by Code of Civil Procedure section 527.3; and
4. The defendant is not engaged in constitutionally protected activity.

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

1. Workplace violence forms, available from the court clerk's office or legal publishers. The clerk of the court can tell you where to get the forms. You can also obtain them on the California Courts Web site (www.courtinfo.ca.gov/forms). Fillable forms are available on the Web site.
2. Someone other than yourself, 18 years of age or older, to deliver (**serve**) certain papers to the other party.

What forms must be used for petitioning under the workplace violence law and for opposing those petitions?

1. *Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee* [**Petition**] (form WV-100). This four-page 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**] (form WV-120). The **OSC**, when signed by the judge, tells the defendant to come to court for the hearing. It may include one or more **TROs** that take effect immediately and stay in effect until the hearing.
3. *Response to Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee* [**Response**] (form WV-110). The defendant files this form to state objections to the orders the plaintiff has asked the court to make and to give his or her side. This form is **mandatory**, i.e., it must be used by defendants to respond to a petition.
4. *Order After Hearing on Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee* [**Order**] (form WV-140). 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 (Workplace Violence)* (form WV-130) and *Proof of Service By Mail of Completed Response (Workplace Violence)* (form WV-131). 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 a petition or defend against one and to go to court with or without an attorney, unless you are a corporation in which case you must be represented by a lawyer. Because your situation may involve technical problems that cannot be explained in a printed form, you may want to consult with an attorney. Whether or not you have an attorney, the other party may have one.

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 workplace violence form: one for a worksheet, the original to file with the court, a copy to be personally delivered (**served**) to the defendant, and two copies for yourself. In addition, you will need extra copies of the **OSC** (form WV-120), the **Order** (form WV-120), and the *Proof of Service* (forms WV-130 and WV-131). Get at least three extra copies for yourself.
2. Fill in the **Petition** (form WV-100), and fill in the **OSC** (form WV-120) except for the dates for the court hearing and service and the judge's signature.
 - a. If you are not represented by an attorney, fill in your name, mailing address, and phone number at the top of each form. You may, but are not required to, provide a fax number and an e-mail address where you may be contacted.
 - b. Fill in the name of the county where the case will be filed and the address of the superior court.
 - c. Type your full name, the defendant's full name, and the employee's full name. If you are seeking an order protecting more than one employee, you should fill out a separate set of forms for each employee to be protected. If you need more space, attach additional pages and refer to the additional pages in item 20 of the **Petition** form.
 - 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 applying for a **TRO**, you must give the details of the recent acts of violence or credible threats of violence and the problems they have caused your employee. Place an "X" in the caption of the **Petition** next to "Application for Temporary Restraining Order."

To obtain a **TRO**, you must notify the defendant of the application for the order unless both of the following requirements are satisfied:

 - a. It appears from facts shown by affidavit, declaration, or verified complaint that great or irreparable injury will result before the matter can be heard on notice.
 - b. You or your attorney certifies one of the following to the court under oath:
 - (1) That within a reasonable time prior to the petition you informed the defendant or the defendant's attorney at what time and where the petition would be made.
 - (2) That you in good faith attempted but were unable to inform the defendant and the defendant's attorney, specifying the efforts made to contact them.
 - (3) That for reasons specified you should not be required to so inform the defendant or the defendant's attorney.
4. If you are seeking court orders on the basis of information given to you by other persons (e.g., the affected employee or other employees), and not on the basis of what you have personally observed, you **must** attach to the **Petition** declarations or affidavits by the persons who have personal knowledge of the facts that support the granting of the order. You may use form MC-031 for the declarations.
5. 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.
6. If the judge signs the **OSC** (form WV-120), 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. **Ask for at least three endorsed-filed copies.** Keep at least one for yourself and give the others to the employee and other persons, if any, who are to be protected. The copies may be needed if you have to call the police.
7. Have the defendant personally **served** with copies of the **Petition** (form WV-100) and the **OSC** (form WV-120), a blank **Response** (form WV-110), and a blank *Proof of Service of Completed Response* (form WV-131). 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.

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** immediately after the orders are signed by the judge, unless the court specifies a different time for service (see item 3a on the **OSC**).

8. If you have requested any temporary orders and the judge has granted them, get copies of the **TRO** 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.
 9. After the defendant has been personally **served**, the person who served the defendant must complete and sign the original *Proof of Personal Service* (form WV-130). 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 three Endorsed-Filed copies for yourself.
 10. Go to the court hearing with any evidence you might have. The **Order** (form WV-140) should be filled in and given to the judge for signing. If there are any witnesses to the defendant's conduct, they should also be there.
 11. If the judge signs the **Order** (form WV-140), file the original with the clerk, get 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 the defendant personally **served** with a copy of the **Order**. File the completed *Proof of Personal Service* (form WV-130) with the court. **Keep at least three copies for yourself.** Give one copy to your employee, give one to any other protected person, and keep at least one for yourself.

INSTRUCTIONS FOR THE DEFENDANT

1. If you are served with an *Order to Show Cause (Workplace Violence)* [**OSC**] (form WV-120) and a *Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee* [**Petition**] (form WV-100), 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. Read the papers served on you very carefully. The **OSC** tells you when to appear in court and may contain a temporary restraining order forbidding you from doing certain things. **If you disobey the court's orders, criminal charges may be filed against you.**
 3. If you wish to oppose the **Petition**, or make your own request for court orders, you must file a *Response to Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee* [**Response**] (form WV-110). These forms are available at the court clerk's office or at the California Courts Web site: www.courtinfo.ca.gov/forms.
- In addition to the **Response** (form WV-110), you may file and serve declarations signed by persons who have personal knowledge of the facts. A declaration (form MC-031) is available from the clerk's office or on the California Courts Web site. If you do not know how to prepare a declaration, you should see an attorney. After you have filed the **Response** with the clerk of the court, 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 who does serve your papers should complete and sign a *Proof of Service By Mail of Completed Response (Workplace Violence)* (form WV-131). You should take the completed form back to the court clerk or bring it with you to the hearing.
4. If you wish to oppose the **Petition**, in addition to filing a **Response**, you should be present at the hearing. If you have any witnesses, they must also be present.

The next three pages show a **Petition** that 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.

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

Your full name.

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

The full name of the employee to be protected.

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 7 and give the necessary information.

Insert your name and check the box for the type of business in item 1.

Insert the employee's name in item 2.

Provide a description of the defendant to be restrained in item 3.

If you are seeking to protect more than one employee, use a separate **Petition** for each employee.

Put an "X" in the box that applies in item 4. You must check one box.

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.

WV-100	
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Sarah Jones 110 Main Street Anytown, California 91234 TELEPHONE NO: (123) 555-1234 FAX NO: (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ANY COUNTY	
STREET ADDRESS: 1 Court Street MAILING ADDRESS: P.O. Box 123 CITY AND ZIP CODE: Anytown, California 91234 BRANCH NAME:	
PLAINTIFF: Sarah Jones DEFENDANT: John Roe EMPLOYEE: Michael Smith	
PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (Workplace Violence) AND <input checked="" type="checkbox"/> APPLICATION FOR TEMPORARY RESTRAINING ORDER	
CASE NUMBER:	

Read the Instructions for Petitions to Prohibit Workplace Violence (form WV-150) before completing this form. NOTE: Plaintiff must be an employer with standing to bring this action under Code of Civil Procedure section 527.8.

1. **Plaintiff (name):** _____ is a corporation sole proprietorship
 other (specify): _____ and is filing this suit on behalf of the employee identified in item 2.
2. **Employee (name):** _____
 Sex: M F Date of birth: 12/22/65 (Use a separate petition for each employee you are seeking to protect.)
3. **Defendant (name):** _____
 Sex: M F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____

a. Resides at (address, if known): 33 Third Street, #106, Anytown, California 94124

b. Works at (address, if known): Apex Industries, 9420 Commercial Street, Anytown, California 94125

c. Is Is not a current employee of plaintiff (explain if defendant is still an employee):

4. This suit is filed in this county because

- a. defendant resides in this county.
- b. defendant has caused physical or emotional injury to plaintiff's employee in this county.
- c. other (specify): _____ made a credible threat of violence against

5. **Related Actions**

- a. Plaintiff has asked, or is asking, for restraining orders against the defendant in (specify): _____ County, case no. (specify): _____
- b. Employee has asked, or is asking, for restraining orders against the defendant in (specify): _____ County, case no. (specify): _____
- c. Other related actions (describe): _____

(This is not a Court Order.) Page 1 of 4

Form Adopted for Mandatory Use
Judicial Council of California
WV-100 [Rev. January 1, 2005] **PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (Workplace Violence)** Code of Civil Procedure, §§ 527.8 and 527.9

Item 6b 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, write the facts on a separate piece of paper, and attach it to the end of your **Petition**. Use white paper the same size as this form.

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 the employee if the orders were not made immediately.

Indicate the orders that you are requesting by checking the appropriate boxes in item 9.

Identify the members of the employee's family or household to be protected in item 9a.

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

Fill this in.

Leave this blank.

PLAINTIFF (Name): Sarah Jones DEFENDANT (Name): John Roe	CASE NUMBER:
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6. Defendant has assaulted battered stalked or made a credible threat of violence against the employee by knowing or willing statements or a course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family.

a. One or more of these acts can reasonably be construed to be carried out or to have been carried out at the employee's workplace at (address): 110 Main Street
Anytown, California 91234

b. Describe what happened (including the dates, who did what to whom, and any injuries):
I own and operate a small cafe, called Sarah's Cafe, in Anytown. Michael Smith has worked for me as a waiter for a long time. About three weeks ago John Doe, a customer, got into an argument with another customer and started shouting. When Michael Smith asked John Doe to leave, he refused and pushed Michael against the counter. Michael called the police. When they came, John Roe started shouting and threatened to beat Michael up for calling the police. the police took John Roe away, but he came back a week later and Michael asked him to leave. He threatened to "get" Michael and his family (whose residence he knows) and left. Last week, on March 11, at about 11:30 a.m., John Roe came in, sat down at the counter, and demanded that Michael serve him. Michael said he would call the police of John Roe did not leave, and John Roe picked up a ketchup bottle and threw it at Michael, hitting him on the arm. John Roe again threatened to "get" Michael and his family, and then he left. We called the police and made a report. I understand he was arrested and shortly will be released pending trial.

Continued on Attachment 6b.

7. Employee will suffer great and irreparable harm before this petition can be heard in court unless the court makes those orders requested below effective now and until the hearing. (Specify the harm and why it will occur before the hearing):
When John Roe is released, he is likely to carry out his threats against Michael Smith and his family. Roe tends to be violent. He knows where Smith and his family live.

Continued on Attachment 7.

8. Defendant's conduct has been directed against employee and is knowing and willful, is not constitutionally protected, and does not constitute lawful acts of self-defense or defense of others.

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

9. PERSONAL CONDUCT ORDERS To be ordered now and effective until the hearing

a. Defendant shall not engage in unlawful violence or make threats of violence against the employee and the following members of employee's family or household who reside with the employee:

(1) (Name): Jane Smith
Sex: M F Date of birth: 3/27/66

(2) (Name): Mary Smith
Sex: M F Date of birth: 1/17/95

(3) (Name):
Sex: M F Date of birth:

Continued on Attachment 9a.

b. Specifically, defendant

(1) shall not assault, batter, or stalk the employee and other protected persons.

(2) shall not follow or stalk the employee and other protected persons to or from the place of work.

(3) shall not follow the employee and other protected persons during hours of employment.

(4) shall not telephone or send correspondence to the employee and other protected persons by any means including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(5) shall not enter the workplace of the employee and other protected persons.

(6) other (specify):

(This is not a Court Order.)

WV-100 [Rev. January 1, 2005] Page 2 of 4

PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (Workplace Violence)

Whenever you check this box, 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 6 and give the necessary information.

Fill this in.

Leave this blank.

PLAINTIFF (Name): Sarah Jones DEFENDANT (Name): John Roe	CASE NUMBER:
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10. **STAY-AWAY ORDERS** **To be ordered now and effective until the hearing**

a. Defendant shall stay at least (specify): 150 yards away from the following places and persons (the addresses of the places are optional and may be kept confidential):

- (1) Employee and other protected person identified in item 9a.
- (2) Employee's residence (address optional):
- (3) Employee's place of work (address optional): 110 Main Street
Anytown, California 91234
- (4) Employee's children's school or place of child care (address optional):
- (5) Employee's vehicle (specify): 1995 White Toyota Sedan (Lic. No.: 9XYZ123)
- (6) Other (specify):

b. Will granting of any of the stay-away orders in item 9a deprive defendant of access to his or her residence or place of employment?
 Yes No (If yes, explain):

11. **FIREARMS PROHIBITION AND RELINQUISHMENT ORDER**
 Plaintiff requests an order under section 527.9 of the Code of Civil Procedure that the restrained person is prohibited from owning, possessing, purchasing, or receiving, or attempting to purchase or receive a firearm, and must relinquish any firearm that he or she owns or possesses.

12. **OTHER ORDERS** (specify other orders you request to help carry out the orders previously requested):

13. **DELIVERY TO LAW ENFORCEMENT**
 Plaintiff requests that copies of orders be given to the following law enforcement agencies:

<u>Law enforcement agency</u>	<u>Address</u>
<u>Anytown Police Department</u>	<u>100 Tuft Street</u> <u>Anytown, California 91234</u>
<u>Anytown Police Department</u>	<u>Government Hall</u> <u>Big City, California 91235</u>

14. **TIME FOR SERVICE**
 Plaintiff requests that time for service of the Order to Show Cause and Temporary Restraining Order (form WV-120) and accompanying papers be no less than (check one): 5 days (specify number): _____ days before the date set for the hearing. (If you need an order shortening the time to fewer than 5 days, explain the reasons.)

(This is not a Court Order.)

WV-100 [Rev. January 1, 2005] Page 3 of 4

PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE
(Workplace Violence)

You do not need to give specific addresses in item 10. 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 you are requesting stay-away orders, you must check one of the boxes in item 10b.

This space is where you ask for other orders you need. If you use this space, be sure to put in item 6b of your **Petition** facts and dates that give the court a reason to order what you ask for here.

The defendant must be served immediately after the orders are issued, unless the judge shortens the time to two days before the hearing. It is a good idea to ask for this if you think the defendant will be hard to find and serve.

List all the agencies you may want to enforce your **Order**. The court will direct you or your attorney (if you have one) to deliver the **Order** personally to the agencies after it is signed.

Check the box if your Petition contains the allegations stated in item 17.

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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15. **COSTS**
Defendant should be ordered to pay costs as follows (specify):

16. Plaintiff requests additional relief as may be proper.

17. **NO FEE FOR FILING**
Plaintiff is not required to pay a fee for filing this petition because the petition alleges that the defendant has inflicted or threatened violence against an employee of the plaintiff, or stalked the employee, or acted or spoke in any other manner that has placed the employee in reasonable fear of violence, and plaintiff seeks protective or restraining orders or injunctions restraining stalking or future violence or threats of violence in an action brought under Code of Civil Procedure section 527.8.

18. Plaintiff understands that if the court issues an *Order to Show Cause* (form WV-120), a hearing will be held on the date shown in item 2 of the *Order to Show Cause*. At that hearing, plaintiff will be prepared to present evidence supporting the petition.

19. Number of pages attached: 0
(Signature of attorney, if any):

(TYPE OR PRINT NAME OF ATTORNEY)

(SIGNATURE OF ATTORNEY)

(Signature of plaintiff):

I declare under penalty of perjury under the laws of the State of California that I am aware of the facts stated,

a. on the basis of my own personal knowledge.

b. on the basis that I have been informed and believe that the facts stated are true. (NOTE: If this petition is made solely on the basis of plaintiff's information and belief, plaintiff must attach declarations by one or more persons who have personal knowledge of the facts stated.)

Date: March 18, 2005

Sarah Jones
(TYPE OR PRINT NAME)

Sarah Jones
(SIGNATURE OF PLAINTIFF)

Title of person signing: Proprietor, Sarah's Cafe

(This is not a Court Order)

WV-100 [Rev. January 1, 2005] Page 4 of 4

**PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING
VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE
(Workplace Violence)**

VERY IMPORTANT

1. The date you sign. 2. Your signature.

DO NOT FORGET THESE OR ALL YOUR WORK WILL BE WASTED.

THIS FORM IS CALLED THE *ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER* ("OSC/TRO" OR "TRO"). THIS IS THE ORDER YOU WANT THE JUDGE TO SIGN. AFTER THE JUDGE SIGNS THE ORDER, YOU CAN HAVE THE ORDER ENFORCED BY LAW ENFORCEMENT AGENCIES.

Note: Fill in the **OSC** in the same way as your **Petition** except as follows:

1. Leave items 2a and 3a-d on the **OSC** blank. The clerk of the court or the judge will insert the date. Your hearing will be within 15 days after the filing of the **Petition**.
2. Do not date or sign the **OSC**.

The county where you are filing your case. Call the clerk of the court if you do not know the court's address.

Leave this blank. The clerk or the judge will put the information in or tell you what information to insert here.

The orders that follow are good only until the hearing. At the hearing, the court can make the orders last for as long as three years.

The clerk will give you this number after the judge signs the **TRO**. Use it on all the forms you file later.

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

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Sarah Jones 110 Main Street Anytown, California 91234		FOR COURT USE ONLY WV-120
TELEPHONE NO.: (123) 555-1234 E-MAIL ADDRESS (Optional): sjoney@e-mail.com ATTORNEY FOR (Name): in pro per	FAX NO. (Optional): (123) 555-1235	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 1 Court Street MAILING ADDRESS: P.O. Box 123 CITY AND ZIP CODE: Anytime, California 91234 BRANCH NAME:		
PLAINTIFF: Sarah Jones DEFENDANT: John Roe EMPLOYEE: Michael Smith		
ORDER TO SHOW CAUSE (Workplace Violence) AND <input checked="" type="checkbox"/> TEMPORARY RESTRAINING ORDER (CLETS)		CASE NUMBER:

THIS ORDER SHALL EXPIRE AT THE DATE AND THE TIME OF THE HEARING SHOWN IN THE BOX BELOW UNLESS EXTENDED BY THE COURT.

1. **TO DEFENDANT** (name): John Roe
2. **YOU ARE ORDERED** to appear in this court at the date, time, and place shown in the box below to give any legal reason why the order sought and the other relief requested in the petition should not be granted.

NOTICE OF HEARING

a. Date:	Time:	Dept.:	Room:
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b. The address of the court where the hearing will be held is shown above is (specify):

3. You have the right to attend the hearing to oppose the petition, with or without an attorney. If you do not attend the hearing, the court may grant the requested orders without any further notice to you. The court may make these orders enforceable for a period not to exceed three years, after which they may be renewed, by filing a new *Petition for Injunction*. You should read the instructions on page two of this form. A complete instruction booklet (form WV-150) is available from the clerk's office located at the court shown above.

4. **IT IS FURTHER ORDERED** that

- a. Plaintiff shall serve this *Order to Show Cause*, the attached *Petition of Employer for injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence)* (form WV-100), and any other supporting papers by (specify manner of service):
no later than (date):
- b. Any opposition papers shall be filed and served on plaintiff by (specify manner of service):
no later than (date):
- c. Any reply papers shall be filed and served by (specify manner of service):
no later than (date):
- d. Proof of service of plaintiff's papers shall be delivered to the court hearing the *Order to Show Cause*
no later than (date):

Date: _____

JUDICIAL OFFICER
 SIGNATURE FOLLOWS LAST ATTACHMENT

Page 1 of 4

Form Approved for Optional Use
Judicial Council of California
WV-120 [Rev. January 1, 2005]

ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER (CLETS)
(Workplace Violence)

Code of Civil Procedure, §§ 527.8
and 527.9; Penal Code, § 273.6(a)

Fill this in.

Leave this blank.

Fill in the defendant's name and other information to help the law enforcement officer locate and identify him or her.

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

You do not need to give specific addresses in item 7. However, it may be easier for the police to enforce your orders if they know the defendant knows the addresses to stay away from.

PLAINTIFF (Name): Sarah Jones DEFENDANT (Name): John Roe	CASE NUMBER:
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TEMPORARY RESTRAINING ORDER

THE COURT FINDS

5 a. The defendant is (name):

Sex: M F Ht.: ___ Wt.: ___ Hair color: ___ Eye color: ___ Race: ___ Age: ___ Date of birth: _____

b. The protected employee is (name):

Sex: M F Date of birth: 1/17/95

c. Protected family or household members who reside with employee are:

(1) (Name):

Sex: M F Date of birth: _____

(2) (Name):

Sex: M F Date of birth: 3/27/66

(3) (Name):

Sex: M F Date of birth: 1/17/95 Continued on Attachment 5c.

UNTIL THE TIME OF HEARING, IT IS ORDERED

6. **CONDUCT ORDERS**

Defendant is prohibited from further violence or threats of violence against the protected persons and **SPECIFICALLY IT IS ORDERED THAT DEFENDANT**

a. shall not assault, batter, or stalk the employee and other protected persons

b. shall not follow or stalk the employee and other protected persons to or from the place of work

c. shall not follow the employee and other protected persons during hours of employment

d. shall not telephone or send correspondence to the employee and other protected persons by any means including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail

e. shall not enter the workplace of the employee and other protected persons.

f. other (specify): _____

7. **STAY AWAY ORDER**

Defendant shall stay at least (specify): 100 yards away from the following places and persons (the addresses of the places are optional and may be kept confidential):

a. Employee and other protected person named in item 5.

b. Residence of employee and other protected persons (address optional): _____

c. Place of work of employee and other protected persons (address optional): _____

d. School or place of child care of children of employee and other protected persons (address optional): _____

e. The employee's and other protected persons' vehicles

f. Other (specify): _____ (address optional): _____

8. Contacts relating to pickup and delivery of children under a court order or a court-approved stipulation of the parties arrived at during mediation shall be permitted, unless a criminal domestic protective or restraining order prohibits such contacts.

WV-120 [Rev. January 1, 2005] **ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER (CLETS)** Page 2 of 4
(Workplace Violence)

Fill this in.

Leave this blank.

PLAINTIFF (Name): Sarah Jones DEFENDANT (Name): John Roe	CASE NUMBER:
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9. **MANDATORY FIREARMS RELINQUISHMENT**
 The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control within

a. 24 hours after issuance of this order (if restrained person is present at hearing).
 b. 48 hours after service of this order (if restrained person is not present at hearing).
 c. other (specify):

If the restrained person owns, possesses, or controls any firearms, he or she **must** file a receipt with the court showing compliance with this order within 72 hours of receiving this order. (Form WV-145 is available for this purpose.)

10. **OTHER ORDERS (specify):**
 Continued on Attachment 10.

11. **SERVICE ON DEFENDANT**
 The documents listed below must be personally served on the defendant:

a. Order to Show Cause and Temporary Restraining Order (CLETS) (Workplace Violence) (form WV-120)
 b. Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence) (WV-100)
 c. Blank Response to Petition of Employer for injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence) (WV-110)
 d. Blank Proof of Service By Mail of Completed Response (Workplace Violence) (form WV-131)
 e. Blank Proof of Sale or Turning In of Firearms (form WV-145)
 f. Other (specify):

12. **ORDER SHORTENING TIME**
 Application for an order shortening time is granted and the documents listed in item 11 shall be personally served on the defendant by the date specified in item 4a.

13. **DELIVERY TO LAW ENFORCEMENT**
 By the close of business on the date of this order, a copy of this order and any proof of service shall be given to the law enforcement agencies listed below as follows:

a. Plaintiff shall deliver.
 b. Plaintiff's attorney shall deliver.

<u>Law enforcement agency</u>	<u>Address</u>
Anytown Police Department	100 Tuft Street, Anytown, California 91234
Anytown Police Department	Government Hall, Big City, California 91235

Date:

 JUDICIAL OFFICER
 SIGNATURE FOLLOWS LAST ATTACHMENT

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). Violations of this restraining order are subject to criminal penalties.

NOTICE REGARDING FIREARMS

Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate control in accordance with item 9 above.

Item 11 lists the papers that must be personally served on the defendant.

Courts generally require that the defendant be served at least 5 days before the hearing. But the court may shorten the time.

List the addresses of all law enforcement agencies that enforce the law where harassment has occurred or is likely to occur in the future.

After this order is signed by the judge, you or your attorney must take a copy of this order to the law enforcement agencies immediately if you want them to be able to enforce it.

PLAINTIFF (Name): DEFENDANT (Name):	CASE NUMBER:
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INSTRUCTIONS FOR THE DEFENDANT

1. If you are served with an *Order to Show Cause (Workplace Violence) [OSC]* (form WV-120) and a *Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee [Petition]* (form WV-100), 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. Read the papers served on you very carefully. The **OSC** tells you when to appear in court and may contain a temporary restraining order forbidding you from doing certain things. **If you disobey the court's orders, criminal charges may be filed against you.**
3. If you wish to oppose the **Petition**, or make your own request for court orders, you should file a *Response to Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee [Response]* (form WV-110).

In addition to the **Response**, you may file and serve declarations signed by persons who have personal knowledge of the facts. A declaration form (form MC-031) is available from the clerk's office of the court shown on page one of this form. If you do not know how to prepare a declaration, you should see an attorney. After you have filed the **Response** with the clerk of the court, 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 who serves the plaintiff should complete and sign a *Proof of Service of Completed Response (Workplace Violence)* (form WV-131). You should take the completed form back to the court clerk or bring it with you to the hearing.

4. If you wish to oppose the petition, in addition to filing a **Response** you should be present at the hearing. If you have any witnesses, they must also be present.
5. An instruction booklet entitled *Instructions for Petitions to Prohibit Workplace Violence* (form WV-150) is available from the clerk's office at the court shown on page one of this form.

Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for *Request for Accommodations by Persons With Disabilities and Order* (form MC-410). (Civil Code section 54.8.)



SP04-06

Workplace Violence Prevention

(revise forms WV-100, WV-110, WV-120, WV-130, WV-131, WV-132, WV-140, and WV-150)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Hon. Ronald Bauer Rules and Forms Committee Superior Court of California, County of Orange Santa Ana, California	AM	Y	Judge Ronald L. Bauer and the Rules & Forms committee members from Orange County Superior Court reviewed this item and felt the proposed form as it stands would require a separate case number for each employee in a place of business. This may create an additional burden on the clerk's office and the courtroom hearing multiple cases for the same incident or place of business. It was suggested that one case number should be assigned to each employer, with subsequent petitions for each employee listed as "A," "B," "C," etc.	The issue of assigning case numbers is a responsibility of the courts and not directly a function of the form. However, the committee recommended revising the form to identify related cases more easily at the outset. Hence, items 14 and 15 were moved to the first page under item 5, "Related Actions."
2.	Cynthia A. Carbajal Supervisor Cental Justice Center Santa Ana, California	AM	N	Workplace Violence Orders – have the "personal contact order" easier to understand. Firearm Provisions – place this in the same place on all orders.	This provision has been modified. It is consistently located after the Personal Conduct and Stay Away Orders.
3.	Peggy Kelly and Valerie Fercho-Tillery, Field Representative and DVROS Manager, California Department of Justice Sacramento, California	AM	N	<u>WV-100:</u> At the bottom of all four pages, add the wording "This is not a Court Order." Place the wording in a black box similar to the DV forms. Page 1: Remove the check box in the heading next to APPLICATION FOR TEMPORARY RESTRAINING ORDER. This box seems unnecessary. Items 8 and 9: Remove the check box for "to be ordered now and effective until the hearing." These boxes seem unnecessary.	The committee agreed that the wording should be added, but in the standard format. The committee disagreed; the box is necessary to indicate that a temporary restraining order is being requested. The committee disagreed; if checked, the boxes indicate that a temporary order is requested.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SP04-06
Workplace Violence Prevention
(revise forms WV-100, WV-110, WV-120, WV-130, WV-131, WV-132, WV-140, and WV-150)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Page 2: Item 16 should be moved to page 1, item 3.</p> <p><u>WV-110:</u> At the bottom of both pages, add the wording, "This is not a Court Order."</p> <p>Page 2: Item 8b, remove. This seems unnecessary.</p> <p><u>WV-120:</u> At the bottom of all four pages, add the wording "This is a Court Order."</p> <p>At the bottom of page one, the wording "Optional Use" should be "Mandatory Use." The WV-100 and WV-110 are mandatory.</p> <p>At the bottom of page one add the wording "Approved by DOJ."</p> <p>Page 2: Item 5b, add sex male/female with check boxes, and date of birth, for the protected employee.</p> <p>Item 7e, add (specify) after protected persons' vehicles.</p> <p>Item 8, change the verbiage on the last line from ". . . unless a criminal domestic protective or restraining order prohibits such contacts" to ". . . unless a criminal protective order or other restraining order prohibits such contacts."</p>	<p>The committee agreed.</p> <p>This is not necessary.</p> <p>The committee disagreed. Costs are different from expenses.</p> <p>The committee disagreed. This is unnecessary because it is clear that the document is in order.</p> <p>The committee agreed.</p> <p>The committee added this wording.</p> <p>The committee added the box.</p> <p>The committee did not think this is necessary.</p> <p>The committee agreed with this suggestion.</p>

SP04-06

Workplace Violence Prevention

(revise forms WV-100, WV-110, WV-120, WV-130, WV-131, WV-132, WV-140, and WV-150)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Page 3: Bottom of the page, first box, third sentence: I did not see in the Code of Civil Procedure where a workplace violence restraining order could be verbally served by a law enforcement officer based upon an inquiry into the DVROS. . . . If the order cannot be verbally served by a law enforcement officer, this sentence would need to be removed.</p> <p>Bottom of the page, second box labeled “Notice Regarding Firearms,” add to the end of the first sentence: “. . .and must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control”</p> <p><u>WV-130:</u> Add the WV-145 to the list of documents in item 2.</p> <p><u>WV-140:</u> At the bottom of all three pages, add the wording “This is a Court Order.”</p> <p>At the bottom of page one, the wording “Optional Use” should be “mandatory use.” The WV-100 and WV-110 are mandatory.</p> <p>At the bottom of page one add the wording “Approved by DOJ.”</p> <p>Page 1: Item 3. Remove the box and Temporary</p>	<p>The sentence has been removed.</p> <p>The committee agreed, but would also add at the end the words: “in accordance with item 9 above” so that the notice will be clear and consistent with the order.</p> <p>The committee agreed with this suggestion.</p> <p>This is not necessary. It is clear that this is an order.</p> <p>The committee agreed.</p> <p>The committee added this wording.</p> <p>The committee disagreed.</p>

SP04-06

Workplace Violence Prevention

(revise forms WV-100, WV-110, WV-120, WV-130, WV-131, WV-132, WV-140, and WV-150)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Judge. This seems unnecessary.</p> <p>Page 1: Item 5c. On page 2 of the WV-150, under the heading “Whom can an employer protect under this law?,” it states that family or household members can only be protected for 15 days. Therefore, shouldn’t 5c be removed?</p> <p>Page 2: Item 6. If family or household members cannot be protected (see comment above regarding number 5c on page 1), you need to remove, “and the protected persons, listed in item 5c.” In items 6a through 6e you would also need to remove all references to “other protected persons.”</p> <p>Item 7: If family or household members cannot be protected, remove all references to “other protected persons and the employee’s children’s school or place of child care.</p> <p>Item 7a(5): Add (specify): after the word vehicles.</p> <p>Item 7b: Change the verbiage on the last line from “... at during mediation shall be permitted, unless a criminal domestic protective or restraining order prohibits such contacts.” To “...at during mediation shall be permitted, unless a criminal protective order or other restraining order prohibits such contacts.”</p> <p>Page 3: Bottom of page, first box, third sentence: I</p>	<p>No. The committee included that item 5c should remain as it is. (See C.C.P., §527.8(e) (temporary restraining orders and injunctions may include other named family or household members).)</p> <p>As explained above, other family and household members can be protected by an injunction after hearing. So these items should not be changed.</p> <p>See previous response.</p> <p>The committee did not think this is necessary.</p> <p>The committee agreed with this suggestion.</p> <p>The committee agreed.</p>

SP04-06

Workplace Violence Prevention

(revise forms WV-100, WV-110, WV-120, WV-130, WV-131, WV-132, WV-140, and WV-150)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>did not see in the Code of Civil Procedure where a workplace violence restraining order could be verbally served by a law enforcement officer based upon an inquiry into the DVROS. . . . If the order cannot be verbally served by a law enforcement officer, this sentence would need to be removed.</p> <p>Bottom of the page, second box labeled “Notice Regarding Firearms,” add to the end of the first sentence “...and must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control.”</p> <p><u>WV-150:</u> At the bottom of pages 2 through 11, correct the revision date to read July 1, 2004.</p> <p>At the bottom of page 12 add WV-150 [Rev. July 1, 2004]</p> <p>Page 4: Item 11, the statement, “File the completed Proof of Personal Service (form WV-130) with the court and deliver copies stamped Endorsed-Filed to law enforcement agencies” is incorrect. According to Family Code, § 6380(d)(1) & (2), this is the job of the court or the law enforcement agency that served the order ... not the protected person.</p>	<p>The committee agreed that the sentence should be included, but would also add at the end the words: “in accordance with item 8 above” so that the notice will be clear and consistent with the order.</p> <p>The revision date has been revised to indicate the current revision, i.e., as of January 1, 2005.</p> <p>The committee agreed. The sentence has been modified.</p>
4.	Kim Hubbard President	AM	Y	<p><u>WV-100:</u> It is not necessary to include information for persons</p>	The committee agreed.

SP04-06**Workplace Violence Prevention****(revise forms WV-100, WV-110, WV-120, WV-130, WV-131, WV-132, WV-140, and WV-150)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Orange County Bar Association Irvine, California			with hearing disabilities on this form, since the information is included on Form WV-120. <u>WV-150:</u> The statements under “Should You See A Lawyer?” may be misleading. Many employers are corporations. It is well- established law that corporations can only appear in court through an attorney. Even though C.C.P. Section 527.8(g) does not preclude an employer from appearing on his or her own behalf, it does not authorize a corporation to appear except through an attorney.	The committee agreed with this comment and added a clause to the Instructions explaining that a corporation must be represented by a lawyer.
5.	Leonard Sacks Attorney Granada Hills, California	AM	N	However, how do you enforce firearms prohibition? Is a search warrant going to be used? Does the court have the power to order a search under the circumstances?	These questions go beyond the scope of the forms.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.