CR-164 Retail Crime Restraining Order—Criminal

(1) Criminal Restraining Order

☐ This is a postconviction criminal restraining order issued under Penal Code section 490.8(a).

(2) Restrained Person

(Information that has a star (*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

*Name: _____

*Gender: ☐ M ☐ F ☐ Nonbinary   *Race: _____

*Date of Birth: _____   Age: _____

Height: _____   Weight: _____

Hair Color: _____   Eye Color: _____

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

(3) Protected Retail Establishment

Name: _____

Address: _____

☐ Additional addresses: The court finds that the retail establishment is part of a chain or franchise and includes the following additional establishments in the state of California and *(choose one):* ☐ within the County of _____ or ☐ within _____ miles of the address above *(list additional establishments and addresses)*:

(4) Expiration Date

This order expires on *(date):* _____ at *(time):* _____ ☐ a.m. ☐ p.m. ☐ midnight

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

(5) Hearing

This proceeding was heard on *(date):* _____ at *(time):* _____

in Dept.: _____ by *(judicial officer):* _____

(6) Service

a. The restrained person personally attended the hearing. No other proof of service is needed.

b. The restrained person did not attend the hearing. Law enforcement or someone who is at least 18 years old and not a party to the action must personally serve a copy of this Order on the restrained person.

This is a Court Order.

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(7) Stay-Away Order

The restrained person must not:

- Enter any retail establishment named in **(3)**.
- Be present on the grounds of any retail establishment named in **(3)**.
- Be present on any parking lot next to and used for any retail establishment named in **(3)**.

Not obeying this order can result in being arrested and charged with a crime and can include up to six months in jail.

(8) Number of pages attached to this Order, if any: _____

Date: _____   _____
                                                                    Judicial Officer

This is a Court Order.

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, and the restrained person was not present at the court hearing (see ⑥), 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 Orders

This Order *starts* on the date next to the judge's signature on page 2 and *ends* on the expiration date in ④ on page 1.

Notice/Proof of Service

The law enforcement officer must first determine if the restrained person had notice of the order. If notice cannot be verified, the officer must advise the restrained person of the terms of the order and then enforce it. (Fam. Code, § 6383(e).)

Consider the restrained person served (given notice) if:

• 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 at the hearing or 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.

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected party from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO):* If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must also be enforced.

2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced.

3. *Criminal Protective Order (CPO):* If none of the orders includes an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2), 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code section 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must also be enforced.

4. *Civil Restraining Orders:* If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment, retail crime), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must also be enforced.

Clerk's Certificate
[seal]

(Clerk will fill out this part.)

—Clerk's Certificate—

I certify that this *Retail Crime Restraining Order—Criminal* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____ , Deputy

This is a Court Order.