

HOW DO I GET A RESTRAINING ORDER?

A “Restraining Order” is unusual because it orders someone to stop doing something BEFORE it happens. So, the law has very strict requirements.

First: Is the HARM that you’re claiming very bad and likely to continue if the court doesn’t intervene?

Second: Is there some other way to REMEDY the problem, such as seeking money damages at a later time?

Third: If YOU are wrong, are you prepared to PAY the other side their costs and attorney’s fees?

If so, here’s what to do:

A. FILL in the APPLICATION for TEMPORARY RESTRAINING ORDER.

Be very detailed in the HARM that you’re claiming. Simply saying that the other person is “harassing” or “bothering” is not enough. Include details of the incidents, including the date and place.

And be detailed in the kind of RELIEF you want, such as “make the Defendant stay away from me” or “Stop the Defendant from coming onto my property.”

Sign the application before a NOTARY PUBLIC. This means that what you’ve written down is sworn to be the truth.

B. FILE the APPLICATION with the Clerk of the Court and pay the filing fee of \$122.00. The Clerk will then assign a Judge to hear your case.

C. TAKE the Application and the Temporary Restraining Order [TRO] to the JUDGE and ask the Judge to review it and sign the Order. The Judge will set a DATE and TIME for a HEARING.

D. FILE the signed TRO with the Clerk of the Court and ask for at least two (2) endorsed copies. Keep one copy for yourself.

E. SERVE the other person the following papers:

- 1. The endorsed Application for Temporary Restraining Order; and**
- 2. The endorsed Temporary Restraining Order;**

SERVICE IS VERY IMPORTANT

“Serve” means placing the Application and the Temporary Restraining Order in the hands of the other party; in other words, service must be PERSONAL. Mailing the papers is NOT good enough, not even Certified Mail.

Anyone who is over 18 and who is not a party to the case may serve the papers. That means the Petitioner CANNOT serve the papers. The Sheriff’s Office or a professional process server can serve but they usually charge a fee. If the Court has already found that the Petitioner can’t pay court fees, the Sheriff will serve the papers for free.

To prove service, ask the person who performed the service to complete the RETURN OF SERVICE and then make sure it is filed with the Clerk of the Court.

D. ATTEND the hearing at the date and time set and bring evidence, such as witnesses or documents, and be prepared to prove your claim in court. Let the court know if you need an Interpreter.

Here are some useful telephone numbers:

Santa Fe Police Dept.	473-5080
Santa Fe Sheriff	986-2455
Rio Arriba Sheriff	753-3320
Los Alamos Sheriff	662-8028
Clerk of the Court	476-0189

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF Santa Fe, Rio Arriba or Los Alamos**

Plaintiff

vs.

No. _____

Defendant

APPLICATION FOR A RESTRAINING ORDER

I am the Plaintiff and I request a RESTRAINING ORDER, for these reasons:

1. I live in _____ County, New Mexico.
2. The person or persons I want a Restraining Order against live at this address:
[include address, city, state and zip code]

3. Defendant and Plaintiff are not married or formerly married to each other, nor are they members of the same family, nor relatives nor co-parents of a child. This is not a family case.

4. Defendant has done some acts that seriously harm me. Those acts are:

[include the place, the date and the time and add extra pages if needed.]

5. I have no adequate remedy at law for the harm threatened by Defendant [such as money damages] and, if the court doesn't act to stop the Defendant, I will suffer irreparable harm.

PLAINTIFF REQUESTS THE COURT TO ISSUE THE FOLLOWING ORDERS:

- A. A Temporary Restraining Order until a hearing can be had on this matter;
- B. A Preliminary Injunction effective until a final decision made on the merits;
- C. A Permanent Restraining Order effective until further notice from the Court.

PLAINTIFF SPECIFICALLY REQUESTS THAT THE COURT ORDER THAT:

_____ The Defendant does not threaten, harm, alarm or annoy me or my family and household members.

_____ The Defendant stay at least _____ yards away from me, my residence, my workplace and my child(ren)'s school.

_____ The Defendant does not telephone me or contact me any way;

_____ The Defendant does not block me in public places or roads;

_____ I also request that Defendant be ordered not do the following:

PLAINTIFF ALSO REQUESTS the Defendant pay me back for the costs and expenses I incurred in bringing this case and for any other relief that the Court deems proper.

RESPECTFULLY SUBMITTED:

Signature of Plaintiff

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF Santa Fe, Los Alamos or Rio Arriba**

Plaintiff

v.

No.

Defendant

TEMPORARY RESTRAINING ORDER

THIS MATTER came before the Court on Application and the Court, being fully advised, FINDS:

1. Immediate and irreparable injury will result to the Plaintiff if a restraining order is not issued immediately as requested by Plaintiff.

2. No notice need be given to Defendant as required by the Rules of Civil Procedure.

3. There are good grounds to show a preliminary injunction may be needed in this case.

4. This order shall be effective for a period of ten days unless extended or modified.

IT IS THEREFORE ORDERED that:

_____ Defendant not threaten, harm, alarm or annoy Plaintiff.

_____ Defendant not threaten, harm, alarm or annoy Plaintiff or Plaintiff's family and household as named here: _____

_____ Defendant stay at least _____ yards away from Plaintiff and from Plaintiff's residence, workplace and child(ren)'s school.

_____ Defendant not telephone Plaintiff or contact Plaintiff in any way,
either directly or through others;

_____ Defendant not block Plaintiff in public places or roads;

_____ Further, Defendant is ordered not do the following:

IT IS FURTHER ORDERED that Defendant appear and show cause before the Court why the Temporary Restraining Order should not be extended or a preliminary injunction issued as Plaintiff requests by appearing before the Court in the Santa Fe County Judicial Complex, located at the corner of Grant and Catron Avenues, Santa Fe, New Mexico as follows::

Date: _____

Time: _____

In the Courtroom of the Honorable Judge_____.

District Judge

Date Issued: _____

Time Issued: _____

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF SANTA FE, RIO ARRIBA or LOS ALAMOS**

Petitioner,

-vs.-

Case No.: _____

Respondent,

INFORMATION SHEET

Name: _____ **A/K/A** _____

Social Security No. _____ **Date of Birth** _____

Height _____ **Weight** _____ **Hair Color** _____

Eye Color _____ **Glasses? Yes** [] **No** []

Marks, Tattoos or Scars: _____

Languages Spoken: English [] **Spanish** [] **Other** [_____]

Mailing Address: _____

Work Location: _____

Telephone Number at Home _____ **Work** _____

Describe Vehicle: _____ **License No.** _____

Probable Location at this time: _____

Most Likely Time of Availability _____

Please draw a MAP in the space below if needed:

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF Santa Fe, Los Alamos or Rio Arriba**

Plaintiff

v.

No. _____

Defendant

PRELIMINARY INJUNCTION

THIS MATTER having come before the Court on its Temporary Restraining Order, and the Court having considered the pleadings and having heard the testimony and being otherwise advised, **FINDS:**

1. This court has jurisdiction over the parties and subject matter of this action.
2. Irreparable injury will result to the Plaintiff if a preliminary injunction and restraining order is not issued.
3. Plaintiff has no adequate remedy at law.
4. The burden on Defendant is reasonable under the circumstances.

WHEREFORE, IT IS ORDERED that the Temporary Restraining Order issued in this case be and is continued in full force and effect until a final decision on the merits, or until further notice of this court.

District Judge

Copies to Both Parties

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF Santa Fe, Los Alamos or Rio Arriba**

Plaintiff

v. _____
No. _____

Defendant

PERMANENT INJUNCTION

THIS MATTER came before the Court for hearing and the Court, having considered the pleadings and heard the testimony and being otherwise advised, FINDS:

1. The court has jurisdiction over the parties and subject matter of this action.
2. Irreparable injury will result if a permanent injunction is not issued.
3. Plaintiff has no adequate remedy at law.
4. The burden on Defendant is reasonable under the circumstances.

IT IS THEREFORE ORDERED that:

_____ Defendant not threaten, harm, alarm or annoy Plaintiff.

_____ Defendant not threaten, harm, alarm or annoy Plaintiff or Plaintiff's family and household as named below: _____

_____ Defendant stay at least _____ yards away from Plaintiff, and from the Plaintiff's residence, workplace and child(ren)'s school.

_____ Not telephone Plaintiff or contact Plaintiff any way.

_____ Not block Plaintiff in public places or roads.

_____ Further, Defendant is ordered not do the following: _____

District Judge

Date: _____