

DISTRICT COURT OF THE FIFTH CIRCUIT JUDICIAL CIRCUIT
CIVIL DIVISION
3970 KA'ANA STREET
LIHU'E, HAWAI'I
TELEPHONE NO. (808) 482-2303

PREPARATION INSTRUCTIONS

PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER

1. Complete, sign and date the TRO in BLACK INK.
2. Petitions involving minors must be stated as "Parent/Guardian's name on behalf of minor's name, Minor."
3. Petitions involving yourself and a minor must be stated as "Your name, individually and on behalf of minor's name, Minor."
4. After you complete the TRO, present it to the District Court Civil Division clerk and he/she will forward it to the Judge for review. Make sure the Serving Instructions and Petitioner's Information are completed thoroughly. The information provided on the Serving Instructions will assist the Kaua'i Police Department/Process Server with serving the Respondent.
5. If your TRO is approved by the Judge, the TRO will be filed, a court date will be issued and certified copies will be made for all approved parties in the TRO.
6. You must effectuate service of the TRO upon the Respondent by either going to the Kauai Police Department's customer service window located at 3990 Ka'ana Street, Lihu'e (located directly across from the courthouse), or via a process server of your choice.
7. IT IS YOUR RESPONSIBILITY TO CONTACT THE KAUA'I POLICE DEPARTMENT OR PROCESS SERVER AND INQUIRE AS TO THE STATUS OF SERVICE.

HOW TO GET A DISTRICT COURT PROTECTIVE ORDER (FIFTH JUDICIAL CIRCUIT)

Temporary Restraining Orders (TROs) are issued by the District Court when the Court determines there has been a pattern of harassment including: physical/sexual violence, threats of violence, malicious property damage, psychological abuse, stalking and/or repeated unwanted contact.

If you are not related to the person who is abusing you and have never lived together, go to the District Court Civil Division window to file a request for a TRO. You can apply for a TRO between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except for holidays. No appointment is necessary.

District Court Civil office main line: (808) 482-2303

FILLING OUT THE FORMS

A clerk will assist you with the proper forms. You are the “Petitioner” and the party you are filing against is the “Respondent.” If the TRO is granted, the Respondent must be served with a copy. Please inform the clerk if you are afraid to disclose your address and contact information.

The petition should contain all past dates of harassment and specifics regarding violence or threats of violence. Describe the physical and psychological abuse, the verbal threats and any property damage. You can include police reports or other documents, but please redact any confidential information. **Failure to provide a detailed statement may result in the petition being denied.** If you do not leave contact information with the clerk, you must call the District Court Civil Division office to check on the approval status of your TRO.

If the Petitioner is under the age of 18, the petition must be filed by the Petitioner’s parent or legal guardian on behalf of the Petitioner. If the Respondent is under the age of 18, the petition must be filed naming the Respondent’s parent or legal guardian on behalf of the minor. Minor(s) must appear with his/her parent(s) or legal guardian(s). If you are an emancipated minor, you can file a petition in your name alone with sufficient written proof of your emancipation.

If your petition is granted by the Judge, a TRO/Injunction hearing will be scheduled within 15 days. The clerk will assign a hearing date and time which will be included in the TRO.

It is optional to have an attorney at the hearing. If you decide to go to the hearing without an attorney, be prepared to present your case to the Judge.

There is a non-refundable filing fee of \$15.00. If you cannot afford the filing fee, please ask the clerk for an Ex Parte Application for Relief of Costs. This form must be submitted at the same time as the petition. A Judge will review the request and render a determination.

SERVICE OF THE TRO ON THE RESPONDENT

You will be provided with certified copies of all documents after your application has been reviewed and approved by the Judge. You may deliver the Respondent's copy to the Kaua'i Police Department located at 3990 Ka'ana Street, Lihu'e, for service. As an alternative, you may utilize a Civil Process Server or anyone over the age of 18 who is not a party to the case to have the TRO served upon the Respondent. Upon service of the TRO, a "Return of Service; Acknowledgment of Service" must be filed with the court. You must appear at the court hearing even if the Respondent has not been served. Further instructions will be given at the hearing. ***A non-appearance by the Petitioner (you) may result in a dismissal of the TRO.***

AFTER RESPONDENT HAS BEEN SERVED

The TRO orders the Respondent not to contact you. While the TRO is in effect, there should be no contact either by Respondent or by anyone acting on the Respondent's behalf. Immediately report any violation(s) to the police. If you invite contact with the Respondent, your TRO is still valid, but this may raise concerns and the Court and police may question your actions. ***Keep a copy of your TRO with you at all times.***

TRO/INJUNCTION HEARING

A TRO hearing is where the Judge decides whether or not to extend the TRO for up to three (3) years. You must appear at all hearings, regardless of service upon the Respondent. Please bring your copy of the TRO with you to the hearing.

If the Respondent was not served, ask the Judge for a new hearing date. You will then be instructed to proceed to the District Court Civil Division window to prepare and have filed an Amended Notice of Hearing. The Respondent will need to be served with the TRO and the Amended Notice of Hearing.

If the Respondent was served and fails to show at the hearing, the Judge may issue an Injunction for up to three (3) years. The Injunction is not effective until the Respondent is served with a copy. You will receive your copy at the hearing.

If after the hearing an Injunction is ordered to replace the TRO, stay in the courtroom until you are provided with a certified copy of the Order for Injunction. Keep a copy of the Injunction with you at all times and immediately report any violation(s) to the police.

PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND FOR INJUNCTION AGAINST HARASSMENT; DECLARATION OF PETITIONER(S); TEMPORARY RESTRAINING ORDER AGAINST HARASSMENT; AND NOTICE OF HEARING

Form # _DC51

IN THE DISTRICT COURT OF THE FIFTH CIRCUIT STATE OF HAWAI'I	
Petitioner(s)	Reserved for Court Use
Respondent(s) (if known, list Address, Telephone, and email address for each respondent)	Civil No.
Respondent(s) (if known, list Address, Telephone, and email address for each respondent)	Petitioner(s)/Petitioner(s)' Attorney (Name, Attorney Number, Firm Name (if applicable)), Address, Telephone and email address
PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND FOR INJUNCTION AGAINST HARASSMENT	
This Petition is made pursuant to Hawai'i Revised Statutes § 604-10.5 and the following statement:	
<ol style="list-style-type: none"> 1. This court has jurisdiction because the Petitioner(s) resides or is temporarily located; the Respondent(s) resides and/or the harassment occurred in this division. 2. Based upon the attached Declaration of Petitioner(s), Petitioner(s) ask(s) for: <ol style="list-style-type: none"> a. An ex parte temporary restraining order not to exceed a period of ninety (90) days for protection enjoining Respondent(s) and any other person(s) acting on Respondent(s)' behalf from: <ul style="list-style-type: none"> <input type="checkbox"/> contacting, threatening, or physically harassing Petitioner(s) <input type="checkbox"/> telephoning the Petitioner(s) <input type="checkbox"/> entering or visiting Petitioner(s)' <input type="checkbox"/> residence, including yard and garage and <input type="checkbox"/> workplace or school. b. An order of an Injunction not to exceed a period of three (3) years, enjoining Respondent(s) and any other person(s) acting on Respondent(s)' behalf from committing those acts set forth in paragraph 2a, hereof. c. An order prohibiting Respondent(s) from owning or possessing an electric gun, firearm(s) and/or ammunition d. An order awarding reasonable attorney's fees and costs to Petitioner(s) and such further relief as the Court deems just and appropriate. 	
Date:	Signature of Petitioner(s)/Petitioner(s)' Attorney:
	Print/Type Name(s):

DECLARATION OF PETITIONER(S)

Petitioner states the following is true:

- Recent or past act(s) of harassment occurred; and/or
- Threats of harassment make it probable that acts of harassment may occur soon.

Respondent(s) own; possess; or intend to obtain or possess unknown

- firearm(s) and/or ammunition that may be used to threaten or injure Petitioner(s).
- Electric gun

Describe the firearm(s)/ammunition or electric gun: _____.

Location of firearm(s)/ammunition or electric gun: _____.

Date last seen: _____.

Street address/ specific location where last seen: _____.

(Briefly and clearly explain how you have been harassed or how you have been threatened with harassment, including all relevant dates. Write legibly so the Court can read your statement. Use additional sheets only if necessary.)

- Unless Respondent(s)' wrongful conduct is stopped or prevented by order of the Court, Petitioner(s) will suffer emotional distress.

I have read the Petition and Declaration, know their contents, and verify that the statements contained therein are true to my personal knowledge and belief.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF HAWAI'I THAT THE FACTS AND CIRCUMSTANCES STATED IN THE PETITION AND DECLARATION ARE TRUE AND CORRECT.

Date:	Signature of Petitioner(s):
	Print/Type Name(s):

TEMPORARY RESTRAINING ORDER AGAINST HARASSMENT

Based upon the attached Petition for Ex Parte Temporary Restraining Order and Declaration of the Petitioner(s) and pursuant to **Hawai'i Revised Statutes §604-10.5**, the Court finds there is probable cause to believe:

- Recent or past acts of harassment by Respondent(s) have occurred.
- Threats of harassment by Respondent(s) make it probable that acts of harassment may be imminent against Petitioner(s).

It appears to the Court that a Temporary Restraining Order should be granted and is necessary to prevent acts of harassment. Accordingly, IT IS ORDERED that Respondent(s) shall appear before the Judge in the above-entitled proceeding at the date, time and place indicated in the Notice of Hearing below. Pending the hearing on this Petition, Respondent(s) is/are ordered as follows.

TO THE RESPONDENT:

YOU AND ANYONE ACTING ON YOUR BEHALF ARE ORDERED AS FOLLOWS:

- Do not phone, contact, threaten, or physically harass Petitioner(s)
- Stay ___ feet from Petitioner(s) at all times.
- Do not enter or visit Petitioner(s)' residence, including yard and garage and work place or school.
- Pursuant to HAWAI'I REVISED STATUTES §134-7, you shall not possess or control any electric guns, firearm(s) and/or ammunition for the duration of this Temporary Restraining Order.
- You shall immediately turn over for safekeeping all electric guns, firearms and/or ammunition in your possession and control to the Kauai Police Department (*Firearms Unit, 3990 Ka'ana Street, Lihue, Hawai'i 96766*) for the duration of this Order or any extensions thereof.

This Order becomes effective upon its signing and filing and shall remain in effect for fifteen (15) days, unless extended or terminated by the Court.

ANY KNOWING OR INTENTIONAL VIOLATION OF THIS TEMPORARY RESTRAINING ORDER AGAINST HARASSMENT IS A MISDEMEANOR PUNISHABLE BY A JAIL SENTENCE OF UP TO ONE YEAR AND/OR UP TO A \$2,000 FINE. A SENTENCE OF 48 HOURS JAIL FOR A SECOND CONVICTION AND 30 DAYS JAIL FOR ANY SUBSEQUENT CONVICTION(S) IS MANDATORY.

Date:

Judge of the above-entitled Court

NOTICE OF HEARING

TO: _____

NOTICE IS GIVEN that the Petitioner(s) above named has/have filed the foregoing Petition for Ex Parte Temporary Restraining Order and for Injunction Against Harassment.

YOU ARE COMMANDED to appear before the Presiding Judge of the above-entitled Court, the District Court of the above Circuit, located at 3970 Ka'ana Street, Lihue, Hawai'i 96766 – Judiciary Complex – Courtroom 2, on _____, _____ at _____ o'clock ____m.

Prior to the scheduled hearing date, you or your attorney may file a written response explaining, excusing, justifying, or denying the alleged act or acts of harassment. At the hearing, the parties shall be prepared to testify, call and examine witnesses, present any documents, and give legal or factual reasons why the Injunction should or should not be granted. Each party may be represented by an attorney and shall be prepared to proceed at the hearing. **IF YOU OR YOUR ATTORNEY FAIL TO ATTEND AT THE TIME AND PLACE DESIGNATED, AN ORDER GRANTING PETITION FOR INJUNCTION AGAINST HARASSMENT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE PETITION.**

The Court shall receive all evidence that is relevant at the hearing, and may make independent inquiry. If the Court finds by clear and convincing evidence that harassment by Respondent(s) in the form of physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault to Petitioner(s) exists, it may enjoin for no more than three years further harassment by Respondent(s). If the court finds by clear and convincing evidence that harassment by Respondent(s) in the form of an intentional or knowing course of conduct directed at Petitioner(s) that seriously alarms or disturbs consistently or continually bothers Petitioner(s) and that serves no legitimate purpose exists, and such course of conduct would cause a reasonable person to suffer emotional distress, the court shall enjoin for no more than three years, further harassment by Respondent(s).

This Order shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a judge of the above-entitled Court permits, in writing on this Order, personal delivery during those hours.

Date:

Clerk of the above-entitled Court

For Civil related matters, please call **(808) 482-2303** or visit the District Court at 3970 Ka'ana Street, Lihue, Hawai'i 96766.



American with Disabilities Act Notice

If you need an accommodation for a disability when participating in a court program, service, or activity, please contact the ADA Coordinator as far in advance as possible to allow time to provide an accommodation.

- Call the ADA Coordinator at PHONE NO. (808) 482-2347, FAX (808) 482-2509, or TTY (808) 482-2533
- Send an e-mail to adarequest@courts.hawaii.gov.

The ADA Coordinator will try to provide, but cannot guarantee, the requested auxiliary aid, service, or accommodation.