

RE: Proposal to amend the District Court Rules of Civil Procedure, Form DC51 also identified as Form “1DC51”

PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER  
AND FOR INJUNCTION AGAINST HARASSMENT

The Supreme Court of Hawai‘i seeks public comment regarding proposed amendments to the District Court Rules of Civil Procedure (DCRCP) Form DC51, also identified as Form “1DC51” (Petition for Ex Parte Temporary Restraining Order and for Injunction Against Harassment) that conform to the 2023 Hawai‘i Session Laws Act 81, § 2 (codified at Hawai‘i Revised Statutes (HRS) § 604-10.5) and 2021 Hawai‘i Session Laws Act 183, § 2 (codified, in pertinent part, at HRS § 134-86(g)), and include technical amendments and formatting changes.

The Ramseyer version of the proposed DCRCP Form DC51 is attached. The proposed language to be added is underscored, and the language to be deleted is bracketed and stricken as illustrated in this ~~example~~.

Comments should be submitted, in writing, **no later than Monday, April 29, 2024** to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the [Judiciary website](#).

Attachment

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

<b>IN THE DISTRICT COURT OF THE _____ CIRCUIT DIVISION STATE OF HAWAII</b>	
Petitioner(s)	Reserved for Court Use
Respondent(s) (if known, list Address, Telephone, <del>[DOB and SSN]</del> and email address for each respondent)	Civil No. [+] _DSS  Petitioner(s)/Petitioner(s)' Attorney (Name, Attorney Number, Firm Name (if applicable)), Address, Telephone and <del>[Facsimile Numbers]</del> email address

**PETITION FOR EX PARTE TEMPORARY RESTRAINING ORDER AND FOR INJUNCTION AGAINST HARASSMENT**

This Petition is made pursuant to Hawai'i Revised Statutes ~~[section]~~ §604-10.5 and the following statement:

1. ~~[The Petitioner(s) is a resident(s) of the Division of the above District and Circuit, State of Hawai'i.]~~ 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:
  - 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:
    - contacting, threatening, or physically harassing Petitioner(s)  
 ~~Petitioner(s)~~  any person(s) residing at Petitioner(s)' residence
    - telephoning the Petitioner(s)
    - entering or visiting Petitioner(s)'  residence, including yard and garage and  ~~[place of employment]~~ 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.

[(continued on reverse side)]

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

[FR0.3XX (Amended 7/12/00)]

**SEE REVERSE SIDE**

[I certify that this is a full, true, and correct copy of the original on file in this office:  _____ Clerk, District Court of the above Circuit, State of Hawai'i]
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**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
- 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: \_\_\_\_\_.

~~[(Explain in detail recent or past acts or threats of harassment, using additional sheets, if necessary.)]~~ (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):
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**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) [~~and~~  any person(s) residing at Petitioner(s)' residence]
- [~~Do not telephone~~ Petitioner(s)] Stay \_\_\_\_\_ feet from Petitioner(s) at all times.
- Do not enter or visit Petitioner(s)'  residence, including yard and garage[;] and  [~~place of employment~~] 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 [Honolulu Police Department (Firearms Unit, Main Station, 801 So. Beretania Street, 1<sup>st</sup> Floor, Honolulu Hawai'i 96813)], \_\_\_\_\_ [space reserved for police department address] \_\_\_\_\_ 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. [HAWAI'I REVISED STATUTES §604-10.5, §706-663 AND §706-640].**

Date:	Judge of the above-entitled Court
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**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, at [1111 Alakea Street, 10<sup>th</sup> Floor, Courtroom B, Honolulu, Hawai'i 96813], on \_\_\_\_\_, [20] at [8:30] o'clock [A.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, o[f] 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
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For Civil related matters, please call **(808)** \_\_\_\_\_ or visit the District Court at \_\_\_\_\_



[In accordance with the Americans with Disabilities Act if you require an accommodation for your disability, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, OR TTY 539-4853 at least ten (10) Working days in advance of your hearing or appointment date. For Civil related matters, please call 538-5151.]

**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 number)
- Send an e-mail to [adarequest@courts.hawaii.gov](mailto:adarequest@courts.hawaii.gov).

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