

**CH-130**

**Civil Harassment Restraining Order After Hearing**

Clerk stamps date here when form is filed.

**FILED**  
Clerk of the Superior Court

APR 19 2013

By: C. SCHMIDT, Deputy

Person in ① must complete items ①, ②, and ③ only.

**① Protected Person**

a. Your Full Name: Joseph Cardenas

Your Lawyer (if you have one for this case):

Name: William L. Miltner State Bar No.: 139097

Firm Name: Miltner, Polk & Menck APC

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: 402 West Broadway, Suite 800

City: San Diego State: CA Zip: 92101

Telephone: 619-615-5333 Fax: 619-615-5334

E-Mail Address: bill@miltnerlaw.com

Fill in court name and street address:

Superior Court of California, County of San Diego  
220 W. Broadway  
San Diego, CA 92101

Fill in case number:

Case Number:  
37-2012-000 34647

**② Restrained Person**

Full Name: Robertson Whittemore

Description:

Sex: <input checked="" type="checkbox"/> M <input type="checkbox"/> F	Height: <u>5'11"</u>	Weight: <u>165</u>	Date of Birth: <u>10/1944</u>
Hair Color: <u>grey/white</u>	Eye Color: <u>brown</u>	Age: <u>68</u>	Race: <u>Caucasian</u>
Home Address (if known): <u>8470 El Paseo Grande</u>			
City: <u>La Jolla</u>	State: <u>CA</u>	Zip: <u>92037</u>	
Relationship to Protected Person: <u>Neighbor</u>			

**③ Additional Protected Persons**

In addition to the person named in ①, the following family or household members of that person are protected by the orders indicated below:

Full Name	Sex	Age	Lives with you?	How are they related to you?
<u>Machelle Cardenas</u>	<u>F</u>	<u>48</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Wife</u>
<u>Faith Cardenas</u>	<u>F</u>	<u>10</u>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>Daughter</u>

~~Check here if there are additional protected persons. List them on an attached sheet of paper and write, "Attachment 3—Additional Protected Persons" as a title. You may use Form MC-025, Attachment.~~

Jacob Cardenas M 13  yes Son

**④ Expiration Date**

This Order, except for any award of lawyer's fees, expires at:

Time:  a.m.  p.m. or  midnight on (date): April 19, 2014

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

**This is a Court Order.**

**Hearing**

- a. There was a hearing on (date): April 17-19 at (time): 1:15 pm in Dept.: #6 Room: \_\_\_\_\_  
(Name of judicial officer): Albert Harutunian III made the orders at the hearing.
- b. These people were at the hearing:
  - (1)  The person in ① (3)  The lawyer for the person in ① (name): \_\_\_\_\_
  - (2)  The person in ② (4)  The lawyer for the person in ② (name): Joseph G. Dicks
  - Additional persons present are listed at the end of this Order on Attachment 5.
- c.  The hearing is continued. The parties must return to court on (date): \_\_\_\_\_ at (time): \_\_\_\_\_.

**To the Person in ②:**

The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

**6  Personal Conduct Orders**

- a. You must not do the following things to the person named in ①  and to the other protected persons listed in ③:
  - (1)  Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
  - (2)  Contact the person, either directly or indirectly, in any way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
  - (3)  Take any action to obtain the person's address or location. If this item is not checked, the court has found good cause not to make this order.
  - (4)  Other (specify): \_\_\_\_\_  
 Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order.

**7  Stay-Away Orders**

- a. You must stay at least \_\_\_\_\_ yards away from (check all that apply):
  - (1)  The person in ①
  - (2)  Each person in ③
  - (3)  The home of the person in ①
  - (4)  The job or workplace of the person in ①
  - (5)  The school of the children of the person in ①
  - (6)  The place of child care of the children of the person in ①
  - (7)  The vehicle of the person in ①
  - (8)  Other (specify): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- b. This stay-away order does not prevent you from going to or from your home or place of employment.

**This is a Court Order.**

**No Guns or Other Firearms and Ammunition**

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. If you have not already done so, you must:
  - Sell to a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.
  - File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in or sold. (You may use Form CH-800, Proof of Firearms Turned In or Sold, for the receipt.)
- c.  The court has received information that you own or possess a firearm.

**9**  **Lawyer's Fees and Costs**

The person in \_\_\_\_\_ must pay to the person in \_\_\_\_\_ the following amounts for:

<input type="checkbox"/> Lawyer's fees	<input type="checkbox"/> Court costs		
<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

Additional items and amounts are attached at the end of this Order on Attachment 9.

**10**  **Other Orders (specify):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional orders are attached at the end of this Order on Attachment 10.

**To the Person in 1 :**

**11** **Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (Check one):

- a.  The clerk will enter this Order and its proof-of-service form into CARPOS.
- b.  The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c.  By the close of business on the date that this Order is made, you or your lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

<u>Name of Law Enforcement Agency</u>	<u>Address (City, State, Zip)</u>
County Sheriff	220 W. Broadway
_____	San Diego, CA 92101

Additional law enforcement agencies are listed at the end of this Order on Attachment 11.

**This is a Court Order.**



**12) Service of Order on Restrained Person**

- a.  The person in ② personally attended the hearing. No other proof of service is needed.
- b.  The person in ② did not attend the hearing.
- (1)  Proof of service of Form CH-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in Form CH-110 except for the expiration date. The person in ② must be served with this Order. Service may be by mail.
- (2)  The judge's orders in this form are different from the temporary restraining orders in Form CH-110. Someone—but not anyone in ① or ③—must personally serve a copy of this Order on the person in ②.


**13)  No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this Order without charge because:

- a.  The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b.  The person in ① is entitled to a fee waiver.

**14)** Number of pages attached to this Order, if any: \_\_\_\_\_

Date: 4-19-13

  
\_\_\_\_\_  
Judicial Officer  
Albert T. Haroutunian.

**Warning and Notice to the Restrained Person in ② :**

**You Cannot Have Guns or Firearms**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms that you have or control as stated in item ⑧ above. The court will require you to prove that you did so.

**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, 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.

**This is a Court Order.**

Case Number:  
37-2012-000

### Start Date and End Date of Orders

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

### Arrest Required If Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed it, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

### Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- 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 restraining order 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. If proof of service on the restrained person cannot be verified and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the order and then enforce it.

### If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

### Conflicting Orders

A protective order issued in a criminal case on Form CR-161 takes precedence in enforcement over any conflicting civil court order. (Pen. Code, § 136.2(e)(2).) Any nonconflicting terms of the civil restraining order remain in full force. An *Emergency Protective Order* (Form EPO-001) that is in effect between the same parties and is more restrictive than other restraining orders takes precedence over all other restraining orders. (Pen. Code, § 136.2.)

Clerk's Certificate  
[seal]

(Clerk will fill out this part.)  
—Clerk's Certificate—

I certify that this *Civil Harassment Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: APR 18 2013 Clerk, by , Deputy

C. SCHAEFFER

This is a Court Order.