

RESTRAINING ORDER TIPS SHEET

This Restraining Order Tips Sheet is intended to assist you in drafting your application or notice of motion. Remember that in your notice of motion and affidavit, you must be sure to ask for the exact terms of the restraining order that you are asking the court to make. Your affidavit should give enough information to convince the court that these terms are necessary.

You should start by indicating the full legal name of the person to be restrained and the person's date of birth.

Depending on your circumstances, you may want to ask the court to order one or more of the following terms.

- A) **Non-communication with or without exceptions.** The person to be restrained shall not contact or communicate with persons protected by the order. Be sure to include the full legal name of person(s), including any children, to be protected by the order.

You may also list exceptions to the non-communication order. This will mean that there are situations when communication can occur. Be sure to specify the exceptions. For example, contact or communication does not occur except:

- Through another person or agency (be sure to insert the name of the agency) to arrange access to the children; and/or
- To permit access in accordance with the access order (be sure to insert the date of the order); and/or
- Through or in the presence of a lawyer (be sure to insert whether it is your lawyer, the lawyer for the person restrained or both).

Example:

"I need an order that my spouse JD not contact or communicate with me by telephone between the hours of 7:00 p.m. and 8:00 a.m. Since we have separated JD calls about 4-5 times each night asking me to reconcile and becoming increasingly angry when I will not agree to a meeting. During this time period the children are sleeping and become very scared when the telephone repeatedly wakes them up. The calls also upset and frighten me and leave me less able to respond to the children when they wake up".

- B) **Stay away with or without exceptions.** The person to be restrained shall not come within a certain distance (in meters, feet or yards) of particular locations. You may also list conditions under which contact can be made. Be sure to include the specific location and/or address including street number, town/city, and the conditions.

Example:

"I need an order that my spouse JD stay away 500 metres from my children's daycare centre at 123 Main Street, Anytown, Ontario, because in the past few weeks JD has waited outside the centre and then approached me when I returned to my car after dropping off the children. During this contact JD has threatened to kill me if I did not agree to share custody of the children"

- C) **Other.** Specify if there are other terms that you would like the judge to include in the restraining order. These will usually be terms that are specific to your situation.