



## JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688  
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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: May 24, 2018

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Title

Rules and Forms: Miscellaneous Technical  
Changes

Agenda Item Type

Action Required

Effective Date

September 1, 2018

Rules, Forms, Standards, or Statutes Affected

Revise forms CR-112/JV-792, JV-216, JV-750, MC-012, TH-100, TH-110, TH-120, TH-130, TH-140, TH-190, TH-200, and TH-210

Date of Report

April 27, 2018

Recommended by

Judicial Council staff

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Legal Services

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### Executive Summary

Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from typographical errors and changes resulting from legislation and previous rule amendments and form revisions. Judicial Council staff recommend making the necessary corrections to avoid causing confusion for court users, clerks, and judicial officers.

### Recommendation

Judicial Council staff recommend that the council, effective September 1, 2018:

1. Revise form CR-112/JV 792, *Instructions: Order for Victim Restitution*, to insert the image of the new version of form CR-110/JV-790 on the first page.
2. Revise optional form JV-216, *Order Delegating Judicial Authority Over Psychotropic Medication*, as it inadvertently contains the signature block, "Type or print name of person completing this form," but should contain the standard signature block for judicial officers.

The form must be signed by a judicial officer. Under Welfare and Institutions Code sections 369.5 and 739.5, only the juvenile court can issue an order delegating the authority to make decisions about psychotropic medications for children removed from the custody of a parent.

3. Revise form JV-750, *Determination of Eligibility: Deferred Entry of Judgment—Juvenile*. Welfare and Institutions Code section 790(a)(7) was added to the criteria for Deferred Entry of Judgment (Sen. Bill 838 [Beall]; Stats. 2014, ch. 919), but inadvertently was not added to form JV-750. Staff recommend adding “or 790(a)(7)” at the end of item 1.c after “section 707(b)” and before the period.
4. Revise form MC-012, *Memorandum of Costs After Judgment, Acknowledgement of Credit, and Declaration of Accrued Interest*, to correct the Code of Civil Procedure reference in item 2.b.
5. Revise all code references in the Transitional Housing forms to reflect the recasting of the relevant statutory provisions from Health and Safety Code, section 50580 et seq. to Civil Code section 1954.10 et seq. The forms to be revised are *Petition for Order Prohibiting Abuse or Program Misconduct* (form TH-100); *Order to Show Cause and Temporary Restraining Order* (form TH-110); *Participant’s Response* (form TH-120); *Order After Hearing* (form TH-130); *Proof of Personal Service* (form TH-140); *Restatement of Transitional Housing Misconduct Act* (form TH-190); *Instructions for Program Operators* (form TH-200); and *Instructions for Participants* (form TH-210).

Copies of the revised forms are attached at pages 4–36.

### **Previous Council Action**

Although the Judicial Council has acted on these rules and forms, this proposal recommends only minor corrections unrelated to any prior action.

### **Rationale for Recommendation**

The changes to these rules, forms, and the bail and penalty schedules are technical in nature and necessary to correct inadvertent omissions and incorrect references.

### **Comments, Alternatives Considered, and Policy Implications**

These proposals were not circulated for public comment because they are noncontroversial, involve technical revisions, and are therefore within the Judicial Council’s purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

### **Implementation Requirements, Costs, and Operational Impacts**

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of any of the forms recommended for revision. Because the proposed changes are technical corrections, case management systems are unlikely to need updating to implement them.

## **Attachments and Links**

1. Forms CR-112/JV-792, JV-216, JV-750, MC-012, TH-100, TH-110, TH-120, TH-130, TH-140, TH-190, TH-200, and TH-210, at pages 4–36
2. [Senate Bill 838](#)

## INSTRUCTIONS: ORDER FOR VICTIM RESTITUTION

### A. Attorney or Person Without Attorney

Write the name of your attorney. If you are representing yourself, your name goes here.

### B. Telephone Number

Your telephone number goes here. You may also give a number where the court can leave a message for you.

### C. Fax Number

You may write in your fax number here or you may leave this line blank.

### D. E-mail Address

You may write in your e-mail address here or you may leave this line blank.

### E. Name and Address of Court

Ask the clerk of your court for this information, including the court's address.

### F. Case Name

Use the assigned case name. Example: *In re John D.* or *People of the State of California v. Doe.*

### G. Case Number

Write the assigned case number in this space. You need to write this number at the top of every page of this form.

### H. For Court Use Only

Leave blank. After this form is filed, the clerk will stamp this box on the copies so everyone knows they are copies of an official court document.

CR-110/JV-790

<p><b>A</b> ATTORNEY OR PERSON WITHOUT ATTORNEY (Name, State Bar number, and address)</p> <p><b>B</b> TELEPHONE NO.</p> <p><b>D</b> FAX NO. (OPTIONAL)</p> <p><b>E</b> SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p><b>F</b> STREET ADDRESS</p> <p><b>F</b> MAILING ADDRESS</p> <p><b>F</b> CITY AND ZIP CODE</p> <p><b>F</b> BRANCH NAME</p> <p><b>F</b> CASE NAME</p> <p style="text-align: center;"><b>ORDER FOR VICTIM RESTITUTION</b></p>	<p><b>H</b></p> <p><b>G</b> CASE NUMBER</p>
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**I**

1. a. ☐ On (date): defendant (name):  
was convicted of a crime that entitles the victim to restitution.

b. ☐ On (date): child (name):  
was found to be a person described in Welfare and Institutions Code section 602, which entitles the victim to restitution. ☐ Wardship is terminated.

c. ☐ Parents or guardians jointly and severally liable (name each):

d. ☐ Co-offenders found jointly and severally liable (name each):

**J**

2. Evidence was presented that the victim named below suffered losses as a result of defendant's/child's conduct. Defendant/child was informed of his or her right to a judicial determination of the amount of restitution and

a. ☐ a hearing was conducted.

b. ☐ stipulated to the amount of restitution to be ordered.

c. ☐ waived a hearing.

**K**

3. THE COURT ORDERS defendant/child to pay restitution to

a. ☐ the victim (name): in the amount of: \$

b. ☐ the California Victim Compensation Board, to reimburse payments to the victim from the Restitution Fund, in the amount of: \$

c. ☐ plus interest at 10 percent per year from the date of ☐ loss or ☐ sentencing.

d. ☐ plus attorney fees and collection costs in the sum of: \$

e. ☐ plus an administrative fee not to exceed 15 percent of the restitution owed (Pen. Code, § 1203.1(f)).

Form Approved for Optional Use

Judicial Council of California

CR-110/JV-790 (Rev. March 5, 2018)

**ORDER FOR VICTIM RESTITUTION**

Revised Code §§ 1202.4(b), 1203.1(a), 1217.4

Welfare and Institutions Code, § 770.5(b), (c), (d)

Civil Code, § 1714.1, Code of Civil Procedure, § 6714(a)(2)

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### I. Order for Restitution

- If the person was convicted in criminal court, write in the date of the defendant's conviction and the defendant's name.
- In cases where a child has been found to be a person described in Welfare and Institutions Code section 602, check item b and fill in the date of the hearing and the child's name.
- If the parents or guardians are jointly and severally liable, write the names in the space provided.
- If co-offenders were found jointly and severally liable, write the names in the space provided.

This section must be completed by either you or the court. A separate order and abstract of judgment should be completed for each defendant or child ward found guilty of an offense.

### J. Judicial Determination of Restitution

The defendant or child has a right to a restitution hearing. The hearing can be waived if the defendant or child agrees to give up his or her right to have a hearing. The amount of restitution may also be stipulated if the amount of restitution to be ordered is agreed to by all parties and the judge makes an order for the amount based on an agreement by all parties. It is very important to check the appropriate boxes to indicate whether the defendant or child has had a hearing or has waived the hearing. If you do not have all of the relevant information to complete this section, then the court should complete it for you.

### K. Restitution Ordered to Pay

- If the court ordered the offender to pay you, write your name as the victim and the amount of restitution ordered by the court. Make sure the amount of restitution is not left blank or "to be determined." A dollar amount must be listed for the order to be enforceable.
- Check this box if the court ordered the California Victim Compensation Board to receive reimbursement for funds previously paid to you or your service provider by the Restitution Fund. Make sure the amount of reimbursement is not left blank or "to be determined." A dollar amount must be listed for the order to be enforceable.

**L. Case Name and Number**

Use the case name and case number that you wrote on the front of the form.

**M. Amount of Restitution**

Check the applicable boxes a through e that specify why the restitution was ordered. Example: If the court ordered that you collect medical expenses and lost wages, check boxes 4b and 4c. If the amount of restitution includes something that is not listed, check box 4e and briefly specify what additional costs are covered.

CASE NAME: _____	CASE NUMBER: <b>CR-110/JV-790</b>
<p>4. The amount of restitution includes</p> <p>a. <input type="checkbox"/> the value of property stolen or damaged.</p> <p>b. <input type="checkbox"/> medical expenses.</p> <p>c. <input type="checkbox"/> lost wages or profits.</p> <p style="margin-left: 20px;"> <input type="checkbox"/> incurred by the victim due to injury.  <input type="checkbox"/> of the victim's parent(s) or guardian(s) (if victim is a child) incurred while caring for the injured child.  <input type="checkbox"/> incurred by the victim due to time spent as a witness or in assisting police or prosecution.  <input type="checkbox"/> of the victim's parent(s) or guardian(s) (if victim is a child) due to time spent as a witness or in assisting police or prosecution.         </p> <p>d. <input type="checkbox"/> noneconomic losses (felony violations of Pen. Code, § 288, 288.5 and 288.7 only).</p> <p>e. <input type="checkbox"/> other (specify): _____</p>	
<p>Date: _____</p> <p style="text-align: right;">JUDICIAL OFFICER _____</p>	
<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center; margin: 0;"><b>NOTICE TO VICTIMS</b></p> <p style="font-size: small; margin: 0;">PENAL CODE SECTION 1214 PROVIDES THAT ONCE A DOLLAR AMOUNT OF RESTITUTION HAS BEEN ORDERED, THE ORDER IS THEN ENFORCEABLE AS IF IT WERE, AND IN THE SAME MANNER AS, A CIVIL JUDGMENT. ALTHOUGH THE CLERK OF THE COURT IS NOT ALLOWED TO GIVE LEGAL ADVICE, YOU ARE ENTITLED TO ALL RESOURCES AVAILABLE UNDER THE LAW TO OBTAIN OTHER INFORMATION TO ASSIST IN ENFORCING THE ORDER.</p> <p style="font-size: small; margin: 0;">THIS ORDER DOES NOT EXPIRE UNDER PENAL CODE SECTION 1214(d).</p> <p style="font-size: small; margin: 0;">YOU MUST FILE A SATISFACTION OF JUDGMENT WITH THE COURT WHEN THIS ORDER IS SATISFIED, AS REQUIRED BY PENAL CODE SECTION 1214(b).</p> <p style="font-size: small; margin: 0;">YOU ARE ENTITLED TO A CERTIFIED COPY OF THIS ORDER UPON REQUEST, AS REQUIRED BY PENAL CODE SECTION 1214(b) AND WELFARE AND INSTITUTIONS CODE SECTION 730.7(c).</p> </div>	
<div style="display: flex; justify-content: space-between; font-size: x-small;"> <span>CR-110/JV-790 (Rev. March 1, 2016)</span> <span><b>ORDER FOR VICTIM RESTITUTION</b></span> <span>Page 2 of 2</span> </div>	

*Order for Victim Restitution* (form CR-110/JV-790) is the court order or judgment directing the offender to repay you for any losses that you suffered because of the offense. Once this judgment is entered in the court records, you may use it to collect the money you are owed from the offender. If the court does not give you a certified copy of the order, ask the clerk for one and check to make sure the judgment is entered. If the offender does not pay you, you have several options, including getting the offender to pay you voluntarily, getting more information about the offender, and collecting from the offender's property. If you choose to try to collect from the value of real estate owned by the offender, you will need to record an abstract of the judgment with the county recorder in the county where the property is located. For more information about this process, see *Abstract of Judgment—Restitution* (form CR-111/JV-791) and *Instructions: Abstract of Judgment—Restitution* (form CR-113/JV-793). For more information about this and other options for collecting your restitution judgment, see the California Courts Online Self-Help Center at [www.courts.ca.gov/1014.htm](http://www.courts.ca.gov/1014.htm).

**Order Delegating Judicial Authority  
Over Psychotropic Medication**

*Clerk stamps date here when form is filed.*

① Parent or legal guardian (name): \_\_\_\_\_

② The court finds as follows:

- a. The parent or legal guardian poses no danger to the child.
- b. The parent or legal guardian has the capacity to authorize psychotropic medications.

③ The parent or legal guardian in ① is authorized to approve or deny the administration of psychotropic medication for the child, unless such authority is modified by a subsequently issued order.

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in child's name and date of birth:*

**Child's Name:**

**Date of Birth:**

*Court fills in case number when form is filed.*

**Case Number:**

Date: \_\_\_\_\_

\_\_\_\_\_  
(SIGNATURE OF JUDICIAL OFFICER )

- Date:

(SIGNATURE OF DEPUTY DISTRICT ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: (____) ____-____ FAX NO.: (____) ____-____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>04-27-18</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
Plaintiff: _____ Defendant: _____	
<b>MEMORANDUM OF COSTS AFTER JUDGMENT, ACKNOWLEDGMENT OF CREDIT, AND DECLARATION OF ACCRUED INTEREST</b>	CASE NUMBER: _____

1. ☐ **Postjudgment costs**

- a. I claim the following costs after judgment incurred within the last two years (*indicate if there are multiple items in any category*):
- |   | <u>Dates Incurred</u> | <u>Amount</u> |
|---|-----------------------|---------------|
| (1) Preparing and issuing abstract of judgment  | _____                 | \$ _____      |
| (2) Recording and indexing abstract of judgment   | _____                 | \$ _____      |
| (3) Filing notice of judgment lien on personal property   | _____                 | \$ _____      |
| (4) Issuing writ of execution, to extent not satisfied by Code Civ. Proc., § 685.050 ( <i>specify county</i> ):                               | _____                 | \$ _____      |
| (5) Levying officers fees, to extent not satisfied by Code Civ. Proc., § 685.050 or wage garnishment  | _____                 | \$ _____      |
| (6) Approved fee on application for order for appearance of judgment debtor, or other approved costs under Code Civ. Proc., § 708.110 et seq. | _____                 | \$ _____      |
| (7) Attorney fees, if allowed by Code Civ. Proc., § 685.040   | _____                 | \$ _____      |
| (8) Other: _____ ( <i>Statute authorizing cost</i> ):   | _____                 | \$ _____      |
| (9) Total of claimed costs for current memorandum of costs ( <i>add items (1)–(8)</i> )   | _____                 | \$ _____      |
| b. All previously allowed postjudgment costs  | _____                 | \$ _____      |
| c. <b>Total</b> of all postjudgment costs ( <i>add items a and b</i> )  | _____                 | \$ _____      |

2. ☐ **Credits to interest and principal**

- a. I acknowledge total payments to date in the amount of: \$ \_\_\_\_\_ (including returns on levy process and direct payments). The payments received are applied first to the amount of accrued interest, and then to the judgment principal (including postjudgment costs allowed) as follows: credit to accrued interest: \$ \_\_\_\_\_; credit to judgment principal \$ \_\_\_\_\_.
- b. **Principal remaining due:** The amount of judgment principal remaining due is \$ \_\_\_\_\_. (*See Code Civ. Proc., § 680.300*)

3. ☐ **Accrued interest remaining due:** I declare interest accruing (at the legal rate) from the date of entry or renewal and on balances from the date of any partial satisfactions (or other credits reducing the principal) remaining due in the amount of \$ \_\_\_\_\_.

4. I am the: ☐ judgment creditor ☐ agent for the judgment creditor ☐ attorney for the judgment creditor.  
 I have knowledge of the facts concerning the costs claimed above. To the best of my knowledge and belief, the costs claimed are correct, reasonable, and necessary, and have not been satisfied.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

**NOTICE TO THE JUDGMENT DEBTOR**

If this memorandum of costs is filed at the same time as an application for a writ of execution, any statutory costs, not exceeding \$100 in aggregate and not already allowed by the court, may be included in the writ of execution. The fees sought under this memorandum may be disallowed by the court upon a motion to tax filed by the debtor, notwithstanding the fees having been included in the writ of execution. (Code Civ. Proc., § 685.070(e).) A motion to tax costs claimed in this memorandum must be filed within 10 days after service of the memorandum. (Code Civ. Proc., § 685.070(c).)

Page 1 of 2



Short Title:

CASE NUMBER:

**PROOF OF SERVICE**
☐ **Mail**      ☐ **Personal Service**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My residence or business address is:
3. ☐ I mailed or personally delivered a copy of the *Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest* as follows (complete either a or b):
  - a. ☐ **Mail.** I am a resident of or employed in the county where the mail occurred.
    - (1) I enclosed a copy in an envelope AND
      - (a) ☐ **deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
      - (b) ☐ **placed** the envelope for collection and mailing on the date and at the place shown in items below following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
    - (2) The envelope was addressed and mailed as follows:
      - (a) Name of person served:
      - (b) Address on envelope:
      - (c) Date of mailing:
      - (d) Place of mailing (*city and state*):
  - b. ☐ **Personal delivery.** I personally delivered a copy as follows.
    - (1) Name of person served:
    - (2) Address where delivered:
    - (3) Date delivered:
    - (4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)

 \_\_\_\_\_  
(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>04-09-2018</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PROGRAM OPERATOR: _____ PARTICIPANT: _____	
<b>PETITION FOR ORDER PROHIBITING ABUSE OR PROGRAM MISCONDUCT</b> <input type="checkbox"/> <b>Application for Temporary Restraining Order</b> <input type="checkbox"/> <b>Modification of Previous Order (date):</b> _____	CASE NUMBER: _____

**(THIS IS NOT AN ORDER)**

• Read the Instructions for Program Operators before completing this form.

• You must have a copy served on the participant at least two days before the hearing.

1. **Jurisdiction.** This suit is filed in this county because participant resides in this county.

2. **Program operator (name):**

operates a "transitional housing program" as defined in Health and Safety Code section 50582(g).

a. ☐ Governmental agency (specify): \_\_\_\_\_

☐ Manager or operator

b. ☐ Private nonprofit corporation receiving program funds from a governmental agency  
The funding agency is (specify): \_\_\_\_\_

☐ Manager or operator

3. **Program site (specify street address, city, ZIP Code):**

a. ☐ Dwelling unit of participant  
(address optional): \_\_\_\_\_

b. ☐ Other locations of the program (addresses): \_\_\_\_\_

4. **Participant to be restrained or excluded** is a "homeless person" dwelling at a "program site" as defined in Civil Code section 1954.12 (name all to be restrained or excluded):

Name

Age (if under 18)

5. Persons living with participant in participant's dwelling unit who are **not** to be restrained or excluded (name all below).

If none, check this box: ☐

Name

Family relationship

Age (if under 18)

6. Participant has signed a contract with the program operator. The contract includes (attach a copy of the signed contract)

a. Program rules and regulations.

b. A statement of program operator's right of control over and access to the program unit occupied by participant.

c. A summary of the requirements and procedures of Civil Code sections 1954.10-1954.18.

(Continued on reverse)

Page 1 of 4

PROGRAM OPERATOR: PARTICIPANT:	CASE NUMBER:
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7. Participant to be restrained or excluded (*names*):

- a. ☐ **(Program misconduct)** has intentionally violated the program rules and regulations. The violation substantially interferes with the orderly operation of the program AND involves (check at least one and cite the rule number):

- (1) ☐ drunkenness on the program site (*rule no.*):  
 (2) ☐ unlawful use or sale of controlled substances (drugs) (*rule no.*):  
 (3) ☐ theft (*rule no.*):  
 (4) ☐ arson (*rule no.*):  
 (5) ☐ destruction of property of the program operator, program employees, other participants, or persons living within 100 feet of the program site (*names and relationships to program and rule no.*):

- (6) ☐ violence or threats of violence and harassment of program employees, other participants, or persons living within 100 feet of the program site (*names and relationships to program and rule no.*):

- b. ☐ **(Abuse)** has intentionally or recklessly

- (1) ☐ caused or attempted bodily injury  
 (2) ☐ caused or attempted sexual assault  
 (3) ☐ caused fear of serious bodily injury

to program employees, other participants, or persons living within 100 feet of the program site (*names and relationships to program*):

- c. **FACTS.** Describe in detail the most recent incidents of program misconduct or abuse. State what happened, the dates and times, and who did what to whom. Describe any injuries or damage. For alleged program misconduct, cite the rules and regulations violated by each incident of misconduct. If more space is needed, attach additional pages and check this box: ☐  
 (You may use form MC-031 (on the reverse of form MC-030) as an attachment or for the declarations (affidavits) of witnesses.)

(Continued on next page)

PROGRAM OPERATOR:  
PARTICIPANT:

CASE NUMBER:

**PROGRAM OPERATOR REQUESTS THE COURT TO MAKE THE ORDERS INDICATED BY THE CHECK MARKS IN THE BOXES BELOW.**

8. ☐ PROGRAM MISCONDUCT RESTRAINING ORDERS (BREAKING RULES). **Participant must not** intentionally violate the program rules and regulations so as to interfere substantially with the orderly operation of the program and specifically the rules and regulations on
- ☐ drunkenness on the program site (*rule no.*):
  - ☐ unlawful use or sale of controlled substances (drugs) (*rule no.*):
  - ☐ theft (*rule no.*):
  - ☐ arson (*rule no.*):
  - ☐ destruction of property (*rule no.*):
  - ☐ violence or threats of violence and harassment (*rule no.*):
9. ☐ ABUSE RESTRAINING ORDERS. **Participant must not** attack, strike, batter, or sexually assault, or threaten to attack, strike, batter, or sexually assault
- ☐ program employees
  - ☐ program participants
  - ☐ persons living within 100 feet of the program site
- ☐ and specifically the following persons (*names*):
10. ☐ PROGRAM SITE EXCLUSION ORDERS. **Participant must** immediately move from and must not return to the program site and the dwelling unit assigned to participant (*address optional*):
- and may take participant's personal property needed until the hearing.
11. ☐ STAY-AWAY ORDERS. **Participant must** stay at least 200 feet away from the following places:
- ☐ Dwelling unit assigned to participant (*address optional*):
  - ☐ Other program site locations (*addresses*):
12. ☐ OTHER ORDERS (*specify other orders you request to help carry out the orders requested in items 8-11*):
13. I request that copies of orders be given to the following law enforcement agencies (*specify all with jurisdiction over the program sites*):
- | <u>Law Enforcement Agency</u> | <u>Address</u> |
|-------------------------------|----------------|
|                               |                |
14. ☐ PREVIOUS PETITIONS. I have asked for restraining orders against participant before (*specify case numbers and dates*):

(Continued on next page)

PROGRAM OPERATOR:

CASE NUMBER:

PARTICIPANT:

☐ **REQUEST FOR TEMPORARY RESTRAINING ORDER**  
**To Be Effective From Now Until the Hearing**

15. ☐ I request that the orders requested in items ☐ 8 ☐ 9 ☐ 10 ☐ 11 ☐ 12 be effective from now until the hearing. (Note: Temporary exclusion orders under items 10-11 require an emergency.)

**a. Participant**

(1) ☐ has not been under contract with the program for more than six months (date of contract):

(2) ☐ has been under contract with the program for more than six months, but

(i) ☐ a restraining order is in effect and subject to further orders (specify in item 14).

(ii) ☐ an action is pending against participant (specify in item 14).

**b. Notice to participant.** ☐ Program operator ☐ Operator's attorney (attach attorney's affidavit)

(1) ☐ informed participant or his or her attorney on (date):

at (time): of the date, time, and place this petition would be filed.

(2) ☐ made the following good-faith efforts to inform participant or his or her attorney of the date, time, and place this petition would be filed (specify efforts):

(3) ☐ should not be required to inform the participant or his or her attorney of the date, time, and place this petition would be filed because (specify reasons):

**c. NEED FOR IMMEDIATE ORDER BEFORE THE HEARING.** Program operator, program participants, or persons living within 100 feet of the program site will suffer great and irreparable harm before this petition can be heard in court unless the court makes those orders requested above effective now and until the hearing. (Specify the harm and why it will occur before the hearing. For temporary exclusion orders under items 10-11, show emergency and need to prevent imminent serious bodily injury.)

16. ☐ Number of pages attached:

**I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PROGRAM OPERATOR)

TITLE of person signing:

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.:  STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY  <b>DRAFT</b>  <b>04-09-2018</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PROGRAM OPERATOR: PARTICIPANT:		
<input type="checkbox"/> <b>ORDER TO SHOW CAUSE and Temporary Restraining Order</b>		
		CASE NUMBER:

THIS ORDER SHALL EXPIRE AT THE DATE AND THE TIME OF THE HEARING SHOWN IN THE BOX BELOW UNLESS EXTENDED BY THE COURT.

To Participant (name all persons to be restrained or excluded):

**YOU ARE ORDERED** to appear in this court at the date, time, and place shown in the box below to give any legal reason why the orders requested in the attached petition should not be granted.

#### NOTICE OF HEARING

Date:	Time:	Dept.:	Room:
-------	-------	--------	-------

- **You have the right to attend the court hearing and oppose the petition, with or without an attorney.**
- **You have the right to file a response (form TH-120, copy attached) with the court without paying a fee.**
- **If you do not attend the court hearing, the court may make restraining orders against you that will last up to one year.**

**You may obtain legal services by calling the following office:**

(Name of local legal services office):

(Address and telephone no.):

**TEMPORARY RESTRAINING ORDER**      **Not requested**      **Denied**      **Granted as follows:**  
 THE COURT FINDS

- Before the court can hold a hearing on the petition, great and irreparable harm would result to
  - ☐ program operator
  - ☐ program employees or their property
  - ☐ other program participants or their property
  - ☐ persons living within 100 feet of the program site or their property.
- Participant
  - ☐ has not been under contract with the program for more than six months (date of contract):
  - ☐ has been under contract with the program for more than six months, but
    - ☐ a restraining order is in effect and subject to further orders.
    - ☐ an action is pending against participant.

**NOTICE TO PARTICIPANT: Violation of this temporary restraining order is a misdemeanor, punishable by a \$1,000 fine, six months in jail, or both. This order shall be enforced by all law enforcement officers in the State of California.**

(Temporary Restraining Order continued on reverse)

PROGRAM OPERATOR:  
PARTICIPANT:

CASE NUMBER:

## THE COURT FINDS (continued)

3. **Notice**

- a. ☐ Participant or his or her attorney was informed of the date, time, and place the petition would be filed.
- b. ☐ Program operator or his or her attorney made a good-faith effort to inform participant or his or her attorney of the date, time, and place the petition would be filed.
- c. ☐ For good reasons, program operator is excused from informing participant or his or her attorney of the date, time, and place the petition would be filed.

4. ☐ **EXTENSION OF TEMPORARY RESTRAINING ORDER.** Good cause exists for extending these orders until the time of the hearing.

## THE COURT ORDERS UNTIL THE TIME OF HEARING

5. ☐ **Program misconduct.** Participant shall not intentionally violate the program rules and regulations so as to interfere substantially with the orderly operation of the program and specifically the rules and regulations on
- a. ☐ drunkenness on the program site (*rule no.*):
  - b. ☐ unlawful use or sale of controlled substances (drugs) (*rule no.*):
  - c. ☐ theft (*rule no.*):
  - d. ☐ arson (*rule no.*):
  - e. ☐ destruction of property (*rule no.*):
  - f. ☐ violence or threats of violence and harassment (*rule no.*):
6. ☐ **Do not abuse.** Participant shall not attack, strike, batter, or sexually assault, or threaten to attack, strike, batter, or sexually assault
- a. ☐ program employees
  - b. ☐ program participants
  - c. ☐ persons living within 100 feet of the program site
- and specifically the following persons (*names*):
7. ☐ **Move from program site.** Participant shall immediately move from and must not return to the program site and the dwelling unit assigned to participant (*address optional*):

and may take participant's personal property needed until the hearing.

**The court finds** participant must be excluded from the program site because of an emergency, and it is necessary to protect another participant, a program employee, or a person living within 100 feet of the program site from imminent serious bodily injury.

8. ☐ **Stay away.** Participant shall stay at least 200 feet away from the following places:
- a. ☐ Dwelling unit assigned to participant (*address optional*):
  - b. ☐ Other program site locations (*addresses*):

**The court finds** participant must stay away at least 200 feet from the program site because of an emergency, and it is necessary to protect another participant, a program employee, or a person living within 100 feet of the program site from imminent serious bodily injury.

(Temporary Restraining Order continued on reverse)

PROGRAM OPERATOR:  
PARTICIPANT:

CASE NUMBER:

THE COURT ORDERS (continued)

9. ☐ OTHER ORDERS (specify the orders needed to help carry out the orders in items 5-8):

10. By the close of business on the date of this order, a copy of this order and any proof of service shall be given to the law enforcement agencies listed below as follows:

- a. ☐ Program operator shall deliver.
- b. ☐ Program operator's attorney shall deliver.
- c. ☐ The clerk of the court shall mail.

Law enforcement agency

Address

***This order is effective when made. The law enforcement agency shall enforce the order immediately upon receipt. It is enforceable anywhere in California by any law enforcement agency that has received the order or is shown a copy of the order.***  
***If proof of service on the restrained person has not been received, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.***

Date:

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

**CLERK'S CERTIFICATE OF MAILING**

I certify that I am not a party to this cause and that a copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown in item 10 and that the foregoing was mailed and this certificate was executed at  
 (place): \_\_\_\_\_, California,

on (date):

CLERK, by \_\_\_\_\_, Deputy



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		<b>FOR COURT USE ONLY</b>   <b>DRAFT</b>  <b>04-09-2018</b>  <b>Not approved by the Judicial Council</b>		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:				
PROGRAM OPERATOR: PARTICIPANT:				
<b>PARTICIPANT'S RESPONSE to Petition for Order Prohibiting Abuse or Program Misconduct</b>				
HEARING DATE	TIME		DEPT.	ROOM

**Each participant should file a separate response. (A family may file one response.)**

- If your printing is legible, you may handprint this form.
- Your response will be considered by the judge at the court hearing. No filing fee is required.
- You must still obey any orders already granted until the hearing.
- You have a right to ask the judge to postpone the hearing date.
- If you do not appear at the court hearing, the court may grant restraining orders against you that may last up to one year.
- Read the Instructions for Participants before completing this form.

**I RESPOND to the Petition for Order Prohibiting Abuse or Program Misconduct as follows:**

If you need additional space, attach form MC-031 (on the reverse of form MC-030). Also use form MC-031 for statements by witnesses. Reference each part on form MC-031 by a number from this form.

1. ☐ DENIAL

- a. ☐ I deny doing all of the acts stated in item 7 of the petition.
- b. ☐ I deny doing some of the acts stated in item 7 of the petition. (Specify the acts you deny doing):  
(Specify on attached form MC-031 if you need more room, and check this box: ☐)

2. ☐ DENIAL OF PROGRAM MISCONDUCT

- a. ☐ My acts, if any, did not substantially interfere with the orderly operation of the transitional housing program.
- b. ☐ My acts, if any, did not violate the rules and regulations of the transitional housing program (explain):  
(Specify on attached form MC-031 if you need more room, and check this box: ☐)

(Continued on reverse)

PROGRAM OPERATOR: PARTICIPANT:	CASE NUMBER:
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3. ☐ JUSTIFICATION OR EXCUSE

I have done some or all of the acts of which I am accused, but the actions are justified or excused for the following reasons:

- a. ☐ My acts served a legitimate purpose *(specify)*:  
*(Specify on attached form MC-031 if you need more room, and check this box: ☐ )*
- b. ☐ My acts were constitutionally protected *(specify)*:  
*(Specify on attached form MC-031 if you need more room, and check this box: ☐ )*

4. ☐ WRONG PROGRAM. Program operator does **not** operate a "transitional housing program" as defined in Civil Code, section 1954.12(g) *(explain)*:5. ☐ PROGRAM CONTRACT

- a. ☐ I have no contract with the program operator.
- b. ☐ The contract does not include the program rules and regulations.
- c. ☐ The contract does not include a statement of program operator's right of control over and right of access to my dwelling unit.
- d. ☐ The contract does not contain a restatement or summary of the requirements and procedures of the Transitional Housing Participant Misconduct Act.

6. ☐ OTHER DEFENSES. I have other defenses or reasons a court order should **not** be granted *(specify)*:  
*(Specify on attached form MC-031 if you need more room, and check this box: ☐ )*7. ☐ Number of pages attached:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF PARTICIPANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY  <b>DRAFT</b>  <b>04-09-2018</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PROGRAM OPERATOR: _____ PARTICIPANT: _____	
<b>ORDER AFTER HEARING</b> <b>on Petition For Order Prohibiting Abuse or Program Misconduct</b> <input type="checkbox"/> <b>Modification of Previous Order (dated):</b> _____	CASE NUMBER: _____

NOTE: A separate order is required for each participant or family unit to be restrained or excluded.

To participant (names of all to be restrained or excluded):

1. THIS ORDER SHALL EXPIRE AT MIDNIGHT ON (date not more than one year from now):
2. This proceeding was heard  
 on (date): \_\_\_\_\_ at (time): \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
 by Judge (name): \_\_\_\_\_ Temporary Judge  
 on the order to show cause filed by program operator on (date):  
☐ Program operator present ☐ Attorney for operator present (name): \_\_\_\_\_  
☐ Participant present (names): \_\_\_\_\_  
☐ Attorney for participant present (name): \_\_\_\_\_

**NOTICE TO PARTICIPANT: Violation of this order is a misdemeanor, punishable by a \$1,000 fine, six months in jail, or both. This order shall be enforced by all law enforcement officers in the State of California.**

### THE COURT ORDERS

3. ☐ **Program misconduct.** Participant shall not intentionally violate the program rules and regulations so as to interfere substantially with the orderly operation of the program and specifically the rules and regulations on
  - a. ☐ drunkenness on the program site (rule no.):
  - b. ☐ unlawful use or sale of controlled substances (drugs) (rule no.):
  - c. ☐ theft (rule no.):
  - d. ☐ arson (rule no.):
  - e. ☐ destruction of property (rule no.):
  - f. ☐ violence or threats of violence and harassment (rule no.):
4. ☐ **Do not abuse.** Participant shall not attack, strike, batter, or sexually assault, or threaten to attack, strike, batter, or sexually assault
  - a. ☐ program employees
  - b. ☐ program participants
  - c. ☐ persons living within 100 feet of the program site☐ and specifically the following persons (names): \_\_\_\_\_

(Continued on reverse)

PROGRAM OPERATOR: PARTICIPANT:	CASE NUMBER:
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## THE COURT ORDERS (continued)

5. ☐ **Move from program site.** Participant shall immediately move from and must not return to the program site and the dwelling unit assigned to participant and shall take only participant's personal property (*address optional*):
- a. ☐ **The court finds** clear and convincing evidence that the participant abused a program employee, another participant, or a person living within 100 feet of the program site, and that great or irreparable injury would result to one of them if this order were not issued. (*This finding is necessary to obtain an exclusion order unless participant is in contempt of a previous order.*)
- b. ☐ (For a modification only) The court finds the participant is in contempt of the court order issued (*date*):
6. ☐ **Stay away.** Participant shall stay at least 200 feet away from the following places:
- a. ☐ Dwelling unit assigned to participant (*address optional*):
- b. ☐ Other program site locations (*addresses*):

**The court finds** clear and convincing evidence that the participant abused a program employee, another participant, or a person living within 100 feet of the program site, and that great or irreparable injury would result to one of them if this order were not issued.

7. ☐ **OTHER ORDERS** (*specify the orders needed to help carry out the orders in items 3-6*):
8. By the close of business on the date of this order a copy of this order and any proof of service shall be given to the law enforcement agencies listed below as follows:
- a. ☐ Program operator shall deliver.
- b. ☐ Program operator's attorney shall deliver.
- c. ☐ The clerk of the court shall mail.

Law enforcement agency

Address

***This order is effective when made. The law enforcement agency shall enforce the order immediately upon receipt. It is enforceable anywhere in California by any law enforcement agency that has received the order or is shown a copy of the order.***

***If proof of service on the restrained person has not been received, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.***

Date:

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

## CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown in item 10 and that the foregoing was mailed and this certificate was executed at  
(*place*): \_\_\_\_\_, California,

on (*date*):

CLERK, by \_\_\_\_\_, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>04-09-2018</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PROGRAM OPERATOR: _____ PARTICIPANT: _____	
<b>PROOF OF PERSONAL SERVICE (Transitional Housing Misconduct)</b>	
CASE NUMBER: _____	

### PERSONAL SERVICE

**Instructions:** After having the other party served with any of the documents identified in item 1, have the person who served the documents complete this Proof of Personal Service. Give the completed Proof of Personal Service to the clerk for filing. Complete a separate Proof of Personal Service for each participant or family unit. The program operator and its employees and the participant may **not** serve these papers.

- ☐ **Program operator's papers.** I served a copy of the following documents on participant (check the box before the title of each document you served):
  - ☐ Order to Show Cause (Transitional Housing Misconduct) ☐ and Temporary Restraining Order
  - ☐ Petition for Order Prohibiting Abuse or Program Misconduct ☐ and Application for Temporary Restraining Order
  - ☐ blank Participant's Response AND a copy of the Instructions for Participants
  - ☐ blank Attached Declaration (form MC-031) (two copies)
  - ☐ blank Proof of Personal Service (Transitional Housing Misconduct)
  - ☐ Order After Hearing
  - ☐ other (specify): \_\_\_\_\_
- ☐ **Participant's papers.** I served a copy of the following documents on program operator (check the box before the title of each document you served):
  - ☐ completed Participant's Response
  - ☐ other (specify): \_\_\_\_\_
- I served ☐ program operator ☐ participant (only one name):  
by **personally delivering copies** to him or her.
  - Date of service: \_\_\_\_\_ b. Time of service: \_\_\_\_\_
  - Place of service (address): \_\_\_\_\_
- Person serving.** At the time of service I was at least 18 years of age and **not a party to this lawsuit.**  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
  
 Telephone: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE OF PERSON SERVING)

# RESTATEMENT OF TRANSITIONAL HOUSING MISCONDUCT ACT

(Civil Code section 1954.10 et seq.)

## YOU HAVE RIGHTS AND RESPONSIBILITIES UNDER THE LAW

When you sign your housing contract, you agree to follow the program's rules. If you break those rules, the program operator can ask a court to order you to obey the rules or to move out of the program housing in some cases.

The program operator can get these orders if you abuse certain other people or engage in program misconduct. Abuse is attacking, striking, battering, or sexually assaulting another participant, a program employee, or an immediate neighbor of the program site, or threatening or attempting to do so. Program misconduct is intentional behavior that substantially interferes with the running of the program and involves drunkenness, unlawful use or sale of drugs, theft, arson, destruction of property, violence or threats of violence, or harassment.

The program operator must follow the procedures outlined below to get a court order.

## TEMPORARY RESTRAINING ORDERS

A program operator can get orders that go into effect immediately without a court hearing. These temporary orders can forbid you from breaking the program rules or doing certain things.

The program operator must tell you or your attorney (if you have one) before asking the court for these orders, unless he or she has a good reason for not notifying you. The program operator cannot get a temporary order to make you move from housing unless he or she convinces the judge that you will cause serious bodily injury to another participant, a program employee, or an immediate neighbor of the program site before a full hearing can be held.

If you have lived in program housing for at least six months since signing your contract, the program operator cannot get a temporary restraining order against you unless another order is already in effect or an action is pending against you. He or she can still get a "permanent" order for up to one year.

## "PERMANENT" ORDERS (Orders After a Hearing)

The program operator can get orders lasting up to one year that forbid you from breaking the program rules or engaging in abuse. These orders are sometimes called "permanent" orders because they last longer than the temporary orders.

Before the program operator can get a permanent order, there must be a full hearing before a judge. At this hearing, both you and the program operator can be represented by attorneys and present evidence and testimony. If you do not attend the hearing, the court may make orders against you that last up to one year.

At least two days before the hearing, someone must give you a copy of the request for the orders, a notice of the hearing (called an "Order to Show Cause"), the instructions and legal forms you need to fight the orders, and any materials the program operator will use at the hearing to get the orders.

If the program operator proves you engaged in abuse or program misconduct, the court can order you to stop the behavior. If the program operator proves abuse by clear and convincing evidence and shows that you might do it again, the court can order you to move out of or stay away from program housing, or both.

## YOU CAN FIGHT THE ORDERS

Read the papers you receive very carefully, especially the description of what the program operator said happened. If you disagree with the facts or you think it would be unfair for the court to grant orders against you, GO TO THE HEARING and tell the judge your side of the story. You can also fight the program operator's request for orders by filing a response telling your side of the story. You do not have to pay to file a response. Forms and instructions for filing a response are available from the county clerk's office. You also should receive these forms with the notice of the hearing.

The name, address, and phone number of the legal services office in your county must be on the notice of hearing. You may be able to get free legal advice from that office.

If you need more time to find an attorney or to prepare a response, you must ask the judge for a continuance (extension) on or before the hearing date shown on the notice of the hearing.

## DISOBEYING THE ORDERS MAY MEAN YOU HAVE TO MOVE OUT

If you are found in contempt of court for disobeying the court's orders, the court can change the orders to force you to move out of the program housing.

**I have read this restatement of the law. I understand it becomes part of my housing contract.**



SIGNATURE OF PARTICIPANT

DATE



SIGNATURE OF PROGRAM OPERATOR

DATE

# INSTRUCTIONS FOR PROGRAM OPERATORS LAWSUITS TO PROHIBIT ABUSE OR PROGRAM MISCONDUCT (Transitional Housing Misconduct Act)

(Civil Code section 1954.10 et seq.)

Read the "General Instructions" first. Then read the *special instructions* for program operators on page three.

## GENERAL INSTRUCTIONS

### WHO CAN GET ORDERS PROHIBITING ABUSE OR MISCONDUCT?

Individuals or organizations that run a transitional housing program can ask the court for these orders. The Transitional Housing Misconduct Act applies only if the housing program

- (1) is run by a government agency, a private nonprofit corporation that receives program funds from a government agency, or an operator hired by one of the above to run the program;
- (2) helps homeless persons obtain the skills necessary for independent living in permanent housing;
- (3) includes regular individualized case management services;
- (4) provides a structured living environment and requires compliance with program rules; **and**
- (5) restricts the occupancy period to not less than 30 days but not more than 24 months.

Only the program operator can ask the court for orders against a participant. A program participant cannot ask the court for orders against a fellow participant, nor can program employees or neighbors of the program site ask for orders. The program operator can, however, petition on their behalf.

### TO WHOM DO THESE ORDERS APPLY?

A program operator can ask the court for orders against a homeless person who is now a participant in the housing program. Someone is a homeless person if, before coming to the housing program, he or she lacked a regular and adequate nighttime residence **or** the most recent nighttime residence was

- (1) a supervised shelter designed to provide temporary housing; or
- (2) an institution that provides temporary housing for individuals intended to be institutionalized; or
- (3) a place not designed or ordinarily used as sleeping accommodations for humans.

Someone is a participant in a housing program if he or she signed a contract with the program as a condition to getting housing. The program operator can get orders only against a participant who has signed a contract that includes

- (1) the housing program's rules;
- (2) a statement of the program operator's right of control and access over the unit occupied by the participant; **and**
- (3) a restatement of the procedures and rights created by the Transitional Housing Misconduct Act.

The program operator can ask for orders against the participant and anyone living with the participant at the program site. The operator must prove program misconduct or abuse, however, for each individual against whom orders are granted. Restraining orders issued under this act apply only to the persons named in the order. That means that if the court orders only one member of a family to move out of program housing, the rest of the family members may remain in the program (unless they are all minors).

(Continued on reverse)

Page 1 of 8

### WHEN CAN THE COURT MAKE ORDERS PROHIBITING ABUSE OR MISCONDUCT?

Program operators can ask the court for orders if the participant has engaged in program misconduct or abuse.

The participant's conduct is program misconduct if

- (1) the participant intentionally broke the program rules;
- (2) the participant's conduct substantially interferes with the program operator's ability to run the housing program; **and**
- (3) the conduct relates to
  - (a) drunkenness, sale or use of drugs, theft, arson, or destruction of another person's property; or
  - (b) violence or threats of violence directed at, and harassment of, immediate neighbors of the program site, program employees, or other participants.

The participant's conduct is abuse if

- (1) the participant did or attempted to attack, strike, batter, or sexually assault other participants, program employees, or immediate neighbors of the program site; or
- (2) the participant threatened to attack, strike, batter, or sexually assault the above individuals.

### WHAT KINDS OF ORDERS ARE AVAILABLE TO PREVENT ABUSE OR MISCONDUCT?

A program operator can request a Temporary Restraining Order or a "permanent" order (Order After Hearing), or both. These both are court orders forbidding someone from engaging in the activity described in the order. A Temporary Restraining Order is issued by a judge after a request for a permanent order has been filed, but before there has been a full hearing. Permanent orders can be issued only after a full hearing before a judge, where both the participant and the program operator can be represented by attorneys and have the opportunity to present evidence.

### TEMPORARY RESTRAINING ORDERS ("TRO") BEFORE THE HEARING

A TRO orders the participant to stop the abuse or misconduct and goes into effect immediately. The order lasts a maximum of five days. The court may not be able to grant a hearing within five days, in which case the order will last until the hearing. To get a TRO the program operator must prove that the participant has engaged in program misconduct or abuse and that great or irreparable harm will result before the hearing if the TRO is not granted.

In limited circumstances, the judge can use a TRO to order the participant to move out. The judge will do this only if it is necessary to protect another participant, a program employee, or an individual who lives within 100 feet of the program site from imminent serious bodily injury. To get a TRO excluding the participant from program housing, the program operator must provide clear and convincing evidence that the participant engaged in abuse and that great or irreparable injury will result before the hearing if the participant is not ordered to move out or stay away from the housing program, or both.

If the participant has been living in program housing under contract for six months or longer, the program operator cannot get a TRO unless an action is pending against the participant or a TRO is already in effect and is subject to further orders. The program operator may still use unlawful detainer procedures or file for a permanent order only.

You must give notice to the participant before asking for a TRO. Notice requires you to show the judge that

- (1) before applying for the TRO you told the participant or the participant's attorney when and where the application would be made; or
- (2) you made a good-faith effort to tell the participant or the participant's attorney; or
- (3) you should not have to give notice because great harm would result to a program operator, participant, or immediate neighbor of the program site before the hearing.

### ORDER AFTER HEARING ("PERMANENT" ORDERS)

Temporary restraining orders last a maximum of five days or until the hearing. When the judge issues the TRO, he or she will set a date for the hearing on the permanent order (also called the Order After Hearing or "injunction"). A "per-manent" order issued after a hearing lasts up to one year.

The program operator seeking the order must have the following papers delivered (served) to the participant at least two days before the hearing

- (1) a copy of the Order to Show Cause (Transitional Housing Misconduct);
- (2) a copy of the Temporary Restraining Orders (if any);
- (3) a copy of the Petition for Order Prohibiting Abuse or Program Misconduct;
- (4) a blank Participant's Response (Transitional Housing Misconduct);
- (5) two copies of a blank Attached Declaration (form MC-031);

(Continued on reverse)



**Order After Hearing *continued***

- (6) a blank Proof of Personal Service (Transitional Housing Misconduct);
- (7) a copy of these instructions; **and**
- (8) copies of all materials (affidavits and supporting memoranda) to be used in the hearing.

The Order to Show Cause must contain the name and phone number of the Legal Services Office in the county where the petition was filed, and must inform the participant this office may be called for legal advice about responding to the request for court orders.

In limited circumstances the court will make a permanent order for the participant to move out of or keep away from the program site. To get this type of order, the program operator must provide clear and convincing evidence that the participant engaged in abuse and that great or irreparable injury will result if the order is not granted.

**WHAT IS NEEDED TO GET THE COURT ORDERS OR TO OBJECT TO THEM?**

1. Transitional Housing Misconduct forms, available from the superior court clerk's office or from legal publishers. The court clerk can tell you where to get the forms.
2. A typewriter with which to fill out the forms. The forms should be typed. Some volunteer legal service groups have typewriters you can use, and some libraries offer the use of typewriters for a small fee. If you cannot type, print clearly.
3. Money for a court filing fee, unless the court excuses you from paying. If you cannot afford to pay the court filing fee, ask the clerk for the Information Sheet on Waiver of Court Fees and Costs. If you are a participant objecting to the court orders, you do not have to pay to file your response.
4. Someone 18 years of age or older to deliver (serve) certain papers to the other party. This person must be someone other than yourself, and not an employee of the program.

**WHAT FORMS ARE AVAILABLE FOR OBTAINING OR OPPOSING AN ORDER?**

1. **Petition for Order Prohibiting Abuse or Program Misconduct ["Petition"]**. This four-page form tells the judge the facts of the program operator's case and what orders the program operator wants the judge to make.
2. **Order to Show Cause and Temporary Restraining Order ["OSC/TRO"]**. The judge signs this order to tell the participant to come to court for the court hearing. It may contain court orders that take effect immediately and stay in effect for up to five days or until the hearing.
3. **Participant's Response ["Response"]**. The participant may file this form to object to the orders the program operator asked the court to make, and to give his or her side of the story.
4. **Order After Hearing ["Order"]**. This is the permanent order or injunction. This form is signed by the court following the hearing. It will expire in one year or less unless the court terminates, modifies, or extends it.
5. **Proof of Personal Service**. This form shows that a participant or program operator has been served with legal papers as required by law.

**INSTRUCTIONS FOR THE PROGRAM OPERATOR****STEPS TO TAKE TO GET A COURT ORDER**

1. **Complete the forms.** Fill in the Petition and the OSC/TRO except for the date of the court hearing and the judge's signature. (Remember, most courts require that all forms be typewritten.)
  - a. If you are not represented by an attorney, fill in the name of the person signing the petition, the program name, mailing address, and phone number at the top of each form. If you do not want to disclose your home or work address or phone number, you may use an address or phone number where you will be able to receive any communications.
  - b. Fill in the name of the county where the action will be filed and the address of the superior court.
  - c. Type your full name and the participant's full name.
  - d. Mark with an "X" all boxes that apply to your case. Read each item carefully and fill in the necessary information. Be specific.
  - e. You can type any witness statements (called affidavits or declarations) on form MC-031 and attach the form to your Petition.
  - f. Remember to date and sign the Petition.

(Continued on reverse)

**Steps to Take to Get a Court Order (continued)**

2. **Make copies.** You will need at least five copies of each Transitional Housing Misconduct form: one for a worksheet, the original to file with the court, a copy to be personally delivered (served) to the participant, and two copies for yourself. You will need more than five copies of the OSC/TRO, the Order, and the Proof of Service form. In addition to the five copies above, get one for each law enforcement agency you want to enforce your orders, and two for yourself.
3. **TRO.** If you are requesting a TRO you must give details of the participant's misconduct or abuse, the problems it has caused you, and why you need an order before a full hearing. Place an "X" in the box marked "To be ordered now and to be effective until the hearing" under numbers 8, 9, 10, 11, or 13 on the Petition.
4. **Court clerk.** Take all your completed forms and all copies to the clerk's office in the superior court. The clerk will tell you where to take your papers and when to pay your filing fee, if required.
5. **Court papers.** If the judge signs the OSC/TRO, take the original and all copies back to the court clerk. The clerk will stamp all the papers with a case number. The copies must include an "Endorsed-Filed" stamp (showing the date of filing), the judge's signature, and the date of signing. The clerk will file the originals and give you the copies. **KEEP TWO ENDORSED-FILED COPIES FOR YOURSELF.** Carry one with you and keep one in a safe place. You may need one if you have to call the police.
6. **Personal service.** Have the participant personally served with copies of the Petition and the OSC/TRO, a blank copy of the Response, two blank copies of form MC-031, a blank copy of the Proof of Personal Service, a copy of these instructions, and a copy of all materials (affidavits and supporting memoranda) to be used in the hearing. On the OSC/TRO you must fill in the box on the first page with the name, address, and phone number of the Legal Services Office in the county in which the petition is filed.  
  
You cannot serve the participant yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you or a program employee. The papers must be delivered to the participant personally, and cannot be mailed or left at the participant's dwelling unit.  
Service is very important. It tells the participant about the order and the hearing. Without it there will not be a court hearing and your TRO will no longer be good unless it is extended by the court. The participant must be personally served at least two days before the hearing.
7. **Copy to the police.** If you have requested a TRO and the judge has granted them, immediately deliver copies to each law enforcement agency (police, marshal, or sheriff's office) that you want to enforce the order.
8. **After service.** After the participant has been personally served, the person who served the participant must complete and sign the original of the Proof of Personal Service form. Take the signed original and the copies back to the court clerk. The clerk will file the original and stamp "Endorsed-Filed" on the copies. Deliver one Endorsed-Filed copy to each law enforcement agency at which you filed your TRO. Keep two Endorsed-Filed copies for yourself.
9. **Court hearing.** Go to the court hearing with any evidence you have. Any witnesses to the participant's conduct also should come to the hearing. The Order should be filled in and given to the judge for signing.
10. **File the Order.** If the judge signs the Order, file the original with the clerk, get the copies stamped with an "Endorsed-Filed" stamp, and immediately deliver copies to law enforcement agencies.  
If the participant was not present in court for the hearing, arrange to have the participant personally served with a copy of the Order. File the completed Proof of Personal Service with the court and deliver copies stamped "Endorsed-Filed" to law enforcement agencies. **KEEP TWO COPIES FOR YOURSELF.** Carry one with you and keep one in a safe place.
11. **Renewal.** An Order will expire within one year, but you can apply for an extension. The law requires you to file for a renewal by filing a new Petition any time within three months before the Order expires. Do not check the modification box on the Petition when you file for renewal.

**WHAT TO DO IF THE PARTICIPANT DISOBEYS THE ORDER**

1. **Reports.** Report violations of the Order as soon as possible to your local law enforcement agency. Keep a written record of the incidents and obtain copies of police reports concerning them.
2. **Contempt of court.** Violation of a restraining order is punishable by civil contempt of court. You must file a civil contempt action in the same court that issued the restraining order. If the participant is in contempt of court, you can file for a modification of the order (use form TH-100) and ask the court to order the participant to move out of the program housing.

**NOTE: See sample filled-in Petition on pages 5–8.**

(Continued on reverse)

The next four pages show a Petition that has been completed with examples of the kind of information a court is likely to want.

After this form is filed, the clerk will stamp this box on the copies so everyone knows it is a copy of an official paper. This is the place for the "Endorsed--Filed" stamp.

The county clerk will give you this number. Use it on all forms you file later.

If you are not represented by an attorney, fill in your name, mailing address, and phone number at the top of each form.

County where you are filing your case. Contact the county clerk if you do not know the address.

Your full name or the name of the organization requesting the orders.

The full name of the person you want the orders against.

Check this box if you are asking for orders to go into effect immediately when the TRO is signed by the judge. You will also need to check the boxes in 8-14 and give the necessary information.

Put an **X** in the box that applies in items 2 and 3. You must check one box in each of those items.

Name all the people you want the judge to grant orders against. Only those people named here will be restrained or excluded by the orders.

Name any people here who live with the participant but should not have orders granted against them.

Be sure to attach a copy of the contract that was signed by the participant.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Robert Hoe, Program Director (123) 456-7890 Family First Transitional Housing Program 123 Front St., Suite 230 Big City, California 90135 ATTORNEY FOR (Name): In Pro. Per.		FOR COURT USE ONLY          CASE NUMBER:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ANY COUNTY STREET ADDRESS: 100 Elm Street MAILING ADDRESS: P.O. Box 109 CITY AND ZIP CODE: Anytown, California 91235 BRANCH NAME:		
PROGRAM OPERATOR: Family First Transitional Housing Program PARTICIPANT: Danny Doe		
PETITION FOR ORDER PROHIBITING ABUSE OR PROGRAM MISCONDUCT <input checked="" type="checkbox"/> Application for Temporary Restraining Order <input type="checkbox"/> Modification of Previous Order (date):		

(THIS IS NOT AN ORDER)

- Read the Instructions for Program Operators before completing this form.
- You must have a copy served on the participant at least two days before the hearing.

- Jurisdiction.** This suit is filed in this county because participant resides in this county.
- Program Operator (name):** Family First Transitional Housing Program operates a "transitional housing program" as defined in Health and Safety Code section 50582(g).
 

a. <input type="checkbox"/> Governmental agency (specify):	<input type="checkbox"/> Manager or operator
b. <input checked="" type="checkbox"/> Private nonprofit corporation receiving program funds from a governmental agency. The funding agency is (specify): Department of Housing	<input checked="" type="checkbox"/> Manager or operator
- Program site (specify street address, city, ZIP code):**

a. <input checked="" type="checkbox"/> Dwelling unit of participant (address optional): 200 Hill St., Apt. 16 Big City, California 90135
b. <input type="checkbox"/> Other locations of the program (addresses):
- Participant to "restrained or excluded"** is a "homeless person" dwelling at a "program site" as defined in Health and Safety Code section 50582 (name all to be restrained or excluded):
 

Name	Age (if under 18)
Danny Doe	
- Persons living with participant in participant's dwelling unit who are not to be restrained or excluded (name all below). If none, check this box: ☐

Name	Family relationship	Age (if under 18)
Margaret Doe	wife	
Denise Doe	daughter	5 years
- Participant has signed a contract with the program operator. The contract includes (attach a copy of the signed contract)
  - Program rules and regulations.
  - A statement of program operator's right of control over and access to the program unit occupied by participant.
  - A summary of the requirements and procedures of Health and Safety Code sections 50580-50591.

(Continued on reverse)

Page 1 of 4

Form Adopted by the  
Judicial Council of California  
TH-100 [Rev. September 1, 2018]

PETITION FOR ORDER PROHIBITING ABUSE  
OR PROGRAM MISCONDUCT  
(Transitional Housing Misconduct)

Civil Code, § 1954.13

(Continued on reverse)

Fill this in.

Leave this blank.

(THIS IS NOT AN ORDER)

PROGRAM OPERATOR: Family First Transitional Housing Program

CASE NUMBER:

PARTICIPANT: Danny Doe

Put an **X** in the boxes that apply to your case. Leave the boxes empty if they do not apply to your case. At least two boxes must be checked in either *a* or *b*. Boxes in both *a* and *b* can apply.

## 7. Participant to be restrained or excluded (names):

a. ☒ (Program misconduct) has intentionally violated the program rules and regulations. The violation substantially interferes with the orderly operation of the program AND involves (check at least one and cite the rule number):

- (i) ☒ drunkenness on the program site (rule no.): 4(a)  
 (ii) ☐ unlawful use or sale of controlled substances (drugs) (rule no.):  
 (iii) ☐ theft (rule no.):  
 (iv) ☐ arson (rule no.):  
 (v) ☐ destruction of property of the program operator, program employees, other participants, or persons living within 100 feet of the program site (names and relationships to program and rule no.):

(vi) ☒ violence or threats of violence and harassment of program employees, other participants, or persons living within 100 feet of the program site (names and relationships to program and rule no.):

Margaret Doe, participant in program. (Rule 7(b).)

John Roe, night manager in Danny Doe's building and program employee. (Rule 7(a).)

b. ☐ (Abuse) has intentionally or recklessly

- (1) ☐ caused or attempted bodily injury  
 (2) ☐ caused or attempted sexual assault  
 (3) ☐ caused fear of serious bodily injury

to program employees, other participants, or persons living within 100 feet of the program site (names and relationships to program): Margaret Doe, participant in the program.

John Roe, night manager in Danny Doe's building and program employee.

Item 7c is the most important part of your petition. This information is all the judge will know about your case until the hearing. Give details of the most recent incidents.

c. FACTS. Describe in detail the most recent incidents of program misconduct or abuse. State what happened, the dates and times, and who did what to whom. Describe any injuries or damage. For alleged program misconduct, cite the rules and regulations violated by each incident of misconduct. If more space is needed, attach additional pages and check this box: ☐ (You may use form MC-031 (on the reverse of form MC-030) as an attachment or for the declarations (affidavits) of witnesses.)

Participant, his wife, and their five-year-old daughter live in an apartment in a security building where a program employee is always on duty.

On June 22, 1992, participant returned home after the program curfew of 11 p.m. (Rule 10(a).) He staggered in with the smell of alcohol on his breath and clothes and required the assistance of his wife and the night manager to make it to bed. (Rule 4(a).) On June 24, 1992, participant yelled loudly at his wife, disturbing other residents, when she asked him to stop drinking. On June 25, 1992, participant again returned home drunk. (Rule 4(a).) When his wife attempted to help him to their apartment, participant cursed at her, hit her in the face, and tried to push her down the stairs. (Rule 7(b).) When the night manager attempted to intervene, participant cursed at him and told him to mind his own business. (Rule 7(a).)

On June 26, 1992, participant's wife had a cut lip and large bruise near her mouth as a result of participant's actions. (Rule 7(b).) That evening, participant returned home sober, but told the night manager (John Roe) that he (participant) would "get him" if he intervened between participant and his wife again. (Rule 7(a).)

Several residents have complained about the noise made by participant. Participant's drinking interferes with other residents' efforts to refrain from drinking. Residents do not understand why participant is not disciplined for breaking the program rules against drinking and disruptive behavior. (Rule 7(b).) The night manager is afraid to work a shift alone when participant might again return home drunk. (Rule 7(a).)

(Continued on next page)

TH-100 [Rev. September 1, 2018]

PETITION FOR ORDER PROHIBITING ABUSE  
OR PROGRAM MISCONDUCT  
(Transitional Housing Misconduct)

Page 2 of 4

(Continued on reverse)

Fill this in.

Leave this blank.

(THIS IS NOT AN ORDER)

PROGRAM OPERATOR: Family First Transitional Housing Program

CASE NUMBER:

PARTICIPANT: Danny Doe

PROGRAM OPERATOR REQUESTS THE COURT TO MAKE THE ORDERS INDICATED BY THE CHECK MARKS IN THE BOXES BELOW.

8. ☒ PROGRAM MISCONDUCT RESTRAINING ORDERS (BREAKING RULES). Participant must not intentionally violate the program rules and regulations so as to interfere substantially with the orderly operation of the program and specifically the rules and regulations on

- a. ☒ drunkenness on the program site (rule no.): 4(a)
- b. ☐ unlawful use or sale of controlled substances (drugs) (rule no.):
- c. ☐ theft (rule no.):
- d. ☐ arson (rule no.):
- e. ☐ destruction of property (rule no.):
- f. ☒ violence or threats of violence and harassment (rule no.): 7(a), 7(b)

9. ☒ ABUSE RESTRAINING ORDERS. Participant must not attack, strike, batter, or sexually assault, or threaten to attack, strike, batter, or sexually assault

- a. ☒ program employees
- b. ☒ program participants
- c. ☐ persons living within 100 feet of the program site
- ☒ and specifically the following persons (names):  
Margaret Doe, wife of participant.  
John Roe, program employee.

10. ☐ PROGRAM SITE EXCLUSION ORDERS. Participant must immediately move from and must not return to the program site and dwelling unit assigned to participant (address optional):

and may take participant's personal property needed until the hearing.

11. ☐ STAY-AWAY ORDERS. Participant must stay at least 200 feet away from the following places:

- a. ☐ Dwelling unit assigned to participant (address optional):
- b. ☐ Other program site locations (addresses):

12. ☐ OTHER ORDERS (specify other orders you request to help carry out the orders requested in items 8-11):

13. I request that copies of orders be given to the following law enforcement agencies (specify all with jurisdiction over program sites):

Law Enforcement Agency

Address

Big City Police Department  
Anycounty Sheriff's Dept.  
Faraway Police Department

100 Dale Ave., Big City, CA 90134  
200 Government Hall, Anytown, CA 90135  
90 Valley Blvd., Faraway, CA 90147

14. ☐ PREVIOUS PETITIONS. I have asked for restraining orders against participant before (specify case numbers and dates):

(Continued on next page)

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PETITION FOR ORDER PROHIBITING ABUSE  
OR PROGRAM MISCONDUCT  
(Transitional Housing Misconduct)

Page 3 of 4

Put an X in the boxes that apply to your case. Leave the boxes empty if they do not apply to your case.

This space is where you ask for other orders you need. If you use this space, be sure to put in facts and dates in item 7c on page two of your petition that would give the court a reason to order what you ask for here.

List all the agencies you may want to enforce your order. The court will either tell the clerk to mail copies of the orders to the agencies or direct you or your attorney (if you have one) to deliver them personally.

(Continued on reverse)

Fill this in.

Leave this blank.

**(THIS IS NOT AN ORDER)**

**PROGRAM OPERATOR:** Family First Transitional Housing Program

CASE NUMBER:

**PARTICIPANT:** Danny Doe

☒ REQUEST FOR TEMPORARY RESTRAINING ORDER  
To Be Effective From Now Until the Hearing

15. ☒ I request that the orders requested in items ☒ 8 ☒ 9 ☐ 10 ☐ 11 ☐ 12 be effective from now until the hearing. (Note: Temporary exclusion orders under items 10-11 require an emergency.)

a. **Participant**

(1) ☒ **has not** been under contact with the program for more than six months *(date of contract)* 5 / 1 / 92

(2) ☐ **has** been under contract with the program for more than six months, but

(i) ☐ a restraining order is in effect and subject to further orders (specify in item 14).

(ii) ☐ an action is pending against participant (specify in item 14).

b. **Notice to participant.** ☒ Program operator ☐ Operator's attorney (*attach attorneys affidavit*)

(1) ☒ informed participant or his or her attorney on (date): June 27, 1992

at (time): 10:30 a.m. of the date, time, and place this petition would be filed.

(2) ☐ made the following good-faith efforts to inform participant or his or her attorney of the date, time, and place this petition would be filed (*specify efforts*):

(3) ☐ should not be required to inform the participant or his or her attorney of the date, time, and place this petition would be filed because (specify reasons):

c. NEED FOR IMMEDIATE ORDER BEFORE THE HEARING. Program operator, program participants, or persons living within 100 feet of the program site will suffer great and irreparable harm before this petition can be heard in court unless the court makes those orders requested above effective now and until the hearing. (Specify the harm and why it will occur before the hearing. For temporary exclusion orders under items 10-11, show emergency and need to prevent imminent serious bodily injury.)

Participant has threatened the night manager (John Roe), and the manager is afraid to work a shift alone in participant's building. The program has a limited staff, and we cannot replace John until the hearing. Other participants have been disturbed by participant's behavior and we need to be able to restrain him to continue to operate the program in his building. The night manager may need the assistance of the police to protect Margaret Doe from her husband if participant again returns home drunk.

15. ☒ Number of pages attached: 3 Contract dated May 1, 1992)

**I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Date: June 29, 1992

Robert Hoe

-----  
(TYPE OR PRINT NAME)

*Robert Hoe*

(SIGNATURE OF PROGRAM OPERATOR)

TITLE of person signing: Program Director

TH-100 [Rev. September 1, 2018]

**PETITION FOR ORDER PROHIBITING ABUSE  
OR PROGRAM MISCONDUCT  
(Transitional Housing Misconduct)**

Page 4 of 4

VERY IMPORTANT:  
1. The date you sign.  
2. Your signature. —  
DO NOT FORGET  
THESE OR ALL YOUR  
WORK WILL BE  
WASTED.

# INSTRUCTIONS FOR PARTICIPANTS

## LAWSUITS TO PROHIBIT ABUSE OR PROGRAM MISCONDUCT

### (Transitional Housing Misconduct Act)

(Civil Code section 1954.10 et seq.)

Read the "General Instructions" first. Then read the *special instructions* for participants on page three.

## GENERAL INSTRUCTIONS

### WHO CAN GET ORDERS PROHIBITING ABUSE OR MISCONDUCT?

Program operators can get orders. **Program operators** are individuals or organizations that run a transitional housing program. The Transitional Housing Misconduct Act applies only if the housing program

- (1) is run by a government agency, a private nonprofit corporation that receives program funds from a government agency, or an operator hired by one of the above to run the program;
- (2) helps homeless persons obtain the skills necessary for independent living in permanent housing;
- (3) includes regular individualized case management services;
- (4) provides a structured living environment and requires compliance with program rules; **and**
- (5) restricts the occupancy period to not less than 30 days but not more than 24 months.

Only the program operator can ask the court for orders against a participant. A program participant cannot ask the court for orders against a fellow participant, nor can program employees or neighbors of the program site ask for orders. The program operator can, however, petition on their behalf.

### TO WHOM DO THESE ORDERS APPLY?

These orders apply to participants in transitional housing programs. A **participant** is someone who lives in housing run by a program operator and who has a contract with the operator. The participant must have been homeless before entering the program.

Someone is a homeless person if, before coming to the housing program, he or she lacked a regular and adequate nighttime residence or the most recent nighttime residence was

- (1) a supervised shelter designed to provide temporary housing; or
- (2) an institution that provides temporary housing for individuals intended to be institutionalized; or
- (3) a place not designed or ordinarily used as sleeping accommodations for humans.

Someone is a **participant** in a housing program if he or she signed a contract with the program as a condition to getting housing. The program operator can get orders only against a participant who has signed a contract that includes

- (1) the housing program's rules;
- (2) a statement of the program operator's right of control and access over the unit occupied by the participant; **and**
- (3) a restatement of the procedures and rights created by the Transitional Housing Misconduct Act.

The program operator can ask for orders against the participant and anyone living with the participant at the program site. The operator must prove program misconduct or abuse, however, for each individual against whom orders are granted. Restraining orders issued under this act apply only to the persons named in the order. That means that if the court orders only one member of a family to move out of program housing, the rest of the family members may remain in the program (unless they are all minors).

### WHEN CAN THE COURT MAKE ORDERS PROHIBITING ABUSE OR MISCONDUCT?

Program operators can ask the court for orders if the participant has engaged in program misconduct or abuse. The participant's conduct is program misconduct if

- (1) the participant intentionally broke the program rules;
  - (2) the participant's conduct substantially interferes with the program operator's ability to run the housing program;
- and**

(Continued on reverse)

## When Can The Courts Make Orders Prohibiting Abuse or Misconduct? *continued*

- (3) the conduct relates to
  - (a) drunkenness, sale or use of drugs, theft, arson, or destruction of another person's property; or
  - (b) violence or threats of violence directed at, and harassment of, immediate neighbors of the program site, program employees, or other participants.

The participant's conduct is abuse if

- (1) the participant did or attempted to attack, strike, batter, or sexually assault other participants, program employees, or immediate neighbors of the program site; or
- (2) the participant threatened to attack, strike, batter, or sexually assault the above individuals.

### WHAT KINDS OF ORDERS ARE AVAILABLE TO PREVENT ABUSE OR MISCONDUCT?

There are two kinds of orders a program operator can request--a Temporary Restraining Order ("TRO") or a "permanent" order (Order After Hearing), or both. These both are court orders forbidding someone from engaging in the activity described in the order.

- (1) A Temporary Restraining Order ("TRO") is issued by a judge after a request for a permanent order has been filed, but before there has been a full hearing.
- (2) Permanent orders can be issued only after a full hearing before a judge, where both the participant and the program operator can be represented by attorneys and have the opportunity to present evidence.

### TEMPORARY RESTRAINING ORDERS ("TRO") BEFORE THE HEARING

A TRO orders the participant to stop the abuse or misconduct and goes into effect immediately. The order lasts a maximum of five days. The court may not be able to grant a hearing within five days, in which case the order will last until the hearing. To get a TRO the program operator must prove that the participant has engaged in program misconduct or abuse and that great or irreparable harm will result before the hearing if the TRO is not granted.

In limited circumstances, the judge can use a TRO to order the participant to move out. The judge will do this only if it is necessary to protect another participant, a program employee, or an individual who lives within 100 feet of the program site from imminent serious bodily injury. To get a TRO excluding the participant from program housing, the program operator must provide clear and convincing evidence that the participant engaged in abuse and that great or irreparable injury will result before the hearing if the participant is not ordered to move out or stay away from the housing program, or both.

If the participant has been living in program housing under contract for six months or longer, the program operator cannot get a TRO unless an action is pending against the participant or a TRO is already in effect and is subject to further orders. The program operator may still use unlawful detainer procedures or file for a permanent order only.

You must give notice to the participant before asking for a TRO. Notice requires you to show the judge that

- (1) before applying for the TRO you told the participant or the participant's attorney when and where the application would be made; or
- (2) you made a good-faith effort to tell the participant or the participant's attorney; or
- (3) you should not have to give notice because great harm would result to a program operator, participant, or immediate neighbor of the program site before the hearing.

### ORDER AFTER HEARING ("PERMANENT" ORDERS)

Temporary restraining orders last a maximum of five days or until the hearing. When the judge issues the TRO, he she will set a date for the hearing on the permanent order (also called the Order After Hearing or "injunction"). A "permanent" order issued after a hearing lasts up to one year.

The program operator seeking the order must have the following papers delivered (served) to the participant at least two days before the hearing

- (1) a copy of the Order to Show Cause (Transitional Housing Misconduct);
- (2) a copy of the Temporary Restraining Orders (if any);
- (3) a copy of the Petition for Order Prohibiting Abuse or Program Misconduct;
- (4) a blank Participant's Response (Transitional Housing Misconduct);
- (5) two copies of a blank Attached Declaration (form MC-031);
- (6) a blank Proof of Personal Service (Transitional Housing Misconduct);
- (7) a copy of these instructions; **and**
- (8) copies of all materials (affidavits and supporting memoranda) to be used in the hearing.

(Continued on next page)



### **Order After Hearing *continued***

The Order to Show Cause must contain the name and phone number of the Legal Services Office in the county where the petition was filed, and must inform the participant this office may be called for legal advice about responding to the request for court orders.

In limited circumstances the court will make a permanent order for the participant to move out of or keep away from the program site. To get this type of order, the program operator must provide clear and convincing evidence that the participant engaged in abuse and that great or irreparable injury will result if the order is not granted.

### **WHAT IS NEEDED TO GET THE COURT ORDERS OR TO OBJECT TO THEM?**

1. Transitional Housing Misconduct forms, available from the superior court clerk's office or from legal publishers. The court clerk can tell you where to get the forms.
2. A typewriter with which to fill out the forms. The forms should be typed. Some volunteer legal service groups have typewriters you can use, and some libraries offer the use of typewriters for a small fee. If you cannot type, print clearly.
3. Money for a court filing fee, unless the court excuses you from paying. If you cannot afford to pay the court filing fee, ask the clerk for the Information Sheet on Waiver of Court Fees and Costs. If you are a participant objecting to the court orders, you do not have to pay to file your response.
4. Someone 18 years of age or older to deliver (serve) certain papers to the other party. This person must be someone other than yourself, and not an employee of the program.

### **WHAT FORMS ARE AVAILABLE FOR OBTAINING OR OPPOSING AN ORDER?**

1. **Petition for Order Prohibiting Abuse or Program Misconduct ["Petition"]**. This four-page form tells the judge the facts of the program operator's case and what orders the program operator wants the judge to make.
2. **Order to Show Cause and Temporary Restraining Order ["OSC/TRO"]**. The judge signs this order to tell the participant to come to court for the court hearing. It may contain court orders that take effect immediately and stay in effect for up to five days or until the hearing.
3. **Participant's Response ["Response"]**. The participant may file this form to object to the orders the program operator asked the court to make, and to give his or her side of the story.
4. **Order After Hearing ["Order"]**. This is the permanent order or injunction. This form is signed by the court following the hearing. It will expire in one year or less unless the court terminates, modifies, or extends it.
5. **Proof of Personal Service**. This form shows that a participant or program operator has been served with legal papers as required by law.

## **INSTRUCTIONS FOR THE PARTICIPANT**

1. **Legal advice**. If you are served with an Order to Show Cause and Temporary Restraining Order ["OSC/TRO"] and a Petition, you should seek legal advice right away. The OSC/TRO should list the name, address, and phone number of the Legal Services Office in the county where the petition is filed. You may be able to get legal services by contacting this office. If you do not have an attorney, you can also call the attorney's referral service of your local bar association for help.
2. **Read the Instructions**. Whether or not you choose to talk to an attorney, you should read all of these instructions and the other papers you have received.
3. **Obey the Order**. Read the papers served on you very carefully. The Petition tells you what orders the program operator is asking the court to make. The OSC/TRO tells you when to appear in court and may contain a temporary order telling you that you cannot do certain things. **YOU HAVE TO OBEY THE ORDER. IF YOU DO NOT OBEY THE COURT'S ORDERS, CRIMINAL CHARGES MAY BE FILED AGAINST YOU. IF YOU ARE FOUND IN CONTEMPT OF COURT FOR NOT FOLLOWING THE COURT'S ORDERS, THE COURT CAN CHANGE THE ORDERS TO FORCE YOU TO MOVE OUT OF THE PROGRAM'S HOUSING.**
4. **Review the facts**. Read the description of the facts on the Petition very carefully. This is where the program operator tells the judge what he or she thinks happened. If you do not agree with the facts on the petition or you think it would not be fair for the court to grant orders against you, **GO TO THE HEARING**. The place and time of the hearing are on the first page of the form named "Order to Show Cause and Temporary Restraining Order."
5. **Respond to the court**. If you want to fight the petition you should file a Participant's Response. **YOU DO NOT HAVE TO PAY A FEE TO FILE THIS FORM**. A blank copy of the Response should have been given to you with the OSC/TRO.

(Continued on reverse)

**Instructions For The Participant *continued***

You can also file and serve statements signed by people who have personal knowledge of the facts. These are called "declarations." You can type these declarations on form MC-031 and attach them to your Response. If you do not know how to prepare a declaration, you should see an attorney.

6. **Serve a copy on program operator.** After you have filed the Participant's Response with the superior court clerk, a copy must be delivered personally or by mail to the program operator or the program operator's attorney. You cannot serve the program operator yourself. Service may be made by a licensed process server, the sheriff's department, or any person 18 years of age or older, other than you. The person should complete and sign a Proof of Personal Service form. (A blank copy should have been given to you with the OSC/TRO.) You should take the completed form back to the court clerk or bring it with you to the hearing.
7. **Extensions.** If you need more time to find an attorney or to prepare your Response, you must ask the judge for a continuance (extension) by the hearing date shown on the OSC/TRO.
8. **Opposing the Petition.** If you wish to fight the lawsuit, you should file a Participant's Response and also go to the hearing. If you have any witnesses, they also must be present. If you do not attend the hearing, the court may make "permanent" orders against you that will last up to one year. If you can't file and serve a Response (or find an attorney who will), **SHOW UP AT THE HEARING ANYWAY.** At the hearing, explain your difficulties to the judge, and ask to be allowed to tell your side of the case.

**NOTE: See sample filled-in  
Participant's Response on pages 5–6.**

(Continued on next page)

You can find this number on the front page of the OSC/TRO forms that were given to you along with this form. Find the box that says "Case Number" and copy that number exactly into this box.

Address of the court where you are filing your response. If you are not sure of the correct address, call the county clerk.

Housing program name.

Your name.

You can find the hearing date, time, department number, and room number on the first page of the OSC/TRO forms you were given.

Read the Petition, especially item 7c, before you answer.

Mark the box that applies to your case. Do not mark *both* boxes *a* and *b*.

If you marked box *b*, use this space to explain \_\_\_\_\_ which acts you did not do.

Mark each box that applies to your case. You can mark both boxes *a* and *b* if they both apply.

If you marked box *b*, use this space to explain why your acts did not violate the rules.

Do not fill in this box.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address)				FOR COURT USE ONLY	
1. Danny Doe 200 Hill St., Apt. 16 Big City, California 90135				(123) 456-7891	
ATTORNEY FOR (Name): In Pro. Per.					
SUPERIOR COURT OF CALIFORNIA, COUNTY OF					
STREET ADDRESS: 200 Main Street					
2. MAILING ADDRESS: P.O. Box 4000					
CITY AND ZIP CODE: Anytown, California 90134					
BRANCH NAME:					
PROGRAM OPERATOR: Family First Transitional Housing Program					
3. PARTICIPANT: Danny Doe					
PARTICIPANT'S RESPONSE to Petition For Order Prohibiting Abuse or Program Misconduct					
4. HEARING DATE		TIME	DEPT.	ROOM	CASE NUMBER:
July 3, 1992		10:00 a.m.	3	765	C-12345

**Each participant should file a separate response. (A family may file one response.)**

- If your printing is legible, you may handprint this form.
- Your response will be considered by the judge at the court hearing. No filing fee is required.
- You must still obey any orders already granted until the hearing.
- You have a right to ask the judge to postpone the hearing date.
- If you do not appear at the court hearing, the court may grant restraining orders against you that may last up to one year.
- Read the Instructions for Participants before competing this form.

**I RESPOND to the Petition or Order Prohibiting Abuse or Misconduct as follows:**

*If you need additional space, attach form MC-031 (on the reverse side of MC-030). Also use form MC-031 for statements by witnesses. Reference each part on form MC-031 by a number from this form.*

1. ☒ DENIAL

- a. ☐ I deny doing all of the acts stated in item 7 of the petition.
- b. ☒ I deny doing some of the acts stated in item 7 of the petition. (Specify acts you deny doing):  
(Specify on attached form MC-031 if you need more room, and check this box: ☐ )

I did not yell loudly at my wife or disturb other residents. I did not hit my wife or try to push her down the stairs. I did not threaten the night manager.

2. ☒ DENIAL OF PROGRAM MISCONDUCT

- a. ☒ My acts, if any, did not substantially interfere with the orderly operation of the transitional housing program.
- b. ☐ My acts, if any, did not violate the rules and regulations of the transitional housing program (explain):  
Specify on attached form MC-031 if you need more room, and check this box: ☐ )

If you need more space to write your answer, mark this box and use a separate sheet of paper or form MC-031. Attach any extra paper to this form.

(Continued on reverse)

Form Adopted by the  
Judicial Council of California  
TH-120 [Rev. September 1, 2018]

**PARTICIPANT'S RESPONSE**  
(Transitional Housing Misconduct)

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Civil Code, § 1954.13(c)

(Continued on reverse)

Your name.

Housing program name.

Use the same case number  
from page one of this form.If you marked box 1.b. on  
page one of this form, you  
may want to explain here.Use this space to explain  
why your acts served a  
legitimate purpose (box  
a) or were  
constitutionally protected  
(box b).Read the definition of  
"Transitional Housing  
Program" (see "Who Can  
Get Orders Prohibiting  
Abuse or Misconduct?" on  
page one of these  
Instructions). If your  
housing does not match  
the definition, mark this  
box. Don't forget to  
explain why in the space  
below.When you moved in,  
the program should  
have given you a  
contract. Mark the  
boxes to show what  
you did not get.If you have any other  
reasons that justify your  
actions, mark this box  
and explain what they  
are.After you are done, count  
the number of pages you  
are attaching to this form  
and put that number  
here. Do not include the  
two pages of this form in  
that number.**VERY IMPORTANT:**

1. The date you sign.
  2. Your signature.
- DO NOT FORGET  
THESE OR ALL  
YOUR WORKWILL BE  
WASTED.**

Keep a copy for your  
records. Make sure the  
court stamps your copy.**PROGRAM OPERATOR:** Family First Transitional Housing Program

CASE NUMBER:

**PARTICIPANT:** Danny Doe

C-12345

3. ☒ JUSTIFICATION OR EXCUSE

I have done some or all of the acts of which I am accused, but the actions are justified or excused for the following reasons:

a. ☒ My acts served a legitimate purpose (specify):(Specify on attached form MC-031 if you need more room, and check this box: ☐ )On June 25, 1992, I did tell the night manager to  
mind his own business because he has been trying to  
interfere with my marriage to my wife.b. ☐ My acts were constitutionally protected (specify):(Specify on attached form MC-031 if you need more room, and check this box: ☐ )4. ☐ WRONG PROGRAM. Program operator does not operate a "transitional housing program" as defined in Health and Safety Code section 50582(g) (explain):If you need more space to write your  
answer, mark this box and use a  
separate sheet of paper or form  
MC-031. Attach any extra paper to this  
form.5. ☒ PROGRAM CONTRACTa. ☐ I have no contract with the program operator.b. ☐ The contract does not include the program rules and regulations.c. ☐ The contract does not include a statement of program operator's right of control over and right of access to mydwelling unit.d. ☒ The contract does not contain a restatement or summary of the requirements and procedures of the Transitional Housing Participant Misconduct Act.6. ☒ OTHER DEFENSES. I have other defenses or reasons a court order should not be granted (specify):  
(Specify on attached form MC-031 if you need more room, and check this box: ☐ )I never got copies of the program rules.  
The program is not giving me the job training  
it promised. Also, I just got a new job that  
starts in a week that I may not be able to  
keep if I am homeless again.7. ☐ Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 2, 1992

Danny Doe

(TYPE OR PRINT NAME)

Danny Doe

(SIGNATURE OF PARTICIPANT)

TH-120 [Rev. September 1, 2018]

**PARTICIPANT'S RESPONSE**  
(Transitional Housing Misconduct)

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