



Broken Love: The Intersection of Divorce and Therapy

A Legal Perspective by Dina Haddad, Esq. LLM

Obtaining a Domestic Violence Restraining Order

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Have you had a client suffering from domestic violence (DV) and ready to take proactive steps to protect him or herself? Did you know that California has recently extended protections to victims of DV? In this column, first I'll discuss the definition of DV and the new expansion of that definition. Then, I'll explain how a party might obtain a temporary domestic violence restraining order (TRO) in Santa Clara County. (For purposes of clarity, we will identify this person as a "victim," although the terms "the party" or "alleged victim" might also be used interchangeably.)

The court defines DV as physical violence, a verbal threat of physical violence, or a pattern of harassing behavior. DV includes abusive behavior such as to throw things, pull hair, follow, harass, sexually assault, murder, break into the victim's home or work, destroy or steal the victim's property, intimidate, or to threaten to do any of these. Abuse can be spoken, written,

emotional, or physical.

In September 2013 Governor Jerry Brown signed three bills extending the definition of DV to offer victims further protections.

1. High-Tech Abuse: Now, high-tech abuse can trigger a DV restraining order. False impersonation has



become an increasingly common tactic of DV perpetrators to continue abusing victims on social media sites such as Facebook and Twitter. Abusers take over their victims' online identities, usually after a breakup, to humiliate and harass them all over again. This form of abuse can destroy someone's reputation and destroy a victim's rela-

tionship with friends and family, further isolating them and denying them the chance to rebuild their lives.

2. Insurance Threats: Before, DV restraining orders did not require abusers to keep their victims on their joint insurance policies.

Often abusers threaten to take their spouses off the policies to intimidate them into staying against their will. Now, the courts have the power to ensure that DV victims and their children are not cut off from their insurance policies because DV abusers can no longer drop spouses from their joint health, auto, life, and disability insurance policies.

3. No-Contact Orders: Police officers will be able to seek an Emergency Protective Restraining Order from a court 24 hours a day if the person or child is in immediate danger and will be able to enforce no-contact restraining orders even if other orders have been issued more recently. For the violence to qualify as DV, the victim and the

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ous boards have been excellent stewards of our organization. We have continuity in terms of the history of the chapter (board meeting minutes, past newsletters, ongoing involvement of former chapter leaders) and financial strength. This allows us to maintain excellent programming as well as develop new opportunities for our members.

We are a big chapter, with more than 650 members. It is my hope to bring into our community a significant number of new members this year who can benefit from our programming and networking opportunities. This is why we would like to hear from you in terms of professional development ideas that would help the chapter be more valuable.

Please take a look at the chapter website www.scv-camft.org and get to know our board members and the chapter in general. Continuing on with us this year are Pam Eaken (past-president), Debra Rojas, (president-elect), Michael Sally (secretary), Merrett Sheridan (CFO), Elizabeth Basile (luncheon programs), Jane Kingston (ethics), Nancy Andersen (business development), and Robin Ginsberg (special events). And please welcome our new board members: Kelly Kilcoyne (prelicensed and newly licensed) and Jenna Benson (membership). The returning board members have a lot of history together and work very well as a group. I am confident that with the addition of Kelly and Jenna, we will continue to serve the chapter well. I would also like to extend a warm welcome to our new chapter coordinator, Nancy Orr. If you have the chance to interact with Nancy, please welcome her to the chapter.

I look forward to hearing from you,
Kate Viret

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abuser must have a close relationship. They must either be married, divorced, separated, dating or used to date, live together or used to live together as a couple, or be related (parent, child, brother, sister, grandmother, grandfather, in-laws, etc.).

The Santa Clara County Superior Court's website has a carefully outlined process for victims needing information about how to obtain a restraining order. If in immediate danger, the victim should call 911 and request an Emergency Protective Restraining Order from the officer. However, this order is only good for five to seven days.

If this method does not apply or falls short, a party can obtain a TRO, which can last up to 21 days. The party can go to the Restraining Order Help Center (located in Downtown San Jose, Morgan Hill, and Sunnyvale), where he or she can receive free help to fill out the forms and submit them to the judicial officer. The forms ask for details about the violence. The victim can include a detailed declaration/affidavit to support his or her request. Additionally, the victim can request specific protections such as how far away the aggressor must stay away from the victim's home, place of worship, school, or children's school. The forms also provide the victim an opportunity to request a visitation schedule.

The judicial officer will review the forms within 24 hours. The party can check the status of his or her forms online and pick them up when ready. If the judicial officer grants the TRO, the order is immediately effective. The victim should closely review the order to see which of his or her requests were granted. Also, the judi-

cial officer will set a hearing date for the victim and alleged aggressor to appear in court. Again, because the TRO lasts no more than 21 days, the hearing will be within that time, before the TRO expires. At that hearing, the parties will present their evidence to support or oppose the request for a permanent domestic violence restraining order. If granted, the permanent domestic violence restraining can extend up to five years and will be entered into the law enforcement database as a California Law Enforcement Telecommunications System order. ✍

For more information, you can visit the court website at www.scscourt.org.



**In Memory of
Joan Ross**

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