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WHAT CAN BE DONE ABOUT TEMPORARY RESTRAINING ORDERS AND TEMPORARY CHILD CUSTODY AND VISITATION ORDERS DURING THE COURTS' CLOSURE

There is understandable frustration surrounding the fact that the San Diego County Clerks' Offices are generally not filing any family law pleadings other than Emergency Temporary Restraining Orders and Emergency Temporary Orders protecting child(ren)'s safety. There are legitimate Emergency Temporary Orders made every day, including Emergency Protective Orders obtained from the Court by Law Enforcement. If you are the "Restrained Party" or "Other Parent" in the case, the Order was likely issued without notice to you. Most of our clients with such orders against them do not learn of the allegations until the Order is already made and the Sheriff appears at their door, serves them with the order, and gives them only a few minutes to collect their personal belongings and leave their homes. Often there has been no prior police or sheriff involvement, and there has been no arrest. If you have been served with such an order, even if it is based on inaccurate or false facts, it is important that you follow the order. However, you may not know there are rights you can exercise during the Court's Closure and prior to your scheduled Court Date.

Some individuals have been served with a Temporary Restraining Order (TRO) and/or Temporary Child Custody and Visitation Order during or three weeks prior to the Court's shut down. Sadly, the facts alleged against them by the other side are simply not true, and sometimes alleged solely to gain an advantage in a child custody dispute. It is especially disheartening for parents who, without prior notice or opportunity to be heard, are restrained from seeing their child or children until their Court Date. This Court Date is either noticed on the initial Order they were personally served with, or--which is what is happening now in many cases--at a new, later date, notice of which has been mailed to them by the Court. These individuals feel unjustly treated by the Court system and believe they should not have to wait until the Court reopens in order to present their case as to why the order should not have been issued at all.

Until the Courts' shutdown, prior law made it mandatory that unless waived, parties who have Temporary Restraining Orders or Temporary Emergency Child Custody and Visitation Orders issued against them have a right to voice his/her side of the case to the Court within twenty-one (21) days of the date the Order is issued. As of April 20, 2020, that right has now been extended by up to ninety (90) days. (California Rules of Court, Appendix I: Emergency Rules Related to COVID-19, Emergency Rule 13).

Notwithstanding the above, individuals with these Temporary Orders do not have to wait until their scheduled Court Date to present their side of the case. Instead, they can make their own Request for Emergency Orders while the Court is closed. Depending on the facts of your case, I can appear to request an Emergency Dismissal or Modification of the Temporary Restraining Orders or Temporary Child Custody and Visitation Orders. If you have such an Order against and you believe it was obtained illegitimately and based on false information provided to the Court, please contact my office. I am available to answer your questions and discuss your concerns by phone, video, and email. My email address is heidi@heidicollierlaw.com. To ensure prompt delivery, please copy my assistant Dalinah at dalinah@heidicollierlaw.com.

With best personal regards,
Heidi & Staff