

ELDERLY AND DISABLED PERSON ABUSE PREVENTION ACT
INSTRUCTIONS AND FORMS TO STOP
SWEEPSTAKES PROMOTIONAL MAILINGS
TO ELDERLY, DISABLED OR INCAPACITATED PERSONS

PACKET E3

Office of the State Court Administrator
Salem, Oregon

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ELDERLY AND DISABLED PERSON ABUSE PREVENTION ACT
INSTRUCTIONS FOR OBTAINING A RESTRAINING ORDER

TO STOP SWEEPSTAKES PROMOTIONAL MAILINGS

PACKET E3

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**ELDERLY AND DISABLED PERSON ABUSE PREVENTION ACT
INSTRUCTIONS FOR OBTAINING A RESTRAINING ORDER
TO STOP SWEEPSTAKES PROMOTIONAL MAILINGS**

PACKET E3

I. INTRODUCTION

This packet contains forms and instructions to assist you in obtaining a Restraining Order under the Elderly and Disabled Person Abuse Prevention Act to stop the person or company named in the Restraining Order (the "respondent") from mailing sweepstakes promotional material to an elderly, disabled or incapacitated person. **(If you need to obtain a Restraining Order to stop a respondent from threatening or abusing you and your situation does NOT involve the receipt of sweepstakes promotional mailings, please use the forms and instructions in Packet No. E1, available from the court clerk.)** The instructions are designed to give you complete, line-by-line information about how to fill out the forms. You can use the Table of Contents to find quickly the page number in the instructions where the form you are filling out is described.

A "Restraining Order" is an order of the court that orders the person or company named in the Restraining Order (the "respondent") to stop causing sweepstakes promotions to be mailed to you, if you are an elderly, disabled or incapacitated person. The Restraining Order can also order the respondent to remove you from the respondent's sweepstakes promotion mailing list; and, it can require the respondent to refund any payment received after the date a Restraining Order is issued by the court.

If you have questions about how the law works or what it means, you may need to see a lawyer. The court clerk cannot give you any legal advice.

You do not have to have a lawyer to use this procedure, but you have the right to have a lawyer represent or help you. If you do not know a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free by dialing 1-800-452-7636. If you believe you cannot afford a lawyer, ask the court staff if your area has a legal service (legal aid) program that might help you.

Not everyone is eligible for a Restraining Order under the Elderly and Disabled Person Abuse Prevention Act. Check the eligibility list in the next section carefully to determine whether you are eligible to use the procedure and forms provided in this packet. **(If you need to obtain a Restraining Order to stop a respondent from threatening or abusing you and your situation does NOT involve the receipt of sweepstakes promotional mailings, please use the forms and instructions in Packet No. E1, available from the court clerk.)**

II. ELIGIBILITY

You are eligible to use this Restraining Order procedure if:

You are 65 years of age or older **AND** you are NOT a resident of a long-term care facility;

OR

You are incapacitated,

OR

You are a “disabled person” because you have a physical or mental disability and one of the criteria listed below applies to you:

- ◆ you are mentally retarded or developmentally disabled and reside in or need placement in a residential program administered by the Senior and Disabled Services Division (SDSD), or
- ◆ you are mentally or emotionally disturbed and reside in or need placement in a residential program administered by SDSD, or
- ◆ you are an alcohol or drug abuser and reside in or need placement in a residential program administered by SDSD, or
- ◆ you have a physical or mental disability other than those described above, or
- ◆ you have experienced an injury to the brain caused by extrinsic forces where the injury results in the loss of cognitive, psychological, social, behavioral, or physiological function for a sufficient time to affect your ability to perform the activities of daily living;

AND

You received sweepstakes promotional material in the United States mail and spent more than \$500 in the preceding year on any sweepstakes promotions or any combination of sweepstakes promotions from the same service,

AND

You feel you need the court's assistance to prevent you from incurring further expense on sweepstakes promotions from the respondent,

AND

The respondent caused the sweepstakes promotional material to be mailed to you within the 180 days preceding the filing of the petition,

AND

You are in immediate and present danger of receiving further sweepstakes promotions from the respondent.

III. GENERAL INFORMATION

Under the Elderly and Disabled Person Abuse Prevention Act, if you meet all of the eligibility criteria outlined above, the court can issue a Restraining Order to stop a respondent from mailing sweepstakes promotions to you. The court can also order the respondent to remove you from the respondent's sweepstakes promotion mailing list; and, the court can require the respondent to refund any payment received after the date a Restraining Order is issued by the court.

IV. IMPORTANT TERMS

- Petitioner is the person seeking the protection of a Restraining Order.
- Respondent is the person or company restrained by the Restraining Order (the person or company who sent you sweepstakes promotions).
- Sweepstakes means a procedure for awarding a prize that is based on chance. It includes any such procedure in which a person is required to purchase anything, pay anything of value, or make a donation as a condition of winning a prize or of receiving or obtaining information about a prize. It also includes any such procedure that is advertised in a way that creates a reasonable impression that a payment of anything of value, purchase of anything, or making a donation is a condition of winning a prize or receiving or obtaining information about a prize.
- Sweepstakes promotion means an offer to participate in a sweepstakes.

V. OUTLINE OF PROCEDURES

A. Filing Papers

After you complete the forms as directed in these instructions, you should present them to the court clerk. There is no fee for filing papers under the Elderly and Disabled Person Abuse Prevention Act.

B. First Hearing

The court is required to hold a hearing on the day you file your papers or the next day that the court is open for business. The hearing may be done in person or, in some courts, by telephone. There is no hearing fee.

If you have a disability and need special help at the hearing or you are unable to speak English and need a foreign language interpreter at the hearing, you must notify the clerk immediately. You will need to tell the clerk specifically what type of disability you have or which language you speak and what type of assistance you need or prefer.

C. Issuing the Restraining Order

If the judge decides that you qualify under the Elderly and Disabled Person Abuse Prevention Act, the judge must issue a Restraining Order. What protection the judge includes in the Restraining Order depends on what you ask for in the Restraining Order and the information the judge receives at the hearing.

D. Order Lasts One Year

Once the judge signs the Restraining Order, it is in effect for one year unless it is ended earlier by the court at your request or unless the court renews it at your request.

E. Serving a Copy on Respondent

A copy of the Restraining Order must be given to ("served on") the person or company that caused the sweepstakes promotions to be mailed to you. That person or company is called the "respondent." The order must be given to the respondent personally; or by mailing certified true copies of the petition and order by first class mail and by certified mail, return receipt requested, to the address to which you would have sent the payment for the goods or services promoted in the sweepstakes promotion; or in the manner directed by the court. See Section XIV. "Serving the Respondent."

F. Hearing on Respondent's Request

Within 30 days after receiving the Restraining Order, the respondent has the right to ask for a hearing. If the respondent requests a hearing, the court must hold a hearing within 21 days following the request. If the respondent is represented by an attorney, the time for the hearing may be extended for up to five days at your request if you would also like to be represented by an attorney. The judge may change or cancel the Restraining Order based on the information the judge receives at the second hearing.

The respondent may request a hearing by filling out the "Respondent's Request For Hearing" portion of the "Notice To Respondent/Request for Hearing" form (Form 4S), and filing that form with the court clerk.

G. Arrest for Violating the Restraining Order

The respondent can be arrested for violating the Restraining Order. The order will state the amount of security ("bail") to be posted if the respondent is arrested for violating the order. The respondent will be released if he/she is able to post 10 percent of this bail amount, but will still have to appear for trial. Violating a Restraining Order is contempt of court and is punishable by a fine of up to \$500 or 1 percent of respondent's annual gross income, whichever is greater, a jail term of up to six months, or both. Other sanctions may be imposed.

VI. COMPLETING THE FORMS

A. Forms

This packet contains seven forms. **The forms you need to complete to ask for a Restraining Order are:**

- **Petition for Restraining Order to Prevent Abuse of Elderly or Disabled Person (Form 1S)**
- **Restraining Order (Form 2S)**
- **Affidavit of Proof of Service (Form 3S) OR Certificate of Service by Mail (Form 3A)**
- **Notice to Respondent/Request for Hearing (Form 4S)**
- **Petitioner's Certificate of Document Preparation (Form 5) (If applicable.)**

Form 6 is an optional form that is used to ask the court to end the Restraining Order early if you do not want the order to last a full year:

- **Petitioner's Motion and Order of Dismissal (Form 6)**

The court clerk also has a different packet of forms and instructions that you may use to ask the court to continue (renew) the Restraining Order for another year (Packet E2).

B. Use Black Pen

If you intend to complete the forms by hand, you should use black pen (blue does not show up well on copies) and print.

C. Information on Local Adult Protective Services

When you receive this packet or when you file your papers with the court, you should receive information provided by the Senior and Disabled Services Division of the Department of Human Resources about the local adult protective services, domestic violence shelters, and local legal services available in your area. If you do not receive this information, ask the court clerk for a copy.

VII. FILLING OUT THE PETITION FOR RESTRAINING ORDER TO PREVENT ABUSE (FORM 1S) (CALLED "PETITION" IN THESE INSTRUCTIONS)

PAGE 1.

A. Caption (Heading at Top of Form)

Line 6. You must file the Petition in either the county where you reside (live) or the county in which the respondent resides (lives). If you do not know where the respondent resides, you must file the Petition in the county where you reside. If the name of the county is blank on the form, fill in the name of the county in which you are asking for a Restraining Order. If you do not know the name of the county, the clerk can give you this information at the time you get a case number.

Line 7. Write your name in the space on the left. (You are the "Petitioner.")

Line 8. Leave the "Case No. ____" space blank until the court clerk gives you a case number.

Line 10. Write in the name of the person or company that mailed sweepstakes promotional material to you.

B. General Information

Lines 22 and 23. Write in the name of the county and state in which you live at line 22. Write in the name of the county and state where respondent resides at line 23. If you do not know where the respondent resides, put a question mark in these spaces.

Lines 27 through 30. Fill in the name of the person or company that mailed sweepstakes promotional material to you, and then fill in the address to which you would have sent the payment for the goods or services promoted in the sweepstakes promotion had you ordered any of the goods or services promoted.

PAGE 2.

C. Section 1. Check and fill in the blanks that apply to you.

Lines 2 through 5. If you are 65 years of age or older, check the space at line 2 and write in your age.

Lines 4 and 5. If you are disabled or incapacitated, check the space at line 4, and explain the nature of your mental or physical disability or incapacity at line 5. As explained in the “Eligibility” section, if you are disabled, one of the criteria listed below must apply to you:

- you are mentally retarded or developmentally disabled and reside in or need placement in a residential program administered by the Senior and Disabled Services Division (SDSD), or
- you are mentally or emotionally disturbed and reside in or need placement in a residential program administered by SDSD, or
- you are an alcohol or drug abuser and reside in or need placement in a residential program administered by SDSD, or
- you have a physical or mental disability other than those described above, or
- you have experienced an injury to the brain caused by extrinsic forces where the injury results in the loss of cognitive, psychological, social, behavioral, or physiological function for a sufficient time to affect your ability to perform the activities of daily living.

D. Section 2. Check the blanks that apply to you.

Item A. If the respondent mailed you sweepstakes promotions within the last 180 days, check the space at line 8.

Item B. If you have spent more than \$500 on sweepstakes promotions that you received in the United States mail in the past year from the respondent, check the space at line 10.

Item C. If you feel you need the court’s assistance to protect you from incurring further expense on sweepstakes promotions from the respondent, check the space at line 13.

Please be aware that sweepstakes companies are allowed up to 150 days to stop sending you sweepstakes entry materials. For a time after the court issues a Restraining Order, you may receive additional solicitations from the respondent. However, beginning

on the date the Restraining Order is issued, the respondent must immediately reject any further orders from you and, if ordered by the court, must return promptly any money you send to the respondent after the date the Restraining Order is issued.

PAGE 3.

E. Section 3.

Line 1. Circle the appropriate response to tell the court whether or not the respondent mailed sweepstakes promotions to you within the last 180 days.

Lines 2 and 3. Fill in the dates you received sweepstakes promotions from the respondent. If you don't know the exact dates, please fill in the approximate time periods you received sweepstakes promotions from the respondent, as best you can remember.

Lines 4 through 6 . Fill in the address to which the respondent mailed the sweepstakes promotions.

Lines 7 through 10. Please indicate whether or not the address to which the respondent mailed the sweepstakes promotions is the address where you reside. If not, please explain, in the space below, how and where you received the respondent's sweepstakes promotions.

Lines 11 through 13. Please describe how the sweepstakes promotions from the respondent injured or threatened to injure you. (For example, how much money you have spent on sweepstakes promotions from the respondent, how these expenses have impacted your financial and/or emotional situation, etc.)

F. Section 4.

Lines 15 through 18. If there have been other incidents not described in your answers to question 3 in which the sweepstakes promotions sent by the respondent injured or threatened to injure you, please describe those incidents.

G. Section 5.

Lines 20 and 21. If the sweepstakes promotional mailings you are complaining about were witnessed (seen or heard) by another person or persons, please fill in the name of the person or persons in the space at lines 20 and 21. You must attach to the Petition an affidavit (sworn statement) from each person describing in detail what they witnessed. The person must sign the statement in the presence of a notary public or court clerk.

Lines 21 and 22. If other persons have knowledge of the sweepstakes promotional mailings you are complaining of (but did not witness it), please fill in the name of the person or persons in the space at lines 21 and 22. You must attach to the Petition an affidavit (sworn statement) from each person describing in detail what they know about

the sweepstakes mailings you are complaining of. The statements must be signed in the presence of a notary public or court clerk.

H. Section 6.

Lines 24 through 26. Describe why you feel you are in danger of receiving further sweepstakes promotional mailings from the respondent.

PAGE 4.

I. Section 7. Circle the appropriate response to tell the court whether there is or is not another Elderly and Disabled Person Abuse Prevention Act proceeding or Family Abuse Prevention Act proceeding pending between respondent and you at line 1. If there is another proceeding pending, write in the county and state where it is filed, and circle whether you are the "Petitioner" or the "Respondent" in that case at lines 2 and 3. Fill in the court case number at line 4.

J. Signature

Line 14. DO NOT SIGN THE PETITION YET. The petition is a sworn statement. You should sign your name in the blank at line 14 ONLY in front of a notary public or a court clerk. Clearly print or type your name on the line below your signature.

Lines 18 through 25. The notary public or court clerk will fill in these lines.

Lines 26 through 30. If you sign and complete this form yourself, print or type your name, address, and telephone number, and check the blank next to "Petitioner." You may use a contact address and contact telephone number if you need to keep your residence address and telephone number confidential. Please note that for the purposes of the forms in this packet, "address" means a residence, mailing, or contact address in the same state as your home (the place where you live). (If your attorney completes this form, your attorney will mark the "Attorney" blank and will fill in his or her Oregon State Bar number, along with his or her name, address, and telephone number.)

VIII. FILLING OUT THE RESTRAINING ORDER (FORM 2S)

The Restraining Order is the official court document that orders the person or company named in the order, the "respondent," to stop causing sweepstakes promotions to be mailed to you, if you are an elderly, disabled or incapacitated person. The Restraining Order can also order the respondent to remove you from the respondent's sweepstakes promotion mailing list; and, it can require the respondent to refund any payment received after the date a Restraining Order is issued by the court. The instructions below describe each paragraph in the Restraining Order form. You will be checking the blanks to the left of the paragraphs which have the language you would like the Restraining Order to contain. If the judge grants your request, he or she will initial the appropriate paragraphs on the right side of the Restraining Order form and then will sign the form at the bottom.

PAGE 1.

A. Caption (Heading at Top of Form)

Fill in the caption as directed on page 6 of these instructions. Be sure to include the case number on the right.

B. Judge's Findings

Do not fill in lines 18 through 22; the court will complete this section.

- C. **Section 1.** If you want the court to order the respondent to stop mailing you any sweepstakes promotions, check the box at the left on line 26.

PAGE 2.

- D. **Section 2.** If you want the court to order the respondent to remove you from the respondent's sweepstakes promotion mailing list or place you on the respondent's list of persons to whom sweepstakes promotions may not be mailed, check the box at the left on line 2.

- E. **Section 3.** If you want the court to order the respondent to refund promptly any payment received in any form from you after the date the Restraining Order is entered by the court, check the box at the left on line 5.

Please be aware that sweepstakes companies are allowed up to 150 days to stop sending you sweepstakes entry materials. For a time after the court issues a Restraining Order, you may receive additional solicitations from the respondent. However, beginning on the date the Restraining Order is issued, the respondent must immediately reject any further orders from you and, if ordered by the court, must return any money you send to the respondent after the date the Restraining Order is issued.

- F. Section 4.** The judge can use Section 4 to include in the Restraining Order other conditions the judge considers necessary to provide for your safety and welfare. If there are other conditions you would like the court to include in the Restraining Order, check the box at the left on line 7, and write in those conditions in the blanks at lines 7 and 8.
- G. Section 5.** If you believe that the respondent will be present in court at the first hearing and therefore will receive a copy of the Restraining Order at that hearing, check the box at the left on line 9. If the respondent does in fact appear in court at the first hearing and the judge initials Section 5 at the right margin of the Restraining Order, you will NOT need to serve the respondent with the Restraining Order and other papers again. Please see Section XIV. "Serving the Respondent" for more details.

Lines 11 through 24. Do not fill in these lines; the court will complete this section.

Lines 25 through 27. If you sign and complete this form yourself, print or type your name, address, and telephone number, and check the blank next to "Petitioner." You may use a contact address and contact telephone number if you need to keep your residence address and telephone number confidential. (If your attorney completes this form, your attorney will mark the "Attorney" blank and will fill in his or her Oregon State Bar number, along with his or her name, address, and telephone number.)

PAGE 4.

H. Relevant Data

Page 4. Under the heading "RELEVANT DATA" fill in the requested information on page 4 of the Restraining Order form ONLY IF YOU PLAN TO HAVE THE RESTRAINING ORDER SERVED BY A SHERIFF OR OTHER PROCESS SERVER IN PERSON. If you plan to serve the Restraining Order by mail or other process method, you do not need to fill out page 4; please skip to Section IX. "Filling Out the Service Forms."

This information helps the sheriff (or other person) identify the respondent when the person serves the order and helps police officers identify both you and the respondent when they enforce the order. You can also attach a photograph of the respondent to help the sheriff (or other person) identify the respondent.

If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the court and sheriff can reach you if necessary. You are responsible for making sure that all papers delivered to your contact address or agent are actually delivered to you. YOU MUST NOTIFY THE COURT OF ANY CHANGE OF ADDRESS.

IX. FILLING OUT THE SERVICE FORMS (FORM 3S OR FORM 3A)

The purpose of the service forms (Form 3S and Form 3A) is to show the court that the Restraining Order and Petition were delivered to the respondent; that way, the court knows that the respondent is aware of what the court has ordered.

The service forms are designed to be filled out by the person who delivers or mails the papers to the respondent. However, you may fill in the caption information now if you wish. For a description of "service," i.e., having legal papers "served" on the respondent, see Section XIV. "Serving the Respondent."

A. Caption (Heading at Top of Form)

Lines 6 through 10. Fill in the caption as directed on page 6 of these instructions. Be sure to include the case number on the right.

B. The Rest of the Form

The rest of the service forms should be filled in only after the respondent has been served (see Section XIV. "Serving the Respondent"). If you have the sheriff's office or a private process server serve the Restraining Order on the respondent, the person who serves the order will fill in the rest of the blanks.

X. FILLING OUT THE NOTICE TO RESPONDENT/REQUEST FOR HEARING (FORM 4S)

The purpose of the "Notice To Respondent/Request for Hearing" form (Form 4S) is to give the respondent important information about the Restraining Order. This form must be attached to the copy of the Restraining Order served on the respondent.

A. Caption (Heading at Top of Form)

Line 6. Write in the name of the county in which you have filed or are filing your petition for a Restraining Order.

Lines 7 through 9. Write in your name and your date of birth.

Lines 11 through 13. Write in respondent's name at line 11. If you know the respondent's date of birth, please fill in the date at line 13. When the clerk gives you a case number, write in the case number at the right on line 11.

B. The Rest of the Form

Do not fill in the rest of the form. The respondent can use this form to request a hearing. If the respondent requests a hearing, the court will notify you of the date and time of the hearing and will send you a copy of the respondent's hearing request.

XI. FILLING OUT THE PETITIONER'S CERTIFICATE OF DOCUMENT PREPARATION FORM (FORM 5)

If one or more of the completed forms in this packet do not bear the name and bar number of an attorney, you must complete and give to the court the "Petitioner's Certificate of Document Preparation" form (Form 5), along with the rest of the papers you file.

A. Caption (Heading at Top of Form)

Lines 6 through 10. Fill in the caption as directed on page 6 of these instructions.

B. The Rest of the Form

Line 14. If you selected and completed the forms yourself without assistance from an attorney and without paid assistance from a person who is not an attorney, check the blank at line 14.

Lines 15 and 16. If you paid or will pay money to a person who is not an attorney for assistance in preparing all the attached forms, check the blank at line 15 and write in that person's name.

Lines 17 through 19. If you paid or will pay money to a person who is not an attorney for assistance in preparing some but not all of the attached forms, check the blank at line 17, write in the name of that person, and then list the documents that person helped you with. If you paid more than one person to assist you in preparing the forms, please indicate who helped you with which forms.

Lines 22 through 26. Sign your name, write in the date, then type or print your name below. Fill in your address or contact address and telephone number.

XII. FILING YOUR PAPERS WITH THE COURT

A. Signing

After you have completed the "Petition for Restraining Order to Prevent Abuse" (Form 1S), the "Restraining Order" (Form 2S), portions of either Form 3S or Form 3A, portions of the "Notice to Respondent/Request for Hearing" form (Form 4S), and, if applicable, the "Petitioner's Certificate of Document Preparation" form (Form 5) as described above, take

these forms to the court clerk. If you have not yet signed the Petition, ask the clerk to watch you sign the Petition and to "acknowledge" your signature.

B. Case Number

When the clerk gives you a case number, be sure that the case number is written in the blank at the top right of each form.

C. Copies

The clerk will make the necessary number of certified true copies of the papers at no charge.

XIII. THE FIRST HEARING

The court is required to hold a hearing on the date you file your petition or on the next day the court is open for business. The hearing will be held in the courthouse or, in some courts, by telephone. The clerk will give you instructions about your hearing. The respondent usually is not present at this hearing. At the hearing you can have witnesses to the abuse or adult protective services workers who have conducted an investigation testify concerning the abuse that you are complaining of.

If you have a disability and need special help at the hearing or you are unable to speak English and need a foreign language interpreter at the hearing, you must notify the clerk immediately. You will need to tell the clerk specifically what type of disability you have or which language you speak and what type of assistance you need or prefer.

XIV. SERVING THE RESPONDENT

If the court grants a Restraining Order, "true" copies of the Restraining Order and the Petition must be "served on" the respondent to inform the respondent that the Restraining Order exists and to tell the person what the court has ordered. There are several different ways to serve the respondent. True copies of the petition and order can be mailed by first class AND certified mail, return receipt requested, to the address to which you would have sent the payment for goods or services promoted in the sweepstakes promotion. (See Section A on page 15 for a description of service by mail if this is the service method you would like to use.) True copies of the petition and order can be given to the respondent personally by the sheriff or other person who is qualified to serve legal papers. (See Section B on page 16 for a description of "personal" service if this is the service method you would like to use.) Finally, service can be made in the manner directed by the court. The court clerk can provide you with further information if the judge decides you must use a different service method.

A. Service by Mail

If you would like to serve the respondent by mail, please follow the instructions below. (If you would like to have the respondent personally served, please skip Section A. and follow the instructions in Section B. "Personal Service" at page 16 of these instructions.)

The court clerk will provide you, free of charge, the number of certified true copies you will need to serve the respondent. You must mail the certified copies of the documents to the respondent BOTH by first class mail and also by certified mail, return receipt requested, to the address to which you would have sent the payment for goods or services promoted in the sweepstakes promotion had you been ordering the goods or services from the respondent. When the certified mail receipt is returned to you, make at least one copy of the receipt for your records. (The original return receipt must be stapled to the Certificate of Service By Mail when you submit it to the court.)

You must complete the "Certificate of Service By Mail" form (Form 3A) and file it with the court after you mail the documents. Staple the original certified mail return receipt to Form 3A when you submit it to the court.

Below are the instructions on how to complete the "Certificate of Service By Mail" form (Form 3A). If you have a friend or other authorized person mail the documents, that person should follow the instructions below to fill out the "Certificate of Service By Mail" form (Form 3A).

Lines 6 through 10. If not filled in already, fill in the caption information as directed on page 6 of these instructions. Be sure to include the case number.

Line 12. Fill in the name of the person who mailed the papers.

Lines 13 through 14. Check the appropriate blank to indicate whether the person who mailed the papers is the Petitioner, an authorized agent for the Petitioner, or the attorney for the Petitioner.

Line 15. Fill in the date the papers were mailed.

Lines 20 through 23. Fill in the address to which the papers were mailed. (This address must be the address to which the Petitioner would have sent the payment for the goods or services promoted in the sweepstakes promotion had the Petitioner been ordering the goods or services from the respondent.)

Lines 27 through 29. **THE PERSON WHO MAILED THE PAPERS TO THE RESPONDENT SHOULD SIGN THIS CERTIFICATE**, print or type his or her name in the blank under the signature line, and then fill in his or her address and telephone number.

B. Personal Service

If you decide to have the respondent personally served, the sheriff's office will serve the papers on the respondent unless you elect to have the respondent served personally by a private (commercial) process server or by another qualified adult. You, the petitioner, cannot serve the respondent.

There is no service fee when the sheriff's office serves the petition and order. If you arrange to have a private process server serve the papers, you will need to pay any fees to that person. You may be able to recover any service fees you pay from the respondent.

If the respondent was present at the first hearing and received a copy of the papers at the hearing, the court might decide that no further service is necessary. If that occurred, look at item 5 on page 2 of the Restraining Order (Form 2S) to see if the judge initialed that paragraph. If so, the respondent does not need another copy of the papers, and you can skip to the next section of these instructions, Section XV. "What Happens After the Restraining Order is Served."

1. Service by Sheriff

The Restraining Order and Petition can be served on the respondent by the sheriff. The court clerk will send a set of "true" copies of the papers to the sheriff's office to be served on the respondent. If you wish, however, you may deliver the papers directly to the sheriff's office yourself. Let the court clerk know if you are willing to deliver the papers to the sheriff's office. If the sheriff's office serves the papers, that office will finish completing the Affidavit of Proof of Service form (Form 3S) and file it with the court.

If the sheriff cannot serve the respondent within ten days after accepting the Restraining Order and Petition, the sheriff will notify you by mail. You then have ten days to give the sheriff's office additional information to help the sheriff find and serve the respondent. If you do not respond within ten days of the sheriff's notice to you, the sheriff will hold the Restraining Order and Petition for future service and file a return with the court clerk showing that service was not completed.

2. Private Service

The Restraining Order and Petition can be served by someone other than the sheriff. Any person (except yourself, your attorney, or your employee) who is mentally competent, 18 years of age or older, and a resident of Oregon or of the state of service may serve the papers. If you have someone other than the sheriff serve the papers, be sure that:

- (1) the person who served the respondent completes the "Affidavit of Proof of Service" and signs it only in front of a notary public or the court clerk;

- (2) the notary public notarizes or court clerk "acknowledges" the signature of the person signing the affidavit; and
- (3) the Affidavit of Proof of Service (Form 3S) is filed with the court clerk.

If you have a friend or other person serve the Order, that person should follow these instructions to fill out the "Affidavit of Proof of Service" form (Form 3S) after the person serves the Restraining Order on the respondent:

Lines 6 through 10. If not filled in already, fill in the caption information as directed on page 6 of these instructions. Be sure to include the case number.

Line 14. Fill in the county where the process server signed the affidavit.

Line 17. Fill in the date the respondent was served.

Line 19. Fill in the county and state where the respondent was served.

Lines 21 through 23. **THE PERSON WHO SERVED THE RESTRAINING ORDER ON THE RESPONDENT SHOULD SIGN THIS AFFIDAVIT ONLY IN FRONT OF A NOTARY PUBLIC OR THE COURT CLERK.** That person should print or type his or her name in the blank under the signature line and then fill in his or her address and telephone number.

Lines 25 through 27. The notary public or court clerk will complete these lines.

XV. WHAT HAPPENS AFTER THE RESTRAINING ORDER IS SERVED

A. Entering the Restraining Order Into the Police Computer

If the sheriff serves the papers on the respondent, the sheriff will enter the information from the Restraining Order into the police computer. After the information is entered in the police computer, police anywhere in the state can find out about the Restraining Order.

If you have the papers served by someone other than the sheriff's office or you serve the papers by mail, you must make sure that either Form 3S or Form 3A is filed with the court clerk. The court clerk will then forward the papers to the sheriff's office so that the information can be entered into the law enforcement computer. If you don't want to wait for the court clerk to forward the papers to the sheriff, you can deliver a true copy of either Form 3S or Form 3A and a true copy of the Petition and Restraining Order yourself to the sheriff's office or you can arrange to have these papers delivered to the sheriff's office by a private person.

If the sheriff decides that the Restraining Order and Petition are incomplete, the sheriff will return the papers to the court clerk. The court clerk then will notify you by mail concerning the error or problem.

B. The Respondent's Right to Ask for a Hearing

Within 30 days after the order is served, the respondent (the person the court ordered to be restrained) has the right to ask for a hearing on the Restraining Order. The respondent may request a hearing by filling out the "Respondent's Request For Hearing" portion of the "Notice To Respondent/Request for Hearing" form (Form 4S) and filing that form with the court clerk.

If the respondent requests a hearing, the court clerk will supply you with a copy of the respondent's request for hearing and notify you of the date and time of the hearing. The hearing will be held within 21 days of the respondent's request. The hearing may be held in person or by telephone. If the respondent is represented by an attorney, time for the hearing may be extended for up to 5 days at your request so that you may seek representation.

Both you and the respondent should be present at the hearing. If the respondent does not appear, the order will most likely remain in effect. **If you (the petitioner) do not appear, the order may be canceled.**

If a hearing is held, the hearing need not be limited to the issues (information) the respondent raised (brought up) in the request for hearing form. However, if the respondent raises issues at the hearing that were not previously raised in the request for hearing form, you are entitled to a reasonable continuance to allow you additional time to prepare a response (answer) to the new issues that the respondent has raised.

If you are represented by an attorney, you may be able to recover your attorney fees and costs from the respondent. Likewise, the respondent's attorney fees and costs could be assessed against you in certain circumstances.

At the hearing the judge may modify (change) the Restraining Order, terminate (end) it, or leave it as it is. The Restraining Order remains in effect for one year unless it is ended earlier by the court at your request or unless the court renews it at your request.

C. Enforcement of the Restraining Order

If the police have probable cause (good reason) to believe that the respondent has violated (disobeyed) the Restraining Order, they will arrest the respondent. It is not always necessary that the police see a violation of the Restraining Order before making an arrest. They can often arrest based on other reliable information available to the police. You also can ask the district attorney to prosecute (bring legal charges against) the respondent for violating a Restraining Order.

XVI. FILLING OUT THE PETITIONER'S MOTION AND ORDER OF DISMISSAL (FORM 6)

You have the right to ask the court to end a Restraining Order early.

A Restraining Order under the Elderly and Disabled Person Abuse Prevention Act is in effect (lasts) for one year (365 days) from the date the judge signs it. If you want the Restraining Order to end before the year's time is up, use the form called "Petitioner's Motion and Order of Dismissal" (Form 6). If you are ASKING for a Restraining Order, do NOT fill out Form 6.

PAGE 1.

A. Caption (Heading at Top of Form)

Lines 6 through 10. Fill in the caption as directed on page 6 of these instructions. Be sure to include the case number on the right.

B. Rest of the Form

Line 13. Fill in your name as you have it listed in the caption.

Line 16. DO NOT SIGN THE MOTION AND ORDER OF DISMISSAL YET. This document must be notarized. You should sign your name in the blank at line 16 ONLY in front of a notary public or a court clerk. After you sign your name, clearly print your name on the line below.

Lines 18 through 21. The notary public or court clerk will fill in these lines.

Lines 22 through 27. Do not fill in these lines; the court will complete this section.

Line 28 to the bottom of the page. Skip down to the bottom of the form. If you sign and complete this form yourself, print or type your name, address, and telephone number, and check the blank next to "Petitioner." You may use a contact address and telephone number if you need to keep your residence address and telephone number confidential. (If your attorney completes this form, your attorney will mark the "Attorney" blank and will fill in his or her Oregon State Bar number, along with his or her name, address, and telephone number.)

If an attorney did not prepare or assist you to complete this form, you must also complete and give to the court the "Certificate of Document Preparation" form (Form 5) included in this packet. Please refer to Section XI. "Filling Out the Certificate of Document Preparation (Form 5) at page 13 of these instructions.

Present the "Petitioner's Motion and Order of Dismissal" form (Form 6) and, if applicable, the "Petitioner's Certificate of Document Preparation" form (Form 5) to the court clerk.

Once the judge has signed the "Petitioner's Motion and Order of Dismissal" form (Form 6), the court clerk will send a copy to the sheriff's office. You must give or mail a copy to the respondent. The sheriff's office will take the information about the Restraining Order out of the police computer, and the police will no longer enforce the Restraining Order.

XVII. CONTINUING OR CHANGING THE RESTRAINING ORDER

A Restraining Order under the Elderly and Disabled Person Abuse Prevention Act is effective (lasts) for a period of one year (365 days) from the date it is signed (unless it is ended earlier at your request). You may continue the Restraining Order beyond one year if you request the court to renew the order for another year. You may also ask the court to change (amend) the Restraining Order. The court clerk has forms and instructions for you to use if you want to continue the Restraining Order. Ask the court clerk for Packet E2, containing forms and instructions for continuing (renewing) the Restraining Order.

1 1. **Check and fill out the section(s) that apply to you:**

2 ___ I am 65 years of age or older. I am _____ years of age.

3

4 ___ I am a disabled or incapacitated person. I have a mental or physical disability in that (explain the nature of
5 your disability or incapacity) _____

6

7 2. **Check and fill out the section(s) that apply:**

8 ___ A. Within the last 180 days, the respondent mailed me sweepstakes promotions.

9

10 ___ B. I spent more than \$500 on sweepstakes promotions that I received in the United States mail from the
11 respondent in the past year.

12

13 ___ C. I feel I need the court's assistance to protect me from incurring further expense on sweepstakes
14 promotions from the respondent.

15

16 NOTICE TO PETITIONER: Sweepstakes companies are allowed up to 150 days to stop sending
17 you sweepstakes entry materials. For a time after the court issues a Restraining Order, you may
18 receive additional solicitations from respondent. However, beginning on the date the Restraining Order
19 is issued, the respondent must immediately reject any further orders from you and, if ordered by the
20 court, must return promptly any money you send to the respondent after the date the Restraining Order
21 is issued.

22

23

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30

1 3. Did the respondent mail sweepstakes promotions to you within the last 180 days? Yes No

2 Dates you received sweepstakes promotions from the respondent: _____

3 _____

4 Address to which the respondent mailed the sweepstakes promotions to you: _____

5 _____

6 _____

7 Is the address to which the respondent mailed the sweepstakes promotions the address where you reside? Yes No

8 If no, please explain how and where you received the sweepstakes promotions from the respondent: _____

9 _____

10 _____

11 How did respondent's sweepstakes promotions injure or threaten to injure you? _____

12 _____

13 _____

14 _____

15 4. Are there incidents other than those described in question 3. above in which the sweepstakes promotions mailed by
16 the respondent injured or threatened to injure you? If yes, explain: _____

17 _____

18 _____

19 _____

20 5. The sweepstakes promotional mailings I am complaining about were witnessed by _____

21 _____ (affidavits attached). Other persons with knowledge of the mailings are _____

22 _____ (affidavits attached).

23 _____

24 6. I am in immediate and present danger of receiving further sweepstakes promotional mailings from the respondent
25 because: _____

26 _____

27 _____

28 _____

29 _____

30 _____

1 7. There (is) (is not) another Elderly and Disabled Person Abuse Prevention Act or Family Abuse Prevention Act
2 proceeding pending between respondent and me. It is filed in _____ (County),
3 _____ (State), and I am (Petitioner) or (Respondent) in that case.

4 The case number of that case is: _____
5

6 PETITIONER ASKS THE COURT TO GRANT THE RELIEF INDICATED IN THE "PETITIONER'S REQUEST" COLUMN OF
7 THE PROPOSED RESTRAINING ORDER, WHICH IS ATTACHED.

8 PETITIONER MUST NOTIFY THE COURT OF ANY CHANGE OF ADDRESS.

9 ALL NOTICES OF HEARING WILL BE SENT TO THIS ADDRESS AND DISMISSALS

10 MAY BE ENTERED IF YOU DO NOT APPEAR AT A SCHEDULED HEARING.

11 If you wish to have your residential address or telephone number withheld from respondent, use a contact
12 address and contact telephone number so the court and the sheriff can reach you if necessary.

13

14

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16

17

18 STATE OF OREGON)

19) ss.

20 County of _____)

21

22 SUBSCRIBED AND SWORN TO before me this _____ day of _____, 200__,
(month) (year)

23 by _____.
(Print Name of Petitioner)

24

25

26

27

Submitted by:

28

29

30

Print Name
____ Petitioner
____ Attorney for Petitioner
OSB No. _____

NOTARY PUBLIC FOR OREGON/COURT CLERK
My commission expires: _____

Address or Contact Address

City State Zip

Telephone or Contact Telephone Number(s)

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

_____)	
)	
Petitioner (your name),)	Case No. _____
)	
vs.)	RESTRAINING ORDER
)	TO PREVENT ABUSE
_____)	(Elderly and Disabled Person
)	Abuse Prevention Act)
Respondent (person to be restrained).)	

TO THE RESPONDENT:

VIOLATION OF THIS RESTRAINING ORDER MAY RESULT IN YOUR ARREST AND IN
CIVIL AND/OR CRIMINAL PENALTIES.

REVIEW THIS ORDER CAREFULLY. EACH PROVISION MUST BE OBEYED.

SEE YOUR RIGHTS TO A HEARING.

The court, having reviewed the petition, makes the following findings:

JUDGE'S INITIALS

- ___ Petitioner has been abused by respondent as defined by ORS 124.005.
- ___ The abuse of petitioner by respondent occurred within the last 180 days as provided in ORS 124.010.
- ___ There is an immediate and present danger of further abuse to petitioner.

IT IS HEREBY ORDERED that:

Petitioner's Request

JUDGE'S INITIALS

- 1. Respondent is restrained from mailing the petitioner any sweepstakes
promotions, effective on a date not less than 150 days from the date of this Order.

1 Petitioner's Request

JUDGE'S INITIALS

2 2. Respondent shall remove the petitioner from the respondent's sweepstakes
3 promotion mailing list or shall place the petitioner on the respondent's list
4 of persons to whom sweepstakes promotions may not be mailed.

5 3. Respondent shall refund promptly any payment received in any form from the
6 petitioner after the date this Order is entered by the court.

7 4. Other relief: _____
8 _____

9 5. No further service is necessary because respondent appeared in person before the
10 court.

11 IT IS FURTHER ORDERED that:

12 SECURITY AMOUNT FOR VIOLATION OF ANY PROVISION OF THIS ORDER IS \$5,000 unless otherwise
13 specified.

14 Other Amount (\$ _____)

15 THE ABOVE PROVISIONS OF THIS RESTRAINING ORDER ARE IN EFFECT FOR A PERIOD OF ONE YEAR OR
16 UNTIL THE ORDER IS AMENDED OR DISMISSED, WHICHEVER OCCURS FIRST.

17 IT IS HEREBY ORDERED that:

18 The Petition for Restraining Order to Prevent Abuse of Elderly or Disabled Person is dismissed. _____
19 _____

20 DATED this _____ day of _____, 200__.
21 (month) (year)

22 _____
23 JUDGE (Signature)

24 _____
25 Print, Type or Stamp Name of Judge

26 Submitted by: _____ Address or Contact Address
27 _____
____ Petitioner _____
____ Attorney for Petitioner _____
OSB No. _____
City State Zip
Telephone or Contact Telephone Number(s)

RELEVANT DATA

RESPONDENT _____ Sex _____ Telephone # _____
Address _____
City/State/Zip _____ County _____
Birth Date _____ Age _____ Race _____
Height _____ Weight _____ Hair Color _____ Eye Color _____

PETITIONER (you) _____ Sex _____ *Telephone # _____
*Residence Address _____
City/State/Zip _____ County _____
Birth Date _____ Age _____ Race _____
Height _____ Weight _____ Hair Color _____ Eye Color _____

*If you wish to have your residential address or telephone number withheld from respondent, use a contact address and contact telephone number so the court and the sheriff can reach you if necessary.

**PLEASE FILL OUT THIS INFORMATION
TO AID IN SERVICE OF THE RESTRAINING ORDER**

Where is respondent most likely to be located?

- Residence Hours _____
- Employment Hours _____ Address: _____
- Other Hours _____ Address: _____

Description of vehicle _____

Does respondent have any weapons or access to weapons? EXPLAIN: _____

Has respondent ever been arrested for or convicted of a violent crime? EXPLAIN: _____

Is there anything about respondent's character, past behavior, or the present situation that indicates that respondent may be a danger to self or others? EXPLAIN: _____

FORM 3S
(Personal Service)

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

)
)
Petitioner (your name),)
)
vs.)
)

)
)
Respondent (person to be restrained).)

Case No. _____

AFFIDAVIT OF PROOF
OF SERVICE
(Elderly and Disabled Person
Abuse Prevention Act)

STATE OF OREGON)
) ss.
County of _____)

I am a resident of the state of Oregon or of the state of service. I am a competent person 18 years of age or older. I am not an attorney for or a party to this case, or an officer, director, or employee of any party to this case.

On the _____ day of _____, 200__, I served the Restraining Order to Prevent Abuse of
(month) (year)
Elderly or Disabled Person and the Petition for Restraining Order to Prevent Abuse in this case personally upon the
above-named respondent in _____ County, state of _____, by delivering to the
respondent a copy of those papers, each of which was certified to be a true copy of each original.

Signature of Process Server

Print or Type Name of Process Server

Address

City State Zip

Telephone Number(s)

SUBSCRIBED AND SWORN TO before me this _____ day of
_____, 200__, by _____
(month) (year) (Print Name of Process Server)

NOTARY PUBLIC FOR OREGON/COURT CLERK
My Commission Expires: _____

1 court and is punishable by a fine of up to \$500 or 1 percent of your annual gross income, whichever is greater, a jail term of up to
2 six months, or both. Other sanctions may be imposed.

3

4

REQUEST FOR HEARING

5 I am the Respondent in the above-referenced action and I request a hearing

6 to contest all or part of the Order as follows (mark one or more):

7 The Order restraining me from mailing the petitioner any

8 sweepstakes promotions.

9 The Order requiring me to remove the petitioner from my sweepstakes promotion mailing list or place the petitioner on

10 my list of persons to whom sweepstakes promotions may not be mailed.

11 The Order requiring me to refund promptly any payment received in any form from the petitioner after the date the

12 Restraining Order is entered by the court.

13 Other _____

14

15

16 I (will) (will not) be represented by an attorney at the hearing.

17

18 Notice of the time and place of the hearing can be mailed to me at the address below my signature.

19

20 (If you completed this document without the assistance of an attorney, you are required to complete truthfully the certificate below.)

21 I certify that: (check the blank that applies)

22

23 I selected this document for myself, and I completed it without paid assistance and without assistance from an

24 attorney.

25 I paid, or will pay, money to _____ for assistance in preparing this

26 document.

27

28 Date: _____

29

Signature of Respondent

30

Address or Contact Address

31

City State Zip

Telephone or Contact Telephone Number(s)

