



How to Ask the Court to Dismiss a Final Restraining Order

Superior Court of New Jersey - Chancery Division - Family Part

Who Should Use This Packet?

You can use this packet if you are the defendant on a final restraining order and you want to have that order dismissed. In New Jersey, a defendant asking to have a final restraining order dismissed must satisfy a two-part test established by the Appellate Division.

Use this packet if you can meet the requirements of the Appellate Division conditions, which are:

1. **Show there is “good cause” to dismiss the restraining order by meeting the 11 factors listed in *Carfagno v. Carfagno*, 288 N.J. Super. 424 (Ch. Div. 1995).** The eleven factors that should be considered in whether a defendant has demonstrated “good cause” for dismissing the FRO are:
 - (1) The victim’s consent;
 - (2) Whether the victim fears the defendant;
 - (3) Current relationship between the parties;
 - (4) Number of contempt convictions;
 - (5) Defendant’s use of drugs or abuse of alcohol;
 - (6) Whether the defendant is violent with others;
 - (7) Whether the defendant has attended counseling;
 - (8) Age and health of the defendant;
 - (9) Whether the plaintiff is acting in good faith in opposing the defendant’s request to dissolve the final restraining order;
 - (10) Whether there are any other restraining orders against the defendant; and
 - (11) Any other relevant consideration regarding the potential for dismissal.
2. **Show that there is a substantial change of circumstances, since the time the order was granted.** Your motion application will be scheduled before the same judge who entered the final restraining order if they are still in the Family Division.

If the judge who entered your final restraining order is no longer in the Family Division, you will need to provide the transcript of the proceeding so the court can understand the original basis for the restraining order (see *Kanaszka v. Kunen*, 313 N.J. Super 600 (App. Div., 1998) for more information and N.J.S.A. 2C:25-29(d)). You can call the family court and ask if the judge is still in the Family division. Once you have this information, you will need to order the transcript through the court. You must know the date of your hearing when making your transcript request. Once the transcript is obtained, motion papers along with the transcript may be submitted to the Court and a court date will be set.

You can also use this packet if you want to respond to a Motion to Dismiss a FRO. Use the Certification in Response to Defendant’s Motion for Dismissal of a Final Restraining Order (Form E).

Do NOT use this packet if you have not met the criteria above.

Note: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The guides, instructions, and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the [forms](#) will be available at the county courthouse or on the Judiciary’s Internet site [njcourts.gov](#). However, you are ultimately responsible for the content of your court papers.

Completed forms are to be submitted to the Family Court that issued the order or last heard your case. A list of Family Court addresses can be found on [njcourts.gov](#).

Things to Think About Before You Represent Yourself in Court

Try to Get a Lawyer

The law, the proofs necessary to present your case, and the procedural rules governing cases in the Family Division are complicated. It is recommended that you make every effort to obtain the assistance of a lawyer. If you cannot afford a lawyer, you may contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found online under “Legal Aid” or “Legal Services.”

If you do not qualify for free legal services and need help in locating an attorney, you can contact the bar association in your county. Most county bar associations have a Lawyer Referral Service.

The county bar association Lawyer Referral Service can supply you with the names of attorneys in your area willing to handle your particular type of case and sometimes consult with you for a reduced fee.

There are a variety of organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Ask the Family court staff in your county for a list of lawyer referral services that include these organizations.

What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect special treatment, help or attention from the court. The following is a list of some things court staff can and cannot do for you. Please read it carefully before asking court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* usually answer general questions about court deadlines.
- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

Keep Copies of All Papers

Make and keep copies for yourself of any signed orders, written agreements, Judgments of Divorce, Case Information Statements, and other important papers that relate to your case.

Definitions of Words Used in This Packet

Caption - The *caption* is how the parties' names were written in the original papers filed for your divorce. If you were the plaintiff or defendant, you are still the plaintiff or defendant for all subsequent filings.

Certification - A *certification* is a written statement made to the court when you file papers with the court, swearing that the information contained in the filed papers is true.

Defendant - The *defendant* is the person against whom the court action was originally filed.

Exhibits - *Exhibits* are papers and information you provide to support what is in your motion.

File - To *file* means to give the appropriate forms to the court to begin the court's consideration of your request.

Judiciary Electronic Document Submission (JEDS) system - *JEDS* is a website that facilitates the submission of documents electronically to the New Jersey Courts. Self-represented litigants and/or attorneys can use this system for the submission of documents related to new or existing cases.

Motion - A *motion* is a written request in which you ask the court to issue an order, change an order it has already issued, enforce an order it has already issued, ***or ask the court to take some other action related to your case.***

Order - An *order* is a signed paper from the judge telling someone they must do something.

Party - A *party* is a person, business or governmental agency involved in a court action.

Plaintiff - The *plaintiff* is the person who filed the original court action.

Pro Se - The term *Pro Se* means that you are representing yourself in court without a lawyer.

Relief - To ask for *relief* is to ask the court for something.

Substantial Change - A *substantial change*, as used in this packet, means a significant change in your situation or circumstances affecting your case.

The numbered steps listed below tell you what forms you will need to fill out and what to do with them. Each form should be typed or printed clearly on 8 ½ "x 11" white paper only. Forms cannot be filed on a different size or color paper. Use only the forms included in this packet. **Be sure to keep a copy for your records.**

Steps to File for a Court Review and Decision

STEP 1: Fill out the *Notice of Motion for Dismissal of a Final Restraining Order by Defendant* (Form A)

The *Notice of Motion for Dismissal of a Final Restraining Order by Defendant* tells the court and the other person in the case the things you want the court to do. It also tells the other person and the court the date the motion will be heard.

STEP 2: Fill out the *Certification in Support of a Motion to Dismiss a Final Restraining Order* (Form B)

The *Certification in Support of a Motion to Dismiss a Final Restraining Order*, should explain the specific reasons why you think the court should dismiss your final restraining order. The reasons you give to the court must be based on the facts.

You must include with your completed Certification form **a copy of all previous orders**. You should also attach copies of any other papers that will prove that the things you say in your Certification are true.

STEP 3: Fill out the *Notice to Plaintiff* (Form C)

The *Notice to Plaintiff* lets the other party know how to respond to your Notice of Motion for Dismissal. This form gives the other party or the other party's lawyer important instructions. Your motion could be dismissed if your motion papers do not include the Notice to Plaintiff.

STEP 4: Fill out the *Cover Letter* (Form D)

Complete the form letter addressed to the Clerk of the Superior Court, Attn: Family Division Manager (make sure to indicate the county on the address line). There is no fee to file this motion. **This letter must be the first page of the packet of papers that you file with the court.** You must also include a stamped, return envelope addressed to yourself.

STEP 5: Check your completed forms and make copies.

Check your forms and make sure they are complete. Remove all instruction sheets before submitting to the court. Make sure you have signed the forms wherever necessary. Make three copies of the entire packet of the completed forms. The original will be filed with the court, a copy is for the court to send to the plaintiff, and a copy is for your records.

Checklist - Make sure you have all the following items and that they are in this order:

- _____ Cover Letter (Form D). This form must be the first paper in your packet of papers that you file with the court.
- _____ Notice of Motion for Dismissal of a Final Restraining Order by Defendant (Form A).
- _____ Certification in Support of a Motion to Dismiss a Final Restraining Order (Form B).
- _____ Transcript of proceeding (if applicable).
- _____ Notice to Plaintiff (Form C).
- _____ A stamped return envelope addressed to yourself.
- _____ Any papers to support your motion, including copies of all prior orders.

STEP 6: Mail or deliver your package of completed papers to the court

If the plaintiff in the case has an attorney, mail or deliver copies of all letters, motions, certifications, orders or other papers to the plaintiff's attorney. If the plaintiff does **not** have a lawyer, you must provide **the court** with an additional copy of all your forms and paperwork, along with a postage paid envelope so the court can forward them to the plaintiff. **You may not mail anything directly to the plaintiff or you may be in violation of your restraining order.**

There are **two** ways in which you can submit your documents to the court:

1. **Judiciary Electronic Document Submission (JEDS) system** - Self-represented litigants and/or attorneys can use this system for the submission of documents related to new or existing cases. Click on the following link for more information about the JEDS system (including FAQs) and how to register to use the system: njcourts.gov

OR

2. **By Mail** - Self-represented litigants may send completed forms to the family court in the county that issued the order you are trying to change or that last heard your case. You will find all family court addresses at njcourts.gov.

If you are mailing the papers to the court, it is suggested that you use regular and certified mail with return receipt requested. This will provide you with a post office receipt and green card. Your post office can tell you how to send certified mail with return receipt requested. Because you cannot have contact with the plaintiff, **you cannot mail the forms directly to the plaintiff. The court will send your motion to the plaintiff.**

Keep Copies for Yourself

You should make and keep copies of all forms and documents related to your case for your personal records.

Instructions for Completing the Notice of Motion for Dismissal of a Final Restraining Order by Defendant (Form A)

1. At the top left of the form under the section labeled *Filing Attorney Information or Self-Represented Litigant*, enter your name, current address, phone numbers, fax and email address. If you are not an attorney, leave the *NJ Attorney ID* field blank.
2. In the section for plaintiff's information, enter the name, address and daytime phone number of the plaintiff's attorney. If they do not have a lawyer, write their information, if known.
3. In the section for defendant's information, write your name, address and daytime phone number.
4. On the line marked *County*, enter the name of the county where you are filing this motion. This is the same the county where the original case was heard.
5. On the line marked *Docket Number*, enter the case docket number as it appears on your original court order. It will begin with the letters "FV".
6. Please enter your CS number if you have a child support account payable through the court.
7. Date and sign the form.
8. In the section below the signature line, select whether you will need *Interpreting services* or *ADA accommodations*, and list the language and/or accommodation.

Form A

Filing Attorney Information or Self-Represented Litigant

Name _____
NJ Attorney ID Number _____
Address _____

Daytime Phone _____ Cell Phone _____
Fax _____ E-mail Address _____

Superior Court of New Jersey
Chancery Division, Family Part
_____ County
Docket Number FV-_____

Plaintiff (as it appears in original caption)

vs.

Defendant (as it appears in original caption)

**Notice of Motion for Dismissal of a
Final Restraining Order by
Defendant**

PLEASE TAKE NOTICE that on the ____ day of _____, 20__, the undersigned,
_____, defendant, shall move before the Honorable
_____, in the Superior Court of New Jersey, Chancery Division, Family
Part, _____ County at _____ am pm or soon thereafter to request a hearing be held for
dismissal of a final restraining order. The Court will make a preliminary determination of whether there
is a *prima facie* showing of substantial changed circumstances since the entry of the restraining order
that constitutes good cause for dismissal, pursuant to *Kanaszka v. Kunen*, 313 N.J. Super. 600 (App.
Div. 1998).

PLEASE TAKE FURTHER NOTICE should this motion be considered, a hearing on the merits of the
application for dismissal may follow, pursuant to *Carfagno v. Carfagno*, 288 N.J. Super. 424
(Ch. Div. 1995). Defendant, _____ will rely upon the attached
Certification in the support of this application.

The plaintiff has a right to respond to this motion. If the plaintiff decides to respond to this motion, it
must be done no later than 15 days before the return date of the motion, pursuant to Court *Rule 5:5-4*.
A *Certification in Response to Defendant's Motion* Form is included in this packet.

Dated _____ s/
_____ Defendant Signature

Do you need:
An interpreter? Yes No If yes, specify language: _____

An ADA accommodation? Yes No If yes, specify accommodation:

Instructions for Completing the Certification in Support of a Motion to Dismiss a Final Restraining Order (Form B)

1. At the top left of the form under the section labeled *Filing Attorney Information or Self-Represented Litigant*, enter your name, current address, phone numbers, fax and email address. If you are not an attorney, leave the *NJ Attorney ID* field blank.
2. On the line marked *Plaintiff*, enter the name of the person who filed the restraining order (the name must appear as it does in the original caption).
3. On the line marked *Defendant*, enter your name (the name must appear as it does in the original caption).
4. On the line marked *County*, enter the name of the county where you are filing this motion. This is the same county where the original case was heard.
5. On the line marked *Docket Number*, enter the case docket number as it appears on your original court order. It will begin with the letters “FV”.
6. Enter your name on the line following “I _____”
7. For item #1, enter the date when you received the Final Restraining Order.
8. For item #2, enter the evaluation ordered and date completed.
9. Beginning with item 3 answer each question as completely as you can. No question should be left unanswered. For number 12 you must provide the facts explaining why you are filing this motion. Be sure to explain in detail why you believe the court should dismiss your order.
10. Sign and date your certification.

Form B

Filing Attorney Information or Self-Represented Litigant

Name _____

NJ Attorney ID Number _____

Address _____

Daytime Phone _____ Cell Phone _____

Fax _____ E-mail Address _____

Superior Court of New Jersey
Chancery Division, Family Part

_____ County

Docket Number FV- _____

Civil Action

Plaintiff (as it appears in original caption)

vs.

Defendant (as it appears in original caption)

**Certification in Support of Motion
To Dismiss a Final Restraining Order**

I, _____, am the defendant in the above entitled matter and certify that:

1. On _____ I received a Final Restraining Order. I am aware a complete transcript of the Final Restraining Order hearing is necessary before the court can consider this motion if the judge who entered the Final Restraining Order is no longer in the Family Division. A copy of the transcript is attached and paid for if applicable.

2. The Final Restraining Order directed me to complete a/an _____ evaluation and subsequent treatment. That treatment was completed on _____ and I am prepared to present proof of that completion at the return date of this Motion. (Enter n/a if you were not ordered to complete an evaluation or treatment)

3. Since the entry of the Final Restraining Order, substantial change of circumstances have occurred which warrant dismissal of the restraining order. These circumstances are as follows:

4. The history of domestic violence between plaintiff and defendant includes the following incidents: (Include incidents resulting in complaints being filed, restraining orders entered, as well as incidents of domestic violence not the subject of court orders or criminal charges)

Form B

5. What is your family relationship with the plaintiff, if any?

6. Have you ever been convicted of contempt for violating the restraining order? If “Yes,” how many times? Yes No

7. Do you have a continuing involvement with drugs or alcohol abuse? If “Yes,” explain: Yes No

8. Have you been involved in other violent acts with other persons? If “Yes,” explain: Yes No

9. Have you been engaged in any type of counseling? If “Yes,” explain: Yes No

10. What is your age and health?

11. Has another jurisdiction entered a restraining order against you? If “Yes,” explain: Yes No

12. If your order is dated after December 20, 1999, have you complied with the mandatory fingerprinting requirements? If “No.” explain: Yes No

13. If you were ordered to pay any fines, restitution, and/or penalties, have you met those financial obligations? If “No.” explain: Yes No

14. Are there any other factors that you would like the court to take into consideration regarding why you wish to have this restraining order dismissed?

I am aware that if I want to consult an attorney, I can do so prior to completing this certification.

I certify the foregoing statements made by me are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.

Dated

s/_____
Defendant Signature

Instructions for Completing the Notice to Plaintiff (Form C)

The Notice to Plaintiff lets the other party know how to respond to your Notice of Motion. Your motion may be dismissed if your motion papers do not include this notice.

IMPORTANT: You must include the Notice to Plaintiff form in your motion packet. (Court *Rule 5:5-4 (d)* - Motions in Family Actions). This form gives the other party or the other party's lawyer important instructions.

1. At the top left of the form under the section labeled *Filing Attorney Information or Self-Represented Litigant*, enter your name, current address, phone numbers, fax and email address. If you are not an attorney, leave the *NJ Attorney ID* field blank. This is the same information that is on the first page of the Notice of Motion for Dismissal of a Final Restraining Order by Defendant (Form A).
2. On the line marked *Plaintiff*, enter the name of the person who filed the restraining order (the name must appear as it does in the original caption).
3. On the line marked *Defendant*, enter your name (the name must appear as it does in the original caption).
4. On the line marked *County*, enter the name of the county where you are filing this motion. This is the same county where the original case was heard.
5. On the line marked *Docket Number*, enter the case docket number as it appears on your original court order. It will begin with the letters "FV".

Form C

Filing Attorney Information or Self-Represented Litigant

Name _____

NJ Attorney ID Number _____

Address _____

Daytime Phone _____ Cell Phone _____

Fax _____ E-mail Address _____

Superior Court of New Jersey
Chancery Division, Family Part

_____ County

Docket Number FV- _____

Plaintiff (as it appears in original caption)

vs.

Defendant (as it appears in original caption)

Notice to Plaintiff

If you want to respond to this motion, you must complete a *Certification in Response to Defendant's Motion to Dismiss Final Restraining Order* (Form E).

On the Certification form, type or print the specific reasons you think the court not should agree to the defendant's request to dismiss the Final Restraining Order. The reasons you give to the court must be based on the facts.

You should also attach copies of all orders and any other papers that will support that the things you say in your Certification are true.

The Response to the motion to dismiss should be sent to the Family Division in the county where the motion was filed. A directory of Family Division offices is available on www.njcourts.gov

Call the Family Division office if you have any questions on how to file the response to this motion. Please note that the Family Division cannot give you legal advice.

Instructions for Completing the Cover Letter (Form D)

1. At the top left of the form under the section labeled *Filing Attorney Information or Self-Represented Litigant*, enter your name, current address, phone numbers, fax and email address. If you are not an attorney, leave the *NJ Attorney ID* field blank.
2. On the line marked *county* (before “Superior Court Clerk, Family Part”), enter the county where the motion will be heard.
3. Fill in the street address, city, state and zip code of the court.
4. In the line following “*Re*” enter the names of the Plaintiff and Defendant of your case as it appeared on the original complaint.
5. Enter the *Docket Number* of your case as it appeared on the original complaint.
6. On the line after “*Copies of these documents....*”, enter the name of the party who received a copy of your motion papers. (Enter the name of the plaintiff’s attorney, if the plaintiff has an attorney, otherwise enter the name of the plaintiff). Sign and date your cover letter.
7. In the lines following *Enclosures*, enter the name of the court and plaintiff’s attorney (if known). If the plaintiff was not represented by an attorney, leave the space blank.
8. Put this letter on top of your motion papers and then mail them to the clerk of the superior court at the county courthouse where your motion will be heard.
9. Remember to include a stamped, return envelope addressed to yourself.

Form D

Filing Attorney Information or Self-Represented Litigant

Name _____

NJ Attorney ID Number _____

Address _____

Daytime Phone _____ Cell Phone _____

Fax _____ E-mail Address _____

Superior Court Clerk, Family Part

RE: _____

Docket Number _____

Dear Sir or Madam:

Enclosed is an original and two copies of a Notice of Motion and Certification submitted by me in the above matter. Copies of these documents have been forwarded to _____.

Please mark one copy of the Notice of Motion and Certification “filed” and return them in the enclosed envelope. Thank you for your cooperation in this matter.

Very Truly Yours,

s/

Signature

Date

Enclosures

Copies to:

_____ County Court

Name of other party’s attorney (if known)

Instructions for Completing the Certification in Response to Defendant's Motion for Dismissal of a Final Restraining Order (Form E)

1. At the top left of the form under the section labeled *Filing Attorney Information or Self-Represented Litigant*, enter your attorney's name, current address, phone numbers, fax and email address. If you are not represented by an attorney, enter your information **only** if known by the defendant. If your information is not known to the defendant, do not enter it on this form.
2. On the line marked *Plaintiff*, enter your name as it appears in the original complaint.
3. On the line marked *Defendant*, enter the defendant's name as it appears in the original complaint. Enter the defendant's address, if known.
4. On the line marked *County*, enter the name of the county where the original complaint was filed.
5. On the line marked *Docket Number*, enter the case docket number as it appears on your original court order. It will begin with the letters "FV".
6. Please enter your CS number if you have a child support account payable through the court.
7. Enter your name on the line following "I _____"
8. On the next line, enter the date you received the Final Restraining Order, as well we the name of the defendant.
9. Beginning with item 1 answer each question as completely as you can. No question should be left unanswered. For number 11 you must provide the facts explaining why you are filing this Certification. You need to explain in detail why you believe the court should not dismiss this restraining order.
10. Sign and date your certification.

Steps for Filing the Response to the defendant's motion to dismiss the FRO:

Make 3 copies of the completed forms:

- The original will be filed with the court,
- a copy for court to send to the Defendant,
- a copy for your records.

Mail or deliver the Certification to the court. If you are mailing the papers, it is suggested that you use regular and certified mail with return receipt requested. This will provide you with a post office receipt and green card. Your post office can tell you how to send certified mail with return receipt requested.

Remember to keep a copy for your records.

Form E

Filing Attorney Information or Self-Represented Litigant

Name _____
NJ Attorney ID Number _____
Address _____

Daytime Phone _____ Cell Phone _____
Fax _____ E-mail Address _____

Superior Court of New Jersey
Chancery Division, Family Part

_____ County
Docket Number FV- _____

Plaintiff
vs.

Defendant

**Certification in Response to
Defendant’s Motion for Dismissal of
a Final Restraining Order**

I, _____ certify that I am a plaintiff in the above titled matter.

On _____ I was granted a Final Restraining Order against _____ the defendant.

I ask the court to consider the following responses as to the Motion to Dismiss the Final Restraining Order:

1. Do you consent to have this Final Restraining Order lifted? If “No,” explain: Yes No

2. Do you fear the defendant? If “Yes,” explain: Yes No

3. What is the current nature of your relationship with the defendant?

4. Has the defendant been convicted of contempt for violating any restraining order? If “Yes,” how many times? Yes No

5. Does the defendant, to the best of your knowledge, have a continuing involvement with drugs or alcohol abuse? If “Yes,” explain: Yes No

Form E

6. Has the defendant, to the best of your knowledge, been involved in other violent acts with other persons? If "Yes," explain: Yes No

7. Has the defendant, to the best of your knowledge, been engaged in any type of counseling? If "Yes," explain: Yes No

8. What is the age and health of the defendant?

9. Has another jurisdiction entered a restraining order protecting you from the defendant? If "Yes," explain: Yes No

10. The history of domestic violence between you and the defendant includes the following incidents: (Include incidents resulting in complaints being filed, restraining orders entered, as well as incidents of domestic violence not the subject of court orders or criminal charges.)

11. Are there any other factors that you would like the court to take into consideration regarding why you do not wish to have this restraining order dismissed?

I am aware that if I want to consult an attorney, I can do so prior to completing this certification.

I certify the foregoing statements made by me are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment.

Dated

s/_____
Plaintiff Signature