

TEMPORARY ORDERS AND TEMPORARY RESTRAINING ORDERS

You've just been served. Tucked in the divorce papers you've received is a Temporary Restraining Order (TRO) signed by a judge giving you a laundry list of things you are ordered not to do. What is this and why did my spouse do this to me?

First, calm down and don't take it personally. Although it looks threatening and it looks like your spouse has accused you of all kinds of wrongdoing in the restraining order, chances are it could simply be the standard operating procedure for the attorney to file it. The temporary restraining order is simply a way for preserving the status quo before the temporary orders hearing. It prevents the parties from doing such things as cleaning out bank accounts, removing parties from accounts, selling assets, and removing the children from school or taking the children and running.

Again, that may seem harsh coming from your spouse and you may have no intention of doing any of those things, but try to look at it another way. The temporary restraining order was an order signed by the judge *ex parte*, meaning it was signed by the judge without you being present to argue your side of the case. Because of that, and to protect your rights, most states require that the temporary restraining order be set for a hearing within two weeks. That hearing will determine whether or not the TRO should remain in effect. Usually, at that hearing, the parties agree to a mutual injunction that orders both of you to maintain status quo.

What you may not know, though, is that attorneys will also set the case for a hearing on temporary orders at the same time. The use of the temporary restraining order is many times used to quickly get a hearing on temporary orders. So until you know more about why the TRO was filed, assume it was done to get a hearing date for temporary orders.

Okay, so what is this temporary orders hearing? It's just like it sounds, it's a hearing to set temporary orders that the parties will follow while the divorce is pending. The temporary orders will determine who will remain living in the marital home, who will pay what bills, who will get what assets such as cars, and set child support and temporary spousal support, if any. It will also determine temporary custody of the children. If custody is not an issue, then this should be a fairly quick hearing. If custody is an issue, then obviously, it will be a longer hearing. Depending on the court's schedule, the judge may sign a "band aid" order with minimal terms and reset the case for a full or half day hearing on temporary orders. Other courts will go ahead and have a hearing on the temporary orders, but limit each side's time to an hour or so. Be sure your attorney knows what the judge expects so you don't have any surprises.