What do I do After being Served with a Restraining Order?

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When someone is served with a restraining order, known in Massachusetts as an Abuse Prevention Order or 209A, it may be stressful and confusing if they do not understand the process or what to do next.

When someone applies for a restraining order, they first have a hearing in front of a judge- without the other person present. This is called an “ex-parte” hearing. Once the judge grants the restraining order, it is served to the other person. The person applying for the restraining order is the plaintiff, while the other person is the defendant.

At the ex-parte hearing, the judge will set another hearing for the restraining order. The second hearing must be held within 10 days after the ex-parte hearing. When the defendant is served with the restraining order, the hearing date will be listed on the paperwork. This hearing gives both the plaintiff and defendant a chance to appear in court and argue whether the restraining order should or should not be extended and what the terms will be.

The second hearing is an evidentiary hearing. This means that both sides may provide testimony, call witnesses, cross examine the other side’s witnesses, and a judge issues a ruling based on that evidence. The reason for this second hearing is to determine whether the restraining order should be extended.

At the second hearing, the plaintiff has the burden of proof. This means the plaintiff has to show that it is more likely than not that they (the plaintiff) are in fear of abuse by the defendant. If the plaintiff fails or the defendant successfully counters the plaintiff’s argument, the judge may decide to not extend the restraining order. However, if the plaintiff is able to argue successfully, the judge will extend the restraining order and it will remain in effect. When a judge extends a restraining order, it is often for a period of 6 months to 1 year.

If you are served with a restraining order, do not panic! You will have an opportunity to argue in front of a judge why the restraining order should not continue to be extended. Between the time you are served and the hearing with the Judge, you should not under any circumstances contact the Plaintiff, even if they contact you first! If you have any questions regarding a restraining order served against you, please feel free to contact our Massachusetts restraining order lawyers at (508) 880-6677 to speak with one of our experienced attorney about how we can assist with your matter.

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