

50C CIVIL NO-CONTACT ORDER

NOTE:

THIS PACKET CONTAINS INFORMATION REGARDING THE PROCESS FOR FILING A 50C CIVIL NO-CONTACT ORDER.

DO NOT USE THIS PACKET IF THE RELATIONSHIP BETWEEN YOU AND THE PERSON YOU ARE FILING AGAINST IS:

1. current or former spouses, or
2. persons who live together or have lived together and were in a dating relationship while living together, or
3. persons who are related as parents and children, including persons acting in loco parentis to a minor child, or as grandparents and grandchildren (over the age of 16), or
4. persons who have a child in common or who are expecting a child together, or
5. current or former household members, or
6. persons in a dating relationship or have been in a dating relationship (over time and continuous), or
7. persons who have engaged in an ongoing sexual relationship.

IF YOUR RELATIONSHIP MEETS THE ABOVE DEFINITION, YOU MAY BE ENTITLED TO A DOMESTIC VIOLENCE PROTECTIVE ORDER AND SHOULD CALL THE EBCI DOMESTIC VIOLENCE & SEXUAL ASSAULT PROGRAM AT 828-359-6830.

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

IN NO EVENT will the Clerk of Court or anyone contributing to the production of these forms, instructions, or guidelines be liable for any indirect or consequential damages resulting from the use of the forms or information provided to you.

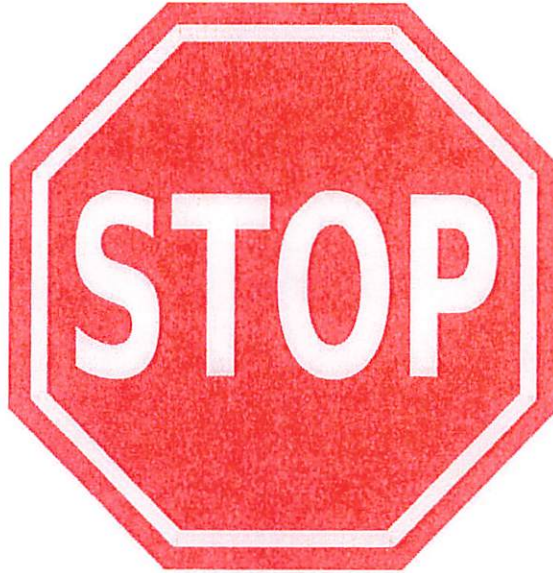
THE CLERK OF COURT and other Court staff cannot advise you or help you fill out these forms.

IF THERE ARE ANY QUESTIONS in your mind concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that you consult with or retain an attorney.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOMES FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED.

IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE.

The EBCI Legal Assistance Office can *only* assist with 50Cs that involve sexual assault or stalking. If you have been a victim of sexual assault or stalking, please contact the EBCI DV/SA Program at 828-359-6830.



PLEASE CAREFULLY READ THE FORMS AND INSTRUCTIONS CONTAINED IN THIS PACKET.

IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT WITH AN ATTORNEY.

THESE ARE EDUCATIONAL FORMS DESIGNED TO ASSIST YOU, BUT YOU ARE REPRESENTING YOURSELF.

PLEASE REVIEW AND FOLLOW THE DIRECTION TO IMPROVE YOUR PERFORMANCE IN YOUR CASE.

FAILURE TO READ AND FOLLOW THE INSTRUCTIONS MAY ADVERSELY IMPACT YOUR CLAIM.

What is a 50C Civil No-Contact Order?

A 50C Civil No-Contact Order seeks to protect victims of sexual assault, stalking, and other forms of harassment. Victims may be any age, and unlike the 50B protective order, no relationship between the victim and the offender is required. However, if the relationship between the victim and the offender falls within any relationships outlined in a 50B domestic violence order, then victim may not apply for a 50C and may only apply for a 50B.

If the relationship between the defendant and you was/is: married, divorced, persons who have lived together, have a minor child in common, are parent/child, grandparent/grandchild, current or former household members, persons who have been in a dating relationship, or are persons in an ongoing sexual relationship then you may be eligible for a 50B Domestic Violence Protective Order. **The EBCI DV/SA Program & Walkingstick Shelter can help you with this. You can reach the Walkingstick Shelter by calling 828 359 6830 or toll-free at 1 800 264 9611.**

Some common situations that a 50C Civil No-Contact Order applies to are: stranger and acquaintance violence, violence involving relatives that are not immediate kin or former household members, and workplace or school violence.

There are two common processes for getting a Civil No-Contact Order:

1) Ex Parte Order

An emergency order, also called an Ex Parte Order, is available if there is a danger of serious *and* immediate injury to you or to a minor child. Once an Ex Parte Order is filed with the Clerk of Court, you will be required to appear before a judge to explain the need for an order of protection. The defendant will not be present at this hearing. If a magistrate/judge finds that there is danger to the victim or a minor child, the magistrate/judge can issue an Emergency Ex Parte Order of Protection with any orders against the defendant he/she feels is necessary to protect the victim or the minor child. Such an order is good for 14 days.

How Does the Ex Parte Process Work?: If the Ex Parte motion is filed before noon (12pm) it will typically be heard that day without giving notice to the defendant. If it is filed after noon, it will typically be heard the following day without giving notice to the defendant. If a judge/magistrate hears your request for Ex Parte relief, the judge/magistrates order is valid for only a short period of time and a second temporary order must be issued by a judge. If the judge/magistrate issues an Ex Parte Order, another hearing will be held after the defendant is given notice. If no Ex Parte Order is entered, a hearing will still be held after the defendant is given notice. At the second hearing date, the court will consider whether to grant or not to grant a protection order lasting for a period not to exceed two years.

2) No Ex Parte Order

If you do not wish to file for an Ex Parte Order, you may file the complaint and receive a hearing date in the future. The defendant will be able to attend this hearing date. The length of the protective order considered at this hearing will be for a period not to exceed two years.

What do I do first?

After you get the packet, READ THE INSTRUCTIONS! Then fill out the forms by printing *neatly* in **black** ink. You may fill them out at home or at the courthouse. Please read the forms carefully as some have a "Verification" page. This means they **MUST** be signed in the presence of a Notary Public. If the document does require verification, do not sign until you are in front of a notary.

IMPORTANT REMINDERS BEFORE YOU BEGIN

This packet describes the general process, but it is impossible to cover everything that may affect your rights. If you get confused during the process, you should stop and get advice from an attorney. Judges, Clerk of Court, and court staff CANNOT give you legal advice.

INSTRUCTIONS FOR 50C CIVIL NO-CONTACT ORDERS

ATTENTION: Do NOT use this form if the relationship between you or the person whose behalf you are filing this complaint and the defendant is:

1. current or former spouses, or
2. persons who live together or have lived together and were in a dating relationship while living together, or
3. persons who are related as parents and children, including persons acting in loco parentis to a minor child, or as grandparents and grandchildren (over the age of 16), or
4. persons who have a child in common or who are expecting a child together, or
5. current or former household members, or
6. persons in a dating relationship or have been in a dating relationship (over time and continuous), or
7. persons who have engaged in an ongoing sexual relationship

If your relationship is one of those listed above, you may qualify for a Domestic Violence Protective Order and should call the EBCI DV/SA Program & Walkingstick Shelter at 828-359-6830.

Step One: Completing Your Forms

I. Complaint/Motion for No-Contact Order for Stalking or Nonconsensual Sexual Conduct

- a. Complete this form and the clerk will make an additional copy for the file.
- b. Fill in:
 - i. **Name of Plaintiff/Victim:** you are the plaintiff
 - ii. **If you are filing on behalf of a minor or incompetent victim:** place your name in the box marked "*Name of Person Filing on Behalf of Minor or Incompetent Victim*"
 - iii. **Address of Plaintiff/Victim:** a mailing address where you can receive notice of any motions or pleadings from the opposing party; you may use an alternative mailing address if you are afraid to give your mailing address
 - iv. **Defendant's Name/Address:** the defendant is the person you wish to have no contact with, place this information below the "VERSUS" line
- c. **For the remainder of the complaint, READ CAREFULLY and then check the blocks and fill in the blanks which apply to the facts or your specific situation.**
 - i. If you would like the judge/magistrate to act immediately because you are afraid of additional instances of stalking or non-consensual sexual conduct:
 1. Check the box beside #3 ("the temporary order to be issued ex parte...") at the top of the second page of the complaint form. If you check #3 you must explain why.
 2. If you check #3 you MUST complete the certification directly below and explain the reason for not giving notice.
 - ii. **Date and sign the complaint on the second page ABOVE THE VERIFICATION SECTION:** The verification section must be signed before a clerk, magistrate, or public notary.
 - iii. **NOTE:** If there is not enough room for you to write all your allegations on the form you may attach additional sheets.

II. Civil Summons No-Contact Order for Stalking or Non-Consensual Sexual Conduct

- a. Complete this form and the clerk will make an additional copy for the file.
- b. Fill in:
 - i. Plaintiff's name
 - ii. Defendant's Name (in the block "Name of Defendant")
 - iii. Defendant's Name and Address (in the block "Name and Address of Defendant")

iv. **ATTENTION: DO NOT FILL OUT THE REST OF THIS FORM**

III. **Notice of Hearing on No-Contact Order for Stalking or Non-Consensual Sexual Conduct**

a. **Fill in:**

i. Plaintiff's Name

ii. Defendant's Name and Address

iii. **ATTENTION: DO NOT FILL OUT THE REST OF THIS FORM**

IV. **Ex Parte Temporary No-Contact Order for Stalking or Non-Consensual Sexual Conduct**

a. **Fill in:**

i. Plaintiff's Name and Address

ii. Defendant's Name and Address

iii. *If you would like an Ex Parte Hearing, check the "ex parte" box located at the top right.*

iv. **ATTENTION: DO NOT FILL OUT THE REST OF THIS FORM**

V. **No-Contact Order for Stalking or Non-Consensual Sexual Conduct**

a. **Fill in:**

i. Plaintiff's Name and Address

ii. Defendant's Name and Address

iii. **ATTENTION: DO NOT FILL OUT THE REST OF THIS FORM**

Step Two: Turn in completed packet

Once you have completed all information required in this packet please bring your packet to the court or to a magistrate. Your packet will be reviewed and if appropriate a judge or magistrate may issue an ex parte order and/or set a date for your matter to be heard.

I. COMPLAINT/MOTION FOR NO-CONTACT ORDER FOR STALKING OR NONCONSENSUAL SEXUAL CONDUCT

- a. Complete this form and the clerk will make an additional copy for the file.
- b. Fill in:
 - iv. **Name of Plaintiff/Victim:** you are the plaintiff
 - v. **If you are filing on behalf of a minor or incompetent victim:** place your name in the box marked "*Name of Person Filing on Behalf of Minor or Incompetent Victim*"
 - vi. **Address of Plaintiff/Victim:** a mailing address where you can receive notice of any motions or pleadings from the opposing party; you may use an alternative mailing address if you are afraid to give your mailing address
 - vii. **Defendant's Name/Address:** the defendant is the person you wish to have no contact with, place this information below the "VERSUS" line
- c. For the remainder of the complaint, **READ CAREFULLY** and then check the blocks and fill in the blanks which apply to the facts or your specific situation.
 - viii. If you would like the **judge/magistrate to act immediately** because you are afraid of additional instances of stalking or non-consensual sexual conduct:
 1. Check the box beside #3 ("the temporary order to be issued ex parte...") at the top of the second page of the complaint form. If you check #3 you must explain why.
 2. If you check #3 you MUST complete the certification directly below and explain the reason for not giving notice.
 - ix. **Date and sign the complaint on the second page ABOVE THE VERIFICATION SECTION:** The verification section must be signed before a clerk, magistrate, or public notary.
 - x. **NOTE:** If there is not enough room for you to write all your allegations on the form you may attach additional sheets.

EASTERN BAND OF CHEROKEE INDIANS



File No.

The Cherokee Court

Name of Plaintiff/Victim

Name of Person Filing on Behalf of Minor or Incompetent Plaintiff/Victim

Address of Plaintiff/Victim (Use Alternative Address if Afraid to Give Physical Address)

VERSUS

Defendant's Name and Address

COMPLAINT/MOTION FOR NO-CONTACT ORDER FOR STALKING OR NONCONSENSUAL SEXUAL CONDUCT

C.C. 50C-3

NOTE TO PLAINTIFF: Do not use this form if the relationship between you or the person on whose behalf you are filing this complaint and the defendant is married, divorced, persons who have lived together, have a minor child in common, are parent/child, grandparent/grandchild, current or former household members, persons who have been in a dating relationship, or are persons in an ongoing sexual relationship. In that situation use "Complaint And Motion For Domestic Violence Protective Order."

Check only the boxes below that apply and fill in blanks. Additional sheets may be attached.

- 1. [] The plaintiff resides [] The defendant resides [] The unlawful conduct occurred within the territory of the Eastern Band of Cherokee Indians
2. [] a. I am the victim of unlawful conduct that occurred within the territory of the Eastern Band of Cherokee Indians. [] b. The plaintiff is a minor or incompetent adult who is a victim of unlawful conduct that occurred within the territory of the Eastern Band of Cherokee Indians, and I am a competent adult who resides within the territory of the Eastern Band of Cherokee Indians and filing this complaint on the victim's behalf.
3. [] The defendant was 18 years of age or older at the time of the unlawful conduct.
4. [] The defendant has committed nonconsensual sexual conduct against the plaintiff in that: (Give specific dates and describe in detail what happened) If there is not enough space on this form you can attach additional pages.
5. [] The defendant has followed on more than one occasion or otherwise tormented, terrorized or terrified the plaintiff named above with the intent to place the plaintiff in reasonable fear for plaintiff's safety or the safety of the plaintiff's immediate family or close personal associates or with the intent to cause, and which did cause, the plaintiff to suffer substantial emotional distress by placing the plaintiff in fear of death, bodily injury, or continued torment or terror in that: (Give specific dates and describe in detail what happened and how it placed the plaintiff in fear of safety or how it caused substantial emotional distress.)

Because Of These Acts of Unlawful Conduct, The Plaintiff Requests That The Court Grant The Following Relief:

(Check only the boxes that apply)

- 1. [] A permanent no-contact order (A permanent order cannot last more than two years)
2. [] A temporary no-contact order (A temporary order cannot last more than fourteen days)

3. A temporary order to be issued ex parte (without notice to the defendant) because the plaintiff will suffer immediate injury, loss, or damage before the defendant can be heard in that: *(explain)*

AND

(If you checked Box 3 above, complete this information)

I certify that I have made the following efforts, if any, to give notice to the defendant and give the following reasons supporting why notice should not be required: *(explain)*

- 4. To order the defendant not to visit, assault, molest, or otherwise interfere with the plaintiff.
- 5. To order the defendant to stop stalking the plaintiff.
- 6. To order the defendant to cease harassment of the plaintiff.
- 7. To order the defendant not to abuse or injure the plaintiff.
- 8. To order the defendant not to contact, by telephone, written communication, or electronic means, the plaintiff.
- 9. To order the defendant to refrain from entering or remaining present at the plaintiff's residence, school, place of employment, or other places specified.

(List Other Places Where You Want Defendant Ordered Not To Be)

10. Other: *(specify)*

<i>Date</i>	<i>Signature of Person Filing Complaint</i>
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VERIFICATION

I, the undersigned, being duly sworn, say that I am the plaintiff in this action; that I have read the Complaint and Motion; that the matters and things alleged in the Complaint and Motion are true except as to those things alleged upon information and belief and as to those I believe them be true and accurate.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		<i>Date</i>
<i>Date</i>	<i>Signature</i>	<i>Signature of Person Signing Complaint</i>
<input type="checkbox"/> Deputy/Assistant Clerk <input type="checkbox"/> Magistrate <input type="checkbox"/> Clerk of Court <input type="checkbox"/> Judge		<i>Name of Person Filing Complaint (Type or Print)</i>
<input type="checkbox"/> Notary	<i>Date My Commission Expires</i>	
SEAL	<i>County Where Notarized</i>	

II. CIVIL SUMMONS NO-CONTACT ORDER FOR STALKING OR NONCONSENSUAL SEXUAL CONDUCT

- a. Complete this form and the clerk will make an additional copy for the file.
- b. Fill in:
 - i. Plaintiff's name
 - ii. Defendant's Name (in the block "Name of Defendant")
 - iii. Defendant's Name and Address (in the block "Name and Address of Defendant")
 - iv. **ATTENTION: DO NOT FILL OUT THE REST OF THIS FORM**

III. NOTICE OF HEARING ON NO-CONTACT ORDER FOR STALKING OR NONCONSENSUAL SEXUAL CONDUCT

a. Fill in:

- xi. Plaintiff's Name
- xii. Defendant's Name and Address
- xiii. **ATTENTION: DO NOT FILL OUT THE REST OF THIS FORM**

IV. TEMPORARY NO-CONTACT ORDER FOR STALKING OR NONCONSENSUAL SEXUAL CONDUCT

a. Fill in:

xiv. Plaintiff's Name and Address

xv. Defendant's Name and Address

xvi. *If you would like an Ex Parte Hearing, check the "ex parte" box located at the top right.*

xvii. **ATTENTION: DO NOT FILL OUT THE REST OF THIS FORM**

V. NO-CONTACT ORDER FOR STALKING OR NONCONSENSUAL SEXUAL CONDUCT

a. Fill in:

- i. Plaintiff's Name and Address
- ii. Defendant's Name and Address
- iii. **ATTENTION: DO NOT FILL OUT THE REST OF THIS FORM**



Name And Address Of Plaintiff

VERSUS

Name And Address Of Defendant

NO-CONTACT ORDER FOR STALKING OR NONCONSENSUAL SEXUAL CONDUCT

C.C. 50C-9

FINDINGS

This matter was heard by the undersigned Cherokee Court judge, the Court has jurisdiction over the parties and subject matter, and the defendant has been provided notice of the hearing.

The Court hereby finds that:

- 1. (If this block is checked, skip to the Order portion of the Order.) This Order is entered by default for the remedy sought in the complaint because the defendant failed to file an answer appear at this hearing and the allegations in the complaint are sufficient to justify a no-contact order for stalking or nonconsensual sexual conduct.
2. Present at the hearing were: the plaintiff, represented by the defendant, represented by.
3. The unlawful conduct occurred within the territory of EBCI.
4. The defendant was 18 years of age or older at the time of the unlawful conduct.
5. The plaintiff has suffered unlawful conduct by the defendant in that:
4. Other:

CONCLUSIONS

- 1. The defendant committed acts of unlawful conduct against the plaintiff.
2. The plaintiff has failed to prove grounds for issuance of a no-contact order.

ORDER

It is ORDERED that:

- 1. The defendant shall not visit, assault, molest, or otherwise interfere with the plaintiff.
2. The defendant cease stalking the plaintiff.
3. The defendant cease harassment of the plaintiff.
4. The defendant not abuse or injure the plaintiff.
5. The defendant not contact the plaintiff by telephone, written communication, or electronic means.
6. The defendant not enter or remain present at the plaintiff's residence, school, place of employment, and other places listed below at times when the plaintiff is present.

List Other Places Where Defendant Ordered Not To Be

Empty box for listing other places where defendant is ordered not to be.

(Over)

7. Other: (specify)

8. The terms of this Order shall be effective until two (2) years from the date of this Order.
(specify date and time if less than two years) _____

9. The Order is denied and the case is dismissed.

Date	Name Of Cherokee Court Judge (type or print)
Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Signature Of Cherokee Court Judge

NOTICE TO DEFENDANT: A KNOWING VIOLATION OF A CIVIL NO-CONTACT ORDER SHALL BE PUNISHABLE AS CONTEMPT OF COURT, WHICH MAY RESULT IN A FINE OR IMPRISONMENT. THE COURT MAY FIND YOU IN CIVIL OR CRIMINAL CONTEMPT.

CERTIFICATION

I certify this Order is a true copy.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CCC <input type="checkbox"/> Assistant CCC
		<input type="checkbox"/> Clerk Of Cherokee Court

NOTE TO CLERK: C.C. 50C-11(a) provides: "The Clerk of Court shall deliver to the Chief of the Cherokee Indian Police Department a certified copy of any civil no-contact order on the same day that it is issued."

RETURN/CERTIFICATE OF SERVICE WHEN DEFENDANT NOT PRESENT AT HEARING

I certify that this No-Contact Order For Stalking Or Nonconsensual Sexual Conduct was received and served as follows:

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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By delivering to the defendant named above a copy of this Order.

By leaving a copy of this Order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

Name And Address Of Person With Whom Copies Left

By mailing a copy of this Order to the defendant by

registered mail. certified mail (return receipt). designated delivery service.

Defendant WAS NOT served for the following reason.

Date Received	Signature Of Police Officer Making Return
Date Of Return	Name Of Police Officer (type or print)
Date Mailed	
	Signature Of Clerk <input type="checkbox"/> Deputy CCC <input type="checkbox"/> Assistant CCC <input type="checkbox"/> Clerk Of Cherokee Court

NOTE TO CLERK: *C.C. 50C-11(b) provides: "If the [defendant] was not present in court when the order was issued, the [defendant] may be served in the manner provided for service of process in civil proceedings in accordance with Rule 4(j) of the Rules of Civil Procedure."*

Side Two, Rev. 02/18



Name Of Plaintiff
VERSUS
Name Of Defendant/Respondent

**NOTICE OF HEARING ON
NO-CONTACT ORDER FOR STALKING
OR NONCONSENSUAL SEXUAL
CONDUCT**

TEMPORARY ORDER
 PERMANENT ORDER

C.C. 50C-4, -9

To The Defendant Named Above

The attached Complaint has been filed alleging that you have committed unlawful acts of stalking or nonconsensual sexual conduct against the plaintiff.

- A hearing will be held before a Cherokee Court judge at the date, time and location indicated below. At that time it will be determined whether a temporary order should be granted.
- A hearing will be held before a Cherokee Court judge at the date, time and location indicated below. At that hearing it will be determined whether a permanent no-contact order should be granted.

Date Of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Date
Location Of Hearing	Signature	
	<input type="checkbox"/> Deputy CCC <input type="checkbox"/> Assistant CCC <input type="checkbox"/> Clerk Of Cherokee Court	

NOTE TO CLERK: *If this notice of hearing is for a temporary order, attach it with the complaint and summons to be served by the Chief of the Cherokee Police Department. If a temporary no-contact order has been issued that order includes a notice of hearing for a permanent order and this separate notice of hearing should not be used unless the hearing date set in the temporary order is being changed.*

NOTE TO PLAINTIFF: *If the complaint and summons has already been served and this notice is issued at a later date you are responsible for mailing a copy of this Notice of Hearing to the defendant. In that situation only, you must mail a copy of the notice by first class mail and complete the "Certificate Of Service" set out below.*

CERTIFICATE OF SERVICE

I certify that on the date of mailing shown below a copy of this Notice of Hearing was served on the defendant at the address listed above by depositing a copy in a post-paid, properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Date Of Mailing	Date Of Certification	Signature Of Plaintiff
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NOTE TO CLERK: *C.C. 50C-11(b) provides: "If the [defendant] was not present in court when the order was issued, the [defendant] may be served in the manner provided for service of process in civil proceedings in accordance with Rule 4(j) of the Rules of Civil Procedure."*

Side Two, Rev. 02/18