

# RESPONDING TO A PETITION FOR DISSOLUTION (DIVORCE)



## **What these forms do**

This set of forms will help you respond to a *Petition for Dissolution* if you have no children under the age of 21 with the petitioner. Before you fill out your *Response*, review what your spouse or partner has asked for in the *Petition* and think about how you want to handle the issues.

### **Symbols used in this form:**



Important Note



STOP! You may not be able to use this form



Caution! You may need a lawyer



Concerns money



Timing requirement

### **If Both Parties Already Agree**

If you agree with all of the terms in the *Petition* you may not need to file a *Response*. You can sign a stipulated *Judgment*.

If you do not respond and do not sign a stipulated judgment, the Petitioner can ask for an *Order of Default*. Judgment will then be entered based on the terms in the *Petition* and without input from you.

### **Important Contact Information**

Oregon Judicial Department – [www.courts.oregon.gov/](http://www.courts.oregon.gov/)

Oregon State Bar Lawyer Referral Service – [www.oregonstatebar.org](http://www.oregonstatebar.org)

**Phone:** 503.684.3763 or toll-free in Oregon at 800.452.7636



If you are deployed or about to be deployed, contact the Oregon State Bar Military Assistance Panel ([www.osbar.org/docs/ris/militaryflier.pdf](http://www.osbar.org/docs/ris/militaryflier.pdf)) for information about special rights and rules that may apply to you.

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## INFORMATION ABOUT DISSOLUTION

- ❖ **Petition and Judgment** - A dissolution case starts with a “petition.” The *Petition* tells the court what the petitioner wants. It ends with a “judgment,” which is the court’s final decision. The *General Judgment* is the document that finalizes your case and contains your rights and responsibilities. Your dissolution is effective once the judge signs the judgment. (See “*The Judgment*” section for more details about the terms of your judgment)



- **NOTE:** the *General Judgment* in this case will create rights and responsibilities that may be permanent. Property agreements usually can’t be changed later. Talk to a lawyer if you have questions about these issues.
- If you do not request spousal/partner support in your *Response*, the court will not be able to order it later.
- You may be entitled to part of the petitioner’s retirement benefits (including pensions). If you do not address retirement benefits in your *Response*, you will lose the right to claim your share except in very limited circumstances. These forms cannot be used to *divide* a party’s retirement benefits. Talk to a lawyer first if you want to claim a portion of the petitioner’s retirement benefits.



- ❖ There is no longer a waiting period for divorce in Oregon. Your divorce is effective as soon as the judge signs your judgment.



- ❖ **Contact Information** - Keep the court and all other parties informed of your current address. **You don’t have to use your home address.** You may use any contact address where you regularly check in, as long as it is in the same state as your home. The court will assume that you receive all notices and documents sent to that address. **It is YOUR responsibility to let the court and other parties know if you move or want to get mail at a different address.**

- ❖ Divorce can affect other documents like wills, medical advance directives, trusts, and pensions. Divorce may also affect immigration status. Talk to a lawyer for more information.

- ❖ **Name Change** – if you changed your last name when you got married or registered as domestic partners and want to change it back to a former legal name, you can request that on your *Response*. **NOTE:** You *cannot* use this form to change your name to a name you have never used before.

- **RDPs:** If you changed your name through a separate name-change judgment and want to change it back, you should also file for another judgment to do that. Do not rely on the dissolution judgment to be effective for all purposes, especially federal records like Social Security, Medicare, and immigration. Talk to a lawyer if you have concerns

- ❖ **Statutory Restraining Order** - Both you and Petitioner must obey a restraining order preventing *either* of you from:

- Dissipating (transferring, selling, destroying, removing, disposing of) real or personal property
- Making changes to insurance policies without the agreement of the other party

- Making extraordinary expenditures (unusual or high-dollar payments or purchases). Expenditures that are necessary for the safety or welfare of the parties, ordinary business activities, or related to the court case are allowed.

The order is effective on both you and Petitioner once you have been served with the *Petition*. (See [Appendix C](#) for the text of the Order) If you violate the order, you may be held in contempt of court and subject to penalties. You may request a hearing if you object to any of the terms in the Statutory Restraining Order. You must fill out and file a ***Request for Hearing re: Statutory Restraining Order*** form.



### **Notice about these instructions and forms**

These instructions are not a complete statement of the law. They cover basic procedures for simple dissolution cases with no children **under 21**. If you have complicated issues or questions about the law, talk to a lawyer.

All of the necessary forms should be online. If you cannot find a form, ask your local court.

Each court has local rules, programs, and procedures that may not be explained in these instructions. Refer to the Supplementary Local Rules for your county. These rules are available online or at your local court or law library. Forms and information about your local court are on the Oregon Judicial Department website.

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## STEP 1: FILING YOUR RESPONSE



You have **30 days** from the date you were served with the *Petition* to file a written *Response* with the court clerk and pay the filing fee. See page 7 for fee information.

**Counterclaims** - In the *Response*, you can say that you disagree with certain things that the Petitioner has asked for. You can also ask for things that you want the court to order that were not included in the *Petition*. These are called “counterclaims.”

### Filling Out the Forms

- MAKE SURE YOU COMPLETE THE **COUNTY NAME** AT THE TOP OF THE FIRST PAGE OF EACH FORM!
- **You are the “Respondent” on ALL forms throughout this case, and your spouse or partner is the “Petitioner.”**
  - Use full names (first, middle or middle initial, last) and print names the same way on all forms – *first, middle, last*.
- **Do not put Social Security numbers on your Response.** Social Security numbers must be given to the court but kept confidential from the public and the other party. Use the “*Confidential Information Form*” (CIF) to protect your identifying information.
  - You must also send a “*Notice of Filing of Confidential Information Form*” to the petitioner. You can serve this with your other documents. See below for information about service.



### Keep In Mind:



- Talk to a lawyer if either party is already in bankruptcy. The court may not be able to proceed with your dissolution until the bankruptcy is resolved.
- **Registered Domestic Partners** should see a lawyer if partner support is requested and either party might move out of state. If the new state does not recognize RDPs, you may have trouble collecting partner support.
- You may be entitled to part of the petitioner’s retirement benefits. See the “Property and Debts” section for important information. You may lose this right if you do not include it in your *Response*.



## SUPPORT

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**NOTE:** If the petitioner has asked that spousal/partner support be payable as of the date of service, you are not required to begin making payments until ordered by the court.

There are three different categories of spousal or partner support in Oregon:

- **Transitional** support is to help you get work-related education and training
- **Compensatory** support may be ordered if you significantly contributed to the education, training, vocational skills, career, or earning capacity of your spouse or partner
- **Maintenance** may be ordered for your general support

Either party may request and be awarded support. More than one type of support may be awarded. Any award may be ongoing or for a particular period of time (such as 3 years, while in school, up to a certain amount, etc.).

If you and Petitioner do not agree on support, you need to submit a **Uniform Support Declaration**. See [Appendix A](#)

For more information on factors the judge will consider when making the award, see [ORS 107.105](#).

- **NOTE:** Support is also available to **Registered Domestic Partners**. If either partner might leave the state or declare bankruptcy, you should see a lawyer.

Talk to a tax professional about tax impact of spousal/partner support.



**Life Insurance:** The court can order a party to carry life insurance if that party is ordered to pay or spousal/partner support. Life insurance in connection with a support obligation is for the benefit of the person receiving support.



## PROPERTY AND DEBTS

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You need to tell the court how you want to divide your property and debts. You should be as specific as possible and include everything you and the petitioner own or owe. If any property or debts are not included in this judgment, you cannot return to court to make changes later except in very limited circumstances.



You may be entitled to part of the petitioner's retirement benefits. If you do not address retirement benefits in your judgment, you will lose the right to claim your share except in very limited circumstances. These forms cannot be used to *divide* a party's retirement benefits. Talk to a lawyer first if you want to claim a portion of the petitioner's retirement benefits.

## **STATEMENT OF ASSETS AND LIABILITIES**

If your case goes to trial you will need a *Statement of Assets and Liabilities*.

See [Appendix B](#) for more information.

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### **Have your documents reviewed**

You may have your documents reviewed by a lawyer or a court facilitator before you file. Call your court or go to [www.courts.oregon.gov](http://www.courts.oregon.gov) to see if your court has a facilitator available. Court facilitators are free. For information about how to find a lawyer, call the Oregon State Bar at the number on Page 1. If you are low-income, you may get your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program, or call your local Legal Aid office.



### **Service**

Make two copies of all of your forms. One for your records and one for Petitioner.

- If Petitioner **does not** have a lawyer, mail a copy to Petitioner's address.
- If Petitioner **is represented** by a lawyer, you must **instead** mail the copy to the lawyer.

**MAIL** the petitioner's copy to the petitioner or the petitioner's lawyer by US mail. **THEN** fill out the ***Certificate of Mailing*** at the bottom of the *Response*.



### **File the forms and pay fees**

File the original forms listed below with the court clerk. You will have to pay the filing fees when you file your papers. Go to [www.courts.oregon.gov](http://www.courts.oregon.gov) for the filing fee.



- ***Response (with Certificate of Mailing completed)***
- ***Confidential Information Form***
- ***Notice of Filing of Confidential Information Form***
- If you are low income, you may ask the court to defer or waive your filing fee. You must complete an ***Application and Declaration for Deferral or Waiver of Fees*** and an ***Order Regarding Deferral or Waiver of Fees*** and file them with your papers if you cannot pay the fees. If the fee is waived, you don't have to pay it now. However, the judge may reconsider waived and deferred fees at the end of the case.

**Contact Information** - Keep the court and all other parties informed of your current address. **You don't have to use your home address.** You may use any

contact address where you regularly check in, as long as it is in the same state as your home. The court will assume that you receive all notices and documents sent to that address. **It is YOUR responsibility to let the court and other parties know if you move or want to get mail at a different address.**



## STEP 2: TEMPORARY ORDERS



You can ask the court to make temporary orders. Temporary orders are effective as soon as a judge signs the order. Temporary orders last until a judge changes the terms, signs the *General Judgment*, or dismisses the case. For example, either party may request an order for spousal/partner support, or an order about temporary use of property. To make any of these requests, you must file a “motion” (request) asking the court to do what you want. You may need a lawyer to file these requests.

- **NOTE:** The *General Judgment* may affect earlier temporary orders done by Limited Judgment. Talk to a lawyer if you have questions.

Go to [www.courts.oregon.gov](http://www.courts.oregon.gov) for the forms to request or oppose temporary orders. The forms may not cover all temporary orders you need. Talk to a lawyer for more information. If the petitioner has already filed for or been granted temporary orders, you can request a hearing to challenge or change the orders.

### Domestic Violence

All courts have restraining order forms for cases involving domestic violence. A judge will usually hear your request within a day or two of filing. Check with your local court for filing times and procedures.

Refer to [www.courts.oregon.gov/fapa](http://www.courts.oregon.gov/fapa) for Family Abuse Prevention Act (FAPA) forms and information.

Forms for other types of protective order are available at [www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms)

## STEP 3: RESOLVING YOUR CASE

There are three ways your case can be resolved: by agreement between the parties, by default if you don't respond, or by a judge in a hearing.



### By Agreement

It is always better to resolve issues yourselves, since you know what's important to you. Once the case goes to a judge, it is out of your control. If you can't resolve the issues on your own, or if it is not safe for you to talk to Petitioner, the court may provide options to help you, including mediation and arbitration. For information about arbitration, see "By Trial" section below.

**Mediation:** A mediator is a person trained to help people resolve disagreements. Mediation is confidential. You may ask to meet with the mediator alone if you are uncomfortable meeting with the other party for any reason. Check with your local court clerk to see if there is a fee for this service. Mediators are *not* judges – they cannot impose their decisions on you. Their job is to help *you* reach an agreement. This may be your last chance to retain control over the outcome of the case. Agreements incorporated into a *Judgment* are fully enforceable (*see below*).

Some courts may require that you mediate before you have a hearing. Check your court's Supplemental Local Rules for more information. If mediation has not yet been ordered in your case and you would like to request it, you may file a **Request for Mediation** form. If your court requires mediation, you may request that the court waive mediation if you have a good reason by filing a **Motion and Declaration for Waiver of Mediation**. Talk to your court if you have safety concerns

If you and Petitioner have agreed to all of the issues, one of you must fill out and file:

- **Declaration in Support of Judgment**
- **General Judgment of Dissolution**

Note: The *Judgment* must be signed by both parties before being submitted to the court.



### By Default

If you do not respond to the *Petition* in writing within 30 days of receiving it, the petitioner can get an *Order of Default*. This means that all of the requests in the *Petition* will be ordered as part of a *Judgment* without input from you.

**If you are on active duty in the military**, you may be protected from default judgments by the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901). The rules about whether you can be protected are very technical and complex. DO NOT rely on your enlistment status to protect you. Speak to a legal advisor or call the state bar association ([page 2](#)) if you have concerns or questions.

- If you choose to waive your rights so that Petitioner can get a default



judgment, file a waiver of your right to stay proceedings. The courts do not provide a form for this.



### **By Trial**

If you filed a response and are unable to agree on the terms of a judgment, your case may go to trial

Informal Domestic Relations Trials (IDRTs) are available in all courts if both parties agree. See UTCR 8.120 for more information. Each court handles IDRTs differently. Contact your court for more information.

### **Conferences with the Judge**

Many courts will schedule a “status,” “pretrial,” or “settlement” conference before a case goes to trial. These meetings usually take place with a judge with both parties present, along with their lawyers (if any). You must attend any conferences that are scheduled unless you have received permission from the judge not to attend. At the conference, the judge may talk to you about how your case is going to be handled, consider requests for temporary orders, or set future court dates.

Some courts may refer certain cases to arbitration. You will receive information from the court if that happens.

- Many courts require that you mediate before you can get a trial. See the **BY AGREEMENT** section above.



**NOTE:** You must give the other party an opportunity to review the judgment before you submit it to the court. See [UTCRC 5.100](#) for information.

You can represent yourself at trial. Some courts provide information about representing yourself on their websites. Go to [www.courts.oregon.gov](http://www.courts.oregon.gov) to find your court’s website.

The State Family Law Advisory Committee has written a guide that may help you prepare for trial. This guide is NOT a substitute for legal advice! The rules of court can be technical and complex. You may damage your case if you are not properly informed. If your case goes to trial, you are strongly advised to talk to a lawyer. To read the guide, go to:

<http://www.courts.oregon.gov/help/Documents/famlawtrialbrochure.pdf>

## THE JUDGMENT



Regardless of how you resolve your case, a **General Judgment of Dissolution** must be signed by a judge. One of you may be ordered to fill out the judgment form and give it to the court to be signed.

The judgment finalizes your divorce and contains all of the issues decided in mediation, arbitration, trial, or by agreement.

- **NOTE:** The *General Judgment* may affect earlier temporary orders done by Limited Judgment. Talk to a lawyer if you have questions.

If you are responsible for preparing the *Judgment*, the information should be *exactly* the same as what was decided in mediation, arbitration, hearing, trial, or through your agreement. All parties must review the *Judgment* before you submit it to the court. You must send the *Judgment* along with the *Notice of Proposed Judgment or Order* to the petitioner.

The petitioner can object to the *Judgment*. If that happens, you need to discuss the objections and attempt to resolve them before you submit the *Judgment* to the court. If you are not able to resolve the objections, the petitioner can either send you a written statement explaining the objections, or submit the objections directly to the court. You must complete the *Certificate of Readiness* section of the *Judgment* to tell the judge whether there are outstanding objections. See [UTCR 5.100\(1\)](#) for more information about notice and objections.<sup>1</sup>

If the petitioner is responsible for preparing the judgment, they must send the proposed *Judgment* to you before submitting it to the court. Then you can review it and object to it within 7 days of the date it was sent to you. You need to try to resolve your objections with the petitioner. If you are not able to resolve your objections after reasonable efforts, you can either send a written explanation of your objections to the petitioner or directly to the court. You must notify the petitioner of your intentions so that they can advise the judge that there are outstanding issues. The judge may make a decision after reviewing the documents, or the court may contact you with further information.

Your dissolution is effective the date the *Judgment* is signed by the judge. NOTE: the terms of your judgment are not enforceable until the court enters the judgment. You will know that the court has entered the judgment when you receive a *Notice of Entry of Judgment*.

**NOTE: Every document you file must have a mailing address or contact address where you will receive documents related to this case. You do NOT need to use your home address. You are responsible for checking your contact address. Notify the court and the other party in writing if your contact address changes.**

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<sup>1</sup> <http://courts.oregon.gov/utcr>

## Appendix A – Uniform Support Declaration

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You may need to complete a **Uniform Support Declaration (USD)** if you and Petitioner do not agree on an amount for spousal/partner support. If you need to submit a *USD*, you can file it with your *Response*. You must file it within 30 days after serving the *Response* on the petitioner.

If neither party is requesting spousal/partner support, or if you have agreed on an amount for support, do not complete the *USD*.

### Tips for filling out the USD:

- Fill out *both* the *Declaration* and *Supplement*. Attach all of the documents that the *Declaration* and *Supplement* ask for.
- Use your *actual, present* expenses. Estimates are fine as long as they are realistic and you have no way of confirming the amount.
  - Some items may not apply to you – mark those spaces “N/A” (Not Applicable), but complete *every* item that does apply.
  - If your amounts are unusual or likely to change soon, include a brief explanation of why (if you are temporarily living with a relative, or if one party moved out and is no longer contributing to shared expenses). Include an estimate of what you believe your expenses will be after the situation changes.
- If you have an expense that is not listed, add it, along with a brief explanation.
- If you anticipate any major changes (birth of a new baby, a layoff, a car payment or mortgage being paid off), note these as well. Do NOT include fears or possibilities – only things you know or reasonably expect will happen.
- Household items means things like paper towels, cleaning supplies, light bulbs, storage containers.
- If you are attending school, include your tuition payments, supplies and books, and any other necessary school-related costs.

The *Uniform Support Declaration* is available online at:  
[www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms) in the *Family Law* → *Miscellaneous* category.

**Certificate of Mailing** – the *Uniform Support Declaration* includes a Certificate of Mailing at the bottom of the form. Once the *USD* is completed, copy the entire form and all attachments and mail them to the petitioner. THEN fill out the Certificate of Mailing and file the original with the court. Keep a copy of all documents for your own records.

## Appendix B – Statement of Assets and Liabilities

You will need to file a *Statement of Assets and Liabilities* if you have not reached an agreement as your trial date nears. Each party’s *Statement* must be filed with the court and served on the other party at least 14 days before your trial. Check your local court’s Supplementary Local Rules, Chapter 8 for other time limits and requirements.

Most courts prefer that you complete ONE joint form so that you don’t have one form listing “house 1” and the other calling it “123 Main St.” Your *Statement* should name the asset as specifically as possible. You and Petitioner should do everything you can to agree on the value of your assets and liabilities. Then list who the court should give each asset to. You can use one of the formats below.

In the examples below, the parties disagree about the value of the Ford Ranger but agree that it should be awarded to Petitioner. The parties agree about the value of the Kia Soul but disagree about who it should be awarded to. Leave the last 2 columns blank – the judge will make a final decision about the value of each asset and who it is awarded to.

<u>DESCRIPTION OF ASSETS</u>	<u>PETITIONER</u>		<u>RESPONDENT</u>		<u>COURT</u>	
	Name:		Name:			
	Claimed Value	Proposed Distribution (Pet or Resp)	Claimed Value	Proposed Distribution (Pet or Resp)	Value	Distribution (Pet or Resp)
2008 Ford Ranger	\$12,000	Petitioner	\$6,000	Petitioner		
2011 Kia Soul	\$5,000	Petitioner	\$5,000	Respondent		

- **Real Property** – Include property that you own together or separately *and* property owned before the marriage or RDP.
  - Include land, houses, mobile homes, and other structures *attached to or built on land*. Also include partial rights to land like the right to fish, farm, cut timber or mine minerals. This does not mean *personal* property like clothes, jewelry, furniture, cars, etc.
  - If possible, use the same legal description of the property that is on the deed. If you improperly describe the property, you may not be able to enforce your judgment.
    - **You should speak with a lawyer if:**
      - there is a home equity line of credit on any real property. This judgment is *not* binding on the bank and may not prevent the other party from using the credit line, even after the judgment.
      - anyone other than you and Petitioner has any interest in the real property either now or in the future. For example:
        - if your title is only for life or for a fixed period of time
        - if anyone has a right-of-first-refusal to buy the property
        - if anyone else’s name is on the title
        - if anyone else’s name is on a loan that the property is collateral for. These people *must* be joined to the case or the court may not have authority to award that property.



- You are currently in a bankruptcy proceeding
- You are concerned about the other party selling real property. You can put a hold on the title of the property during the case (called “lis pendens”).



➤ If **ANY** property was used to secure a loan, debt, mortgage, or other encumbrance, it is important that you speak with a lawyer. Future bankruptcy filings by either party *may* create problems for the other party in spite of this judgment. This is especially important for same-sex couples, as bankruptcy and IRS laws are federal and may not recognize the debt award of this judgment.

➤ **Personal Property** is anything you own together or separately that *is not* real property. This includes property owned before the marriage.



**Debts** - The court will divide your debts. Use the table below to list all debts in either or both of your names. Include debts that existed before your marriage/partnership; debts that you each or both incurred during your marriage/partnership; and debts that you each incurred after separation. If any debt includes amounts incurred both during the marriage/partnership *and* after separation, write in the “Who pays” column who should pay how much (see example). Talk to a lawyer if you have questions about who should pay which debts.





# Appendix C– Statutory Restraining Order

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[Attach to Summons per ORS 107.093(5)]

## NOTICE OF STATUTORY RESTRAINING ORDER PREVENTING THE DISSIPATION OF ASSETS IN DOMESTIC RELATIONS ACTIONS

REVIEW THIS NOTICE CAREFULLY. **BOTH PARTIES MUST OBEY EACH PROVISION OF THIS ORDER TO AVOID VIOLATION OF THE LAW.** SEE INFORMATION ON YOUR RIGHTS TO A HEARING BELOW.

TO THE PETITIONER AND RESPONDENT:

PURSUANT TO ORS 107.093 and UTCR 8.080, Petitioner and Respondent are restrained from:

1. Canceling, modifying, terminating or allowing to lapse for nonpayment of premiums any policy of health insurance, homeowner or renter insurance, or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary.
2. Changing beneficiaries or covered parties under any policy of health insurance, homeowner or renter insurance, or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy.
3. Transferring, encumbering, concealing, or disposing of property in which the other party has an interest, in any manner, without written consent of the other party or an order of the court, except in the usual course of business or for necessities of life. This paragraph (3) does not apply to payment by either party of:
  - a. Attorney fees in this action;
  - b. Real estate and income taxes;
  - c. Mental health therapy expenses for either party or a minor child of the parties; or
  - d. Expenses necessary to provide for the safety and welfare of a party or a minor child of the parties.
4. Making extraordinary expenditures without providing written notice and an accounting of the extraordinary expenditures to the other party. The paragraph (4) does not apply to payment by either party of expenses necessary to provide for the safety and welfare of a party or a minor child of the parties.

AFTER FILING OF THE PETITION, THE ABOVE PROVISIONS ARE IN EFFECT IMMEDIATELY UPON SERVICE OF THE SUMMONS AND PETITION UPON THE RESPONDENT. IT REMAINS IN EFFECT UNTIL A JUDGMENT IS ISSUED, UNTIL THE PETITION IS DISMISSED, OR UNTIL FURTHER ORDER OF THE COURT.

### **PETITIONER'S/RESPONDENT'S RIGHT TO REQUEST A HEARING**

Either petitioner or respondent may request a hearing to apply for further temporary orders, or to modify or revoke one or more terms of the automatic mutual restraining order, by filing with the court the Request for Hearing form specified in Form 8.080.2 in the UTCR Appendix of Forms.