

SUGGESTED PROTOCOL FOR DOMESTIC ABUSE AND HARASSMENT HEARINGS WITH PRO SE LITIGANTS

1. Verify that party is not an attorney, understands that he or she is entitled to be represented by an attorney, and chooses to proceed pro se without an attorney.

2. Explain the process. ("I will hear both sides in this matter. First I will listen to what the Petitioner wants me to know about this case and then I will listen to what the Respondent wants me to know about this case. I will try to give each side enough time and opportunity to tell me their side of the case, but I must proceed in the order I indicated. So please do not interrupt while the other party is presenting their evidence. Every thing that is said in court is written down by the court reporter and in order to insure that the court record is accurate, only one person can talk at the same time. Wait until the person asking a question finishes before answering and the person asking the question should wait until the person answering the question finishes before asking the next question.")

3. Explain the elements. ("Petitioner is requesting an Order for Protection. An Order for Protection will be issued if Petitioner can show that she is the victim of domestic abuse. Domestic abuse means that she has been subject to physical harm or that she was reasonably in fear of physical harm as a result of the conduct or statements of the Respondent./Petitioner is requesting a Harassment Restraining Order. A Harassment Restraining Order will be issued if Petitioner can show that he is the victim of harassment. Harassment means that he has been subject to repeated, intrusive, or unwanted acts, words, or gestures by the Respondent that are intended to adversely affect the safety, security, or the privacy of the Petitioner.")

4. Explain that the party bringing the action has the burden to present evidence in support of the relief sought. ("Because the Petitioner has requested this order, she has to present evidence to show that a court order is needed. I will not consider any of the statements in the Petition that has been filed in this matter. I can only consider evidence that is presented here in court today. If Petitioner is unable to present evidence that an order is needed, then I must dismiss this action.")

5. Explain the kind of evidence that may be presented. ("Evidence can be in the form of testimony from the parties, testimony from witnesses or exhibits. Everyone who testifies will be placed under oath and will be subject to questioning by the other party. All exhibits must first be given an exhibit number by the court reporter and then it must be briefly described by the witness who is testifying and who can identify the exhibit. The exhibit is then given to the other party who can look at the

exhibit and let me know any reason why I should not consider that exhibit when I decide the case. I will then let you know whether the exhibit can be used as evidence.")

6. Explain the limits on the kind of evidence that can be considered. ("I have to make my decision based upon evidence that is admissible under the Rules of Evidence for courts in Minnesota. If either party starts to present evidence that is not admissible, I may interject and tell you that I can not consider that type of evidence. Some examples of inadmissible evidence are hearsay and irrelevant evidence. Hearsay is a statement by a person who is not in court as a witness; hearsay could be an oral statement that was overheard or a written statement such as a letter or an affidavit. Irrelevant evidence is testimony or exhibits that do not help me understand or decide issues that are involved in this case.")

7. Ask both parties whether they understand the process and the procedure.

8. Non attorney advocates should be permitted to sit at counsel table with either party and provide support but should not be permitted to argue on behalf of a party or to question witnesses.

9. Questioning by judge the should be directed at obtaining general information to avoid appearance of advocacy. ("Tell me why you believe you need an order for protection. If you have specific incidents you want to tell me about, start with the most recent incident first and tell me when it happened, where it happened, who was present, and what happened.")

10. Whenever possible the matter should be decided and the order prepared immediately at the conclusion of the hearing for service on the parties.