

Abusive Litigation

When Your Abuser Exploits the Legal System

2021 UPDATE: See “What Can I Do to Make It Stop?”



www.legalvoice.org

What Is “Abusive Litigation”?

Abusive litigation is when someone uses the legal system to take power and control over you. It is common in domestic violence cases.

Even if you have left your abuser, he or she can still cause psychological, emotional, and financial harm by taking you – and even your friends and relatives – to court again and again.

What Counts as Abusive Litigation?

Abusive litigation can come up in several types of cases, including family law, protection orders, and unnecessary (“frivolous”) lawsuits.

Common forms of abusive litigation are:

- Filing for protection orders against you and/or your friends or family.
- Starting custody battles.
- Filing contempt motions against you for no reason.
- Describing you as an unfit parent and/or requesting mental health evaluations.
- Filing unnecessary (“frivolous”) motions, appeals, motions for revision, or motions for reconsideration, forcing you back into court.
- Trying to bring closed cases back into court (“relitigate”).
- Trying to relitigate in different courts (switching jurisdictions).
- Using the court’s discovery process to bring up embarrassing or irrelevant information about you, and/or taking up a lot of your time and money with large discovery requests.
- Dragging out court hearings, harming you financially and/or emotionally.
- Refusing to obey court orders, forcing you to spend time and money to enforce the orders.
- Threatening to report you to immigration authorities.
- Making false reports to Child Protective Services (CPS).
- Falsely claiming you abuse drugs or alcohol.
- Suing you for reporting abuse.
- Suing or threatening to sue anyone who helps you, including family, friends, advocates, attorneys, and law enforcement officers.
- Filing complaints against the judge or your lawyer.

Can Abusive Litigation Be Stopped?

Judges can help stop abusive litigation with a specific court order: *Order Restricting Abusive Litigation*.

The *Order Restricting Abusive Litigation* can:

- Prohibit abusive litigants from filing new lawsuits without the court’s authorization.
- Limit the number of allowable court filings.
- Limit the scope of discovery.
- Require abusive litigants to post a bond for lawyers’ fees.
- Impose sanctions.
- Impose conditions on—or prohibit—appeals.

What Can I Do to Make It Stop?

If you are experiencing abusive litigation, notify the court and ask the court to take action. You or your lawyer can file a *Motion to Restrict Abusive Litigation* along with a proposed *Order on Motion to Restrict Abusive Litigation*. See Resources below for links to these forms.

If the judge is not familiar with abusive litigation, you may want to refer him or her to “[Abusive Litigation and Domestic Violence Survivors](#),” Appendix H at the end of the *Domestic Violence Manual for Judges*. It has extensive information about this topic. Family Law judges should have this manual. See Resources below.

Resources

- “[Abusive Litigation and Domestic Violence Survivors](#),” by Legal Voice (Appendix H of the *Domestic Violence Manual for Judges*):
Online: www.courts.wa.gov; click on “Resources,” then “Judicial Bench Guides,” then “Domestic Violence Bench Guide”
- Court forms
Online: www.courts.wa.gov/forms; click on “Go to Courts Forms Page”; click on “list of all forms” in the text; under “All Forms Quick Links,” click on “[Domestic Violence: Abusive Litigation](#)”
Direct links to forms:
 - [Motion to Restrict Abusive Litigation](#)
 - [Order on Motion to Restrict Abusive Litigation](#)
- Related Publications from Legal Voice
Online: www.legalvoice.org/tools-lawyers
 - *How to Find a Lawyer and Other Legal Resources in Washington State*
 - *How to Protect Your Privacy in Court Files*

- Washington State law: RCW 26.51, Abusive Litigation – Domestic Violence
Online: <https://app.leg.wa.gov/RCW/default.aspx?cite=26.51&full=true>

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of January 2021.

Updated by Chloë Phalan and Catherine West.

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