

# THE C & D NEWSLETTER



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## CALIFORNIA WORKPLACE VIOLENCE SAFETY ACT

California has enacted the Workplace Violence Safety Act (the "Act") permitting an employer, whose employee has suffered unlawful violence or a credible threat of violence from any person, which can reasonably be construed to be carried out at the workplace, to obtain a temporary restraining order and an injunction on behalf of the employee prohibiting further unlawful violence or threats of violence. Prior to this law, employers could not obtain a temporary restraining order or an injunction on behalf of an employee, and the employee was frequently reluctant to have his or her name attached to a restraining order.

### Terms Under the Act

*Unlawful violence* is defined as any assault or battery, or stalking, but does not include lawful acts of self-defense or the defense of others.

*A credible threat of violence* is defined as a knowing and willful statement or course of conduct which would cause a reasonable person to believe that he or she is under threat of death or serious bodily injury.

*A course of conduct* is any series of acts over a period of time, however short, that evidences a continuity of purpose, and includes following or stalking an employee to or from the place of work, following the employee during the hours of employment, telephone calls to the employee, and correspondence with the employee, whether by public or private mail, interoffice mail, or fax.

*The term employee* includes full and part-time employees, as well as members of the company's Board of Directors, and volunteers or independent contractors who perform services at the employer's worksite.

When an employee has suffered unlawful violence or a credible threat of violence, the employer may file a petition for an injunction and a temporary restraining order with the Court. The Court will grant a temporary restraining order if the employer shows reasonable proof that the employee has suffered unlawful violence or a credible threat of violence, and that great or irreparable harm will result to the employee if the temporary restraining order is not granted. A hearing is held and if the judge finds by clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence, the Court will issue an injunction for up to three years prohibiting further unlawful violence or threats of violence.

*This complimentary newsletter is intended to provide general information. Because of the complexities and constant changes in the law, it is important to seek professional advice before acting on any of the matters covered herein.*