

MICHAEL K. JEANES  
Clerk of the Superior Court

By KRISTY KEE, Deputy  
Date 05/07/2008 Time 10:47 AM  
Description Qty Amount  
-----  
CASE# CV2008-010464  
CIVIL NEW COMPLAINT 001 245.00  
-----  
TOTAL AMOUNT 245.00  
Receipt# 00009899185

1 Jennifer P. Nore (#004951)  
2 Adam E. Lang (#022545)  
3 Scott A. Shuman (#023461)  
4 SNELL & WILMER L.L.P.  
5 One Arizona Center  
6 400 E. Van Buren  
7 Phoenix, AZ 85004-2202  
8 Telephone: (602) 382-6000  
9 Facsimile: (602) 382-6070  
10 Attorneys for Plaintiffs

11 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
12  
13 IN AND FOR THE COUNTY OF MARICOPA

14 Desert Palm Surgical Group, P.L.C., an  
15 Arizona professional limited liability  
16 company; Albert E. Carlotti and Michelle  
17 L. Cabret-Carlotti, husband and wife,

18 Plaintiffs,

19 v.

20 Sherry Petta, an unmarried woman,

21 Defendant.

CV2008-010464  
Case No.

**VERIFIED COMPLAINT**

22 Plaintiffs Desert Palm Surgical Group, P.L.C., Albert E. Carlotti, M.D. and  
23 Michelle L. Cabret-Carlotti, M.D. (collectively "Plaintiffs"), for their claims for relief  
24 against Defendant Sherry Petta ("Defendant") allege as follows:

25 **PARTIES**

26 1. Albert E. Carlotti, M.D., and Michelle L. Cabret-Carlotti, M.D. ("Drs. Carlotti"), are physicians licensed with the Arizona Board of Medical Examiners and board certified oral and maxillofacial surgeons. Drs. Carlotti are husband and wife and reside in Maricopa County, Arizona.

2. Desert Palm Surgical Group, P.L.C. ("Desert Palm Surgical Group") is an Arizona Professional Limited Liability Company that is authorized to do business in Maricopa County, Arizona.

Snell & Wilmer

L.L.P.  
LAW OFFICES  
One Arizona Center, 400 E. Van Buren  
Phoenix, Arizona 85004-2202  
(602) 382-6000



1 Plaintiffs called the police and had her escorted from the premises because of her conduct.  
2 The Scottsdale Police Department issued a trespass warning, a true and correct copy of  
3 which is attached as Exhibit 1.

4 10. On March 26, 2008, Dr. Albert Carlotti filed a Complaint against Defendant  
5 for an Injunction against Harassment, a true and correct copy of which is attached as  
6 Exhibit 2. The Court issued the injunction that same day, which is also attached as  
7 Exhibit 2. Subsequently, Dr. Albert Carlotti and Defendant appeared for an evidentiary  
8 hearing on April 23, 2008, to determine whether the injunction would remain in place.  
9 The court ordered that it would remain in effect. A true and correct copy of the Order to  
10 keep the Injunction in effect is attached as Exhibit 3.

11 11. In response to Dr. Albert Carlotti's lawful efforts to restrain Defendant's  
12 harassment, Defendant embarked on a deliberate and malicious campaign to defame  
13 Plaintiffs and injure their business.

14 12. On March 26, 2008, the same day Dr. Albert Carlotti applied for and  
15 received an injunction against Defendant, Defendant began her defamatory campaign  
16 about Plaintiffs on the Internet. In addition to possible others, Defendant posted false and  
17 defamatory statements about Plaintiffs on the following websites (collectively, the  
18 "Websites"):

- 19 • **March 26, 2008:** Defendant first posts <http://www.carlotti-victim.com>.
- 20 • **March 26, 2008:** Defendant first posts comments on  
21 <http://ratemds.com/doctor-ratings/121857/AZ/Scottsdale/Carlotti>.
- 22 • **April 2, 2008:** Defendant signs up the Myspace account called  
23 "Desert Palm Surgical Victim" and sometime thereafter posts  
<http://profile.myspace.com/index.cfm?fuseaction=user.viewprofile&friendid=365636305>.
- 24 • **April 4, 2008:** Defendant posts comments on the blog found at  
25 <http://blog.myspace.com/index.cfm?fuseaction=blog.ListAll&friendID=365636305>.
- 26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

- **April 4, 2008:** Defendant first posts comments on <http://ratemds.com/doctor-ratings/121852/AZ/Scottsdale/Carlotti>.
- **April 4, 2008:** Defendant first posts comments on <http://ratemds.com/social/?q=node/28873&did=121852>
- **April 9, 2008:** Defendant first posts on [http://www.complaints.com/2008/april/9/Albert Carlotti and Michele Carlotti 166730.htm](http://www.complaints.com/2008/april/9/Albert_Carlotti_and_Miche lle_Carlotti_166730.htm).
- **April 11, 2008:** Defendant first posts on <http://www.complaintsboard.com/complaints/desert-palm-surgical-c59027.html>.

13. Among other things, Defendant posted or caused to be posted on these Websites that Drs. Carlotti are not licensed with the Arizona Board of Medical Examiners. A search of the Arizona Board of Medical Examiners website, [www.azmd.gov](http://www.azmd.gov), however, shows that Dr. Albert Carlotti was issued an Arizona medical license in September 2001 and is currently licensed. Similarly, Dr. Michelle Cabret-Carlotti was issued an Arizona medical license in April 2002 and remains licensed to practice in Arizona.

14. In posting or causing to be posted statements about the Plaintiffs on the Websites, Defendant falsely, intentionally, and maliciously, or with reckless disregard of the truth of the statements made or the false light in which it painted Plaintiffs, omitted facts and information related to the events surrounding medical care and services Plaintiffs provided to Defendant.

15. Defendant's omission of certain facts and information related to the events surrounding the cosmetic services provided by Plaintiffs to Defendant misrepresents the events that occurred and paints Plaintiffs in a false light. In addition, Defendant's false and defamatory statements, along with the omission of key facts and information, irreparably harms and damages Plaintiffs, including damaging Plaintiffs' business, reputation, and professional standing in the community.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**COUNT ONE**

**(Defamation/Libel Per Se)**

16. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs of this Verified Complaint.

17. Defendant has published or caused to be published false and defamatory statements about Plaintiffs that impeach Plaintiffs' honesty, integrity, or reputation and/or damage Plaintiffs' professional reputation.

18. The defamatory statements were known to be false or the truth of the statements could have been ascertained through reasonable effort.

19. The statements were published with reckless disregard of their falsity.

20. Defendant's defamation has caused Plaintiffs to suffer harm to their reputation and will have a lasting effect and continue to cause harm to Plaintiffs in the medical community and among its colleagues, patients, potential patients, and others.

21. Plaintiffs will suffer irreparable harm if the Court does not enjoin Defendant's improper conduct.

**COUNT TWO**

**(Tortious Interference With Medical Practice)**

22. Plaintiffs incorporate by reference the allegations contained in the preceding paragraphs of this Verified Complaint.

23. Plaintiffs have existing contractual relationships and/or ongoing expectancies of business with colleagues, patients, potential patients, and others.

24. Defendant knew of Plaintiffs' contractual relationships and business expectancies. Defendant also knew of Plaintiffs' contractual relationships with other patients and the methods with which Plaintiffs advertised to patients and potential patients.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

37. The publication(s) falsely represents the care provided by Plaintiffs.

38. The false light in which the Plaintiffs were placed would be highly offensive to a reasonable person.

39. Defendant acted with knowledge that the statements were false or with reckless disregard for whether the statements were true or false, and Plaintiffs were damaged by Defendant's actions.

40. Plaintiffs will suffer irreparable harm if the Court does not enjoin Defendant's improper conduct.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

A. For an Order temporarily, preliminarily, and permanently enjoining and restraining Defendant from posting false and defamatory statements about Plaintiffs on the Internet or at all;

B. For an Order temporarily, preliminarily, and permanently requiring Defendant to remove or take down information or statements Defendant has posted or caused to be posted on the Websites or anywhere else on the Internet or which Defendant has otherwise published or caused to be published to any third party;

C. For presumed, special, compensatory and/or consequential damages in an amount to be proven at trial;

D. For punitive damages in an amount sufficient to punish Defendant and to deter others from engaging in such malicious and evil-minded conduct in the future;

E. For costs pursuant to A.R.S. § 12-341; and

F. For such other and further relief as the Court may deem just and proper.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

DATED this 7th day of May 2008.

SNELL & WILMER L.L.P.

By Adam E. Lang

Jennifer P. Nore  
Adam E. Lang  
Scott A. Shuman  
One Arizona Center  
400 E. Van Buren  
Phoenix, AZ 85004-2202  
Attorneys for Plaintiffs

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

VERIFICATION

Albert E. Carlotti states as follows:

1. I am at least 18 years of age and am a plaintiff in the above-entitled action.
2. I have read the foregoing Verified Complaint and know the contents thereof.
3. I know that the contents of the foregoing Verified Complaint are true, except as to those matters therein stated to be alleged on information and belief, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 6, 2008.


  
\_\_\_\_\_  
Albert E. Carlotti

EXHIBIT 1

EXHIBIT 1

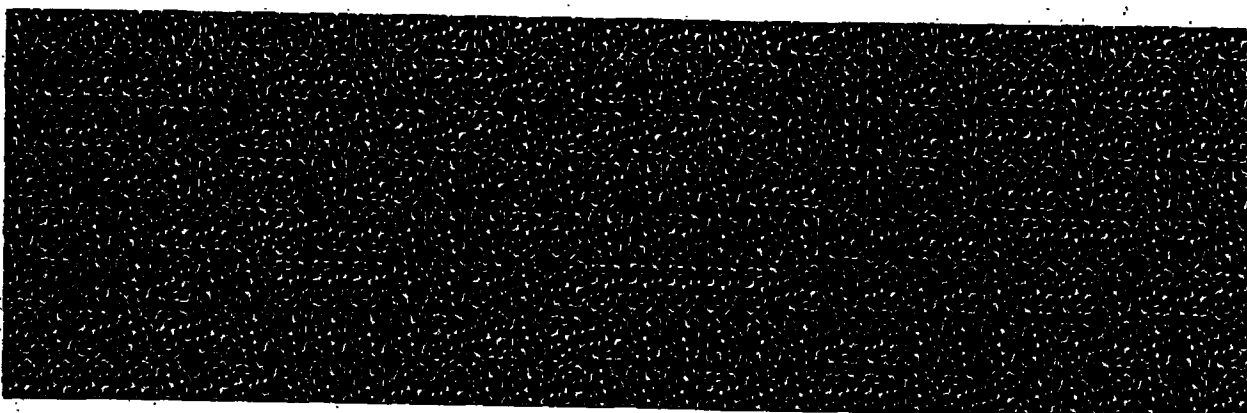


## Scottsdale Police Department Trespass Warning

Officer Name:	C. VALENZUELA	Badge #:	1298
Date:	03-29-2008	Time:	4:48 PM
Phone Number:	480-317-5000	CFS#:	0324080390
Location Trespassed From:	7930 E THOMPSON PEAK #101 SURGICAL GROUP		
Trespass Letter Valid Until:	03-29-2009 (not to exceed a one year period)		

Name of Reporting Party/Victim:	ALBERT E. CARROLL III
Mailing Address:	7930 E THOMPSON PEAK SCOTTSDALE AZ 85255
Contact Phone Number:	480-947-7700

Name of Person Trespassed:	SHERLY ANN PETTA								
Current Address:	74034 N 76TH PL SCOTTSDALE AZ 85255								
DOB:	12-17-1962	Height:	504	Weight:	110	Hair:	BRO	Eyes:	BRO



Per A.R.S. 13-1501 and 13-1504:

A person commits, and is subject to arrest and prosecution for, Criminal Trespass if he or she knowingly enters or remains unlawfully on any property after a reasonable request to leave by the owner or any other person in lawful control of the property, or after reasonable notice prohibiting entry. A reasonable request includes, for example, a verbal request to leave by the owner or any person having lawful control of the property. Reasonable notice includes, for example, the posting of signage that prohibits entry. Criminal Trespass laws apply to both public and private property, and at any time of the day or night.

Distribution: White / PD Beat File    Yellow / Victim    Pink / Violator

EXHIBIT 2

EXHIBIT 2

TO BE SERVED  
ON DEFENDANT

Scottsdale City Court

3700 N. 75th St. Scottsdale, AZ 85251-5251

(480) 312-2442

Case No.: M-751-CV-2008010741 Defendant: PETTA SHERRY

Date 3/26/2008

**Defendant's Guide Sheet for Protective Orders - Please Read Carefully**

The following information is provided to further explain the protective order that has been served upon you and your responsibilities as the Defendant.

**1. You have been served with one of the following protective orders:**

**ORDER OF PROTECTION:** An Order of Protection is used for a "family" relationship between you and the Plaintiff. This can include one of the following: 1) married now or in the past, 2) live together now or lived together in the past, 3) parent of a child in common, 4) one of you is pregnant by the other, or 5) you are a relative (parent, in-law, brother, sister, or grandparent). The Plaintiff has alleged that you have committed or may commit an act of domestic violence.

**INJUNCTION AGAINST HARASSMENT:** The Plaintiff has alleged that you have committed a series of acts (more than one) of harassment against the Plaintiff within the last year.

**INJUNCTION AGAINST WORKPLACE HARASSMENT:** This Injunction, alleging a single act or series of acts of harassment, has been filed against you by an employer or owner of a business or operation for the benefit of an employee or the business.

**2. OTHER PROTECTED PERSONS:** It is possible that you will be referred to Superior Court if your children are listed as protected persons in this order. Only a Superior Court Judge can decide child custody or parenting time in a separate action.

**3. SERVICE AND EFFECT:** This protective order is valid for one year from the date it was served on you and is enforceable by law enforcement in any state or tribal nation in the United States.

**4. PROTECTIVE ORDER HEARING:** If you disagree with this protective order, you have the right to request a hearing which will be held within 5 to 10 business days after your written request has been filed in the court that issued this order. If a hearing is held and the Order remains in effect or is modified, and you and the Plaintiff 1) are married now or in the past, 2) live together now or lived together in the past, or 3) are parents of a child in common, the Court will prohibit you from possessing a firearm. This firearms prohibition automatically applies even if you fail to appear for the hearing. If you have questions as to whether your request for a hearing can result in this firearms prohibition, you should contact an attorney. The Court cannot give you legal advice.

**5. MODIFYING OR QUASHING (DISMISSING) THIS PROTECTIVE ORDER:** Only a judge can modify or quash (dismiss) this protective order. If you file an action for maternity, paternity, annulment, legal separation, or dissolution against the Plaintiff, you need to advise this court at once. Nothing the Plaintiff does can stop, change, or undo this protective order without the Court's written approval.

**6. PLAINTIFF CONTACT:** Even if the Plaintiff initiates contact, you could be arrested for violating this protective order. You have the right to request a protective order against the Plaintiff if you do not want the Plaintiff to contact you.

**7. LAW ENFORCEMENT STANDBY:** If standby has been ordered by the judge on this protective order, you may return to the residence once with a law enforcement officer to obtain necessary personal belongings. Neither law enforcement nor this protective order can resolve conflicts over property, title, furniture, finances, real estate, or other ownership issues.

**8. FIREARMS:** If the judge has ordered under state law that you shall not possess, receive, or purchase firearms or ammunition, you must surrender them within 24 hours after service to the law enforcement agency named on this protective order and should request them to issue proof of that surrendering. You may also be required to provide documentation to the court that firearms were transferred to the appropriate law enforcement agency.

# Injunction Against Harassment

Amended Order

Dating relationship, no law enforcement service fee

Case No. **M-751-CV-2008010741**

Court ORI No. **AZ007111J**

County **Maricopa** State **AZ**

Former Case No. \_\_\_\_\_

**PLAINTIFF**

**ALBERT E CARLOTTI**

First Middle Last

**PLAINTIFF IDENTIFIERS**

**12/19/1968**  
Date of Birth of Plaintiff

And/or on behalf of minor family member(s) and other Protected Person(s): (List name and DOB.)

**v.**

**DEFENDANT**

**SHERRY PETTA**

First Middle Last

Defendant/Plaintiff Relationship: \_\_\_\_\_

FORMER PT OF MED PRACTICE

Defendant's Address **24634 N 76TH PLACE**  
**SCOTTSDALE, AZ 85255**

**DEFENDANT IDENTIFIERS**

SEX	RACE	DOB	HT	WT
F	W	12/19/1962	5' 4"	0
EYES	HAIR	<i>Arizona Prohibits Release of Social Security Numbers</i>		
BRO	BRO			
DRIVER'S LICENSE #		STAT	EXP DATE	

Distinguishing Features/Alias \_\_\_\_\_

**CAUTION:**  Weapon Alleged in Petition  
 Estimated Date of Birth

**WARNINGS TO Defendant:** This Injunction shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. § 2265). Crossing state, territorial, or tribal boundaries to violate this Injunction may result in federal imprisonment (18 U.S.C. § 2262). Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. § 922(g) (8)). **Only the Court, in writing, can change this Injunction.**

**This Injunction is effective for one year from date of service. VERIFY VALIDITY (call Holder of Record):**

**Maricopa County Sheriff's Office**

**THE COURT HEREBY FINDS:**

- That it has jurisdiction over the parties and subject matter.
  - Defendant received actual notice of this Hearing and had an opportunity to participate.
- Additional findings of this Order and warnings are set forth on the next page(s).**

**THE COURT, FINDING REASONABLE CAUSE, HEREBY ORDERS:**

- NO CRIMES.** Defendant shall not commit any crimes against Plaintiff or Protected Person(s).
- NO CONTACT.** Defendant shall have no contact with Plaintiff except through attorneys, legal process, court hearings, and as checked:  Phone  Email/Fax  Mail  Other: \_\_\_\_\_
- NO CONTACT.** Defendant shall have no contact with Protected Person(s) except through attorneys, legal process, court hearings and as checked:  Phone  Email/Fax  Mail  Other: \_\_\_\_\_

**THE COURT FURTHER ORDERS:**

**PROTECTED LOCATIONS.** Defendant shall not go to or near the Plaintiff's or other Protected Person's:

Residence (leave blank if confidential):

Workplace (leave blank if confidential):

7930 E THOMPSON PEAK PKWY SUITE 101, SCOTTSDALE, AZ, 85255;

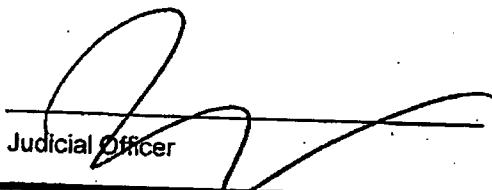
School / Other:

**OTHER ORDERS.** Do not call office or any of the employees of Desert Palm Surgical Group

03/26/2008

Date

Judicial Officer



Printed Name

HONORABLE JOSEPH OLCAVAGE

**Warning**

This is an official Court Order. If you disobey this Injunction, you will be subject to arrest and prosecution for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this Injunction. Violations of this Injunction should be reported to a law enforcement agency, not the Court. Both parties must notify this Court if an action for dissolution (divorce), separation, annulment or paternity/maternity is filed. This is NOT a parenting time (visitation) or custody order. You must file those requests separately in Superior Court. If you disagree with this Injunction, you have the right to request a hearing which will be held within 10 business days after your written request has been filed in the Court that issued this Injunction. Nothing the Plaintiff does can stop, change, or undo this Injunction without the Court's written approval. You must appear in Court to ask a judge to modify (change) or quash (dismiss) this Injunction. **Even if the Plaintiff initiates contact, you could be arrested and prosecuted for violating this protective order. If you do not want the Plaintiff to contact you, you have the right to request a protective order against the Plaintiff.**

PCO Codes: 1,4,5,8.

Plaintiff / Plaintiff Employer (Work Injunction ONLY)  Birth Date: <u>12/19/1968</u>  Agent's Name (Work Injunction ONLY)		SCOTTSDALE CITY COURT Defendant: <u>Sherry Petta</u> <u>24634 N. 76th Pl.</u> Address: <u>Scottsdale, AZ 85255</u> City, State, Zip Code: <u>480-502-8868</u> Phone:	Case No. <u>CV2008010741</u>  PETITION for <input type="checkbox"/> Order of Protection <input checked="" type="checkbox"/> Injunction Against Harassment <input type="checkbox"/> Workplace Injunction  <b>RECEIVED</b> MAR 20 2008
---	--	---	--

DIRECTIONS: Please read the Plaintiff's Guide Sheet before filling out this form. SCOTTSDALE CITY COURT

1. Defendant/Plaintiff Relationship:  Married now or in the past  Live together now or lived together in the past  
 Child in common  One of us pregnant by the other  Related (Parent, In-law, Brother, Sister or Grandparent)  
 Dating-never lived together  
 Other: Former Patient of my medical practice

2.  If checked, there is a pending action involving maternity, paternity, annulment, legal separation, dissolution, custody, parenting time or support in \_\_\_\_\_ Superior Court,  
 Case #: \_\_\_\_\_ (COUNTY)

3. Have you or the Defendant been charged or arrested for domestic violence OR requested a Protective Order?  
 Yes  No  Not sure I have NOT  
 If yes or not sure, explain: \_\_\_\_\_

4. I need a Court Order because: (PRINT both the date(s) and briefly what happened):

Date(s)	Describe what happened (Attach additional paper if necessary - Do not write on back)
<u>1/07-Present</u>	<u>MS. Petta was a patient in my medical practice. She has been a difficult Non-compliant patient and on 9/25/07 was asked to sign an agreement to stop verbally harassing my staff and threatening me and my staff.</u>
<u>ON 3/24/08</u>	<u>MS. Petta entered my office verbally harassing patients, me my staff. Pplie were called and she was physically removed and a "tress pass" was issued</u>

Effective: January 2007

I believe she is a continued threat to me, my patients and my staff

6744

RECEIVED

MAR 2 3 2008

SCOTTSDALE CITY COURT

Case No. CV2008010741

5. The following persons should also be on this Order. As stated in number 4, the Defendant is a danger to them:

Michelle Cabret-Carlotti (6127169) ( / / ) Birth Date

( / / ) Birth Date

( / / ) Birth Date

6. Defendant should be ordered to stay away from these locations, at all times, even when I am not present:

- Home \_\_\_\_\_
- Work \_\_\_\_\_
- School/Others \_\_\_\_\_

7.  If checked, because of the risk of harm, order the defendant NOT to possess firearms or ammunition.

8.  If checked, request an order for the Defendant to participate in domestic violence counseling or other counseling.

9. Other: She is to stay away from my staff and patients, stop calling my cell phone, sending faxes to my office

Under penalty of perjury, I swear or affirm the above statements are true to the best of my knowledge, and I request an Order / Injunction granting relief as allowed by law.

[Signature]  
 Plaintiff

Attest: [Signature] 3/26/08  
 Judicial Officer / Clerk / Notary Date

EXHIBIT 3

EXHIBIT 3

ALBERT E CARLOTTI Plaintiff Birth Date: <u>12/19/1968</u> V. SHERRY PETTA Defendant	M-751-CV-2008010741 Case No.	<b>HEARING ORDER</b> <input type="checkbox"/> Order of Protection <input checked="" type="checkbox"/> Injunction Against Harassment <input type="checkbox"/> Injunction Against Workplace Harassment Issued Date: <u>4/23/2008</u> (mm/dd/ccyy)
--	---------------------------------	---

**Prior to hearing:**

The requested relief is denied. Date requested:

Based on request, this matter is set for hearing:

Date: \_\_\_\_\_ Location: \_\_\_\_\_

Time: \_\_\_\_\_

Parties are to present testimony and evidence whether the Court should continue, revoke or modify the protective order listed above.

The Court cancels the hearing set for \_\_\_\_\_ (Date)

On Plaintiff's motion, the Court dismisses the protective order listed above.

**At time of hearing:**

Plaintiff:  Appeared  Failed to Appear but did not have Notice  Failed to Appear but had Notice

Defendant:  Appeared  Failed to Appear but did not have Notice  Failed to Appear but had Notice

The hearing previously set is canceled.

The Court dismisses the protective order listed above.

The protective order listed above remains in effect.  Brady applies.

As attached, the Court modifies the protective order listed above.  Brady applies.

4-23-08  
Date

[Signature]  
Judicial Officer

**CERTIFICATE OF TRANSMITTAL**

Copy mailed/delivered to  Plaintiff  Defendant  Sheriff on 4/23/08 by [Signature]  
(Date)