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Restraining Order Statement

According to RCW 10.14.020, "Definitions," the definition of unlawful harassment is, quote, a knowing and willful course of conduct directed at a specific person which **SERIOUSLY** [our emphasis] alarms, annoys, harasses, or is detrimental to such person, and which **SERVES NO LEGITIMATE** or lawful purpose. The course of conduct shall be such as would cause a **REASONABLE** person to suffer **SUBSTANTIAL** emotional distress, and shall actually cause substantial emotional distress to the petitioner, or, when the course of conduct would cause a **REASONABLE** parent to fear for the wellbeing of their child. "Course of Conduct" means a **PATTERN** of conduct composed of a **SERIES OF ACTS OVER A PERIOD OF TIME** however short, evidencing a continuity of purpose. "Course of Conduct" includes, in addition to any other form of communication, contact, or conduct, the sending of an **ELECTRONIC COMMUNICATION**. Constitutionally protected activity is **NOT** included within the meaning of "Course of Conduct."

PROTESTING RESTRAINING ORDER FOR FOLLOWING REASONS:

• ALREADY PUT TRESPASSING ORDER ON US

I) "The respondent has been given CLEAR NOTICE that all further contact with the petitioner is unwanted." (See RCW 10.14.030 Item #2)

Nicole Kageyama never told us, either orally or in writing, **NOT** to contact her.

II) "The respondents' course of conduct appears DESIGNED to alarm, annoy, or harass the petitioner." (See RCW 10.14.030 Item #3, decided March 1, 2006)

We sent two faxes and one e-mail to her office in GOOD FAITH to communicate our OUTRAGE which we believe is our FREEDOM OF SPEECH that she refused to a) render any medical services to Elana just because Elana can't and won't take steroids and b) insisted that Elana is **NOT** allergic to steroids after Elana showed her the damage that steroids did to Elana's body, which has been there for the last six years and c) told Elana that Elana can either take Cortisone, which is a steroid, or get no medicine at all and d) said Elana had Miliaria when Elana had Candidas. After that, she billed our health insurance company for \$131.34 rendering us NO MEDICAL SERVICES.

Because she lied to us we were concerned that she would lie to our health insurance company by billing them for **ADDITIONAL** visits that did **NOT** occur. So to prevent that, we sent our three correspondences to her to **DOCUMENT** that we are no longer doing any more business with her.

There is no grievance procedure by which we can complain about doctors who bill for medical services that are not rendered. The money the health insurance company spends on providers who render no medical services comes out of our pocket since I get lower wages in order to have health benefits. Hence, all we could do about this was to put a stop payment on the \$15.00 copayment her office demanded that we pay **BEFORE** we saw her.

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III) "The respondents' course of conduct has the purpose or effect of UNREASONABLY INTERFERING with the petitioner's PRIVACY or the purpose or effect of creating an intimidating, hostile, or offensive LIVING ENVIRONMENT for the petitioner." (See RCW 10.14.030 Item #5)

We sent three correspondences addressed EXCLUSIVELY TO Nicole Kageyama and to NO ONE else – one e-mail and two FAXes, to make sure that she gets the message. Unless she chooses to share it with others, NO ONE else will know they exist. Thusly, we are in NO way interfering with her business or her home.

IV) "...must be warranted by the facts of the case...the court may NOT grant relief beyond the nexus of the RELATIONSHIP and the particular HARM sought to be abated." (See Item [4] of Washington State Supreme Court Case of Trummel vs. Mitchell, Reference # 156 Wn. 2d 653, decided March 30 2006.)

Thusly, Nicole Kageyama has no legal basis by which to expand the scope of a restraining order against us to include her employees and/or family.

V) "A case is moot (of no significance) if there no longer exists either a CONTRAVERSY between the parties or a substantial QUESTION." (See reference item [4] of Appellate Court Case of Emmerson vs. Weilep, reference #126 Wn. App. 930).

Over the course of the three months, from the beginning of June to the end of August, that Elana had an unknown and spreading rash on both of her breasts, while Elana was waiting to have her appointment with Nicole Kageyama on 8/11/11, Elana underwent the emotional duress of having to play doctor and figure out that she had Candidas for which she took Nystatin to cure it, which made it go away. Our experience with Nicole Kageyama is that she is a Quack who takes blood money for medical services that she does NOT render. Thusly, we have no REASON to CONTACT her EVER AGAIN.

VI) "A petition for relief shall allege the existence of harassment and shall be accompanied by an affidavit made under oath stating the SPECIFIC facts and circumstances from which relief is sought." (See RCW 10.14.040, "Protection order-petition", item #1).

Nicole Kageyama's SWORN statement is a report of lies and we have artifacts to prove it, which Your Honor you may see if you wish.

She claims that the messages in our faxes and e-mail are threatening. None of the words in our faxes or e-mail even remotely imply any threats.

We have artifacts to prove it, which Your Honor you may see if you wish.

She claims that we repeatedly contacted her by sending her eleven faxes. We sent two faxes and one e-mail.

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She quotes, "They came in to see me for a minor non life threatening skin rash...". According to Webster's New World College Dictionary Fourth Edition, page 213, Candidas is "a common fungal infection caused by yeast that thrives on any moist cutaneous (skin) area of the body . . . that can develop into serious internal and chronic conditions." [Bring the Dictionary.]

We have artifacts to prove it, which Your Honor you may see if you wish.

She quotes "...that was already improving," Elana's rashes were getting better because Elana figured out that Nystatin kills Candidas which she had been using before she came to Nicole Kageyama's for an office visit.

We have artifacts to prove it, which Your Honor you may see if you wish.

She quotes, "I gave them my opinion on the diagnosis and treatment options for the rash, but they did not believe me and became angry and combative." Yes we became angry because she lied that Elana had Miliaria and the only treatment she was willing to give Elana was Cortisone which is a steroid which Elana had already shown her she is allergic to. Did we become combative? Absolutely not! We were simply exercising our patient rights to be given a proper diagnosis, safe treatment plan and medical services since they are being paid for.

She quotes, "Elana grabbed a paper sheet she had got up into my face (~ 6 in away) and started reading some scripture like quote? - I was in shock." Shocked about what? Elana read to her the following verse from the song entitled "Sweet Home Alabama" - "In Birmingham they love the gov'n'r. Now we all did what we could do. Now Watergate does not bother me. Does your conscience bother you? Tell the truth."

We have artifacts to prove it, which Your Honor you may see if you wish.

Also it was not possible for Elana to be six inches in Nicole Kageyama's face since Nicole Kageyama is quite a bit taller than Elana and because Nicole Kageyama was at a desk next to her medical assistant on one side of the room and Elana was getting dressed on the other side of the room.

She quotes, "She and Michael stormed out of my office. Correction: Elana said to her 'Then you won't help me' and Elana and Michael walked out.

She quotes, "As Michael exited my waiting room he shouted 'Lets blow this joint' in front of other patients and my office staff. I privately spoke this to my wife. It is a common cliché meaning, "Lets get the heck out of here."

[1987 c 280 § 1.]

**10.14.020
Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes, in addition to any other form of communication, contact, or conduct, the sending of an electronic communication, but does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Unlawful harassment" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner, or, when the course of conduct would cause a reasonable parent to fear for the well-being of their child.

[2011 c 307 § 2; 2001 c 260 § 2; 1999 c 27 § 4; 1995 c 127 § 1; 1987 c 280 § 2.]

Notes:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings -- Intent -- 2001 c 260: "The legislature finds that unlawful harassment directed at a child by a person under the age of eighteen is not acceptable and can have serious consequences. The legislature further finds that some interactions between minors, such as "schoolyard scuffles," though not to be condoned, may not rise to the level of unlawful harassment. It is the intent of the legislature that a protection order sought by the parent or guardian of a child as provided for in this chapter be available only when the alleged behavior of the person under the age of eighteen to be restrained rises to the level set forth in chapter 10.14 RCW." [2001 c 260 § 1.]

Intent -- 1999 c 27: See note following RCW 9A.46.020.

10.14.030**Course of conduct — Determination of purpose.**

In determining whether the course of conduct serves any legitimate or lawful purpose, the court should consider whether:

- (1) Any current contact between the parties was initiated by the respondent only or was initiated by both parties;
- (2) The respondent has been given clear notice that all further contact with the petitioner is unwanted;
- (3) The respondent's course of conduct appears designed to alarm, annoy, or harass the petitioner;
- (4) The respondent is acting pursuant to any statutory authority, including but not limited to acts which are reasonably necessary to:
 - (a) Protect property or liberty interests;
 - (b) Enforce the law; or
 - (c) Meet specific statutory duties or requirements;
- (5) The respondent's course of conduct has the purpose or effect of unreasonably interfering with the petitioner's privacy or the purpose or effect of creating an intimidating, hostile, or offensive living environment for the petitioner;
- (6) Contact by the respondent with the petitioner or the petitioner's family has been limited in any manner by any previous court order.

The following judicial opinion comes from this web-site:

http://www.mrsc.org/wa/courts/index_dtSearch.html

156 Wn.2d 653, Trummel v. Mitchell

[No. 75977-4. En Banc.]

Argued June 23, 2005. Decided March 30, 2006.

PAUL TRUMMEL, *Petitioner*, v. STEPHEN MITCHELL, *Respondent*.

[1] Harassment - Civil Protection - Protection Order - Parties Protected - Nonparties to Action. A trial court adjudicating a petition for an antiharassment order under chapter 10.14 RCW may issue an order that protects nonparties to the proceeding as well as the petitioner if the nonparties have significant interests in common with the petitioner, the protection sought by the petitioner encompasses those common interests, and the record contains evidence that the nonparties were victims of the harassing behavior sought to be abated.

[2] Harassment - Civil Protection - Protection Order - Proscribed Conduct - Predatory Conduct. Predatory conduct in the form of yelling and screaming at others, disrupting meetings, spying on neighbors, and coercing others with threats of criminal consequences constitutes a valid basis for the issuance of an antiharassment order under chapter 10.14 RCW.

[3] Harassment - Civil Protection - Protection Order - Proscribed Conduct - Sending Unwanted Printed Matter. An antiharassment order under chapter 10.14 RCW may prohibit a person from sending or delivering printed materials to the homes of persons who do not want to view those materials. Such conduct does not enjoy constitutional protection.

[4] Harassment - Civil Protection - Protection Order - Proscribed Conduct - Discretion of Court - Factual Basis in Record - Necessity. A prohibition in an antiharassment order issued under chapter 10.14 RCW must be warranted by the facts of the case. The court's discretion in fashioning the order must be guided by the facts of the relationship between the parties and the nature of the particular harassing conduct complained of. The court may not grant relief beyond the nexus of the relationship and the particular harm sought to be abated.

[5] Harassment - Civil Protection - Protection Order - Modification - Factual Justification - Necessity. The modification of an antiharassment order issued under chapter 10.14 RCW must be justified by the facts. A court abuses its discretion by expanding an antiharassment order to impose restraints that the record does not support. [6] Trial - Continuance - Discretion of Court - Factors. Whether a motion for a trial continuance should be granted or denied is a matter addressed to the discretion of the trial court. In exercising its discretion, the court may properly consider the necessity of reasonably prompt disposition of the litigation; the needs of

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the moving party; the possible prejudice to the adverse party; the prior history of the litigation, including prior continuances granted to the moving party; any conditions imposed in the continuances previously granted; and any other matters that have a material bearing upon the exercise of the discretion vested in the court.

[7] Harassment - Civil Protection - Protection Order - Enforcement - Contempt - Review - Standard of Review. A contempt order issued to enforce a chapter 10.14 RCW antiharassment order is reviewed for an abuse of discretion. Under this standard, the contempt finding will be upheld by a reviewing court if it can find in the record any proper basis for the finding.

[8] Harassment - Civil Protection - Protection Order - Proscribed Conduct - Surveillance - What Constitutes. For purposes of a chapter 10.14 RCW antiharassment order prohibiting surveillance, "surveillance" means to keep a close watch over one or more persons.

[9] Constitutional Law - Appeal - Review - Constitutional Issues - Avoidance. An appellate court may decline to decide an issue on constitutional grounds if it can decide the issue on nonconstitutional grounds.

[10] Government - Communication to Government Agency - Immunity From Action - Anti-SLAPP Immunity - Attorney Fees - Complaint - Necessity. Attorney fees are not awardable to a defendant under the anti-SLAPP statute

The following judicial opinion comes from this web-site:

http://www.mrsc.org/wa/courts/index_dtSearch.html

126 Wn. App. 930, Emmerson v. Weilep

[No. 22385-0-III. Division Three. March 1, 2005.]

SCOTT M. EMMERSON, *Respondent*, v. DALE E. WEILEP, *Petitioner*.

[1] Government - Communication to Government Agency - Immunity From Action - Anti-SLAPP Immunity - Review - Standard of Review. A trial court's refusal to dismiss an action upon the defendant's claim of immunity under RCW 4.24.510, the anti-SLAPP statute, is reviewed for a manifest abuse of discretion.[2] Government - Communication to Government Agency - Immunity From Action - Anti-SLAPP Immunity - Scope - Kinds of Actions. RCW 4.24.510, the anti-SLAPP statute, protects

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individuals who make good faith reports to appropriate government bodies from the threat of civil actions for damages. The statute does not provide protection against actions that do not seek damages.

[3] Harassment - Civil Protection - Protection Order - Government Official - Anti-SLAPP Statute - Effect. RCW 4.24.510, the anti-SLAPP statute, does not prevent a government official from petitioning for and obtaining a civil antiharassment protection order against a citizen inasmuch as a petition for such an order is not a civil action for damages.

[4] Appeal - Decisions Reviewable - Moot Questions - What Constitutes. A case is moot if there no longer exists either a controversy between the parties or a substantial question.

[5] Appeal - Review - Application of Law - Standard of Review. A trial court's choice of law applying to facts is a question of law that is reviewed de novo.

[6] Harassment - Civil Protection - Protection Order - Petition - Affidavit - Allegations Based on Personal Knowledge. An affidavit setting forth allegations based on personal knowledge will support the issuance of a civil antiharassment protection order under chapter 10.14 RCW.

[7] Harassment - Civil Protection - Protection Order - Petition - Hearing - Rules of Evidence - Applicability. Under ER 1101(c)(4), the Rules of Evidence need not be applied in a proceeding for the issuance of a civil antiharassment protection order under chapter 10.14 RCW.

[8] Harassment - Civil Protection - Protection Order - Grounds - Specific Acts. A civil antiharassment protection order may issue upon averments that the person to be restrained telephoned the petitioner on numerous occasions over a period of time, screamed at the petitioner using threatening language, used obscenities, and called the petitioner names.

[9] Constitutional Law - Freedom of Speech - Harassment. Harassment is not protected speech.

[10] Harassment - Civil Protection - Protection Order - Petition - Sufficiency. A petition for a civil antiharassment protection order under chapter 10.14 RCW is sufficient if it satisfies the requirements of RCW 10.14.040 by alleging the existence of harassment and is accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. There is no particular form that must be used when petitioning for a civil antiharassment protection order under chapter 10.14 RCW.[11] Appeal - Assignments of Error - Failure To Assign Error - Failure To Support Claim of Error. An appellant's failure to assign error or to provide argument and citation to authority in

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support of an assignment of error as required by RAP 10.3 precludes appellate consideration of the alleged error.