

June 12, 2009  
DVPO Hearing

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COURT COMMISSIONER: The first case before the court, Pendleton versus Pendleton. This is 08-3-03941-6SEA. Will the parties approach please?

MS. LORELLA: Right here. Good morning Your Honor. Teresa Lorella. I'm here for Hank Finesilver. We just this morning put in a notice of appearance. We were hired last night for this matter. I have given a copy to the respondent. I'm here with my client.

COURT COMMISSIONER: Okay.

MS. LORELLA: And...

COURT COMMISSIONER: Could you please state your name on the record?

MR. JOHN PENNINGTON: Good morning, John Pennington, at this point representing myself.

COURT COMMISSIONER: Okay. And I did receive the petition. I also received the response that was filed and I reviewed both documents and the attachments—there were attachments to the response. Sir, have you had a chance to review the order that was handed up to me this morning?

MR. JOHN PENNINGTON: Yes ma'am I have.

COURT COMMISSIONER: And are you in agreement with this order or any part of it?

MR. JOHN PENNINGTON: No ma'am I am...

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COURT COMMISSIONER: Then we'll go forward with the full hearing. I'll hear argument on behalf of the petitioner first.

MS. LORELLA: Thank you. And I would like to say that my client did not have a chance to file a replay, and so if anything does come up in testimony that was not in the paperwork I ask that it be considered because the respondent will have a chance to testify to that in court today.

COURT COMMISSIONER: Okay. Are you asking to present testimony of your client?

MS. LORELLA: Yes.

COURT COMMISSIONER: Okay.

MS. LORELLA: I'm going to have her...

COURT COMMISSIONER: Please raise your right hand. Do you swear or affirm that the testimony you give today will be the truth, the whole truth and nothing but the truth?

MS. ANN PENNINGTON: Yes I do.

COURT COMMISSIONER: Thank you.

EXAMINATION OF ANN PENNINGTON

(BY MS. LORELLA)

Q: And could you please tell the court your name?

A: Ann Laughlin Pennington.

Q: And how long have you been married to the respondent?

1 A: Since September 16<sup>th</sup>, 2007.

2 Q: How long have you guys been together over all?

3 A: Since about June—May of 2005.

4 Q: Just for some background information for the commissioner, who is  
5 Grace?

6 A: Grace is John's five year old daughter. He has custody of her.

7 Q: And when did she live with you?

8 A: She came to live with us I think end of June, beginning of July of 2005.

9 Q: And although it may be obvious, are you pregnant?

10 A: Yes, about nine months.

11 Q: And as far as this matter is concerned, when did you and your husband  
12 separate?

13 A: On May 11<sup>th</sup>, of 2008, Mother's Day.

14 Q: And who filed the actual separation action?

15 A: John did.

16 Q: Why didn't you?

17 A: I just—I didn't know that we were going that direction quite yet.

18 Q: When the commissioner looks at the paperwork she'll see that you filed  
19 the protection order about three weeks after the separation was actually  
20 filed. Can you tell her why?

21 A: Yeah, things were getting worse, and John seemed to be kind of coming  
22 unraveled. His arguments with me were more and more irrational. He  
23 had more extreme ups and downs. More extreme polarized. He—I'm

1        sorry this is hard. He—he was coming to my home. He was sending me  
2        emails, long emails, lengthy emails. He was leaving voicemails on my cell  
3        phone. Some of them were very, very, very angry. I had gone in to get  
4        some of my things when he wasn't there because if I did try to get  
5        something when he was there he would have just got in my way and not  
6        let me leave or tried to keep me from getting any of my things, my  
7        personal belongings. And I walked in on May 13<sup>th</sup>, a couple of days after I  
8        had left the home. I guess John had been out of town from the 9<sup>th</sup> to the  
9        13<sup>th</sup>, or the 9<sup>th</sup> to the 11<sup>th</sup> and then he knows I'm not working on Tuesdays  
10       so that I would probably go back into the home to get some more  
11       belongings. And I went upstairs, I find my shawl in the garbage and I  
12       found the gun on the chair in the—in the master bedroom, and there were  
13       bullets next to it in a blue backpack. And I thought that was not—there  
14       could be nothing but a threat there. Every time he gets angry or he has  
15       some—he—at the very end of his divorce, his pervious divorce he'd go  
16       hunting or go shooting at a range or something. This gun was down.  
17       When he has the five year old in the house, and it's a revolver which he  
18       tells me you don't have to chamber it, it's so easy to use, and I had just  
19       had a colleague at work whose three year old son had been shot in the  
20       head by his ten year old brother on accident. The funeral was only—it  
21       was less than a month prior to me finding that gun down on April 19<sup>th</sup>.

22    Q:    Do you have any criminal matters pending?

23    A:    Yes. The City Prosecutor is looking into this as a criminal matter

1 Q: And have you...

2 A: Duvall.

3 Q: Have you spoken to the police or the prosecutor?

4 A: I have had lengthy conversations with the police several times.

5 Q: And are you afraid of your husband?

6 A: Absolutely.

7 Q: Can you briefly explain when that fear began or how long you've been  
8 afraid?

9 A: It's been off and on prior to—prior to getting married, but I kept thinking  
10 well it's the divorce and he's—he's got to heal and I'm going to help him.  
11 I'm going to make him and be there to help him and get through it. And  
12 that he—he's—back in as far as December 9<sup>th</sup> or around there in 2005 he  
13 was aggressive and violent, pushed me during an argument in public at  
14 the Starbuck's in Bellevue. Had thrown me out of the house, or—or, you  
15 know, would tell me he was throwing me out of the house, get my stuff,  
16 don't collect any of your things, just get out. And then would a few  
17 minutes later, you know, no I love you and I want you to stay. I don't  
18 mean that. I don't remember the question.

19 Q: You answered it. That's fine. Do you—do you know of John displaying  
20 this behavior to anyone else?

21 A: Yes. I know—I have seen him be very, very rough with his daughter in  
22 front of me and also with our animals. Our dog, which is over 110 pounds

1 and part Mastiff urinates on the floor when he comes home just without  
2 even—without even him saying anything.

3 Q: Has he destroyed any property in front of you?

4 A: He took his glasses once, his reading glasses, he was standing in the  
5 kitchen and I was sitting on the couch in the den and there was no wall  
6 between us, and he took them and he was angry about something, he  
7 crumpled them up, threw them across the room towards me. They were  
8 probably, I don't know, maybe a foot or two away from my face when they  
9 flew past me and hit the fireplace to my left. And I remember at that point  
10 thinking, you know, how fast do I get to the—to the—to the garage door  
11 which was halfway between us. He was slamming things down.

12 Slammed his hand down on the counter and things like that. Just yelling,  
13 screaming. And I also remember thinking about Grace and I know that I  
14 have no authority over her, but I was wondering, you know, how do I get  
15 her because a lot of this stuff happens in front of her and I just wanted to  
16 take her with me and—but I don't—I can't.

17 Q: When he's angry does your husband call you any names?

18 A: Yeah. He's called me dumb shit, asshole, dumb ass, dip shit, stupid, fat  
19 chick. Yeah, you name it. Bitch.

20 Q: What about a history of any physical abuses beyond the—the destruction  
21 of property? Has he touched you?

22 A: Yeah. He—we've stood in the kitchen a couple of times. He'll  
23 roughhouse and, you know, sometimes it starts out as fun but there is a

1 control point on your collarbone that he gets you down to the floor and that  
2 can hurt and I remember asking him to stop a number of times and that it  
3 was hurting. And I know that I my face was showing that it was hurting  
4 and he wasn't stopping. And I remember—I remember being in the  
5 kitchen standing with my back to the sink and he stood right up against  
6 me, and this was when I was pregnant, and my—it's very embarrassing to  
7 talk about, but my—my breasts became very, very sore. It hurt to wear  
8 pajamas to bed. It hurt to wrap a towel around. And he would come at  
9 me, and he was joking, I think he was laughing, but it was kind of a mean  
10 laugh and he would twist them or poke at them or jab at them and I said  
11 stop it. And I would try to get his hands away from him and—away from  
12 me and get around him and leave, but that was just—that was just one of  
13 those things that would happen. It happened a couple times in the  
14 kitchen. It happened once in the car. It happened once on the couch.  
15 And I didn't think it was funny at all.

16 Q: Have there been any instances where he has blocked you physically from  
17 leaving?

18 A: Absolutely. That happens frequently. I know that one of the only ways for  
19 me to stop him from—from following me around the house and yelling at  
20 me, screaming at me, calling me names, saying fuck you, things like that.  
21 I know that one of the only ways for me to get out of there, to get the—to  
22 get things calm to some semblance of calm, is to leave. Usually that's the  
23 only way because he escalates it regardless. And then when I leave,

1 when I try to go, if I try to go get an outfit for work because I'm going to  
2 stay somewhere that is safe, that is calm overnight, or if I try to get my  
3 keys or get my purse or something like that, he—he'll stand in the  
4 doorway and I have to go into the walk in closet upstairs in our master  
5 bedroom, which is tiny, and he stood in the doorway. And he stood in the  
6 doorway once and he saw me getting my things and he—and he stood  
7 there and he got this expression on his face that's like, you know, this is  
8 amusing. This is just amusing, you know. This is typical or you. And I—I  
9 remember looking up at him and said I would rather that you not watch.  
10 And he said oh, I'm going to watch. I'm going to be here. In fact I'll help  
11 you. And when I try to get out he—he goes really far as far as aggression,  
12 and then when I try to get out of the place then he's holding my arm, my  
13 shoulders, or holding my elbows, keeping me from leaving. And he has  
14 done that repeatedly in this little walk in closet. I guess I should know  
15 better than to keep things in there. In the master bathroom, which the  
16 closet goes into the master bathroom, and between the garage door and I  
17 remember once that he was standing in the garage door in the laundry  
18 room and he wouldn't let me out, and I am—I grabbed the two cats and I  
19 ran for the front door and I just—I didn't look back and as soon I was  
20 outside I know that I was in view of the neighbors and stuff like that and I  
21 know that he wouldn't come out there. But I just left at that point.

22 Q: Now you've said that this has escalated since your pregnancy, and you  
23 may have already answered that, but can you tell the—the court what

1 exactly you mean by saying that—that since pregnancy this has gotten  
2 worse?

3 A: We found out I was pregnant about in November, very beginning of  
4 November, right before the election. I got elected to the Duvall City  
5 Council November 7<sup>th</sup>, or whatever that was, and we went to the doctor's  
6 appointment. There was just no—no joy—no joy from the beginning. And  
7 I remember arguments just beginning to escalate about everything about  
8 the baby. It was just about, you know, me being a mature maternal age,  
9 advance maternal age. Of me being, you know, having to go through  
10 tests possibly at one point. He—he just—it was one thing after another  
11 and when it got to the point where it was December, February, we really  
12 started having arguments off and on a lot and that was where he, you  
13 know, always wound up standing in between me and the door or just  
14 towering over me, yelling at me, screaming at me the obscenities.

15 Q: Who has your power of attorney?

16 A: My parents.

17 Q: And when did you give them power of attorney?

18 A: When I left on May 11<sup>th</sup>.

19 Q: Why did you do that?

20 A: Because I—I believe that if something happens to me he will not—he  
21 would care less about keeping me alive.

22 Q: Is there a reason that you feel that way?

1 A: I remember him telling the story a bunch of times about his ex-wife Valerie  
2 and how she had had a terrible C section in the delivery room and the  
3 doctor was on top of her pushing down on her and getting the baby out.  
4 Her uterus was actually out on the table. He asked the doctor what is that  
5 and he said oh, that's your wife's uterus. When the baby came out the  
6 doctor handed Grace to John and John said oh, it's okay Daddy's got you.  
7 He tells it every time—every time she has her birthday. And he tells me  
8 how his wife was dying on the table, just dying in front of his eyes. And  
9 the thing he talks about is how when he took Grace in his arms and said  
10 Daddy's got you, it's okay, and everybody turned and looked at him and  
11 was, you know, just mesmerized by the fact that John could get her to  
12 stop crying immediately. Nothing about his wife dying on the table. And  
13 that doesn't make me feel very...

14 Q: I'm going to ask a couple questions that deal with the response that he put  
15 in. Did you ever remove him from your car insurance?

16 A: No. No.

17 Q: So is he still insured by your insurance?

18 A: Yes. I thought John would drop me from the car insurance because I  
19 have one car and he has two cars, and household insurance and he went  
20 through USAA which was through my family's connection and I thought  
21 that he would drop me so I took my car, which is \$76 per month. I took my  
22 car off. I took initiative because I didn't want to find out that I get in an  
23 accident and then I'm not covered.

1 Q: Now, the commissioner has probably seen some emails that you have  
2 sent to John in that time period where you have said that you were asking  
3 him to not contact you. Can you explain to the commissioner why you  
4 were contacting him in those instances?

5 A: I thought that we were doing counseling. I did not feel comfortable talking  
6 with him on—off line by—by ourselves and so I thought that by going and  
7 having somebody, a third party there, somebody that would be safe to  
8 kind of make sure things didn't escalate and get out of control, that that  
9 would be okay. That at least we could do that for some period of time. I  
10 don't know what would happen at the end of that. And what was your  
11 question?

12 Q: That was the question. So do you feel that you've answered that—that—  
13 why did you contact him?

14 A: Oh, it was about scheduling the appointments. I had very brief one or two  
15 sentence emails only about scheduling. I remember that I couldn't—I had  
16 to be out of town one day for meetings and I—I rescheduled and he  
17 accused me of canceling, and that's when he served me with the legal  
18 separation. And it was about scheduling or about the person that was  
19 going to do the counseling, and I had a—I have a voicemail on my cell  
20 phone from him when he said you just—I want to—let's do the counseling.  
21 I have been trying for two and a half years to do some counseling with  
22 him, but finally he agreed to do it. You find the person. You tell me who it  
23 is. You give me the dates and times and you—and I'll choose it and then

1 you—I'll be there. And the next time he said—he said I'm not going if your  
2 parents recommended it. I'm not going if—if your friends have  
3 recommended it, and we had some friends who are psychiatrists, and I'm  
4 not going if they are the ones who recommended it. I want to go see a  
5 Christian counselor and then he started having all these ultimatums one  
6 after another. And I didn't feel like that was very serious but I was going to  
7 go. We had one scheduled for June 3<sup>rd</sup> and one scheduled for June 11<sup>th</sup>.

8 Q: So despite the fact that you have been willing the past to do counseling  
9 are you afraid of your husband?

10 A: Absolutely.

11 Q: And can you say with—tell the commissioner what you are afraid of? Why  
12 are you asking for this protection order today?

13 A: This is escalating. This is something that is just getting out of hand, and  
14 there is no reason when he argues. There is just nothing I can reason  
15 with and the emails, letters, I'm being served all the time. I've never been  
16 served in my life. I just—I—I just—I need—I need to be able to deliver this  
17 baby healthily and my doctor is really worried about it. My heart rate goes  
18 up like beyond normal. The baby has been writhing in my stomach at  
19 times like when someone came and served me late at night at my home.  
20 I've actually lost weight. My baby is all right. They say she's growing.  
21 She's okay. But they are worried about the stress, and I'm—I'm just  
22 worried about what happens after this baby is born. What happens to me.  
23 And I went in and I asked the police would you please go to his home,

1 because he has lots of weapons in his home in the gun cabinet and in an  
2 unlocked drawer up in his bureau. Can you please just write down the  
3 serial numbers if something happens to me I don't want my life to be in  
4 vain.

5 MS. LORELLA: I think that's—thank you.

6 COURT COMMISSIONER: Sir I did read you  
7 response. Additional information was provided in her testimony. So you  
8 have the chance to present your own testimony if you want to. Would you  
9 like to present your own testimony in addition to your written response?

10 MR. JOHN PENNINGTON: Yes ma'am.

11 COURT COMMISSIONER: Then please raise your  
12 right hand. Do you swear or affirm that the testimony you give today will  
13 be the truth, the whole truth and nothing but the truth?

14 MR. JOHN PENNINGTON: Yes ma'am.

15 COURT COMMISSIONER: Thank you. And start by  
16 stating your name on the record.

17 MR. JOHN PENNINGTON: For the record my name is  
18 John Pennington and at this point Your Honor I am representing myself.  
19 This is not going to be easy for me either so I ask you to forgive me. I've  
20 tried to properly format documents in my response for your review and if  
21 I've made a mistake I'd ask the court for guidance. There are three very  
22 specific areas I would like to ask the court to consider or address. First  
23 and foremost are the timelines, the fact that this domestic violence

1 protection order was filed one day after I served my wife legal separation  
2 documents following a 30 day separation, physical separation from one  
3 another. Secondly, I'd like to address specific rebuttals to incidents that  
4 are either completely false or grossly represented. Three, there are some  
5 extreme complications with the domestic violence protection order, how it  
6 is has essentially prohibited me from anything in that very small town.  
7 Your Honor this is a marriage of only eight months that has been in trouble  
8 since day one, but there has never been an incident of domestic violence  
9 in this marriage. There is a baby on the way. There is clearly anxiety that  
10 has been very elevated and we've been headed toward counseling, but  
11 there has never been an incident of domestic violence in this marriage. In  
12 the court documents that I submitted I've included every single  
13 correspondence between me and my wife from the moment she left our  
14 family on May the 9<sup>th</sup> right up to where I filed for legal separation. I ask  
15 the court to closely examine those correspondences for the tone and the  
16 tenor between the two parties. In no document, no email, no letter is there  
17 any reference by my wife or me that domestic violence or verbal abuse  
18 has ever occurred in this marriage or was occurring. The  
19 correspondences that the court have demonstrate most emails regarding  
20 counseling appointments. There is no mention of domestic violence ever  
21 occurring until the day after she was served with legal separation papers.  
22 The incident report that she attaches to the domestic violence protection  
23 order was written less than three hours after she avoided service of those

1 legal separation documents at her work earlier that day. I believe that her  
2 request for a domestic violence protection order was an immediate  
3 reaction following the first attempt to serve her, and perhaps even a  
4 means to keep me from her forthcoming baby which I believe is within the  
5 jurisdiction of the court, this court at that time—at this time. Before I filed  
6 for a legal separation our only communication over that one month period  
7 had been email, one letter and phone calls, and one in person visit where I  
8 tried to get my daughter's—my five year old daughter's cat returned to me  
9 after Ann removed it while we were away camping, and even now she is  
10 saying that that is domestic violence. My wife left our home and our family  
11 on May the 9<sup>th</sup> taking personal items and community property of value.  
12 She then returned the next weekend while she knew that we were  
13 camping and removed essentially everything of value and her remaining  
14 personal items. In her incident report she stated that she needed some  
15 peace and space, and particularly said that she needed some comfort  
16 items to accompany her at her mother's house. But what she did,  
17 however, Your Honor was took \$5000 worth of wedding gifts, every piece  
18 of Waterford Crystal in the house, a \$3000 painting from the fireplace  
19 mantel, expensive kitchen cookware, and even to my disbelief, her skis,  
20 boots and poles from the garage. She forwarded her mail immediately  
21 and then removed my five year old daughter's cat refusing to return it to a  
22 little girl whose heart is now completely shattered. After one month of  
23 trying to get information on the status of our marriage, on how the baby is

1 doing, on insurance for the baby and work, whether or not I'll even be  
2 allowed inside the delivery room, and after seeing how she abandoned not  
3 just me but my daughter who has been calling her mom for three years, I  
4 did file for a legal separation. And that's when her allegations began  
5 flying. At no time, even under the stress of the past month Your Honor,  
6 have things gotten out of control and I'd ask the court to closely examine  
7 those correspondences as a submission of that proof. My wife makes  
8 several allegations that are either false or just grossly exaggerated. She  
9 alleged that I found—that she found a firearm on a wing back chair and  
10 felt that it was a thinly veiled threat. Foremost Your Honor I had no idea  
11 that she was leaving that—the residence that weekend. Secondly, my  
12 daughter was already gone for four day visiting her mother and was  
13 returning with me. And third, she fails to disclose to the court that the gun  
14 was in a sealed fanny pack and there was no ammunition near it. I was  
15 leaving for a few days for Canada to try and give her some space and in  
16 the process of leaving I returned for my car and hastily put that gun on the  
17 wing back chair in the fanny pack. I knew crossing the border—and I've  
18 been a concealed pistol license holder in the state for 14 years, I  
19 understand federal law and I understand crossing the border with a gun is  
20 a major issue. So I returned and put it in the wing back chair. Again, it  
21 was in a sealed fanny pack and it was an honest mistake while trying to do  
22 the right thing. She alleges a verbal incident where I called her, and  
23 actually—and pardon my language, a dip shit, which indeed it did do, but

1 she doesn't share the entire story of that particular day. Late in April Ann  
2 was seven and a half months pregnant and for the first time was  
3 experiencing balancing issues or balance issues. She was struggling with  
4 the pregnancy moving around for the first time. And on a very early  
5 Sunday morning we were going to paint the baby's room. Ann tried to get  
6 up on a four foot high three legged stool to cut in the paint at the ceiling. I  
7 didn't feel it was safe and I asked her completely in vain to please not risk  
8 herself or the baby. It is important I believe for the court to know that I  
9 was so concerned that I was the one who called her mother, the only  
10 person who I knew that she would listen to. Her mother arrived within 30  
11 minutes still wearing I'm sure a night robe or a bathrobe, within 30 minutes  
12 and convinced Ann not to stand on top of the stool. In that room I did  
13 facetiously say that she did not need to be a dip shit and that I could  
14 simply do it. I'm very sorry if that was offensive, but at the time my focus  
15 was very purely on protecting her and the baby. She makes accusations  
16 regarding roughhousing, and Your Honor what Ann refers to as  
17 roughhousing is what I believe most families in America do which is just  
18 goofing off. Any occasions this has happened have been very, very rare,  
19 but have always included my five year old, even our 100 pound dog as  
20 she talks about. She is not sharing with the court that if they occurred  
21 they occurred with me on blood thinning medications for a nine inch long  
22 blood clot in my leg that has been there for about 11 years. And if  
23 anything, we can't roughhouse, even get close to it because I'm prone to

1 excessive bleeding and very visible bruising, which none has occurred.  
2 The specific incident that I believe she is actually referring to happened  
3 over two years ago when she came home from a self-defense class when  
4 she was working for another employer. She was still in her dress clothes.  
5 It was in the kitchen and when she—she approached me she was—  
6 wanted to share with me what she had learned that particular day. She  
7 doesn't reveal that my daughter, who was three at the time, was also there  
8 and we were all absolutely goofing around and we were laughing. We  
9 were goofing around. She never once indicated that it was an issue until  
10 after she filed for domestic—after she filed—after I filed, excuse me, for a  
11 legal separation. Ann states repeatedly that I blocked her way as she tries  
12 to leave the house. What I believe is critical here is that her own  
13 statement acknowledges the fact that she has left the house with her  
14 jewelry and with her clothes on numerous occasions. Have I tried to get  
15 her to stop and work through issues? Absolutely. Have I failed?  
16 Miserably. At no times have I used intimidation to block her. Candidly I've  
17 just kind of come to the point where I'm resigned to the fact that under any  
18 scenario she's going to leave and go to her mother's house. Your Honor  
19 there are severe complications with the domestic violence protection  
20 order. It is prohibiting me from essentially one half of my entire town.  
21 Duvall is very small. There are two roads into it and right now I can't even  
22 come to my house without essentially violating it on Highway 203. She  
23 has prohibited me from public buildings, City Hall, the fire department.

1 She has prohibited me from my place of worship which also is on Highway  
2 203. She had prohibited me from my daughter's kindergarten. She will  
3 not be able to attend vacation bible school. I'm prohibited from going to  
4 my barber, two gas stations and all of the Mexican restaurants in town,  
5 even the grocery store that I shop at. Perhaps most disturbing, and what I  
6 would really like to highlight for the court is because of the blood thinner  
7 medications I have to be monitored routinely. It's imperative to my health.  
8 I'm prohibited from going to Evergreen Anti-Coagulation Clinic within 100  
9 yards of the maternity ward and her physician. Basically the radius  
10 around that encompasses all of Evergreen Hospital. After the domestic  
11 violence protection order was issued she tried to make third party contact  
12 with my Your Honor. I ask the court to sincerely question my wife's  
13 supposed fear when two days after this order was issued she did reach  
14 out to me via third party and ask whether or not I could attend a previously  
15 scheduled counseling session with her. She has already asked the police  
16 department's assistance to remove a grand piano and other items but she  
17 was willing to meet me one on one for counseling only two days after the  
18 order was issued. Lastly, she did indeed escalate what I believe is conflict  
19 unnecessarily by canceling me from the homeowner's policy and the auto  
20 insurance policy. I had no notice of that and only found out three days  
21 ago. In summary Your Honor what I believe had actually happened is  
22 although I love her and I—and I believe that she loves me, I don't think  
23 she really wanted to marry me. I believe that she never fully accepted the

1 fact that there were others in this relationship, in this case our daughter,  
2 my daughter, and that she never maybe really wanted a baby, and yet the  
3 irony of the whole thing is that she actively sought each one of these. This  
4 marriage has not been great, but all together I will tell you it has not been  
5 awful. There have been some wonderful, amazing moments in this  
6 marriage. I've only sought answers and solutions and after 30 days, and  
7 after watching my daughter's heart be completely trampled I filed for legal  
8 separation. This order which was filed after I made that move is, I believe,  
9 not appropriate. Finally I ask the court to examine closely the last lines of  
10 my wife's incident report for the real truth, and that is that she just quote,  
11 "desperately needs relief from his emails, phone calls and letters". I love  
12 my wife and I'm sorry that it's come to this, but there has been no  
13 domestic violence in this marriage and I only wish her and our family well.  
14 I respectfully request the court to dismiss the protection order, or if  
15 appropriate to enter mutual restraints as I have proposed (inaudible) at  
16 this point I believe they will give us both peace and space and ensure that  
17 the community's financial interests are preserved. Two last points Your  
18 Honor, I'm unfamiliar with anything regarding the power of attorney, and  
19 the comment that they make about my glasses is one that I didn't  
20 understand when I saw it. It threw me. And I've only had three pairs of  
21 glasses my entire life, and I've brought for the court all three of them, and  
22 the court is more than happy to look at them. One from the late '90s, one

1 from early 2000 and the ones that I'm wearing today. None of them have  
2 been damaged.

3 COURT COMMISSIONER: Thank you. I'm reviewing  
4 the order that you handed—or that you provided, that—you're proposed  
5 order, and the cause number on that order is that the cause number for  
6 your legal separation?

7 MR. JOHN PENNINGTON: Yes. I believe it is.

8 MS. LORELLA: If I may cut in? I think that the divorce  
9 action that, the dissolution action has a separate cause number.

10 MR. JOHN PENNINGTON: Okay.

11 MS. LORELLA: So the order might be under that  
12 number. There is two going on at this point. The protection order I think  
13 was consolidated with the legal separation, and then the legal separation  
14 was not converted to a dissolution. There are concurrent...

15 COURT COMMISSIONER: (Inaudible). There is also  
16 a dissolution of marriage?

17 MS. LORELLA: Yes. I believe he filed a dissolution of  
18 marriage, so there is concurrent cases.

19 COURT COMMISSIONER: Okay. Did you file for  
20 divorce or legal separation?

21 MR. JOHN PENNINGTON: I filed for a legal  
22 separation, was then served the DVPO and then on June the 10<sup>th</sup> filed  
23 for—filed for the dissolution.

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COURT COMMISSIONER: Okay. So the dissolution has a different case number?

MR. JOHN PENNINGTON: I have...

COURT COMMISSIONER: I don't have the dissolution before me. All I have is the legal separation, which is the same cause number as the petition.

MR. JOHN PENNINGTON: The temporary order that—that I'm showing Your Honor is 08-3-03941-6 and it's the same as...

COURT COMMISSIONER: This is your...

MR. JOHN PENNINGTON: ...the response.

COURT COMMISSIONER: ...legal separation case.

MR. JOHN PENNINGTON: Correct. The temporary...

COURT COMMISSIONER: Okay. So what's—do you have any paperwork for the divorce?

MR. JOHN PENNINGTON: All I have is the amended—I have the return of service and I have the...

COURT COMMISSIONER: Okay, and the number that is up at the top of that, what number is that on the upper right hand corner? Case number. It should be on the front page. Well, okay. I won't force you to sort through all of that on the record, but that is something that we are going to need to sort out. And then I'll hear a reply from the attorney for the petitioner.

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MS. LORELLA: (Inaudible) Your Honor (inaudible)  
number (inaudible).

COURT COMMISSIONER: Have you filed your actual  
divorce? You filed it?

MR. JOHN PENNINGTON: Yes ma'am I did.

COURT COMMISSIONER: Okay, and it may not be in  
the court file yet is the problem. Okay. So let me hear your reply then?

MS. LORELLA: And Your Honor would it be possible for  
me to ask a few questions of my client or because of time would you...

COURT COMMISSIONER: A few brief questions,  
but...

MS. LORELLA: Very brief and then I'll sum up...

COURT COMMISSIONER: Okay.

MS. LORELLA: ...with a quick reply.

COURT COMMISSIONER: Okay.

(Resume examination of Ann Pennington)

Q: Could you please explain to the court the status of your husband's gun  
permit?

A: From what I understand about a month and a half ago John told me that  
he had accidentally shredded his concealed weapons permit, and he was  
going to go to the Duvall City Police and get it renewed. And then he  
decided to go to the Snohomish County Sheriff's Office to get it renewed  
and he came back that day and he told me that no, they wouldn't let him

1 do that. He was going to have to get his attorney to do some kind of filing,  
2 or whatever, because it was a violation for him to have a concealed  
3 weapon or purchase weapons.

4 Q: Why?

5 A: Because he had restrictions on him or restraints on him from his previous  
6 marriage. And John, I know I've gone with him on exchanges, he carries  
7 a gun on himself frequently and I've seen him with a gun in his back  
8 pocket when he goes into to do exchanges with his ex-wife.

9 Q: Just briefly did you attempt to make any third party contact?

10 A: No. Absolutely not.

11 Q: Do you have any legal rights regarding your stepdaughter Grace?

12 A: No.

13 Q: Could you have her with you?

14 A: No.

15 Q: Do you have any intent to prohibit John from his—his particular medical...

16 A: No.

17 Q: ...building at Evergreen? Can you explain briefly to the commissioner?

18 A: The anti-coagulation clinic is in a separate building, and from what I  
19 understood by the order that I had filed I was just prohibiting him from the  
20 fifth floor in a different building where my—where all the women's services  
21 are, where my obstetrician office is and the maternity ward, which is not  
22 part of the building next door where the anti-coagulation clinic is located.

1 Q: Finally, do you know of any other glasses between—besides the glasses  
2 that are in court today?

3 A: No, I know (inaudible). No.

4 Q: Did he crumple a pair of glasses?

5 A: Yes he did and he had them fixed at Wal-Mart in Everett.

6 Q: Okay.

7 MS. LORELLA: And Your Honor if I can sum up quickly  
8 just with some argument.

9 COURT COMMISSIONER: Okay.

10 MS. LORELLA: The reason I asked my client about  
11 insurance is because we have not had a chance, obviously we were hired  
12 yesterday, we are in the process of obtaining and actual declaration—is it  
13 Pemco?

14 MS. ANN PENNINGTON: USA.

15 MS. LORELLA: USS—USAA. I actually have a letter  
16 that is not in a declaration form that was faxed to us at the last minute  
17 yesterday, and you'll obviously have to take my word on it because it has  
18 not been presented in declaration, but the respondent is still covered. The  
19 reason I think it's important, obviously it's not a big issue, but it goes  
20 towards credibility. And much of what is in the response is at best a half  
21 truth. Some of it is frankly just not truth at all. Some of it is again subtle.  
22 He actually left the house on May 9<sup>th</sup>. She left on the 11<sup>th</sup>. I think what is  
23 really important though, even about his response, is the nonchalance

1 towards the definition of domestic violence. He does—even taken on their  
2 face value he admits to calling her names. He admits to accidentally  
3 leaving guns around, and this is in the best possible light. We obviously  
4 are arguing that it was much different than the light that he's putting it in,  
5 but even by his own words he's admitting some of these truths. I think  
6 that the respondent is inappropriately using Grace. My client cannot take  
7 that girl out of the house whether she feels that that girl should be out of  
8 the house or not. She is a stepmother. She had no rights to do so. And  
9 to continuously use Grace as a pawn or to show somehow that my client  
10 has abandoned the home because she could not take the stepdaughter is  
11 not appropriate. It's an inappropriate use of the child between (inaudible).  
12 I think probably the most important thing is that the respondent himself  
13 tells you that when his wife got out of the house she got out and she did  
14 not what him to know where she was. She is scared of this man. And  
15 even by his own response you can see that. We are asking for this  
16 protection order. She's a public person in Duvall. We're not trying to—he  
17 is sort of portraying himself as the victim of the protection order. That is  
18 not her intent. Her intent is to be safe. To be safe when she goes to her  
19 town hall meetings or to the fire department meeting. It's not her intent to  
20 make the—the respondent's life miserable. It's her intent to deliver this  
21 baby safely, and we're asking that you put this protection order in place so  
22 that she can focus on having a safe baby, a safe delivery.

1 COURT COMMISSIONER: Thank you. I did review

2 the materials that were submitted. I've taken into account the testimony

3 presented to me today. The petitioner has the burden to show by

4 preponderance of the evidence that she has met the standards for the

5 entry of a domestic violence protection order. In this case the respondent

6 has eloquently stated his point of view and his side of the story. And

7 some of the things that have occurred between these parties could be

8 attributed to what you might consider a bad break up. Disagreements

9 hurt. Misunderstandings that happened when a relationship or a marriage

10 is in the process of breaking apart and particularly heightened by the fact

11 that there is a child on the way. Other things that are raised in the petition

12 and by the testimony of the petitioner, which I find to be credible, go

13 beyond what we would consider a bad break up and are now moving into

14 the area of the legal definition for domestic violence, and that is

15 threatening, blocking her from leaving when she wanted to leave or

16 needed to leave, using guns, having guns present and having the

17 presence of the guns be part of a threat perceived by the petitioner. She

18 has to show that she has a reasonable fear of imminent bodily harm, and I

19 find her fear based on this record before me to be credible. She is clearly

20 afraid. And I find it to be reasonable. So I am going to enter a one year

21 order for protection, but it's not going to be exactly the order that she's

22 asking for because of the fact that there is a divorce and/or legal

23 separation case pending and some of these things need to be dealt with in

1 that case. Regarding the child that is not born, the court does not have  
2 jurisdiction over unborn children in any way, shape or form. I cannot enter  
3 any type of an order today concerning that child. Regarding the problems  
4 with the fact that the parties live in a small town and the respondent needs  
5 to go certain places in the town and not find himself in violation of this  
6 order, I am not going to grant the prohibition on the respondent from being  
7 within a 100 yards of the petitioner. I will include that the respondent is  
8 excluded from the petitioner's residence and her workplace, and if she's  
9 working or doing her official duties in a place that is outside of her regular  
10 office and the respondent by accident happens to be there it is his  
11 responsibility to leave, and then he's not going to be arrested for that. It  
12 happens. We all have our lives. You have to be able to go to the grocery  
13 store, but if you get there and you see that she's there you have to leave  
14 and come back another time because the person that will be held  
15 accountable in this kind of an order is the respondent. But I'm going to  
16 strike the part that says must remain 100 yards away, and I will leave in  
17 the language that has—that the respondent is excluded from the home  
18 and workplace of the petitioner. Regarding the request for personal  
19 property, the property listed here includes items that need to be addressed  
20 in the dissolution or the legal separation. I only have jurisdiction on this  
21 calendar concerning essential personal belongings, meaning clothing,  
22 personal hair care items, things like that. The piano, given that it's not  
23 been presented to me as something essential to the profession of the

1 petitioner, the architectural table, her wedding dress, and all of the other  
2 items listed—listed here are not considered essential personal belongings.  
3 So I'm not going to grant those requests. I don't believe that there is any  
4 dispute that the petitioner should be using the Ford Explorer. I didn't—  
5 okay. So will leave that as something that she's using.

6 MS. LORELLA: Can I say something briefly?

7 COURT COMMISSIONER: And I've added the  
8 language—and I will hear from you in a moment...

9 MS. LORELLA: Okay. Thank you.

10 COURT COMMISSIONER: ...that all issues regarding  
11 property and insurance are reserved for the dissolution or the legal  
12 separation. And then what was your question?

13 MS. LORELLA: The architectural table is something that  
14 my client needs for work. I mean obviously we're done with testifying so I  
15 just wanted to bring that up. It's something that she needs for her job as a  
16 council member.

17 MS. ANN PENNINGTON: Yes some (inaudible) project for  
18 the City.

19 COURT COMMISSIONER: Is that—do you dispute  
20 that?

21 MR. JOHN PENNINGTON: I do, but Your Honor her  
22 stuff has been available and ready to go since the day before this—I filed  
23 for the legal separation.

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COURT COMMISSIONER: All of these things that are listed here that I just now crossed out? Well, here's what I'll do. I'm crossing that out of this order. The parties are here today. The respondent in this case brought a proposed temporary order. If the parties agree and they want to enter an order concerning property or insurance I would sign an agreed order. There are—the husband was asking for mutual restraints which are financial restraints. I'm not sure if it actually references the insurance, but the parties certainly could present with an agreed order which I would sign, or either party has the right to appear on the family law motions calendar asking for a temporary order.

MS. LORELLA: And I do think that I am going to defer that to the family law calendar for an appropriate motion.

COURT COMMISSIONER: Thank you.

MS. LORELLA: Thank you.

COURT COMMISSIONER: And both parties need to remain in the courtroom until everyone has signed and received a copy of the order today.

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I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my skill and ability.

DATED this \_\_\_\_\_ day of February, 2009 in Bonney Lake, Washington.

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Christine P. Killien