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SUPERIOR COURT OF WASHINGTON
COUNTY OF SNOHOMISH

In Re the Marriage of:

VALERIE ANN PENNINGTON,
(nka VALERIE FOX)

Petitioner,

and

JOHN EDWARD PENNINGTON,
Respondent.

NO. 05-3-00244-3

DECLARATION OF ANNE
PENNINGTON

ANNE PENNINGTON declares and states as follows:

I am competent to testify herein and make this declaration from my own
personal knowledge.

I. History of domestic violence in my relationship with John E. Pennington, Jr.

John and I met on April 15, 2005, and began dating on April 29, 2005. We
started living together at John's condominium in Bothell in June. [REDACTED] John's
daughter, began living with us full time in August. In the beginning, John seemed
like a caring person who shared my values and interests. Our relationship began as

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From about the third month of my pregnancy until recently, my breasts have been terribly sore, particularly my nipples. It is embarrassing to talk about this. I told John repeatedly about this condition and how it was painful to wear even the softest pajama tops and difficult to wrap a towel around myself. Even though he knew about it, he cornered me at least twice in the kitchen, my back against the sink, him standing up against me while he jabbed at my breasts and tried to twist my nipples. It was excruciating and I was furious but he just laughed and kept trying to do it even though I was pushing his hands away and telling him clearly to 'knock it off!' He did this once while we were lying on the couch watching TV and again in the car. With John, I often found myself saying, "I wouldn't do this to *you* so why are you doing it to *me*?" I felt powerless, angry and hurt both physically and emotionally.

During my pregnancy, John would become irrational and overtly controlling, insisting I admit to or apologize for something I didn't do or say. John was unraveling and becoming more unstable as the pregnancy progressed to the point that, on May 11, 2008, I moved to my parents' home in order to avoid him so I would feel safe and supported in the last few weeks before the delivery. Even there, he called incessantly leaving angry messages on my cell phone. I felt that my zone of safety was tenuous.

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II. Weapons and threatening behavior

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Since I have known him, John has kept at least two or three handguns in the top drawer of his bedroom bureau. He has also kept six to eight guns (shotgun, hunting rifle, a silver long-barreled revolver with a laser scope that looks like something out of science fiction, a revolver with scope, a musket which he no longer has, and some other revolvers). We had a terrible argument Wednesday night (May 7, 2008) in our bedroom in which John said "Fuck you!" to me through clenched teeth.

John knew that I worked from home on Tuesdays. On Tuesday, May 17, I went to our home to collect more of my things and took my brother with me to alert me if John came home while I was in the house. When I went into the master bedroom I saw that John had left a revolver on the chair next to the door with a lot of bullets in a blue nylon backpack. To me, this was a thinly veiled threat. John has a lot of experience with guns and gun safety, he has a five-year-old daughter living in the home with him, and he is aware of the accidental shooting of my colleague's 3-years-old child by her 10-year old son and the funeral that I attended on April 19, 2008 - less than a month before. John had told me how a revolver does not require strength to use because it does not need to be chambered. I read the situation as a clear message from John that he did not want me coming to the house to get my things and that, if I did, I could be mistaken for an intruder.

I emailed John that day to tell him I had placed the revolver on the bureau where [REDACTED] would not access it. In response to my confronting him about property

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damage and the gun, John emailed me to say "let's not do this on email - we should talk on the phone." He did not deny leaving the gun out or throwing away my personal belongings. In fact, in the response to my petition for protection, John said it was an "innocent mistake" to leave the gun out. John claimed that he and [REDACTED] were away for the weekend and she would not have been able to access the gun but this too is false. Typically, when we returned home (from exchanges or errands) [REDACTED] would run upstairs to her room, to the bathroom, etc. and if John had simply forgotten that he had left a gun on the chair, then I doubt he would remember that it was there and go upstairs ahead of [REDACTED] to put it away.

I have repeatedly expressed my objections to John about having guns in unlocked drawers in the home. I once found a handgun on the floorboard of the passenger seat in his car, unattended with the door unlocked.

Early in our relationship, John's niece, Caroline, was dating a young man named Keith who fathered two children with her. John had Keith and Caroline over to the Bothell condominium to babysit [REDACTED] while we were out. Later, we found out that Keith was convicted of some crimes and jailed in King County - according to John and his family, Keith had threatened to kill his newborn son. Even prior to learning of Keith's troubled youth, I disapproved of having Keith in the home with [REDACTED] when we were not present particularly with weapons in the home.

In many cases, the only way to end an argument with John was to leave the home. I could not simply ask him for a 'time out' - I had to get out of the home or he

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1 would follow me around, yelling at me, calling me names and swearing at me – often
 2 with [REDACTED] in the home. Many times I have left the home to find safety or at least to
 3 give John time to cool down. Right after we found out I was expecting a baby, we
 4 had an explosive argument in the car on the way home from dinner. With [REDACTED] in
 5 the car, John yelled at me that he would divorce me if I did not do what he said.
 6 Rather than engage him further, when we got home, I went into my closet to get an
 7 outfit for work the next day as I planned to spend the night some place where I would
 8 be left alone. But John stood in the doorway to the walk-in closet and would not let
 9 me leave. He towered over me and insisted on continuing his side of the argument. I
 10 was frightened because I could not leave.
 11

12 We had several arguments like this – I remember another around February,
 13 2008, when we argued and I attempted to leave. He towered over me in the closet –
 14 watching me put some things in a bag, he grinned angrily (a kind of menacing
 15 sarcasm) and when I told him I didn't want him to watch he said, "Oh, I think I will.
 16 I'll stand right here and watch. I think I'll even help." But when I started to move to
 17 get around him to leave the closet, he restrained me by the shoulders or the elbows –
 18 I don't remember. He had his hands out to keep me there. Again, this made me
 19 afraid, knowing that no one knew what was going on in the house and I couldn't get
 20 out.
 21

22 There was a 20-year family reunion on May 3 that we were going to attend. I
 23 had relatives in town from Australia, Mexico, Ohio, and the rest of my family from
 24

25 **DECLARATION OF ANNE PENNINGTON - 6**

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Seattle and Duvall would be there – about 12 children and 16 adults in total. John created an argument just before we were supposed to leave for the reunion. I was going to go to the reunion a few hours early but John was upset with me saying “You’re just going to stick me with [REDACTED] all day.” He followed me into the master bathroom, he stood over me with an aggressive face saying, “*Cry baby!* There you go – you *cry baby!*” I had been sobbing prior to him saying this because I felt it was hopeless trying to argue with him. When he called me a ‘cry baby’ I felt as though I had been verbally kicked in the stomach and I felt the blood drain out of me – my face fell and John saw my reaction and said, “There, I broke you!” He was gritting his teeth in anger and standing very close to me. I began getting my purse together to leave and he started trying to keep me from leaving. The only way to get out of the bedroom was to try pushing him aside. Eventually, he moved to the side.

On May 7, the night we argued prior to my moving to my parents' home, John said, “*Fuck you!*” through gritted teeth. He has used foul language as well as names like “Bitch, Fat chick, Dipshit, Dumbshit, Idiot, Asshole, etc.” towards me. In the response to my protection order petition, he did not deny calling me names but said he had called me a “Dip Shit facetiously.” This was on a day when my mother had come over to help us paint the nursery. We both saw John very upset, throwing pieces of an office desk on the ground. [REDACTED] heard all of this.

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III. [REDACTED] as a witness to incidents of domestic violence in our home and their impact on her

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In late April - May arguments in which he would range and prevent me from leaving became more frequent - about every few days. [REDACTED] would be sent to her bedroom by him when these arguments would occur, but she would come out and sit frozen on the stairway as these incidents would occur. They would occur often out of the blue so that one could sense the tension and unpleasantness in the atmosphere of the home daily, even on days when arguments did not occur.

When I was the target of John's abuse (physical, verbal and emotional) [REDACTED] was often in the home, car, or within earshot. We often caught her sitting on the staircase listening to our arguments even after John had told her to go to her room so that "Mom and I can talk." Or John would tell [REDACTED] to go watch TV or sit in the other room while "Mom and I have a discussion." Even though John had told [REDACTED] to stay in another room, she came in to check on us frequently and was clearly disturbed by what she saw. I recognized severe anxiety in [REDACTED] particularly when John was upset, yelling or when he shut her out of our room in order to go after me about something. [REDACTED] would hover around me when she sensed tensions between John and me.

At times the anxiety seemed to boil over in [REDACTED]. There were times when [REDACTED] went into a cleaning frenzy, nervously pushing anything near the edge of the kitchen or bathroom counters back towards the center, organizing and reorganizing

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her room, the office, the downstairs. It was not just a fun project I had given her like the task of arranging the cans of food in the cabinet – these bouts of cleaning were driven to obsession and were fueled by deep-seated anxiety.

I pointed out to John many times the fact that [redacted] hands shook – other people noticed it as well. It seemed to be out of a great desire not to disappoint us – not to spill or drop things which would send John into a tirade.

When John crumpled up his eyeglasses and threw them across the room towards me, I was sitting in the family room and John was in the kitchen. The garage door was halfway between us and I remember sitting on the couch, immobilized with fear, wondering if I could get to the garage and what would happen if I left [redacted] behind. She was upstairs in her room. But I couldn't take [redacted] with me – she is his child; not mine.

[redacted] would cling to me even more than usual after arguments or when she sensed her dad was coming unglued.

[redacted] talked about recurring nightmares of grey monkeys with grey eyes that stood in her bedroom and stared at her. John asked her just last spring if she knew why she slept with her eyes slightly open (which she does sometimes) and her reply was that she wanted to keep a look out for the monkeys – to make sure they didn't do anything. John always brags about his "grey eyes" – that they are not blue, but grey. I have often wondered if [redacted] nightmares stem from life with her domineering father.

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IV. My desire to protect [REDACTED] during incidents of domestic violence and reporting the violence

The day that John threw his broken glasses towards me at our home in [REDACTED] (previously described in Section I) I wanted to take [REDACTED] out of the home with me but I knew I had no authority to do so. [REDACTED] was upstairs and I remember contemplating what would happen if I could get her out with me – the door to the garage was halfway between John and me. I sat on the couch frozen but wanting desperately to go out the door. He left the kitchen and went upstairs – I remember not leaving because I thought it would make him angrier and he would do something worse when I was gone.

While I wanted to shield [REDACTED] from the effects of seeing or hearing any incidents of domestic violence, in hindsight, I was not very successful. John has a powerful voice that carries and I know that [REDACTED] often heard him yelling at me – she probably heard the names he called me as well. I advocated for [REDACTED] and attempted to short circuit the psychological games John played with her. I thought I could neutralize the impact John’s games were having on both her self-esteem and her sense of security.

He would constantly talk to her as if I were her “mom” even as a manipulative tool against me. There were times when, during an argument with me, John would tell [REDACTED] “Get your shoes on, get a jacket, we’re leaving.” “Mom

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doesn't want to be around us." Or, "Mom doesn't love us anymore." I did what I could to comfort her.

As of May, 2008, my legal counsel and the Duvall police advised that I needed to do what I could to stay safe and to ensure the healthy delivery of my baby. John's behavior was destructive and I had to focus on my unborn child. Since the police were aware of the situation, they would drive by John's house as well as mine to keep an eye on things.

V. My concerns regarding the current residential placement of [REDACTED] with Mr. Pennington

I cannot comment on the current residential placement of [REDACTED] with John for the period of time beginning on May 11, 2008, when John and I separated. However, I can testify regarding his treatment of [REDACTED] prior to our separation and, knowing of impending criminal charges against John by the City of Duvall, I believe his downward spiral has continued.

Prior to gaining custody of [REDACTED] John 'walked on eggshells' with her for fear that she might favor living with her mother over him or that she would tell her mother something that would jeopardize his attempts to win custody. Once John was awarded full custody of [REDACTED] (approximately October, 2007), his interaction with her began to change. John was less guarded about being moody or rough with her. She would indicate she wanted to sit with him on the couch while he was watching TV and he would yell, "Get away! Go sit on the other couch!" She was surprised by

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his outburst and would back away from him with a hurt expression – he usually then reversed his demeanor and said, “Oh all right. Come on you can sit with me.” This is one example of many in which John yelled at [REDACTED] or told her one thing and then the opposite, sometimes repeatedly.

Since the beginning of my relationship with John I saw him engaging in “a game” with [REDACTED] telling her, “I love you.” [REDACTED] would then tell him she loved him, too, and he would say with a serious face, “I don't love you.” He went through round after round of this with her. If I saw them playing this game I voiced my disapproval, believing this fostered emotional detachment in a child. I also told him that if he truly believed his ex-wife suffered from bipolar disease which could be passed on to [REDACTED] he would stop playing what I called “off –on- off again games” with her. He did not listen until I told him it might cost him a lot of money for counseling for her when she was older. Then he seemed to move on to other “games.”

Sometimes when [REDACTED] misbehaved, John would tell her he was going to take her to the orphanage. He described what this place was and I remember her looking confused and worried. If I heard John say this to her I always tried to counteract it by saying her dad was just teasing or I would turn to John and say, “Dad! Stop it!” with a demeanor that would indicate to [REDACTED] that John was just playing around and didn't mean it. John began “playing this game” with [REDACTED] when she was two or three years old.

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Over the past year or two, John has repeatedly told [REDACTED] we had another daughter, a little girl [REDACTED] age, named "Samantha" who has stayed with us when [REDACTED] would go her mother's home to visit. He told [REDACTED] "Samantha played with your things in your room and we did some fun things with her while you were gone. She is better behaved than you and we love her more than you." Again, when I was present to hear this, I would counteract it by telling [REDACTED] her dad was just joking and that there was no such child named Samantha. I believe John used this particular game to solidify [REDACTED] desire to be with her him at all times for fear she would miss out on a fun activity or that her father would replace her with another child, even if only an imaginary one.

There were times when these games were too much for [REDACTED] to handle. She would get angry, kick the car seat in front of her, or yell at John if it went on for too long, despite my attempts to short circuit the game. I explained in detail my disapproval of this kind of psychological game particularly with a child so little and separated from her mother, shuttled back and forth between parents' homes that appeared to have different rules, etc. I told John [REDACTED] had to have stability and consistency with dependable boundaries in order to feel safe and secure in our home and in order to develop into a confident adult. I thought my intervention helped - that I could successfully advocate for a stable environment for [REDACTED] with John but from October, 2007, to May, 2008, it became clear to me that my advocacy was perhaps

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making John play these games more frequently with her and that he did not respect my thoughts on the matter.

I witnessed an act of physical violence between John and [REDACTED] On Friday, November 16, 2007, John, [REDACTED] and I drove east of the mountains to a forest service cabin in Teanaway, WA, for a weekend. We took my car and as I drove through the North Bend area, we asked [REDACTED] if she needed to use the bathroom. She told us she did not but, as we neared Cle Elum, [REDACTED] became frantic with the need to urinate. She complained incessantly from the backseat and made John furious. He started yelling at her. I pulled to the shoulder of I-90 and John threw open the car door to the back. He grabbed [REDACTED] by the front of her overalls and yanked her out of the car such that her body looked like a ragdoll. I was stunned and tried to calm him down. He jerked her pants down, yelling at her while she urinated. I looked at her face which revealed sheer terror. There were cars driving past in the rain, it was loud and dark, and her father stood above her yelling at her. He gruffly put her back in her car seat and continued yelling. His aggressive demeanor not only had [REDACTED] scared but me as well. I waited several days before addressing his behavior with him whereas, with [REDACTED] I talked with her about it as soon as we got to the Safeway in Cle Elum. I comforted her and she clung to my side throughout the store. When John and I talked he seemed to understand how inappropriate his rough handling of [REDACTED] had been and he assured me he would not do it again. I did, however, see him yank her towards him a couple of other times when he was angry with her.

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1 I also told John I disapproved of him taking showers with [REDACTED]. She was eye
 2 level with his genitalia and, while I disapproved, I had no authority to tell John what
 3 he could and could not do with his daughter.

4 Last spring, while John was tucking [REDACTED] in bed, I stood outside her
 5 bedroom looking through the beads that hang in her doorway. I had not heard any
 6 words or rustling coming from her bedroom for awhile so I went down to check in on
 7 her. John was bending over her bed and they must have been talking quietly though I
 8 couldn't hear them. I was still standing there when John turned around to leave and,
 9 upon seeing me, he seemed angry with me. He brushed past me abruptly. I didn't
 10 question him though I found it odd that he would act this way. I think he felt I was
 11 spying on him or that he was doing something inappropriate and I was trying to catch
 12 him...when I was just trying not to interfere and to make it harder for [REDACTED] to get to
 13 sleep.
 14

15 I did, however, find it odd that John's relationship with [REDACTED] was so intense.
 16 He had written in his journal how [REDACTED] was an extension of himself. And he once
 17 commented to me that he knew it was unhealthy but he could not help drawing [REDACTED]
 18 really close - perhaps too close - to him when he felt alone. My parents had a few
 19 couples over for Thanksgiving dinner in 2005 in addition to John and [REDACTED]
 20 Everyone commented to me at a later time how strange they felt when John spent the
 21 entire night locked in conversation and interacting exclusively with his two year old
 22 daughter, essentially ignoring the adults sitting in the room.
 23
 24

25 DECLARATION OF ANNE PENNINGTON - 15

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