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20-2-01225-18
CICS 1
Case Information Cover Sheet
8690973

CIVIL

KITSAP COUNTY SUPERIOR COURT

Case Information Cover Sheet (CICS)

Case Number 20-2-01225-18 **Case Title** John Du Wors v. Houston Wade

Attorney Name John Du Wors **Bar Membership Number** 33987

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time in docketing new cases, but helps in forecasting needed judicial resources. Cause of action definitions are listed on the back of this form. Thank you for your cooperation. *Form updated: 8/19/2019*

☐	ABJ	Abstract of Judgment	☐	PRG	Property Damage – Gangs
☐	ALR	Administrative Law Review	☐	PRP	Property Damages
☐	ALRJT	Administrative Law Review-Jury Trial (L&I)	☐	QTI	Quiet Title
☐	BAT	Ballot Title	☐	RDR	Relief from Duty to Register
☐	CHN	Non-Confidential Change of Name	☐	RFR	Restoration of Firearm Rights
☐	CBC	Contractor Bond Complaint	☐	SDR	School District-Required Action Plan
☐	COL	Collection	☐	SER	Subdivision Election Process Law Review
☐	CON	Condemnation	☐	SPC	Seizure of Property-Commission of Crime
☐	COM	Commercial	☐	SPR	Seizure of Property-Resulting from Crime
☐	CRP	Pet. for Cert. of Restoration of Opportunity	☐	STK	Stalking Petition
☐	DOL	Appeal Licensing Revocation	☐	SXP	Sexual Assault Protection
☐	DVP	Domestic Violence	☐	TAX	Employment Security Tax Warrant
☐	EOM	Emancipation of Minor	☐	TAX	L & I Tax Warrant
☐	FJU	Foreign Judgment	☐	TAX	Licensing Tax Warrant
☐	FOR	Foreclosure	☐	TAX	Revenue Tax Warrant
☐	FPO	Foreign Protection Order	☐	TMV	Tort – Motor Vehicle
☐	HAR	Unlawful Harassment	☐	TRJ	Transcript of Judgment
☒	INJ	Injunction	☐	TTO	Tort – Other
☐	INT	Interpleader	☐	TXF	Tax Foreclosure
☐	LCA	Lower Court Appeal – Civil	☐	UND	Unlawful Detainer – Commercial
☐	LCI	Lower Court Appeal – Infractions	☐	UND	Unlawful Detainer – Residential
☐	LUPA	Land Use Petition Act	☐	VAP	Vulnerable Adult Protection Order
☐	MAL	Other Malpractice	☐	VEP	Voter Election Process Law Review
☐	MED	Medical Malpractice	☐	VVT	Victims of Motor Vehicle Theft-Civil Action
☐	MHA	Malicious Harassment	☐	WDE	Wrongful Death
☐	MSC2	Miscellaneous – Civil	☐	WHC	Writ of Habeas Corpus
☐	MST2	Minor Settlement – Civil (No Guardianship)	☐	WMW	Miscellaneous Writs
☐	PCC	Petition for Civil Commitment (Sexual Predator)	☐	WRM	Writ of Mandamus
☐	PFA	Property Fairness Act	☐	WRR	Writ of Restitution
☐	PIN	Personal Injury	☐	WRV	Writ of Review
☐	PRA	Public Records Act	☐	XRP	Extreme Risk Protection Order
			☐	XRU	Extreme Risk Protection Order Under 18

IF YOU CANNOT DETERMINE THE APPROPRIATE CATEGORY, PLEASE DESCRIBE THE CAUSE OF ACTION BELOW

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20-2-01225-18
SMCMP 2
Summons and Complaint
8690979

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. 20-2-01225-18 **SUMMONS (20 DAYS)**

TO THE DEFENDANT:

A lawsuit has been started against you in the above-entitled Court by John Du Wors, Plaintiff.

Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, serve a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, and file a copy with the court named above. If you do not, a default judgment may be entered against you without prior notice. A default judgment is one where Plaintiff is entitled to what he asks for because you have not responded. If you serve a

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Notice of Appearance on the undersigned person, you are entitled to notice before a default judgment may be entered.

You may demand that the Plaintiff file this lawsuit with the Court. If you do so, the demand must be in writing and must be served upon the person signing this summons. Within fourteen (14) days after you serve the demand, the Plaintiff must file this lawsuit with the Court, or the service on you of this summons and complaint will be void.

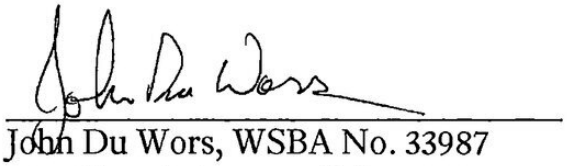
If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served and filed with the Court on time.

This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

Dated: July 30, 2020

Respectfully submitted,

NEWMAN DU WORS LLP



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Counsel for Plaintiff

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SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. 20-2-01225-18 **COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

PARTIES

1. Plaintiff John Du Wors brings this lawsuit for defamation of character, civil extortion, cyberstalking, tortious interference and intentional infliction of emotional distress against Defendant Houston Wade. Both Mr. Du Wors and Mr. Wade are residents of Bainbridge Island, Washington. Mr. Wade is a close social friend of Mr. Du Wors' former spouse, Amber Du Wors.

2. Out of apparent loyalty to Ms. Du Wors, Mr. Wade created a Facebook page entitled "The Bainbridge Island Bad List", which is located at the URL https://www.facebook.com/The-Bainbridge-Island-Bad-List-2159138697707311/ (the "Defamatory Page"). The Defamatory Page contains profoundly offensive factual misrepresentations about Mr. Du Wors. Many, if not most, of these defamatory statements are sufficiently egregious to rise to the level of defamation

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per se. Mr. Wade's stated goal in creating the Defamatory Page, is to destroy Mr. Du Wors' personal life and professional relationships.

3. True to his word, Mr. Wade has caused the content of the Defamatory Page to be disseminated to thousands of people, including Mr. Du Wors' clients, colleagues, professional peers, family members, and friends. The Defamatory Page, and other actionable communications disseminated by Mr. Wade have caused Mr. Du Wors severe economic and emotional harm, for which Mr. Du Wors seeks damages. As Mr. Wade has stated an intention to re-post further defamatory and otherwise actionable information about Mr. Du Wors, Mr. Du Wors believes that stated intention an appropriate basis for both provisional and permanent injunctive relief.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over the subject matter of this action pursuant to RCW § 2.08.010.

5. This Court has personal jurisdiction over Defendant pursuant to RCW § 4.28.080, because he is a resident of Kitsap County.

6. Venue is proper in Kitsap County pursuant to RCW § 4.12.020(3) because both Plaintiff Du Wors and Defendant Wade are residents of Kitsap County, Washington.

FACTS

7. Mr. Wade is a close social friend of John Du Wors' former spouse, Ms. Amber Du Wors.

8. Mr. Wade created a Facebook page entitled "The Bainbridge Island Bad List", which is located at the URL https://www.facebook.com/The-Bainbridge-Island-Bad-List-2159138697707311/ (the "Defamatory Page").

9. The Defamatory Page contains profoundly offensive factual misrepresentations, and other actionable statements about Mr. Du Wors.

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10. Many if not most of these defamatory misrepresentations are sufficiently egregious to rise to the level of defamation per se.

11. Mr. Wade has caused the content of the Defamatory Page to be disseminated to thousands of people, including Mr. Du Wors' clients, colleagues professional peers, family members, and friends.

12. Mr. Wade's Defamatory Page has caused Mr. Du Wors severe economic and emotional harm, for which Mr. Du Wors seeks damages.

13. Mr. Wade has stated an intention to re-post further defamatory information about Mr. Du Wors.

14. And Mr. Wade's actionable communications are not limited to defamation. They also include statements amounting to civilly actionable extortion, harassment, stalking, and tortious interference.

15. Nor are Mr. Wade's actionable statements limited to the Defamatory Page. They are also encompassed within written communications made by Mr. Wade directly to Mr. Du Wors' law partners (John Du Wors is an attorney), co-workers, business partners, family members and community members.

16. A non-exhaustive list of Houston Wade's actionable statements is set forth below.

A. Defamatory Statements

17. On the Defamatory Page, Houston Wade writes:

a. "Despite the courts already verifying the information contained in this article as truthful." (Ex. 1 at Pg. 1.) This is false; no court has ever found Houston Wade's statements on the Defamatory Page to be truthful.

b. "He is an alcoholic and very dependent upon illicit narcotics as well as a convicted...[...]...perjurer." (Ex. 1 at Pg. 1.) This is false; John Du Wors is not an alcoholic, has never used illicit narcotics, and has never been convicted of perjury.

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c. "Du Wors is court ordered not to drive." (Ex. 1 at Pg. 1.) This is false; John Du Wors is not court-ordered not to drive.

d. "After all, the court in its findings, at the hearing you scheduled due to your bogus frivolous legal threats, found that I was not only being responsible for contacting your law partner about your behavior, but that I was being responsible in filing a complaint with the state bar, and that I was being a responsible citizen in posting this article to warn other women about your violent behavior. She even thanked me for it." (Ex. 1 at Pg. 2.) This is false; no court found Houston Wade was being responsible for any of his actionable activities.

e. "John spent his marriage trying to have sex with women using internet dating sites like Tinder and 'Seeking Arrangements', a pay for sex dating site." (Ex. 1 at Pg 2.) This is false; John Du Wors never used a dating site during his marriage before formal separation from his wife.

f. "John is currently going through a contentious divorce where, despite a no contact order, he repeatedly sends his estranged wife belittling and threatening messages via text and even from his work email at Newman Du Wors, LLP." (Ex. 1 at Pg. 2.) This is false; there is no no-contact order between John Du Wors and his former spouse, and during their separation John Du Wors never sent his former spouse a communication in violation of a no-contact order.

g. "At our hearing on November 6th, Mr. Du Wors perjured himself dozens of times...". (Ex 1 at Pg. 2.) This is false; John Du Wors has never perjured himself.

h. "I firmly believe that beating and abusing one's children...have a way larger impact on a child's life." (Ex. 1 at Pg. 3.) This is false; John Du Wors has never beaten or abused his children.

i. "Also, the court ruled that I was being responsible in warning other women in the community about John's behavior and propensity for violence and public drunkenness" (Ex. 1 at Pg. 3.) This is false; no court has ever said this of Houston Wade or John Du Wors.

j. "A man who is likely weeks away from being disbarred by the Washington state bar association is losing clients because he is a convicted criminal and known perjurer." (Ex. 2 at Pg. 1) This is false; John Du Wors has no disciplinary record of any kind with any bar association, and he has never faced disbarment or any other potential discipline; nor has John Du Wors ever been found by any tribunal to have committed perjury.

k. "You [John Du Wors] are a drunk and a drug addict." (Ex. 2 at Pg. 2.) This is false; John Du Wors is neither a drunk nor a drug addict.

l. "After all, the court in its findings, at the hearing you scheduled due to your frivolous legal threats, found that I was not only being responsible for contacting your law partner about your behavior, but that I was being responsible in filing a complaint with the state bar, and that I was being a responsible citizen in posting this article to warn other women about your violent behavior. She even thanked me for it." (Ex. 2 at Pg. 2.) This is false; no court has ever made any such findings.

18. In a December 2018, Mr. Wade transmitted email correspondence to John Du Wors' co-founders, fellow directors, and officers of a real estate company called Green Canopy Homes, which John Du Wors was a director of and shareholder in. In that correspondence, Houston Wade states:

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a. "[O]n August 24th, 2014 he [John Du Wors] sold 100% of his stake in Green Canopy to Amber Du Wors and never delivered the shares. She has a signed and binding contract and the SEC has been notified that Mr. Du Wors has engaged in a bad faith sale and securities fraud. Over the past 4+ years since the sale Mr. Du Wors has sat on the board of your company reaping whatever compensation and dividends that should have gone to Ms. Du Wors." (Ex. 3 at Pg. 1.) This is false; John Du Wors never sold his shares in Green Canopy or failed to deliver them as required by any contract or court order; John Du Wors has never engaged in securities fraud; and he has never received compensation or dividends that should have gone to Amber Du Wors.

b. "Mr. Du Wors is also facing disciplinary actions from the Washington State Bar association due to his criminal domestic violence record, hit and run, perjury, and felony insurance fraud." (Ex. 3 at Pg. 1.) This is false; John Du Wors has never faced disciplinary action from the Washington State Bar Association, and he has a spotless disciplinary record with every bar association he belongs to.

19. In June 2019, Houston Wade exchanged a series of emails with John Du Wors' former spouse, Amber Du Wors, in which he made further defamatory comments, such as the following.

a. "The fact that the municipal court ruled that I was being responsible in warning other women in the community about John's behavior, and that what I was reporting was factual and public records means that it is newsworthy." (Ex. 4 at Pg. 1.) This is false; no court has issued any such ruling or findings.

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b. "John not only stalked and threatened to sodomize my mother, but he was even caught on film recently driving to McDonald's completely, and belligerently intoxicated. He was confronted by a customer and got back into his vehicle completely drunk and drove off." (Ex. 4 at Pg. 1) This is false; John Du Wors has never driven to a McDonalds intoxicated, and no event described in this statement ever occurred.

c. [John Du Wors] "even perjured himself dozens of times in our hearing." (Ex. 4 at Pg. 3.) This is false; John Du Wors has never been found to have committed perjury.

d. "If John is serious about his children and their future, then he would take the steps to make it better, but he loves alcohol, amphetamines, and cocaine more than he loves his children." (Ex. 4 at Pg. 3.) This is false; John Du Wors Du Wors does not have an alcohol dependency problem, he does not abuse amphetamines, and he has never used cocaine.

e. "If he were serious about the well being of his children he would not have abused them." (Ex. 4 at Pg. 5) This is false; John Du Wors has never abused his children.

f. "Driving drunk to McDonalds and making a belligerent fool of himself shows me that he is not prepared to better himself." (Ex. 4 at Pg. 5.) This is false; John Du Wors has never driven drunk to a McDonalds.

20. In October 2018, Houston Wade transmitted correspondence to John Du Wors' law partners and co-workers making the following defamatory statements.

a. "I know many women John contacted via dating websites like Tinder while he was married..." (Ex. 5 at Pg. 1.) This is false; John

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Du Wors never used dating websites while married, prior to his legal separation.

b. "[T]he threatening abusive messages he compulsively sends his wife, despite a no contact order, is criminal." (Ex. 5 at Pg. 1.) This is false; there was no no-contact order between John Du Wors and his wife at this time, and during the brief period an ex parte no-contact order issued during John Du Wors' divorce proceeding, John Du Wors did not violate it.

c. "While he was threatening my mother he was court-ordered to be sober and watching his children. He obviously was not doing either." (Ex. 5 at Pg. 1) This is false; John Du Wors did not threaten Houston Wade's mother, nor did John Du Wors violate any order regarding the consumption of alcohol; nor did John Du Wors neglect his children.

B. Extortion

21. Houston Wade further used his publicized statements to extort John Du Wors.

22. On the Defamatory Page, Houston Wade wrote:

a. "An [sic] told him that I would only remove this article is [sic] John Du Wors agreed to 10 weeks of rehab, promised never to drink again or use drugs, submit to weekly drug tests, never get arrested ever again, and no longer cohabitate with women. He basically has to become a sober monk." (Ex. 1 at Pg. 1.)

b. "I'll tell you what, John, if you go to rehab, never take an illicit drug or drink alcohol ever again, AND give your estranged wife all the shares in Green Canopy you promised her (for which you authored and signed a contract giving it to her with the stipulation that it not ever be included in communal property during a divorce ... despite

the fact that you never gave her the shares and have since placed it in communal property to which only you have access and she does not) after you were convicted for throwing her around the house by her head, as well as half of all your assets including the communal property you used to purchase a million dollar McMansion, AND if you agree to move out of state and never have contact with vour [sic] wife or children again, AND never use a dating website and remain celibate for the rest of your life ... I will remove the article. Until then, no dice." (Ex. 2 at Pg. 1-2.)

c. "If you violate any of those terms, it goes right back up." (Ex. 2 at Pg. 2.)

23. And Houston Wade asked Amber Du Wors to assist in making his extortionate demands, stating to her:

24. "Tell John's attorneys that I will remove it if he checks into rehab and never drinks again and never uses cocaine or amphetamines again. He must also stop using internet dating and sugar daddy websites." (Ex. 4 at Pg. 2.)

25. Mr. Du Wors believes Wade's extortionate threats, and future-looking stated intentions, constitute an appropriate basis for both provisional and permanent injunctive relief.

C. Evidence of Malice

26. Although malice is not necessary to prove in this case, Houston Wade has exhibited a pattern of conduct tending to show that his actionable public statements are motivated by malice.

27. Contemporaneous with the defamatory postings Wade made against John Du Wors, Wade also made defamatory postings regarding another Bainbridge Island resident named Bill Nelson.

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28. Bill Nelson sued Wade for defamation in a Kitsap County Superior Court case before Judge Hauser, case no. 18-2-03205-18, seeking $5,000,000 in compensatory damages.

29. On April 6, 2020, Judge Hauser issued an order finding Wade in contempt, and entering an order of default against him. In that order, Judge Hauser wrote of Mr. Wade:

> In as much as prior contempt sanctions, allowing for additional time to comply, as well as providing a monetary incentive to comply, have not motivated Defendant to comply with the Defendant's discovery obligations, or demonstrated a willingness to comply with court orders. Furthermore, Defendant's willingness to knowingly lie under oath at deposition demonstrates a complete disregard to the legal process and the administration of justice. There is no other alternative for this Court than to Grant Plaintiffs motion for default and strike Defendant's responsive pleadings.

(Ex. 6 at Pg. 6, lines 5–11.)

30. This suggests malice on Wade's part, as well as a willingness to engage in false statements, both about his victims, and also to the Court.

31. Wade's malicious intent is also revealed by public statements he has made, boasting about his ability to harm others through online derogatory postings, such as the following: "I am all for ruining a life. If they want to exhibit character, then they have to seek forgiveness." (Ex. 7 at Pg. 1.)

32. Now therefore, Mr. Du Wors brings the following causes of action against Mr. Wade.

FIRST CAUSE OF ACTION
(DEFAMATION OF CHARACTER)

33. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

34. Mr. Wade has made false and defamatory statements of fact concerning Mr. Du Wors.

35. The nature of these statements is such that they tend to hold Mr. Du Wors up to scorn, hatred, ridicule, disgrace, or contempt, in the mind of any considerable and respectable segment of the community.

36. Mr. Wade has published these false and defamatory statements to third parties—in fact thousands of people.

37. Mr. Wade's publication of these false and defamatory statements was, at minimum, negligent with regard to their factual truthfulness.

38. Mr. Du Wors has suffered significant special damages resulting from these defamatory statements, including but not limited to loss of client accounts and lucrative economic relationships, as well as legal fees and costs.

SECOND CAUSE OF ACTION
(DEFAMATION PER SE)

39. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

40. The nature of Mr. Wade's defamatory statements, as described above, rise to the level of defamation per se.

41. This is because they involve factual misrepresentations involving indications that Mr. Du Wors was involved in criminal activity; that Mr. Du Wors was unchaste and/or engaged in sexual misconduct; and that Mr. Du Wors was involved in behavior incompatible with the proper conduct of his business, trade, and/or profession.

42. Mr. Du Wors has incurred substantial general damages as a result of these statements, including but not limited to loss of business and emotional distress.

THIRD CAUSE OF ACTION
(FALSE LIGHT)

43. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

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44. "A false light claim arises when someone publicizes a matter that places another in a false light if (a) the false light would be highly offensive to a reasonable person and (b) the actor knew of or recklessly disregarded the falsity of the publication and the false light in which the other would be placed." *Eastwood v. Cascade Broadcasting Co.*, 106 Wash.2d 466, n. 2, 722 P.2d 1295 (1986).

45. Houston Wade's statements about John Du Wors, as set forth non-exhaustively in paragraphs 17-20 of this Complaint, place John Du Wors in a false light because:

a. Houston Wade's descriptions would be highly offensive to a reasonable person;

b. Houston Wade knew of, or recklessly disregarded the falsity of, his publications and the false light in which they would place John Du Wors.

46. As a result of Houston Wade's conduct, as described herein, John Du Wors has been significantly damaged.

47. These damages include, but are not limited to, damage to John Du Wors' law practice, harm to his business relationships, and emotional distress stemming from John Du Wors' own social isolation as well as the ostracizing of John Du Wors' children from their community on Bainbridge Island.

FOURTH CAUSE OF ACTION

(CIVIL EXTORTION)

48. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

49. "Every person, who, under circumstances not amounting to robbery, shall extort or gain any money, property or advantage by means of force or any threat, either to accuse any person of a crime, or to expose or impute to any person disgrace, shall be guilty of extortion and shall be punished by imprisonment in the

state penitentiary for not more than five years." *Bertschinger v. Campbell*, 99 Wash. 142, 155–56 (1917).

50. But in Washington, a private, civil cause of action also exists in favor of any victim of extortion, as that term is defined by Washington's criminal statutes. *Bertschinger v. Campbell*, 99 Wash. at 155–56 ("It is true that this is a general criminal statute and, of course, was enacted for the benefit of the public, but since the extortion here defined is a crime against the person and works to his personal injury as well as that of the public, the commission of it would create a cause of action in favor of the person so injured.").

51. Under Washington's criminal statutes "Extortion" means knowingly to obtain or *attempt* to obtain by threat property or services of the owner. Wash. Rev. Code Ann. ("RCW") § 9A.56.110.

52. "Threat" means, among other things, "to communicate, directly or indirectly the intent:...(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or (f) To reveal any information sought to be concealed by the person threatened..." RCW § 9A.04.110 (28).

53. "The term 'personal property' shall include all instruments or writings completed and ready to be delivered or issued by the maker, whether actually delivered or issued or not, by which any claim, privilege, right, obligation or authority, or any right or title to property real or personal, is, or purports to be, or upon the happening of some future event may be evidenced, created, acknowledged, transferred, increased, diminished, encumbered, defeated, destroyed, or affected, and every right and interest therein.' It is apparent that the statute above quoted does not require that the property thus obtained shall have actual cash value." *State v. Barr*, 67 Wash. 87, 89, 120 P. 509, 510 (1912).

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54. Houston Wade's statements, as set forth non-exhaustively in paragraphs 21 through 24 of this complaint, constitute violation of Washington's extortion statutes because they:

a. Threaten to expose a secret or publicize an asserted fact, whether true or false, tending to subject John Du Wors to hatred, contempt, or ridicule; or to reveal any information sought to be concealed by John Du Wors;

b. In order to obtain or attempt to obtain by threat property or services of John Du Wors.

55. As set forth in paragraphs 21-24 of this Complaint, the property and/or services involved in Houston Wade's extortionate demands include that John Du Wors:

a. Never see his children again;

b. Never date or co-habitate with a female;

c. Move out of state, despite his children's need for a relationship with their father;

d. Remain celibate for the rest of his life;

e. Transfer financial assets to his former spouse far in excess to what the divorce court ordered.

56. It is irrelevant to this cause of action that Houston Wade's extortionate demands seek to confer financial benefit on Amber Du Wors—a party other than Houston Wade.

57. This has been well established in Washington caselaw. "We hold (1) that the extortion statutes do not require that the person communicating the threat be attempting to obtain anything for himself; it is sufficient that there be an attempt to obtain something for another; and (2) that either (a) the deprivation of a victim's income from a commercial establishment or (b) the elimination of business competition, when either is attempted or obtained for the benefit of another,

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satisfies the extortion statute's requirement that the extortioner's threat "obtain or attempt to obtain" the "property" of an owner thereof." *State v. Taylor*, 30 Wash. App. 89, 94 (1981).

58. As a result of Houston Wade's extortionate activities, John Du Wors has suffered substantial damages.

59. These damages include, but are not limited to, damage to John Du Wors' law practice, harm to his business relationships, and emotional distress stemming from John Du Wors' own social isolation as well as the ostracizing of John Du Wors' children from their community on Bainbridge Island.

FIFTH CAUSE OF ACTION

(TORTIOUS INTERFERENCE)

60. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

61. "A party claiming tortious interference with a contractual relationship or business expectancy must prove five elements: (1) the existence of a valid contractual relationship or business expectancy; (2) that defendants had knowledge of that relationship; (3) an intentional interference inducing or causing a breach or termination of the relationship or expectancy; (4) that defendants interfered for an improper purpose or used improper means; and (5) resultant damage." *Pac. Nw. Shooting Park Ass'n v. City of Sequim*, 158 Wash. 2d 342 (2006).

62. In this case, Houston Wade engaged in tortious interference because,

a. He communicated statements to John Du Wors' colleagues, professional peers and business partners that were either derogatory or defamatory in nature;

b. Houston Wade knew of a valid contractual relationship or business expectancy with the parties to whom Houston Wade communicated actionably inappropriate statements;

c. Houston Wade's actionably inappropriate statements and actions resulted in either a breach or termination or the relationship or expectancy;

d. Houston Wade's interference was motivated by the desire to harm John Du Wors, maliciously or otherwise; and

e. Houston Wade's interference resulted in actual and proximately caused damage.

63. As a result of Houston Wade's actionable interference, John Du Wors has suffered substantial damages.

64. These damages include, but are not limited to, damage to John Du Wors' law practice, harm to his business relationships, and emotional distress stemming from John Du Wors' own social isolation as well as the ostracizing of John Du Wors' children from their community on Bainbridge Island.

SIXTH CAUSE OF ACTION

(HARASSMENT)

65. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

66. Washington's definition of harassment is set forth at RCW § 10.14.020(2), which provides:

> "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.

67. And in Washington, a civil cause of action for harassment exists in favor of a harassment victim.

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2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

68. "With the exception of a single decision construing a jurisdictional provision, the civil antiharassment statute has not yet been construed. However, the elements of a cause of action appear clearly from the face of the statute and require "[1] a knowing and willful [2] course of conduct [3] directed at a specific person [4] which seriously alarms, annoys, or harasses such person, and [5] which serves no legitimate or lawful purpose." RCW § 10.14.020(1). The course of conduct may be brief but must evidence "continuity of purpose." RCW § 10.14.020(2). "In an effort to accommodate the vagueness problem which has plagued antiharassment legislation in the past, conduct is tested both subjectively and objectively in that it must be 'such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner.'" RCW § 10.14.020(1). Cf., *Everett v. Moore*, 37 Wash.App. 862, 866-67, (1984); *Burchell v. Thibault*, 74 Wash. App. 517, 521 (1994).

69. Houston Wade's conduct constitutes actionable civil harassment because he has,

a. Engaged in a knowing and willful course of conduct,

b. Directed at John Du Wors,

c. Which seriously alarms, annoys, and harasses John Du Wors; and

d. Houston Wade's conduct serves no legitimate or lawful purpose.

70. As a result of Houston Wade's harassment, John Du Wors has been substantially damaged.

71. These damages include both economic harms, as well as severe emotional distress.

SEVENTH CAUSE OF ACTION

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

72. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

73. In making the above-described defamatory statements, and engaging in the harassment, extortion and interference described above, Mr. Wade acted intentionally and recklessly.

74. Mr. Wade's above-described conduct was extreme and outrageous.

75. In fact, the nature of Mr. Wade's defamatory and extortionate statements make his conduct so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

76. And Mr. Wade's above described conduct was the direct, actual and proximate cause of severe emotional distress incurred by Mr. Du Wors.

EIGHTH CAUSE OF ACTION

(CYBERSTALKING)

77. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

78. Under Washington's cyberstalking statute, RCW § 9.61.260, "A person is guilty of cyberstalking if he or she, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to such other person or a third party... Using any lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act...."

79. Houston Wade's communications meet this definition because they include electronic communications, such as the Defamatory Page, as well as communications to third parties, employing lewd, lascivious, indecent, or obscene words, images, or language, and accusing John Du Wors of lewd and/or lascivious acts.

80. Other courts have found that facts similar to those alleged in this case constitute a violation of Washington's cyberstalking statute. For example, in *Bini v. City of Vancouver*, 2017 WL 2226233 (2017), the Plaintiff, Mr. Bini, published a

derogatory webpage about a victim named Sheryl Smith. That website made many disparaging statements about Sheryl Smith's character, claiming that she was a "fraud," "an excessive drinker," and that she exhibited "alcohol-induced rage." *Id* at *1. Mr. Bini also emailed business associates and family members of Sheryl Smith, for the purpose of alerting them to the content of the derogatory webpage. Mr. Bini was arrested for cyberstalking under RCW § 9.61.260, and he brought suit against the arresting police department under 42 USC § 1983 on the theory that his arrest for a violation of RCW § 9.61.260 lacked probable cause because the website constituted protected speech under the First Amendment. The US District Court for the Western District of Washington dismissed Bini's claim, finding that his conduct provided probable cause for a violation of RCW § 9.61.260; the Ninth Circuit Court of Appeals affirmed that finding.

81. And countless cases have held that speech constituting defamation, harassment, and/or extortion is not protected by the First Amendment.

82. Houston Wade's stalking activities entitle John Du Wors to a stalking protection order under RCW § 7.92.020. That statute provides the Court may upon a finding of stalking (including cyberstalking) by preponderance of the evidence:

> (a) Restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties regardless of whether those third parties know of the order;
>
> (b) Exclude the respondent from the petitioner's residence, workplace, or school, or from the day care, workplace, or school of the petitioner's minor children;
>
> (c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

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(d) Prohibit the respondent from keeping the petitioner and/or the petitioner's minor children under surveillance, to include electronic surveillance;

(e) Order any other injunctive relief as necessary or appropriate for the protection of the petitioner, to include a mental health and/or chemical dependency evaluation; and

(f) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees." RCW. § 7.92.100(g)

83. An order restraining Houston Wade from further engaging in the conduct described in this Complaint is appropriate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff John Du Wors requests the following relief:

1. Compensatory damages in an amount to be proven at trial;

2. Provisional and permanent injunctive relief prohibiting further conduct of the nature described herein.

3. Attorney's fees, legal costs, and interest; and

4. Such other and further relief as the Court deems appropriate.

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

Dated: July 30, 2020

Respectfully submitted,

NEWMAN DU WORS LLP

John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

Exhibit 1

The Bainbridge Island Bad List

Home
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The Bainbridge Island Bad List
November 6, 2018 ·

03/23/20 Another update:

John David Du Wors, since finalizing his divorce has decided to once again try to get this article taken down. He had one of the attorneys at his firm write to me seeking to negotiate terms to remove this article. I responded that I cannot negotiate in good faith because Du Wors will not abide by any behavior changes he would need to follow to be a safe member of society. Du Wors responded back to that email that he would seek to sue me, yet again. Despite the courts already verifying the information contained in this article as truthful.

I responded that they were poor negotiators. An told them that I would remove this article is John Du Wors agreed to 10 weeks of rehab, promised to never drink again or use drugs, submit to weekly drug tests, never get arrested ever again, and no longer cohabitate with women. He basically has to become a sober monk.

He then threatened to sue again.

John is such a bad attorney he got his ass kicked in municipal court by a neophyte. He is an alcoholic and very dependent upon illicit narcotics, as well as a convicted abuser, and perjurer. He will be the absolute worst lawyer your could ever hire as he will spend all of his waking moments getting drunk and threatening to sue people who point out how he is a danger to society. So, don't hire John Du Wors.

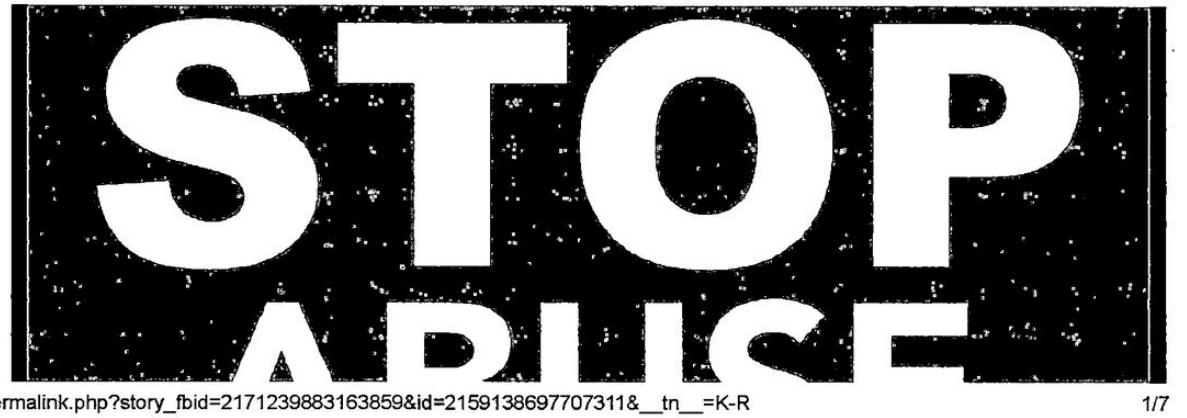
another, another update

Du Wors is court ordered not to drive. If you see him driving, call the police... even if he is only driving a short distance, like say: to pick up a to go order at The Beachhouse. It doesn't matter, call the police.

Yet another update

Du Wors got a DUI on July 4th.

Another update



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around the house by her head, as well as half of all your assets including the communal property you used to purchase a million dollar McMansion, AND if you agree to move out of state and never have contact with your wife or children again, AND never use a dating website and remain celibate for the rest of your life... I will remove the article. Until then, no dice.

You done pissed me off, abuser (did you forget the fact that you sent me my mothers home address, described her home in detail, and then said you were heading over there to sodomize her? It's in the court record, you abusive piece of shit).

If you violate any of those terms, it goes right back up.

You hurt women and children. You are a terrible lawyer with zero ethics. You are a drunk and a drug addict. Get it together, man!

After all, the court in its findings, at the hearing you scheduled due to your frivolous legal threats, found that I was not only being responsible for contacting your law partner about your behavior, but that I was being responsible in filing a complaint with the state bar, and that I was being a responsible citizen in posting this article to warn other women about your violent behavior. She even thanked me for it.

Original

John Du Wors beats his wife. He is an abusive alcoholic who has been convicted for hit and run, domestic violence, imprisonment of a minor, and charged multiple times for obstructing law enforcement. He is also an attorney... and attorney who claims to represent clients he has not, nor ever, represented in any capacity. John Du Wors has been banned from several local restaurants and bars on the Island due to his drunken and belligerent behavior. John spent his marriage trying to have sex with women using internet dating sites like Tinder and "Seeking Arrangements", a pay for sex website.

John is currently going through a contentious divorce where, despite a no contact order, he repeatedly sends his estranged wife belittling and threatening messages via text and even from his work email at Newman DuWors, LLP.

If you are a woman on the Island, stay away from John Du Wors.

UPDATE:

John Du Wors obtained a Temporary Restraining Order against the publisher of this page on October 23rd and we were forced to temporarily take this posting down. At our hearing on November 6th, Mr. Du Wors perjured himself dozens of times while under oath and the order was vacated by the court and this article is now going back up!

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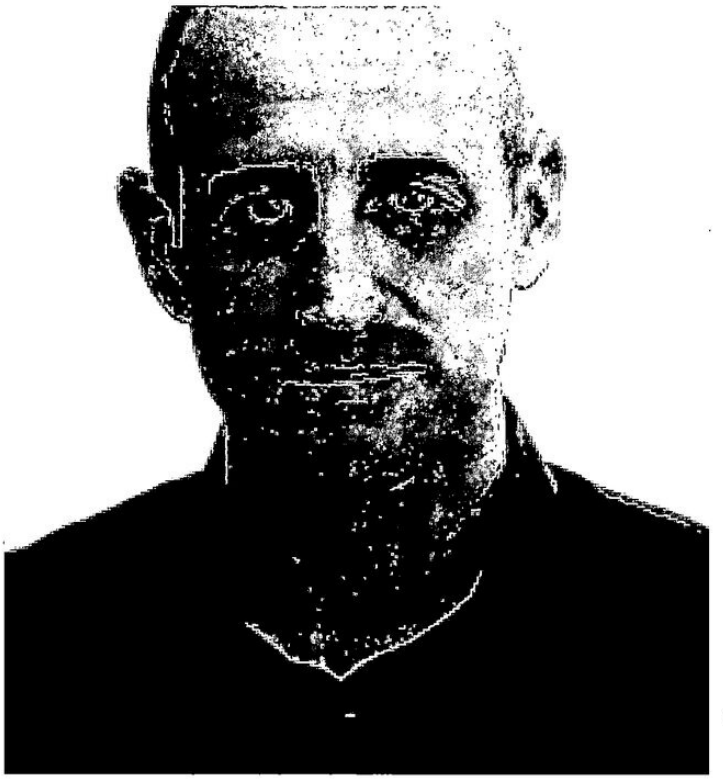

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The Bainbridge Island Bad List I understand their concerns, but I firmly believe that beating and abusing one's children, and getting into hit and run accidents with them in the car have a way larger negative impact on a child's life.

Also, the court rules that i was being responsible in warning other women in the community about John's behavior and propensity for violence and public drunkenness.

1y 3

Bob Drago If you you say is true then why did the judge who ruled against you on April 6th of this year write a scathing opinion that you "purposefully and knowing(ly) lied under oath at his disposition" among other things? It was one of the most forceful opinions I ... See More

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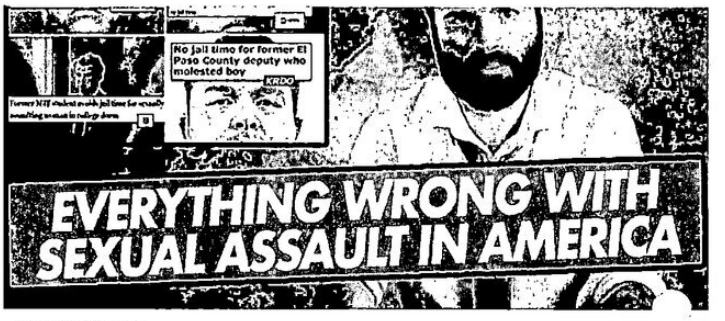

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Criminals, Judges, Prisons, and Laws: Everything Wrong With Sexual Assault In America

2

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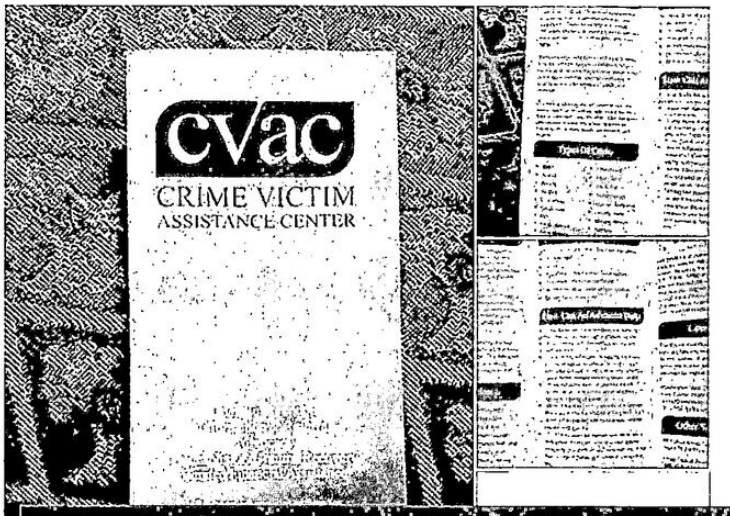
The Bainbridge Island Bad List
November 11, 2018 ·

If you are a victim of crime, abuse, or sexual assault, please call the police and contact the Crime Victim Assistance Center. They have a victim advocate located at the Bainbridge Island Municipal Court. They also have a 24 hour support service at 1-888-288-9221

The publishers of this page want to help the victims of these heinous crimes, but we sadly do not have the same access to resources as do specific agencies, advocacy groups, and social workers. If you need help please don't be afraid to reach out.





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The Bainbridge Island Bad List



Laura Cooper and 8 others 1 Share

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The Bainbridge Island Bad List updated their cover photo.
November 7, 2018 ·



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before they do anything about this threat to the Island's kids. More info to come.

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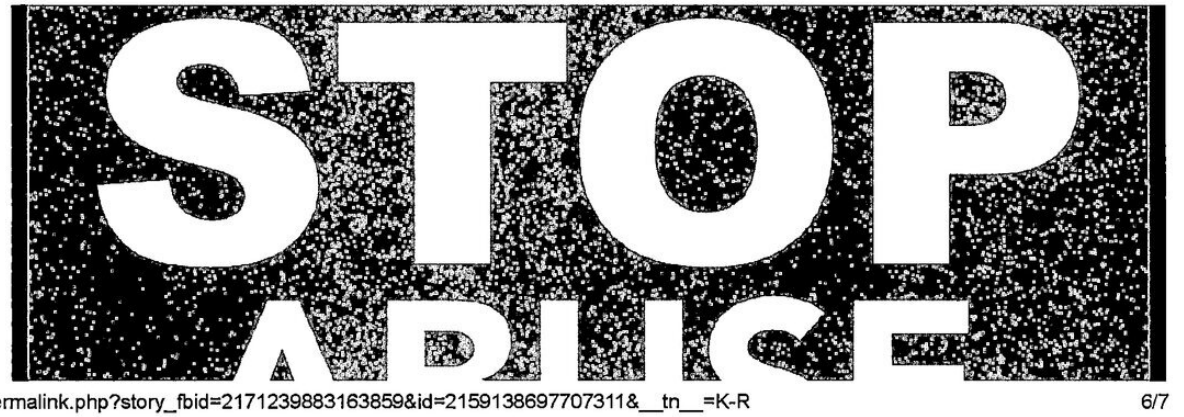



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Exhibit 2

AT&T LTE 10:42 AM
facebook.com

The Bainbridge Island Bad List
November 7, 2018 at 3:52 AM ·

Another update

John Du Wors is apparently, and desperately, trying to get this article removed claiming that he is losing law clients because of this... oh darn? A man who is likely weeks away from being disbarred by the Washington State Bar Association is losing clients because he is a convicted criminal and a known perjurer? It would appear that he his once again threatening his estranged wife with more frivolous lawsuits (or something similar) to try and have her convince us to take this article down. John, your estranged, and abused, wife said that you are trying to make this article a negotiating point in your divorce and asked me about removing it. This is not her page, she does not have access to it. John, if you don't want articles about your crimes being written, then don't commit crimes.

I'll tell you what, John, if you go to rehab, never take an illicit drug or drink alcohol ever again, AND give your estranged wife all the shares in Green Canopy you promised her (for which you authored and signed a contract giving it to her with the stipulation that it not ever be included in communal property during a divorce... despite the fact that you never gave her the shares and have since placed it in communal property to which only you have access and she does not) after you were convicted for throwing her around the house by her head, as well as half of all your assets including the communal property you used to purchase a million dollar McMansion, AND if you agree to move out of state and never have contact with your wife or children

AT&T LTE 10:43 AM facebook.com

illicit drug or drink alcohol ever again, AND give your estranged wife all the shares in Green Canopy you promised her (for which you authored and signed a contract giving it to her with the stipulation that it not ever be included in communal property during a divorce... despite the fact that you never gave her the shares and have since placed it in communal property to which only you have access and she does not) after you were convicted for throwing her around the house by her head, as well as half of all your assets including the communal property you used to purchase a million dollar McMansion, AND if you agree to move out of state and never have contact with your wife or children again, AND never use a dating website and remain celibate for the rest of your life... I will remove the article. Until then, no dice.

You done pissed me off, abuser (did you forget the fact that you sent me my mothers home address, described her home in detail, and then said you were heading over there to sodomize her? It's in the court record, you abusive piece of shit).

If you violate any of those terms, it goes right back up.

You hurt women and children. You are a terrible lawyer with zero ethics. You are a drunk and a drug addict. Get it together, man!

After all, the court in its findings, at the hearing you scheduled due to your frivolous legal threats, found that I was not only being responsible for contacting your law partner about your behavior, but that I was being responsible in filing a complaint with the state bar, and that I was being a responsible citizen in posting this article to warn other women about your violent behavior. She even thanked me for it.

Exhibit 3

Director, Investor Relations & Impact

GREEN CANOPY

206.947.8209

From: Investor Relations <investorrelations@greencanopy.com>
Sent: Monday, December 10, 2018 2:38 PM
To: Susan Fairchild <susan@greencanopy.com>; Kyle Mylius <kyle@greencanopy.com>
Subject: FW: Form Submission - Investor Relations Contact - John Du Wors and securities fraud

---

From: Squarespace
Sent: Monday, December 10, 2018 2:37:42 PM (UTC-08:00) Pacific Time (US & Canada)
To: Investor Relations
Subject: Form Submission - Investor Relations Contact - John Du Wors and securities fraud

Name: Houston Wade

Email Address: houstonwade@gmail.com

Subject: John Du Wors and securities fraud

Message: John David Du Wors sits on your board of directors, but on August 24th, 2014 he sold 100% of his stake in Green Canopy to Amber Du Wors and never delivered the shares. She has a signed and binding contract and the SEC has been notified that Mr. Du Wors has engaged in a bad faith sale and securities fraud. Over the past 4+ years since the sale Mr. Du Wors has sat on the board of your company reaping whatever compensation and dividends that should have gone to Ms. Du Wors.

Mr. Du Wors is also facing disciplinary actions from the Washington State Bar association, due to his criminal domestic violence record, hit and run, perjury, and felony insurance fraud.

I figured your board of directors would want to be made aware of what is ongoing.

Thank you,
-Houston Wade

Exhibit 4

Todd Yelish

From: Amber Petrich <ahadenfeldt@gmail.com>
Sent: Monday, June 17, 2019 1:58 PM
To: Todd Yelish
Subject: Fwd: Houston's response

---------- Forwarded message ---------
From: **Houston Wade** <houstonwade@gmail.com>
Date: Mon, Jun 17, 2019 at 1:55 PM
Subject: Re:
To: Amber Petrich <ahadenfeldt@gmail.com>

Thanks for contacting me, Amber. The fact that the municipal court ruled that I was being responsible in warning other women in the community about John's behavior, and that what I was reporting was factual and public records means that it is newsworthy. I honestly believe that beating one's own children is far more detrimental to a child's well being than people being made aware of a child beating, wife abuser's actions.

Sorry that the court felt the need to fine you for this considering that the page I created is my own and you have zero control over this, or it's editorial content.

John not only stalked and threatened to sodomize my mother, but he was even caught on film recently driving to McDonald's completely, and belligerently intoxicated. He was confronted by a customer and got back into his vehicle completely drunk and drove off.

He is a danger to everyone in our community, and it is in the best interest of the community that they be made aware of his predisposition to violence and public intoxication. People's lives are at risk.

Sorry again about the ruling in court.

-Houston

On Mon, Jun 17, 2019, 1:33 PM Amber Petrich <ahadenfeldt@gmail.com> wrote:
Hi Houston,
First, thanks for meeting with Todd the other day. I appreciate it.
I had court today and was fined 500.00 for not appearing to make my best effort to have the post taken down.
The judge and my lawyer also mentioned that if the children or the parents of their friends were made aware of the post, it could negatively impact them.
I understand how you feel about this issue, but I think you should take it down, regardless, so that doesn't happen.
Thanks, amber

Todd Yelish

From: Amber Petrich <ahadenfeldt@gmail.com>
Sent: Thursday, June 20, 2019 11:40 AM
To: Todd Yelish
Subject: Fwd:

---------- Forwarded message ---------
From: **Houston Wade** <houstonwade@gmail.com>
Date: Thu, Jun 20, 2019 at 11:32 AM
Subject: Re:
To: Amber Petrich <ahadenfeldt@gmail.com>

Tell John's attorneys that I will remove it if he checks into rehab and never drinks again and never uses cocaine or amphetamines again. He must also stop using internet dating and sugar daddy websites.

Those are my terms. If he is not able to meet those terms, then no dice.

-Houston

On Thu, Jun 20, 2019, 7:18 AM Amber Petrich <ahadenfeldt@gmail.com> wrote:

> Hi Houston,
> Thanks for the response.
> Please remove the post As it could impact john's practice, which could cause financial harm to us.
> Also, I have concern for damage it could cause the children socially.
> Thanks

Todd Yelish

From: Amber Petrich <ahadenfeldt@gmail.com>
Sent: Wednesday, June 26, 2019 3:10 PM
To: Todd Yelish
Subject: Fwd:

---------- Forwarded message ---------
From: **Houston Wade** <houstonwade@gmail.com>
Date: Wed, Jun 26, 2019 at 3:08 PM
Subject: Re:
To: Amber Petrich <ahadenfeldt@gmail.com>

John should not be allowed to practice law. He is an officer of the court who has been convicted of multiple crimes and even perjured himself dozens of times in our hearing. He is losing clients because of his actions not because of mine.

If he wants the article to come down, then he needs to step up and do the things necessary to make it compelling for me to take it down. Holding you and your kids financially hostage is not one of those things, but further demonstrates his years of abuse and how he continues on that path.

If John is serious about his children and their future, then he would take the steps to make it better, but he loves alcohol, amphetamines, and cocaine more than he loves his children. His children are nothing more than a weapon he can wield against you in this divorce.

It is not your job to ask me to take down the article because it is inconvenient to him. It is his lawyer's job to negotiate with me if they want it down. The fact that I haven't heard from any of them tells me that they know he is not prepared to be sober for his children and are placing this burden upon you... which is yet another abuse tactic.

-Houston

On Wed, Jun 26, 2019, 2:43 PM Amber Petrich <ahadenfeldt@gmail.com> wrote:
Hi Houston,
I understand what you are saying, and I agree he should be in treatment for himself and the children.
But please remove the post. John has told me he is losing clients and it is impacting his practice, which could cause financial harm to us.
Also, I worry about what could happen if the kids found this information.
Thanks

On Thu, Jun 20, 2019 at 11:32 AM Houston Wade <houstonwade@gmail.com> wrote:
Tell John's attorneys that I will remove it if he checks into rehab and never drinks again and never uses cocaine or amphetamines again. He must also stop using internet dating and sugar daddy websites.

Those are my terms. If he is not able to meet those terms, then no dice.

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Thanks

Todd Yelish

From: Amber Petrich <ahadenfeldt@gmail.com>
Sent: Friday, July 5, 2019 1:17 PM
To: Todd Yelish
Subject: Fwd:

---------- Forwarded message ---------
From: **Houston Wade** <houstonwade@gmail.com>
Date: Fri, Jul 5, 2019 at 1:09 PM
Subject: Re:
To: Amber Petrich <ahadenfeldt@gmail.com>

Johns actions have consequences. If he were serious about the well being of his children he would not have abused them. He would check himself into rehab, and he would quit drinking and using drugs. Also, John could very easily sell his mansion and support his children for the rest of their lives. If he cared about his kids, he would sacrifice his lavish lifestyle to see them grow up happy and healthy, but John does not care about his children. John only cares about John.

Again, it is not your job to ask me to remove the article, that is John's job. He and his lawyers have failed to even attempt to contact me or reach an agreement with me, which shows me he is operating in bad faith with both you and myself.

Tell John's attorneys that he has to make a good faith effort to be a better person if he ever hopes to see the article come down. Until then, he will remain on blast. Driving drunk to McDonalds and making a belligerent fool of himself shows me that he is not prepared to better himself.

-Houston

On Fri, Jul 5, 2019, 12:40 PM Amber Petrich <ahadenfeldt@gmail.com> wrote:
Hi Houston, hope you had a nice Fourth of July.
Could you please remove the post about John?
I'm afraid it will harm the kids if they or their friends were to find out about it.
He may also not be able to adequately support them if he loses business because of it.
Thanks, amber

Yelish Law

Todd A. Yelish
Partner
todd@yelishlaw.com

Laura E. Yelish
Partner
laura@yelishlaw.com

Mark L. Yelish
Of Counsel
mark@yelishlaw.com

Houston Wade
houstonwade@gmail.com

July 5, 2019

Re: Bainbridge Island Bad List

Dear Mr. Wade;

I am writing to request that you remove the posting to the Bainbridge Island Bad List regarding Mr. John Du Wors. I am aware of your personal issues with Mr. Du Wors however, Ms. Amber Du Wors and the Du Wors children may be financially harmed by the posts possible negative impact on Mr. Du Wors business. If Mr. Du Wors is financially impacted by the information contained in the post, Ms. Du Wors will also be financial impacted as Mr. Du Wors still contributes to Ms. Du Wors financial support.

This post may also have an impact on the children's social development. The information contained in the post may have a negative impact on the Du Wors children if the children, the children's friend's or the parent's of the children's friends learn of the information contained in the post.

On Ms. Du Wors behalf I ask that you remove the post on the Bainbridge Island Bad List webpage regarding Mr. Du Wors.

Sincerely,

Todd A. Yelish
Partner

Yelish Law
1740 Pottery Ave., Ste 205
Port Orchard, WA 98366

The Bainbridge Island Bad List
November 6, 2018 ·

Another update

John Du Wors is apparently, and desperately, trying to get this article removed claiming that he is losing law clients because of this... oh darn? A man who is likely weeks away from being disbarred by the Washington State Bar Association is losing clients because he is a convicted criminal and a known perjurer? It would appear that he his once again threatening his estranged wife with more frivolous lawsuits (or something similar) to try and have her convince us to take this article down. John, your estranged, and abused, wife said that you are trying to make this article a negotiating point in your divorce and asked me about removing it. This is not her page, she does not have access to it. John, if you don't want articles about your crimes being written, then don't commit crimes.

I'll tell you what, John, if you go to rehab, never take an illicit drug or drink alcohol ever again, AND give your estranged wife all the shares in Green Canopy you promised her (for which you authored and signed a contract giving it to her with the stipulation that it not ever be included in communal property during a divorce... despite the fact that you never gave her the shares and have since placed it in communal property to which only you have access and she does not) after you were convicted for throwing her around the house by her head, as well as half of all your assets including the communal property you used to purchase a million dollar McMansion, AND if you agree to move out of state and never have contact with your wife or children again, AND never use a dating website and remain celibate for the rest of your life... I will remove the article. Until then, no dice.

You done pissed me off, abuser (did you forget the fact that you sent me my mothers home address, described her home in detail, and then said you were heading over there to sodomize her? It's in the court record, you abusive piece of shit).

If you violate any of those terms, it goes right back up.

You hurt women and children. You are a terrible lawyer with zero ethics. You are a drunk and a drug addict. Get it together, man!

After all, the court in its findings, at the hearing you scheduled due to your frivolous legal threats, found that I was not only being responsible for contacting your law partner about your behavior, but that I was being responsible in filing a complaint with the state bar, and that I was being a responsible citizen in posting this article to warn other women about your violent behavior. She even thanked me for it.

Original

John Du Wors beats his wife. He is an abusive alcoholic who has been convicted for hit and run, domestic violence, imprisonment of a minor, and charged multiple times for obstructing law enforcement. He is also an attorney... and attorney who claims to represent clients he has not, nor ever, represented in any capacity. John Du Wors has been banned from several local restaurants and bars on the Island due to his drunken and belligerent behavior. John spent his marriage trying to have sex with women using internet dating sites like Tinder and "Seeking Arrangements", a pay for sex website.

John is currently going through a contentious divorce where, despite a no contact order, he repeatedly sends his estranged wife belittling and threatening messages via text and even from his work email at Newman DuWors, LLP.

If you are a woman on the Island, stay away from John Du Wors.

UPDATE:

John Du Wors obtained a Temporary Restraining Order against the publisher of this page on October 23rd and we were forced to temporarily take this posting down. At our hearing on November 6th, Mr. Du Wors perjured himself dozens of times while under oath and the order was vacated by the court and this article is now going back up!



27 3 Comments 3 Shares

Like Comment Share

Most Relevant

Write a comment...

The **Bainbridge Island Bad List** I understand their concerns, but I firmly believe that beating and abusing one's children, and getting into hit and run accidents with them in the car have a way larger negative impact on a child's life.

Also, the court rules that i was being responsible in warning other women in the community about John's behavior and propensity for violence and public drunkenness.

Like · Reply · 2w



Shannon Evans And I am one of the people he has threatened with lawsuits for reporting his unethical professional behaviors to his firm (they ignored) and to the bar. I have received multiple threatening emails from Du Wors. None of which I have chosen to respond to...except to forward to WSBA.

Speak the truth. Sunlight truly is the best disinfectant.

Like · Reply · 34w 9



Amber Petrich Admin, please remove this post about John. I know you have personal Issues with him, but it could potentially negatively impact the children .

Like · Reply · 2w · Edited

Exhibit 5

From: Derek A. Newman
To: John Du Wors
Subject: FW: John Du Wors, wife beater
Date: Sunday, October 21, 2018 2:16:36 PM

FYI—

From: Houston Wade <houstonwade@gmail.com>
Sent: Sunday, October 21, 2018 10:37 AM
To: Derek A. Newman <dn@newmanlaw.com>
Subject: Re: John Du Wors, wife beater

I am a member of his community and through witnessing John's abuse became a friend of his wife's. I have worked in restaurants on the island and have seen first hand his drunken and abusive nature. I know many women John contacted via dating websites like Tinder while he was married and have since been contacted by random GIRLS and women John made offers to on sex for cash websites like "Seeking Arrangements" where his screen name is the ironic "NICE GUY". I have witnessed him driving drunk multiple times and he has been 86'd from multiple restaurants and bars for doing so. All owners of these establishments have contacted me and offered to testify.

When confronted about his being trespassed from my place of employment, Bruciato, John told the person that it, "Wasn't true, I'm Brendan's lawyer!" Brendan McGill is the owner, john most certainly is not, nor has ever been Brendan's attorney. John on Friday then threatened to sue Brendan for some made up, frivolous ADA compliance issue in an attempt to either get me fired from my job or as a means of legal threat to keep Brendan from testifying against him.... Brendan contacted me and said that he will gladly testify to John's drunken, belligerent, and unethical behavior.

I have known John for at least 15 years and he has made me sick for every single one of those years.

His arrest and conviction record is appalling, and the threatening abusive messages he compulsively sends his wife, despite a no contact order, is criminal. Believe me. I want him to officially file this lawsuit. I want him under oath. The entire community of Bainbridge Island is ready to testify about his abusive, drunken, and lecherous behavior.

While he was threatening my mother he was court-ordered to be sober and watching his children. He obviously was not doing either.

Please get him the help he needs and into a rehab facilty.

Thank you for responding,

-Houston Wade

On Sun, Oct 21, 2018, 4:27 AM Derek A. Newman <dn@newmanlaw.com> wrote:

> Thank you for the note. Who are you and what is your relation to John?

Derek A. Newman
Newman Du Wors LLP
310.359.8188 direct
206.851.3033 mobile

> On Oct 21, 2018, at 12:17 AM, Houston Wade <houstonwade@gmail.com> wrote:
>
> For your information, your partner John Du Wors is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself, and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even produced, let alone touched, these documents.
>
> This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.
>
> Du Wors has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the Washington State Bar Association has been notified. Not to mention, but Friday nightsdu wors sent me my mother's address via electronic message including details about her house and claimed that he was headed over there to have "butt-sex" with her. I called the police. The responding officer informed me that he is, "Very familiar with John Du Wors."
>
> Check him into rehab. Get his behavior under control. He has two options if he doesn't seek help and continues to pursue legal action against me or anyone else over his garbage behavior: perjure himself under oath or reveal his criminal and unethical behavior into the court record. Either way he will be disbarred. Multiple complaints with the Bar Association into his lengthy violent criminal record have already been submitted.
>
> -Houston Wade.

Exhibit 6

FILED
KITSAP COUNTY CLERK
2020 APR -6 PM 3:00
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KITSAP COUNTY

WILLIAM NELSON, Plaintiff, vs. HOUSTON WADE, Defendant.	No. 18-2-03205-18 RULING ON PLAINTIFF'S MOTION FOR: ORDER OF DEFAULT AND/OR FINDING OF CONTEMPT, AND AWARD OF ATTORNEY FEES AND COSTS UNDER CR 37

THIS MATTER comes before the Court on the Plaintiff's Motion for Order of Default and/or Finding of Contempt, and Award Attorney Fees and Costs Under CR 37. A hearing on the motion was held on January 17, 2020 with Plaintiff William Nelson appearing by and through is attorney Alexander Savojni; and Defendant Houston Wade appearing as an unrepresented litigant.

The Court; having the benefit of briefing by the parties and oral argument on the motion; makes the following findings and conclusions:

1. On March 20, 2019, Plaintiff, though his attorney, propounded interrogatories and requests for production upon Defendant Wade.

2. Defendant Wade provided his response to the interrogatories and requests for production on May 7, 2019. Plaintiff did not consider the responses complete. They were

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SCANNED

non-responsive, combative and, in some instances, insulting to Plaintiff and Plaintiff's counsel.

3. A CR 26(i) conference was held on May 16, 2019. During the telephone call, Defendant agreed to provide the requested documents and told Plaintiff's counsel he would need until May 23, 2019 to comply.

4. Defendant did not make further responses to the requests for production or interrogatories by May 23, 2019.

5. A motion to compel was noted on June 14, 2019. On the day of the hearing Defendant provided to Plaintiff's attorney additional documents. The matter was continued until June 28, 2019 for Plaintiff to review the newly submitted documents.

6. Plaintiff, through his counsel, reviewed the materials, and determined they were insufficient responses to the requests for production and interrogatories propounded on March 20, 2019.

7. On June 28, 2019, the Court ordered Defendant to provide full and complete responses to Plaintiff's First interrogatories and produce all documents responsive to the Plaintiff's Request for Production by July 12, 2019. The Court also required Defendant to pay $3,000.00 to Plaintiff for attorney fees by July 5, 2019.

8. Defendant has not paid any of the Court ordered attorney fees to date.

9. Defendant attempted to comply with his discovery obligation on July 17, 2019. This attempt did not meet the requirements of the discovery requests.

10. A second CR 26(i) conference was scheduled for August 9, 2019. A letter from Plaintiff's attorney instructed Defendant on the deficiencies of his attempts to provide adequate responses to Plaintiff's discovery requests.

11. Defendant then provided his fourth attempt to provide adequate responses to the discovery requests. This fourth attempt did not comply with the requests for production and interrogatories propounded to Defendant on March 20, 2019.

12. During the time attempts to obtain adequate responses to the Plaintiff's discovery requests occurred, Defendant continued to post about Plaintiff on the internet on Facebook.

JUDGE WILLIAM C. HOUSER
Kitsap County Superior Court
614 Division Street, MS-24
Port Orchard, WA 98366
(360) 337-7140

Posts occurred on July 27, August 6, September 1, October 12 and October 19. These posts were concerning Plaintiff and the present litigation.

13. Defendant submitted to a deposition on October 2, 2019. During this deposition, Defendant acknowledged failing to attempt to obtain the contact information of his witnesses. The June 28, 2019 court order required Defendant to obtain and provide his witnesses' contact information to Plaintiff.

14. During the deposition, Defendant provided the names of previously undisclosed witnesses. He did not provide, nor did he appear to have any other contact information for these previously undisclosed witnesses.

15. Defendant has provided the address of one witness and has provided no phone numbers of any witness.

16. As of January 17, 2020, Defendant has failed to adequately answer the Plaintiff's propounded interrogatories and requests for production. Defendant has failed to make a reasonable attempt to provide adequate responses to those requests. Plaintiff extended time limits for Defendant to allow full disclosure and those time limits have been ignored. Defendant has been held in contempt, and continues to be in contempt, of the court order of June 28, 2019.

17. During Defendant's October 2, 2019 deposition, Defendant stated that he had contact with Deputy Prosecuting Attorney Stokes, and indicated that she was inclined to charge Plaintiff with a felony if the case against Defendant was not dismissed by Plaintiff.

18. In a subsequent declaration dated December 18, 2019[1] DPA Stokes: denied having any contact with Defendant since a brief email exchange on November 8, 2018, denied having any contact with Defendant between November 8, 2018 and October 2, 2019, denied having any discussions with Defendant regarding Plaintiff at any time prior to the October 2, 2019 deposition, and denied telling Defendant she had any inclination to prosecute a number of individuals, including Plaintiff, of a felony. DPA Stokes stated that Defendant emailed her October 3, 2019, the day after his deposition, about Plaintiff and witness

[1] See Dec. of Savojni, Exhibit 9.

tampering charges. This conduct supports the conclusion that Defendant purposefully and knowing lied under oath at his deposition.

19. During Defendant's deposition, Defendant admitted he had not tried to obtain contact information of at least 17 of his 41 witnesses. He has not done the bare minimum of providing contact information for his own witnesses.

DISCUSSION

Plaintiff requests the Court strike Defendant's responsive pleadings in this matter and issue an order of default against Defendant pursuant to the authority of CR 37. In the alternative, Plaintiff is requesting Defendant be held in contempt and sanctions be imposed for that contempt in some way that less than striking Defendant's pleadings.

The striking of pleadings is an extreme remedy under the rules of civil procedure. The Court has authority to enter a default judgment when a party fails to make discovery. CR 37(d) authorizes a court to impose sanctions for failure to meet their obligations regarding discovery in litigation. The sanctions may range from a finding of contempt, to exclusion of evidence, to granting a default judgment.[2] Furthermore,

> When the trial court "chooses one of the harsher remedies allowable under CR 37(b), ... it must be apparent from the record that the trial court explicitly considered whether a lesser sanction would probably have sufficed," and whether it found that the disobedient party's refusal to obey a discovery order was willful or deliberate and substantially prejudiced the opponent's ability to prepare for trial.[3]

Defendant has done next to nothing to respond to the discovery requests propounded upon him by Plaintiff. While Defendant has listed up to 60 witnesses he may call, he does not appear to have, or he is intentionally hiding, contact information for these witnesses. His sworn deposition answers are admissions of a failure to perform even the most rudimentary actions required under the civil rules. His conduct is a direct disregard for the rules, and for this Court's order. "A party's disregard of a court order without reasonable excuse or

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[2]See *Smith v. Behr Process Corp.* 113 Wn. App. 306, 324 54 P.3d 665 (2002).

[3] *Burnet v. Spokane Ambulance*, 131 Wn.2d 484, 494, 933 P.2d 1036, 1040 (1997), as amended on denial of reconsideration (June 5, 1997) citing *Snedigar v. Hodderson*, 53 Wash.App. 476, 487, 768 P.2d 1 (1989).

justification is deemed willful."[4] This willful disregard of a court order and the administration of justice is further demonstrated by Defendant's brazen unwillingness to answer truthfully at his deposition regarding his communications with DPA Stokes.

Defendant has no reasonable excuse for the complete lack of effort in complying with the court rules and this Court's order.

Plaintiff is unable to adequately prepare for trial without the responses from Defendant on the basic information about witnesses, as well as other requests for production and interrogatories. Plaintiff is confronted by the pleadings with a defense by Defendant. The responses by Defendant to the discovery requests on that defense place Plaintiff in limbo as to the quality of the defense, and the quality of the witnesses for Defendant. It deprives Plaintiff the opportunity to gain information required by our discovery rules to rebut defenses and plan his case in chief. Plaintiff has established substantial prejudice in his ability to prepare for trial based upon Defendant's inaction to Plaintiff's discovery requests.

This court issued a contempt ruling on Defendant's failure to adequately respond to Plaintiff's discovery requests. Multiple extensions for Defendant to produce the requested material and answers to interrogatories were granted by the Court. Deadlines for that compliance were set. Attorney's fees were granted as part of that sanction. In light of the Court's ruling, Defendant has not complied satisfactorily with any of the Court's orders. Discovery was not provided by the deadline. Court ordered attorney's fees were not paid by the deadline.

Now, Plaintiff requests further court enforcement of the court rules. It is clear that another order of contempt will be fruitless. Defendant has not demonstrated a willingness to accept the responsibility of cooperating with the Court in this litigation. This Court could restrict Defendant's witnesses as a potential sanction. This option is directly tied to the lack of information from Defendant. To evaluate this option for sanction, the Court understands that Defendant does not have contact information for most, if not all, of his potential witnesses, only because he has not demonstrated any reasonable effort to get that

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[4] *Rivers v. Washington State Conference of Mason Contractors*, 145 Wn.2d 674, 686–87, 41 P.3d 1175, 1181 (2002).

contact information. To restrict Defendant's pool of potential witnesses, denies Defendant the evidence he needs to put on his defense; unless additional names of potential witnesses are provided prior to the trial in the matter. As such, the restriction of witnesses is an inappropriate remedy.

In as much as prior contempt sanctions, allowing for additional time to comply, as well as providing a monetary incentive to comply, have not motivated Defendant to comply with the Defendant's discovery obligations, or demonstrated a willingness to comply with court orders. Furthermore, Defendant's willingness to knowingly lie under oath at deposition demonstrates a complete disregard to the legal process and the administration of justice. There is no other alternative for this Court than to Grant Plaintiff's motion for default and strike Defendant's responsive pleadings.

The Court also awards reasonable attorney's fees and costs to Plaintiff pursuant to CR 37. Plaintiffs' attorney shall submit the appropriate declarations clearly setting out the time and costs allocated in preparing and arguing this motion.

Plaintiff's counsel is further directed to prepare orders in accordance with this ruling for presentation to the Court.

Dated this 6th Day of March 2020.

William C. Houser
Superior Court Judge

CERTIFICATE OF SERVICE

I, Kyle Gallagher, certify under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above entitled action, and competent to be a witness herein.

Today I caused a copy of the foregoing document to be served in the manner noted on the following:

Alexander Savojni 918 S Horton St Ste 901 Seattle, WA 98134-1953	☒ Via U.S. Mail
Houston Wade c/o Bruciato 236 Winslow Way E. Bainbridge Island, WA 98110	☒ Via U.S. Mail

DATED ~~March~~ April 6, 2020, at Port Orchard, Washington.

Kyle Gallagher #47769
Staff Attorney

SCANNED

Exhibit 7

Arlen Parsa @arlenparsa 13h

Why have I decided not to share the #CovingtonCatholic kid's name? Because he's a kid.

A dumb kid. Maybe a racist kid. (more on this in a second)

But he's still a kid. Yes, I have confirmed he is under 18.



869 657 5k ooo

Rock God
@TheHoustonWade

Replying to @arlenparsa

I am all for ruining a life. If they want to exhibit character, then they have to seek forgiveness and offer repentance for their actions. Until

20-2-01225-18
RTS 3
Return of Service
8690981

FILED
KITSAP COUNTY CLERK
2020 AUG 12 PM 2:28
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON FOR KITSAP COUNTY

John Du Wors, Petitioner,
vs.
Houston Wade, Respondent.

NO.

RETURN OF SERVICE (RTS)

1. My name is Bobbie E. Noel. I am ☒ a peace officer ☒ 18 years of age or older and not the petitioner.
2. ☐ I was unable to make personal service on the respondent. ☐ I have notified the petitioner that respondent was not served.
   ☐ Personal service was attempted on the following date(s)_____
   ☐ No service was attempted because _____
3. ☒ I served Houston Wade (name of person served) with the following documents:

   ☐ Temporary Order for Protection and Notice of Hearing
   ☐ Petition for Order for Protection
   ☐ Reissuance of Temporary Order for Protection and Notice of Hearing
   ☐ Order for Protection
   ☐ Order Realigning Parties and Notice of Hearing
   ☐ Motion to Modify/Terminate Order for Protection
   ☐ Order Modifying/Terminating Order for Protection
   ☐ Order Transferring Domestic Violence Case and Setting Hearing
   ☒ Other: Summons (20 days)
   - Case Info Cover Sheet
   - Complaint for Damages + Injunctive Relief
   - Exhibits 1 thru 6.

4. I served these documents on 07/31/2020 (date) at 1500 hrs (time) at this address:
   625 Winslow Way E B1

5. Other: _____

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED 07/31/2020 at Bainbridge Island, Washington.

Fees: Service _____
Mileage _____
Total _____

Bobbie E. Noel
Signature of Server
Bainbridge Island Police Dept.
Law Enforcement Agency

FILED
KITSAP COUNTY CLERK
2020 AUG 31 PM 2:28
ALISON H. SONNTAG

20-2-01225-18
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Motion for Default
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SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANT HOUSTON WADE

[CLERK'S ACTION REQUIRED]

RELIEF REQUESTED

Plaintiff John Du Wors respectfully requests the Court enter an order of default against Defendant Houston wade.

STATEMENT OF FACTS

John Du Wors initiated this action by serving Houston Wade with an unfiled summons and complaint pursuant to CR 3. (Declaration of John Du Wors ("Decl. Du Wors") at ¶ 2.) The Bainbridge Island Police Department effectuated service on Houston Wade at his home on July 31, 2020. (Decl. Du Wors at ¶ 3, Ex. A.) On August 3, 2020, Houston Wade sent John Du Wors mail correspondence demanding that, pursuant to CR 3, John Du Wors file his summons and complaint and provide Houston Wade with the assigned case number. (Decl. Du Wors at ¶ 4.) John Du Wors filed the summons and complaint on August 12, 2020 and

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

provided Houston Wade with conformed copies as well as a case number. (Decl. Du Wors ¶ 5, Ex. B.) More than 20 days have passed since service, but Houston Wade has not responded or appeared. (Decl. Du Wors at ¶ 6.)

STATEMENT OF THE ISSUES

CR 2(a)(2) provides "Unless a statute or rule provides for a different time requirement, the summons shall require the defendant to serve a copy of the defendant's defense within 20 days after the service of summons, exclusive of the day of service." Houston Wade received proper service On July 31, 2020. Since then, more than 20 days have transpired, but Houston Wade has not served a copy of his defense or otherwise appeared in this action. Should the Court enter an order placing Houston Wade in default?

EVIDENCE RELIED UPON

This Motion relies on the pleadings and papers in the Court's file, the Declaration of John Du Wors, and the Exhibits thereto.

LEGAL AUTHORITY

CR 55(a)(1) provides "When a party against whom a judgment for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by these rules and that fact is made to appear by motion and affidavit, a motion for default may be made." And CR 2(a)(2) required Houston Wade to serve and file his responsive pleading within 20 days after service, exclusive of the date of service. Houston Wade was served on July 31, 2020, making his responsive pleading due August 21, 2020. As Houston Wade did not respond by that time, an order of default is appropriate.

CONCLUSION

A Proposed Order is attached.

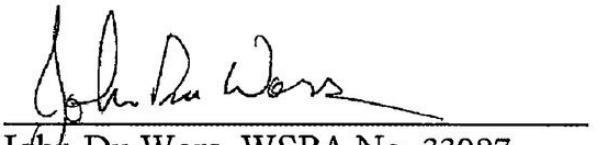
NEWMAN DU WORS LLP

2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

Dated: August 31, 2020

Respectfully submitted,

NEWMAN DU WORS LLP



John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

FILED
KITSAP COUNTY CLERK
2020 AUG 31 PM 2:28
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

DECLARATION OF JOHN DU WORS IN SUPPORT OF PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANT HOUSTON WADE

I, John Du Wors, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matter. I make this declaration in support of Plaintiff's Motion for Entry of Default Against Defendant Houston Wade.

2. I initiated this action pursuant to Washington Court Rule 3 on July 31, 2020 by serving a copy of the unfiled summons and complaint in this matter on Defendant Wade. A true and correct proof of service for the summons and complaint is attached as Exhibit A.

3. Served was accomplished by the Bainbridge Island Police Department by serving Houston Wade at his home on July 31, 2020.

NEWMAN DU WORS LLP

2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

4. On August 3, 2020, Houston Wade sent mail correspondence to my office demanding I file my summons and complaint and provide him the case number as well as a conformed copy. I received that letter on August 11, 2020.

5. On August 12, 2020, I filed the summons and complaint, and sent Houston Wade a conformed copy. A true and correct copy of that email correspondence is attached hereto as Exhibit B.

6. More than twenty (20) days have passed since service on Defendant Wade, yet he has not appeared, answered or otherwise responsively pled.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31st day of August, 2020 at Bainbridge Island, Washington.

John Du Wors

NEWMAN DU WORS LLP

2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

Exhibit A

FILED
AUG 05 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON FOR KITSAP COUNTY

John Du Wors, Petitioner,
vs.
Houston Wade, Respondent.

NO.

RETURN OF SERVICE (RTS)

1. My name is Bobbie E. Noel. I am ☒ a peace officer ☒ 18 years of age or older and not the petitioner.
2. ☐ I was unable to make personal service on the respondent. ☐ I have notified the petitioner that respondent was not served.
   ☐ Personal service was attempted on the following date(s)_____
   ☐ No service was attempted because _____
3. ☒ I served Houston Wade (name of person served) with the following documents:

   ☐ Temporary Order for Protection and Notice of Hearing
   ☐ Petition for Order for Protection
   ☐ Reissuance of Temporary Order for Protection and Notice of Hearing
   ☐ Order for Protection
   ☐ Order Realigning Parties and Notice of Hearing
   ☐ Motion to Modify/Terminate Order for Protection
   ☐ Order Modifying/Terminating Order for Protection
   ☐ Order Transferring Domestic Violence Case and Setting Hearing
   ☒ Other: Summons (20 days)
   - Case Info Cover Sheet
   - Complaint for Damages & Injunctive Relief
   - Exhibits 1 thru 6.

4. I served these documents on 07/31/2020 (date) at 1500 hrs (time) at this address:
   625 Winslow Way E Bl

5. Other: _____

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED 07/31/2020 at Bainbridge Island, Washington.

Fees: Service _____
Mileage _____
Total _____

Bobbie E. Noel
Signature of Server
Bainbridge Island Police Dept.
Law Enforcement Agency

Office of the
KITSAP COUNTY CLERK

Alison H. Sonntag, *Clerk*

614 Division Street, MS 34 – Port Orchard, WA 98366-4692
360-337-7164 SCAN 262-7164 FAX 360-337-4927
www.kitsapgov.com/clerk

Date: August 7, 2020

ATTENTION: B.E. NOEL
BAINBRIDGE ISLAND POLICE DEPT.
625 Winslow Way E
Bainbridge Island, WA 98110

Re: JOHN DuWORS vs HOUSTON WADE

☐ Pursuant to RCW 36.18.016(4), the fee for a copy with a seal is $5.00 for the first page of the document and $1.00 for each additional page. Copies without a seal are .50 cents per page. Copies from imaging are .25 cents per page. Additional fees for research and handling may apply. The fee for the copies you requested is $_____.

☐ Pursuant to RCW 36.18.016(11), for clerk's special services such as processing ex-parte orders by mail, performing historical searches, compiling statistical reports, and conducting exceptional record searches the clerk may collect a fee of twenty dollars ($20.00) per hour or portion of an hour. **Said fee is payable in advance of the services rendered.** No more than five (5) names may be searched for the minimum fee; no more than 3 orders bearing the same case number will be accepted for the minimum fee.

☐ Pursuant to RCW 4.64.030, the judgment in the aforementioned case will not be recorded until a judgment summary in proper form is received by this office.

☒ The document entitled RETURN OF SERVICE is being returned to you unfiled. It will be necessary for you to provide the correct case number. Your document does not provide a case number, a search was done and case number for these parties could not be located.

☐ Pursuant to Local Court Rule 78(g)(1), this office does not accept personal checks except for passport applications. Upon receipt of a money order, this office will respond to your request.

☐ Pursuant to CR 5(i), this office is returning discovery material.

☐ Review of ☐ Civil ☐ Criminal ☐ Divorce/Dissolution records for the above-named individual from _____ through the present produced no evidence of a ☐ case filed ☐ criminal conviction in Kitsap County Superior Court.

☐ Other:

☐ ***Please return this letter with your response.***

Alison H. Sonntag,
Kitsap County Clerk

_____, Deputy
Debra S.

☒ Enclosure

Exhibit B

Chy Eaton

From: John Du Wors
Sent: Wednesday, August 12, 2020 2:44 PM
To: houstonwade@gmail.com
Cc: Chy Eaton
Subject: RE: Service of filed complaint
Attachments: 20-2-01225-18-conformed.pdf

Houston,

Attached is the filed complaint. What is your address for service so that I can serve it on you in hard copy? Alternatively, do you want to agree on service by email in this matter? If so, I will put together a formal email service agreement.

Regards,

John Du Wors

From: John Du Wors
Sent: Tuesday, August 11, 2020 6:47 PM
To: houstonwade@gmail.com
Subject: RE: Service of filed complaint

Houston,

If you are not going to agree on email service, you will need to serve me at my Seattle office. At what address can I serve you for purposes of this lawsuit?

-John

From: John Du Wors
Sent: Tuesday, August 11, 2020 4:00 PM
To: houstonwade@gmail.com
Subject: Service of filed complaint

Dear Houston,

Today, I received your correspondence demanding the filing of my complaint against you. We are filing now, and I will send you a copy of the filed complaint. Will you agree that we can serve each other by email in order to facilitate litigation documents reaching each other faster?

Regards,

John Du Wors

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. 20-2-01225-18 **[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR ENTRY OF ORDER OF DEFAULT AGAINST DEFENDANT HOUSTON WADE**

This cause comes on the motion of the Plaintiff John Du Wors for the entry of order for default in his favor and against Defendant Houston Wade.

Based on that motion and accompanying documents, the Court finds:

Houston Wade was served on July 31, 2020.

Excluding the day of service, Houston Wade's response was due on August 21, 2020.

More than 20 days have passed since service, and Houston Wade has not answered or otherwise appeared in this matter.

Defendant Houston Wade is adjudged to be in default based on his failure to appear, plead or otherwise defend as required by the Civil Rules. Now, therefore,

NEWMAN DU WORS LLP

2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

IT IS ORDERED that Defendant Houston Wade is hereby adjudged to be in default in this action.

It is so ORDERED this _____ day of _____, 2020.

_____
Kitsap County Superior Court Judge

FILED
KITSAP COUNTY CLERK
2020 AUG 31 PM 2:28
ALISON H. SONNTAG

20-2-01225-18
NTMTDK 5
Note for Motion Docket
8798165

Exhibit E

SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP

JOHN DU WORS,
Plaintiff/Petitioner

John Du Wors,
Attorney for Plaintiff/Petitioner

vs.

HOUSTON WADE,
Defendant/Respondent

,
Attorney for Defendant/Respondent

No.: 20-2-01225-18

NOTE FOR MOTION DOCKET

(NTMTDK)

TO THE CLERK OF THE COURT AND

TO: Defendant Houston Wade

AND: _____

Please take notice that the undersigned will bring on for hearing:

NATURE OF MOTION: Plaintiff's Motion for Entry of Default Against Defendant Wade

The hearing is to be held:

DATE: September 11, 2020 TIME: 9:00 a.m. **a.m./p.m.**

AT: JUDGE/DEPARTMENT NO.: Civil Motions
Superior Court of Kitsap County
614 Division Street
Port Orchard, WA 98366

COURT COMMISSIONER MAY HEAR THIS MOTION: ☐ YES ☑ NO
ELECTRONIC RECORDER ACCEPTABLE: ☑ YES ☐ NO
COURT COMMISSIONER MAY HEAR THIS MOTION: ☐ YES ☑ NO

DATED August 31, 2020

Signed: John Du Wors
Lawyer for: Plaintiff John Du Wors
Address: Newman Du Wors LLP
2101 4th Ave, Ste. 1500, Seattle, WA 98121
Telephone: 206-274-2800

20-2-01225-18
NTHG 8
Notice of Hearing
8849783

FILED
KITSAP COUNTY CLERK
2020 SEP -9 PM 4:28
ALISON H. SONNTAG

Superior Court of Washington, County of Kitsap

In re:

Petitioner/s *(person/s who started this case)*:
John DJ Wors

And Respondent/s *(other party/parties)*:
Houston Wade

No. 20-2-01225-18

Notice of Hearing
(NTHG)
☑ Clerk's action required: **1**

Notice of Hearing

To the Court Clerk and all parties:

1. A court hearing has been scheduled:

for: 9/18/20 *(date)* at: 9:00 *(time)* ☒ a.m. ☐ p.m.

at: 614 Division St, Port Orchard, WA 98366 *(court's address)* in TBD *(room or department)*

Civil Motions *(docket / calendar or judge / commissioner's name)*

2. The purpose of this hearing is *(specify)*: Motion for dismissal w/ prejudice

Warning! If you do not go to the hearing, the court may sign orders without hearing your side.

This hearing was requested by: ☐ Petitioner or his/her lawyer ☒ Respondent or his/her lawyer

Person asking for this hearing signs here

Houston Wade
Print name (if lawyer, also list WSBA #)

9/9/20
Date

I agree to accept legal papers for this case at:

c/o Brociato
236 Winslow Way E
address
Bainbridge Is. WA 98110
city *state* *zip*

(Optional) email: _____

This does **not** have to be your home address. If this address changes before the case ends, you **must** notify all parties and the court clerk in writing. You may use the *Notice of Address Change* form (FL All Family 120). A party must also update his/her *Confidential Information* form (FL All Family 001) if this case involves parentage or child support.

20-2-01225-18
MTDSM 7
Motion to Dismiss
8849774

FILED
KITSAP COUNTY CLERK
2020 SEP -9 PM 4:02
ALISON H. SONNTAG

Houston Wade
C/O Bruciatio
236 Winslow Way E
Bainbridge Island, WA 98110
houstonwade@gmail.com

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 MOTION FOR DISMISSAL WITH PREDJUDICE PURSUANT TO CR 5(A), CR 5(B)(1), CR 5 (B)(2), CR 8(C), AND RCW 7.70.160

RELIEF REQUESTED

Defendant Houston Wade respectfully requests the Court enter an order of Dismissal with Prejudice against Plaintiff John Du Wors.

STATEMENT OF FACTS

On July 31st, 2020, John Du Wors served Houston Wade with an unfiled summons and complaint. On August 4th, Mr. Du Wors's law firm received Mr. Wade's letter citing CR3 and demanded that Mr. Du Wors file and provide Mr. Wade with conformed copies as well as the case number. Mr. Du Wors subsequently filed the suit against Mr. Wade and then failed to provide Mr. Wade service with any documentation regarding the filing or case number including subsequent motion(s). Mr. Du Wors then sought to violate Mr. Wade's right to due process by moving for a default judgement without Mr. Wade being made aware that there was even a filed case pending.

In October 2018, Mr. Du Worse served Mr. Wade's mother with an unfiled complaint meant for Mr. Wade regarding the same issues outlined in the unfiled complaint Mr. Wade received in July of 2020. At that time Mr. Wade again cited CR3 and demanded Mr. Du Wors file the complaint and provide Mr. Wade with dated and stamped conformed copies of the complaint and summons and case number. Mr. Du Wors did not file that complaint and opted to instead file an anti-harassment restraining order against Mr. Wade in the Bainbridge Island Municipal Court (case no. 46-000018; exhibit 1), citing the same arguments (defamation) in the unfiled complaint served upon Mr. Wade's mother.

For two weeks Mr. Du Wors enjoyed a TRO on Mr. Wade precluding Mr. Wade from posting about Mr. Du Wors and requiring the removal of any and all exiting posts about Mr. Du Wors. On November 6th, 2018, the BIMC held a hearing regarding the TRO where Mr. Du Wors argued that Mr. Wade defamed Mr. Du Wors. The court confirmed the accuracy of Mr. Wade's reporting on Mr. Du Wors's actions, unethical behavior, and criminal record and vacated the order. Since defamation required that Mr. Wade not be telling the truth about Mr. Du Wors, the court could not restrict Mr. Wade's 1st Amendment right to free speech.

Since that verdict, Mr. Wade has continued to update the article about Mr. Du Wors with the latest criminal news on Mr. Du Wors, and regarding Mr. Du Wors strange and unethical behavior. These updates include messages sent to Mr. Wade by Mr. Du Wors, as well as Mr. Du Wors's recent DUI arrest and conviction.

STATEMENT OF THE ISSUES

The filing of this case in Superior Court by Mr. Du Wors against Houston wade violate *Res Judicata*, in that he is trying to relitigate and exiting verdict, and *Collateral Estoppel*, in that he is raising arguments he had the opportunity raise in the previous BIMC hearing when he filed his current case against Houston Wade and where a verdict has already been reached. Mr. Du Wors also violated Court Rules and the law with how he filed this case and lied in the ensuing Motion for Default about how, when, and where Mr. Du Wors claims to have served Mr. Wade with the pertinent legal documents of this lawsuit (see submitted Declaration of Houston Wade), when in fact Mr. Wade has never served any document once this case was filed in violation of the law and court rules and Mr. Wade is still not in possession of the filed summons or complaint. Mr. Du Wors is an experienced lawyer of longstanding. He would not omit required actions deemed by court rules and state law, such as serving the Defendant all pertinent material in this case, unless he was trying to obscure the constitutional issues and court precedent surrounding the fact that this case has previously been tried and ruled upon by a lower court.

In the 2018 BIMC case, Mr. Du Wors claimed, just as now, defamation by Mr. Wade against Mr. Du Wors. citing that what was written about him on the Bainbridge Island Bad List page was "*[...] almost entirely false, and constitute defamation per se,*" (Exhibit 1, Du Wors's TRO filing, Declaration, page 1, paragraph 3.) The entire basis of his argument in the 2018 hearing was that what Mr. Wade wrote were lies that constituted defamation. The Bainbridge Island Municipal Court managed to verify the things Mr. Wade wrote about Mr. Du Wors. In that 2018 BIMC case it was established that Mr. Du Wors had in fact admitted to alcoholism and chemical abuse; the court

concluded that he had used the "Seeking Arrangements" website to solicit women on the Internet (under the username "NICEGUY"); that he had been convicted of domestic violence, convicted of imprisonment of a minor, and was convicted of hit and run. Since that time, Mr. Du Wors has also been convicted of DUI. As the Court can plainly see, Mr. Du Wors is attempting to relitigate a verdict without first appealing the Lower Court's ruling in violation of *Res Judicata,* proper sanctions for which is dismissal with prejudice.

Mr. Du Wors is now attempting to frame his current lawsuit against Mr. Wade as if it is new and has not been decided by a previous verdict. Note how Mr. Du Wors makes claims about the Bainbridge Island Municipal Court rulings but has not supplied any documentation or transcript from that hearing or case. Instead, according to the unfiled draft of the complaint and summons Mr. Wade was served, Mr. Du Wors contends that the continued dissemination of truthful information about Mr. Du Wors criminal past and unethical behavior constitutes new violations, specifically extortion. The page which offends Mr. Du Wors has been up for over two years and survived one court test already. How can a legally existing news article protected by the 1st Amendment constitute a threat, something that is required for extortion to be asserted? Mr. Du Wors had ample opportunity to raise questions of extortion to either the police, since it is a criminal and not civil matter, or to the BIMC in 2018. Therefore, Mr. Du Wors's claims are in violation of *Collateral Estoppel*, sanctions for which is dismissal with prejudice. *Collateral Estoppel* is a doctrine related to *Res Judicata.* The doctrine of *Collateral Estoppel* applies when a party participates in two distinct cases arising out of different causes of action and a pivotal fact of both cases has been adjudicated against that party in a prior case. Department of Transp. v. Chicago Title and Trust Co., 303 Ill. App. 3d 484 (1st Dist. 1999). Essentially, the doctrine of *Collateral Estoppel* bars re-litigation of issues of ultimate facts that have been determined by valid and final judgment. People v. Terrell, 185 Ill. 2d 467 (1998).

The underlying decision made by the Bainbridge Island Municipal Court was that what Mr. Wade wrote about Mr. Du Wors could not be considered defamatory, therefore Mr. Du Wors had no right to restrict Mr. Wade's speech with his restraining order. Mr. Du Wors is more than welcome to appeal the BIMC's ruling and, should he prevail, chose to sue Mr. Wade for defamation. Until then, Mr. Du Wors is barred by law to refrain from shopping for new courts in which to attempt to relitigate a court case he previously lost. Unfortunately for Mr. Du Wors, he missed the window in which to file an appeal to the lower court's ruling.

Mr. Du Wors's flippant abuse of process to garner a default judgement against Mr. Wade without providing proper service of the filed case is unethical, against court rules, and against the law. Mr. Du Wors's actions were a blatant attempt to deny Mr. Wade due process, and right to challenge the standing of the case. Since Mr. Wade cited CR3 in his letter to Mr. Du Wors upon being served the unfiled complaint and summons and demanded to be served the filed copies and case number, as Mr. Du Wors is required under the law and CR 5(a) to do, and since Mr. Du Wors lied to the court about serving this documentation to Mr. Wade, sanctions for this include dismissal of the case. Courts have held that personal jurisdiction is "the very bedrock of due process." McRae v. White, 269 App. 455, 604 S.E.2d 291 (2004). Personal jurisdiction is obtained through service of process, which is required in every lawsuit. Without proper service, no valid lawsuit arises. It is only after a plaintiff obtains proper service upon the defendant that the court obtains jurisdiction over the defendant to impose an enforceable judgment of liability and damages. If the plaintiff fails to obtain proper service upon the defendant, the lawsuit must be dismissed due to the court's lack of jurisdiction.

Not only did Mr. Du Wors fail to provide proper service in this case, he had the audacity to lie about the service of Mr. Wade and then force the court to hear a Motion for Default Judgement in an underhanded attempt to knowingly skirt precedent involving this case's violations of *Res Judicata* and *Collateral Estoppel*. Mr. Du Wors's blatant disregard in procedure and legal obligations in this matter constitute misconduct that are grounds for sanction. Mr. Wade's entire thesis on the Bainbridge Island Bad List is that Mr. Du Wors is an unethical attorney and a repeat criminal and should not be allowed to practice law. The actions Mr. Du Wors has taken in this unfounded legal action against Mr. Wade prove that Mr. Wade was just in his assessment of Mr. Du Wors's character. Mr. Du Wors's extensive, and ongoing criminal history, often violent, and his unethical legal misconduct means that Mr. Du Wors should face sanction and not be allowed to practice law in Washington.

EVIDENCE RELIED UPON

This Motion relies upon the pleadings and papers in the Court's File, the Declarations of Houston Wade and John Du Wors, and the Exhibits thereto.

LEGAL AUTHORITY

CR 5(a) provides, "Service—When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise

orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard *ex parte*, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in rule 4. " And CR 5(b)(1) required John Du Worse to provide service of the documents upon Mr. Wade, and if service attempts were made and failed, that Mr. Du Wors, "*filing with the clerk of the court an affidavit of attempt to serve.*" CR 5(b)(2) failure to provide service by mail. And CR 5(d)(2) sanctions.

CR 8(c) concerning *Res Judicata* and *Estoppel.* In Washington, these principles have been reduced to a four-part test. Res judicata applies "where a prior final judgment is identical to the challenged action in '(1) subject matter, (2) cause of action, (3) persons and parties, and (4) the quality of the persons for or against whom the claim is made.'" Lvnn v. Dep't of Labor & Indus.. 130 Wn. App. 829, 836, 125 P.3d 202 (2005) (quoting Loveridge, 125 Wn.2d at 763). Whether an action is barred by *Res Judicata* is a question of law that is reviewed de novo. Lvnn. 130 Wn. App. at 837. "*Collateral Estoppel*, or *issue preclusion, bars relitigation of an issue in a subsequent proceeding involving the same parties*." Christensen v. Grant County Hosp. Dist. No. 1, 152 Wn.2d 299, 306, 96 P.3d 957 (2004). "*Collateral Estoppel* requires that the issue decided in the prior adjudication is identical with the one at hand." McDaniels v. Carlson. 108 Wn.2d 299, 305, 738 P.2d 254 (1987). Moreover, it "*precludes only those issues that have actually been litigated and determined; it 'does not operate as a bar to matters which could have . . . been raised [in prior litigation] but were not.*'" McDaniels. 108 Wn.2d at 305 (emphasis added) (alterations in original) (quoting Davis v. Nielson. 9 Wn. App. 864, 874, 515 P.2d 995 (1973)).

Frivolous or vexatious abuse of process, RCW 7.70.160 states: "In any action under this section [chapter], an attorney that has drafted, or assisted in drafting and filing an action, counterclaim, cross-claim, third-party claim, or a defense to a claim, upon signature and filing, certifies that to the best of the party's or attorney's knowledge, information, and belief, formed after reasonable inquiry it is not frivolous, and is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause frivolous litigation. If an action is signed and filed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the

person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the action, counterclaim, cross-claim, third-party claim, or a defense to a claim, including a reasonable attorney fee."

CR 11(a)(1) Failure to ground in fact. CR 11(a)(3) Improper purpose. CR 11(a)(4) Sanctions. CR 11(b)(1) Failure to ground in fact. CR 11(b)(3) Improper purpose. CR 11(b)(4) Sanctions.

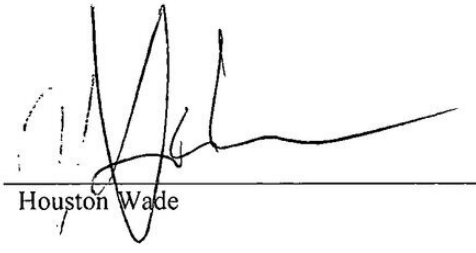
Prevailing party to receive expenses for opposing frivolous action, RCW 4.84.185.

Grounds for disbarment or suspension, RCW 2.48.220 (1) His or her conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence. (3) Violation of his or her oath as an attorney, or of his or her duties as an attorney and counselor. (4) For the commission of any act involving moral turpitude, dishonesty, or corruption, whether the same be committed in the course of his or her relations as an attorney or counselor at law, or otherwise, and whether the same constitute a felony or misdemeanor or not; and if the act constitute a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disbarment or suspension from practice therefor. (10) Gross incompetency in the practice of the profession. (11) Violation of the ethics of the profession.

CONCLUSION

A Proposed Order is attached.

Dated this 9th of August 2020.



Houston Wade

Houston Wade
C/O Bruciatio
236 Winslow Way E
Bainbridge Island, WA 98110
houstonwade@gmail.com

SUPERIOER COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 [PROPOSED] ORDER GRANTING DEFENDANT'S MOTION FOR DISMISSAL WITH PREDJUDICE PURSUANT TO CR 5(A), CR 5(B)(1), CR 5 (B)(2), AND CR 8(C)

This cause come on the motion of Defendant Houston Wade of the entry of the order for Dismissal with Prejudice for his favor against Plaintiff John Du Wors.

Based on that motion and accompanying documents, The Court finds:

John Du Wors failed to serve the Defendant required documents.

John Du Wors lied about service of documents to Defendant.

John Du Wors violated *Res Judicata* by bringing a previously litigated issue before the court.

John Du Wors violated *Collateral Estoppel* buy bringing arguments before the court he failed to raise, but could have, in previous litigation.

John Du Wors attempted to frame civil negotiations as criminal extortion in a civil case.

John Du Wors brought a frivolous and vexatious case and abused process in doing so.

IT IS ORDERED that this matter be, and hereby is, dismissed with prejudice. John Du Wors is to bear his own costs and fees. Houston Wade is to recover his costs and fees from the Plaintiff John Du Wors. Mr. Du Wors is to receive disciplinary action and have his license to practice law in the State of Washington suspended for no less than two years.

It is so ORDERED this ___ day of _____, 2020.

_____
Kitsap County Superior Court Judge

Exhibit 1

CASE: 46-000018
Civil

PLAINTIFF/PETITIONER
PET 01 DU WORS, JOHN DAVID
4162 SORREL AVE NE
BAINBRIDGE ISLAND WA 98110
Home Phone: 2062299082
Work Phone: 2062742800

DEFENDANT/RESPONDENT
RSP 01 WADE, HOUSTON CURRY
370 GROW AVE NW APT B10
BAINBRIDGE ISLAND WA 98110

TITLE
DU WORS, JOHN DAVID VS WADE, HOUSTON CURRY

Filed: 10/23/2018 Cause: Stalking Protection DV: N Amount:

TEXT

S	10/23/2018	Case Filed on 10/23/2018 Cause of Action: Harassment PET 1 DU WORS, JOHN DAVID Added as Participant RSP 1 WADE, HOUSTON CURRY Added as Participant	TXD
U		PETITION FOR AN ORDER FOR PROTECTION-HARASSMENT FILED BY PETITIONER	
S		EXP CV Set for 10/23/2018 11:00 AM in Room 1 with Judge KMC	
		18296100043 ANTI HAR W/OJST Received 43.00 Paid by: DU WORS, JOHN DAVID	
U		PRO TEM JUDGE KATHRYN M CARRUTHERS PRESIDING. PETITIONER JOHN DU WORS REQUESTED THE EMERGENCY PROTECTION ORDER BOX ON PAGE 7 BE CHECKED, GRANTED. PETITIONER SWORN IN AND GAVE TESTIMONY. ATTY CULLEN AND WILLIAM NELSON PRESENT. ATTY CULLEN ADDRESSED THE COURT. JUDGE TAKES A RECESS TO REVIEW A SUPERIOR COURT CASE. JUDGE GRANTS PETITIONER'S REQUEST FOR TEMPORARY STALKING AND ANTI-HARASSMENT ORDER.	DLH
S		Cause of Action Changed: Stalking Protection Order created on 10/23/2018 TEMP STALKING PROT 0 entered by CARRUTHERS, KATHRYN expires on 11/06/2018 NJT Set for 11/06/2018 01:00 PM in Room 1 with Judge KMC	
U		PETITION FOR AN ORDER FOR PROTECTION-HARASSMENT AND OR STALKING AND TEMP PROTECTION ORDER AND NOTICE OF HEARING-STALKING EMAILED TO BIPD FOR SERVICE ON RSP AND ENTRY INTO WACIC. FAXED TEMP ORDER TO DVI CLERK.	
S		Judgment 1 Granted entered by Judge KMC EXP CV: Held	
U	10/25/2018	RETURN OF SERVICE FILED; RESP SERVED 10/24/18	JGS
S	10/26/2018	NJT on 11/06/2018 01:00 PM Changed to Room 1 with Judge SLM	DLH
U	11/01/2018	EMAILED LETTER FROM 3RD PARTY FILED.	
	11/02/2018	COURIER PRESENT AT COUNTER. ORIGINAL LETTER FROM RICHARD RYNEARSON FILED.	
	11/06/2018	MEMORANDUM, DEFENDANT'S MOTION TO DISMISS AND OPPOSITION TO PLAINTIFF'S RENEWED MOTION FOR PRELIMINARY INJUNCTION IN THE RYNEARSON V. FERGUSON CASE 3:17-CV-05531-RBL, AND DECISION ON	JGS

)ocket continued on next page

CASE: 46-000018
Civil

PLAINTIFF/PETITIONER
PET 01 DU WORS, JOHN DAVID

DEFENDANT/RESPONDENT
RSP 01 WADE, HOUSTON CURRY

TEXT - Continued

U	11/06/2018	RALJ APPEAL IN THE MORIWAKI V. RYNEARSON CASE 17-2-01463-1 FILED BY EMAIL FROM PETITIONER DU WORS AT 11:33A; FORWARDED TO JUDGE AND FILE. COPY OF DOCUMENTS PREPARED FOR RESPONDENT RESPONDENT AT COUNTER 1244P; RESPONDENT GIVEN COPIES OF DOCUMENTS FILED BY PETITIONER THIS MORNING.	JGS
		JUDGE SARA L MCCULLOCH PRESIDING. PETITIONER DU WORS AND RESPONDENT WADE PRESENT. DU WORS MOTIONS THE COURT FOR EXCLUSION OF WITNESSES FROM THE COURTROOM. GRANTED. WITNESSESS LEFT COURTROOM. PETITIONER DU WORS SWORN IN AND GAVE TESTIMONY. PETITIONER'S EXHIBIT 1 FILED. ADMITTED. PETITIONER'S WITNESS, WILLIAM NELSON CALLED TO TESTIFY. NELSON SWORN IN. QUESTIONED BY PET'R DU WORS. RESPONDENT WADE QUESTIONED WITNESS NELSON. WITNESS EXCUSED. RESPONDENT WADE SWORN IN AND GAVE TESTIMONY. RSP'S EXHIBITS 1 THRU 18 FILED AND ADMITTED. PETITIONER GAVE ADDITIONAL TESTIMONY. RESPONDENT RESPONDS. PETITIONER GAVE LEGAL ARGUMENT. RESPONDENT GAVE ARGUMENT. JUDGE DENIED FULL ORDER. CERTIFIED ORDER OF DENIAL GIVEN TO RSP WADE. PET'R DU WORS REFUSED COPY OF ORDER.	DLH
S		Judgment 1 changed to Denied by Judge SLM NJT: Held	
	11/07/2018	Order denied on 11/06/2018 STALKING PROTECTION entered by MCCULLOCH, SARA L No Grounds	
U		RESPONDENT'S EXHIBIT #12 IS EITHER MISSING OR EXHIBITS WERE MISMARKED WHEN FILED.	
S		Case Disposition of CL Entered Judgment 1 Disposition of CL Entered	
U	11/09/2018	THIRD PARTY(BILL NELSON)APPEARED AT FRONT COUNTER TO PAY AND PICK UP CD THAT WAS ORDERED BY ATTY CULLEN.	DLJ
	09/08/2020	RECORDS REQUEST RECEIVED.	DLR

ADDITIONAL CASE DATA

Case Disposition
Disposition: Closed Date: 11/07/2018

Judgments
01 Denied 11/06/2018 Closed 11/07/2018 by SLM

Hearing Summary

Held	EX PARTE CIVIL HRG	ON 10/23/2018 AT 11:00 AM IN ROOM 1	WITH KMC
Held	BENCH TRIAL	ON 11/06/2018 AT 01:00 PM IN ROOM 1	WITH SLM

End of docket report for this case

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

BAINBRIDGE ISLAND MUNICIPAL COURT Kitsap County, Washington	Mail: PO Box 151, Rollingbay, WA 98061 Location: 10255 NE Valley Rd, Bainbridge Island, WA Phone # 206-842-5641 Fax # 206-842-0316 Email: court@bainbridgewa.gov
DU WORS, JOHN DAVID Petitioner DOB	No. 46-18 Order of Denial
vs.	☐ Domestic Violence ☐ Sexual Assault ☒ Antiharassment ☒ Stalking
WADE, HOUSTON CURRY Respondent DOB	Next Hearing Date/Time: At:

This Matter having come on for hearing upon the request of ☒ Petitioner ☐ Respondent for a:

☐ Temporary Order ☒ Full Order ☐ Renewal Order
☐ Modification Order ☐ Termination Order

The Court Finding:

☐ Failure to Appear. ☐ Petitioner ☐ Respondent did not appear.

☐ Dismissal Requested. Petitioner requested dismissal of petition.

☐ Harassment–Great or Irreparable Harm Not Proven. Petitioner has failed to demonstrate that great or irreparable harm will result to Petitioner if a temporary antiharassment protection order is not granted. RCW 10.14.080(1).

☐ Domestic Violence- Irreparable Injury Not Proven. Petitioner has failed to demonstrate that irreparable injury could result if a temporary domestic violence protection order is not granted. RCW 26.50.070(1).

☐ Stalking–Irreparable Injury Not Proven. Petitioner has failed to demonstrate that irreparable injury could result if a temporary stalking protection order is not granted. RCW 7.92.120(1).

☐ Sexual Assault- Petitioner has failed to prove required sexual conduct, sexual penetration, and/or reasonable fear of future dangerous acts by the respondent. RCW 7.90.020(1).

☒ Lack of Proof. A preponderance of the evidence has not established that there has been ☒ harassment ☐ domestic violence ☒ stalking ☐ nonconsensual sexual conduct or sexual penetration.

☐ Other: _____

Related to a Renewal, Modification or Termination Request, the Court Finding:

- ☐ Harassment Will Not Resume. Respondent proved by a preponderance of the evidence that Respondent will not resume harassment of Petitioner when the protection order expires.
- ☐ Stalking Will Not Resume. Respondent proved by a preponderance of the evidence that Respondent will not resume acts of stalking conduct against Petitioner or Petitioner's children or family or household members when the protection order expires.
- ☐ Domestic Violence Will Not Resume. Respondent proved by a preponderance of the evidence that there has been a substantial change of circumstances such that Respondent will not likely resume domestic violence against the protected parties when the order expires.

The Court Orders:

- ☐ Temporary Order Denied. The request for a temporary order is denied, and the case
  - ☐ is dismissed.
  - ☐ shall be set for hearing on the petition- listed in the above caption.
    Failure to appear at the hearing may result in the court granting all of the relief requested in the petition or motion.
- ☒ Full Order Denied and Case Dismissed. The request for a full order is denied, and the case is dismissed.
- ☐ Weapons Order Denied. The request for a temporary/final Order to Surrender Weapons is denied.

This order is dated and signed in open court.

Date: 11/6/18 Time: 3:30 PM

Judge

I acknowledge receipt of a copy of this Order:

Petitioner 11/6/2018 Date

Respondent 11/6/18 Date

Jennifer Smith

From: John Du Wors <John@newmanlaw.com>
Sent: Tuesday, November 6, 2018 11:36 AM
To: Court
Subject: RE: Du Wors v. Wade -- Case no. 46-18
Attachments: Supplemental Memo.docx

Dear Court, please disregard the last memo and use the attached instead—I previously forgot to add page numbers.

From: John Du Wors
Sent: Tuesday, November 6, 2018 11:33 AM
To: 'court@bainbridgewa.gov' <court@bainbridgewa.gov>
Subject: Du Wors v. Wade -- Case no. 46-18

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

Dear Court,

Enclosed please find supplemental legal memoranda related to today's 1 pm hearing.

Thanks and best,

John Du Wors

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

To: Bainbridge Island Court

From: John Du Wors

Case No: 46-18

Re: Supplemental legal memorandum for 11/6/2018 TRO extension hearing

The purpose of this Memorandum is to provide the Court with legal support for the continuation of the Temporary Restraining Order issued in John Du Wors' favor against Houston Wade on October 23rd, 2018 (the "TRO"). The hearing on Mr. Du Wors' petition for the TRO occurred on October 23rd, 2018. At that hearing, Judge Pro Tem Carruthers found by preponderance of the evidence, that Respondent Houston Wade's Facebook, Twitter, and Google Review posts about Mr. Du Wors fit the statutory definitions of harassment and cyberstalking under Washington law. Judge Carruthers also found Mr. Wade's dissemination of communications to the members of Mr. Du Wors' law firm constituted harassment and cyberstalking.

Mr. Wade was served with the TRO by the Bainbridge Island Police Department on October 24th, 2018. Since then, Mr. Wade has willfully violated the TRO in numerous ways, such as by leaving derogatory posts about Mr. Du Wors online well after service of the TRO which required them to be take down. He also emailed Mr. Du Wors directly, and visited a restaurant where Mr. Du Wors was having dinner, apparently for the purpose of gathering information about whether Mr. Du Wors had ever been kicked out of that restaurant. It is Mr. Du Wors' understanding that the Kitsap County Prosecutor's office has made a tentative decision to charge Mr. Wade with one or more protective order violations.

Judge Carruthers' main question at the October 23rd, 2018 hearing was whether the First Amendment prevents Mr. Wade from being restrained from further harassment and cyberstalking of Mr. Du Wors, which it does not. Because the statutory definitions of harassment and cyberstalking require a combination of speech with specified criminal conduct, the speech at issue loses its First Amendment protection where the plain language elements of harassment or cyberstalking are shown. The speech used in harassment and cyberstalking, even

if otherwise protected, ceases to receive First Amendment benefits because it becomes integral to the criminal acts of harassment and cyberstalking. This conclusion is shared by every federal court examining the First Amendment implications of the federal cyberstalking statute, and every Washington Court analyzing free speech implications under Washington's cyberstalking and anti-harassment statutes.

A. All state and federal cases hold that when First Amendment protected speech is coupled with conduct meeting the plain language definition harassment or stalking, the speech loses protection and may be enjoined.

Speech that would otherwise receive protection under the First Amendment, loses its protections when coupled with conduct constituting harassment or stalking, including cyberstalking. *United States v. Ackell*, No. 15-CR-123-01-JL, 2017 WL 2913452, at *10 (D.N.H. July 7, 2017), aff'd, No. 17-1784, 2018 WL 5275211 (1st Cir. Oct. 24, 2018)

> "[T]he First Amendment "has permitted restrictions upon the content of speech in a few limited areas ... including obscenity, defamation, fraud, incitement, and speech integral to criminal conduct...." *United States v. Stevens*, 559 U.S. 460, 468-69 (2010) (internal quotations and citations omitted). As to the last of these, implicated here, "it has never been deemed an abridgement of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language, either spoken, written, or printed." *United States v. Sayer*, 748 F.3d 425, 433 (1st Cir. 2014) (quoting *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 502 (1949)).

Tafoya v. State Human Rights Comm'n, 177 Wash. App. 216, 229, 311 P.3d 70, 78 (2013), as amended (Nov. 13, 2013) ("[I]t is well-established that speech that constitutes harassment is unprotected speech..."). As one Washington court has noted, it is important to observe that some speech can constitute indefensible harassment and/or cyberstalking in part because of the role of technology in today's world. State v. Stanley, 200 Wash. App. 1035 (2017), review denied, 189

Wash. 2d 1036, 407 P.3d 1148 (2018), and cert. denied, 138 S. Ct. 1702, 200 L. Ed. 2d 959 (2018), reh'g denied, 138 S. Ct. 2670 (2018). ("In today's culture, where personal devices especially are omnipresent, the internet is arguably as intrusive as the telephone, providing a cyberstalker substantial access into the private space of a person emailed or messaged.")

The principle that free speech becomes unprotected when combined with other conduct meeting the statutory definitions of harassment and/or cyberstalking arises from the so called *Giboney* doctrine, as set forth in *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 502 (1949)). The *Giboney* doctrine provides that speech coupled with conduct meeting the elements of harassment or stalking, becomes itself the criminal act, which deprives the otherwise pure speech of First Amendment Protections. *United States v. Matusiewicz*, 84 F. Supp. 3d 363, 369 (D. Del. 2015), aff'd sub nom. *United States v. Gonzalez*, 905 F.3d 165 (3d Cir. 2018) ("It rarely has been suggested that the constitutional freedom for speech and press extends its immunity to speech or writing used as an integral part of conduct in violation of a valid criminal statute.") *Accord, Cox v. Louisiana*, 379 U.S. 559, 563, 85 S. Ct. 476, 13 L. Ed. 2d 487 (1965) (quoting *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 502, 69 S. Ct. 684, 93 L. Ed. 834 (1948)." ("'[I]t has never been deemed an abridgment of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language, either spoken, written, or printed.' "); *United States v. Sandhu*, No. 17-10265, 2018 WL 5307724, at *1 (9th Cir. Oct. 25, 2018) ("...Sandhu's conviction is not unconstitutional because 47 U.S.C. § 223(a)(1)(D) regulates conduct and does not regulate speech. Any expressive aspects of Sandhu's conduct were "integral to criminal conduct" and thus not protected under the First Amendment.")

"Multiple federal circuits relied on *Giboney* to conclude that the First Amendment provides no defense where the otherwise protected speech is combined with conduct meeting the definition of cyberstalking under 18 USC § 2261A(2)(A)." *United States v. Ackell*, No. 15-CR-123-01-JL, 2017 WL 2913452, at *10 (D.N.H. July 7, 2017), aff'd, No. 17-1784, 2018 WL 5275211 (1st Cir. Oct. 24, 2018) ("In upholding the constitutionality of that version of the statute, several other appellate courts further observed that it "proscribe[d] harassing and

intimidating conduct" such that 'the proscribed acts are tethered to the underlying criminal conduct and not to speech.'")

For example, *United States v. Petrovic*, 701 F.3d 849, 856 (8th Cir.2012) involved a spurned partner's outrageous response to the end of his relationship, colloquially known as "revenge porn." While still together, Petrovic had recorded video and images of his partner in the nude or performing various sex acts. *Id.* at 852. When his partner told Petrovic that she wanted to end their relationship, he threatened to share sexually explicit images and text messages with his partner's family. He proceeded to do that and more, including creating a publicly accessible website with sexually explicit images of his ex-partner, text messages between the pair, and even information about his ex-partner's children. *Id.* The defendant then offered to shut down the site in exchange for money and other property, leading to his prosecution for interstate stalking and interstate extortionate threats. He claimed that prosecution for this conduct violated his rights under the First Amendment. Relying on *Giboney*, the Eighth Circuit ruled that Petrovic's speech was not protected "[b]ecause Petrovic's harassing and distressing communications were integral to his criminal conduct of extortion." *Id.* at 855.3

In *United States v. Sayer*, 748 F.3d 425 (1st Cir.2014), seeking to harass a former romantic partner, the defendant posted an online ad on Craigslist, created fake Facebook and MySpace accounts, and posted explicit photographs of her on pornography websites. In these postings, he impersonated her and invited men to her house for sexual encounters, leading a number of men to appear at her door. *Id.* at 429–30. The posts and visits continued even after Doe changed her name and moved. *Id.* The defendant was charged with cyberstalking under 18 U.S.C. § 2261A(2)(A). *Id.* The First Circuit relied on *Giboney* to reject the defendant's as-applied First Amendment challenge: "To the extent his course of conduct targeting Jane Doe involved speech at all, his speech is not protected. Here, as in *Giboney*, it served only to implement Sayer's criminal purpose." Id. at 433–34. In effect, the court concluded that whatever speech was involved could not possibly have any valid purpose.

United States v. Osinger, 753 F.3d 939 (9th Cir.2014) involved similar factual circumstances. The defendant, Osinger, repeatedly contacted his ex-partner asking her to restore their relationship. *Id.* at 941–43. After being refused, Osinger

created a fake Facebook page in his ex-partner's name which included sexually explicit photographs of her. Osinger also sent explicit pictures of his ex-partner to her current and former co-workers. A jury convicted Osinger of cyberstalking. Like the First Circuit, the Ninth Circuit rejected the defendants *as-applied* First Amendment challenge to the prosecution, also concluding that the defendant's speech was not protected expression:

> Osinger designed a false Facebook page and sent emails to [the victim's] coworkers containing nude photographs of [the victim.] Any expressive aspects of Osinger's speech were not protected under the First Amendment because they were 'integral to criminal conduct' in intentionally harassing, intimidating or causing substantial emotional distress to [the victim.]"

Id at 947. *Osinger*, 753 F.3d at 948. ("The communications for which [the defendant] was convicted under § 2261A(2)(A) may be proscribed consistent with the First Amendment...Osinger's as-applied challenge is similarly unavailing given his intent to harass and intimidate a private individual.") Finally, in *United States v. Bowker*, 372 F.3d 365, 379 (6th Cir.2004)5, rev'd on other grounds 543 U.S. 1182, 125 S.Ct. 1420, 161 L.Ed.2d 181 (2005), the Sixth Circuit also rejected a First Amendment challenge to a cyberstalking charge, where the defendant had direct communication with the victim.

And *Matusiewicz*, 84 F. Supp. 3d 363, extends the *Giboney* reasoning to conduct nearly identical to Mr. Wade's harassing behaviors in the present matter. In *Matusiewicz*, the defendant created online posts accusing his wife of sexually abusing their children, and forwarding links to those online posts to staff at the children's school, and members of the children's church. Matusiewicz, 84 F. Supp. 3d at 366. The defendant argued that he could not be criminally culpable for those accusations under the federal cyberstalking statutes unless they were false and defamatory, but the U.S. court for the district of Delaware disagreed.

> Concern over the threat of criminal prosecution inhibiting speech is further ameliorated by two of the statutory elements of the offense: the mens rea requirement—"intent to kill, injure, harass, or intimidate another person," 18 U.S.C. § 2261A(2)—coupled with the further requirement that the defendant "engage[d] in a course of

> conduct" that reasonably gave rise to intimidation on the part of the victim. Although some First Amendment scholars have argued that such statutory requirements are not always sufficient to safeguard free speech, *see* Eugene Volokh, Crime–Facilitating Speech, 57 Stanford L.Rev. 1095 (2005), I am satisfied that the Indictment here does not violate the First Amendment.

Matusiewicz, 84 F. Supp. 3d at 373.

All Washington cases examining the constitutionality, *as-applied* or otherwise, of Washington's anti-harassment and cyberstalking statutes have reached the same conclusion. For example, in the *almost- identical* case of *Bini v. City of Vancouver*, No. C16-5460 BHS, 2017 WL 2226233, at *1 (W.D. Wash. May 22, 2017), the defendant created a website about the victim, who was his friend's estranged wife, claiming that she was a "fraud," "an excessive drinker," and that the failure of her marriage were actually the result of her "own alcohol-induced rage." *Bini*, 2017 WL 2226233, at *1. The defendant then forwarded links to those online postings to the estranged wife's friends and professional colleagues, which led to the victim-wife obtaining an anti-harassment and cyberstalking restraining order against Bini, followed by Bini's arrest. Bini sued the arresting law enforcement agency claiming the restraining order and subsequent arrest encroached his First Amendment rights, but the federal court rejected that argument. . Bini, 2017 WL 2226233, at *6 (W.D. Wash. May 22, 2017) (The "evidence provided...probable cause to believe that, on more than one occasion, Plaintiff had sent electronic communications to third parties with whom Smith had close ties for the purpose of harassing, intimidating, tormenting, or embarrassing..." the victim.).

And in the matter of *In re Guardianship of Janzen*, 190 Wash. App. 1041 (2015), party named Mr. Tompkins was temporarily restrained because he had created websites with the URL addresses www.spokanestalker.com and www.valentinesdaystalker.com. On these websites, Tompkins posted both harassing *and* defamatory content about the victim, Janzen (who was incapacitated), and her caregiving family, the Wolvertons. The Wolvertons sought and obtained a permanent injunction under Washington's anti-harassment statute that prohibited Tompkins from maintaining or "posting the websites

www.spokanestalker.com and www.valentinesdaystalker.com on the internet for public viewing." *Id.* Mr. Tompkins filed a motion to vacate the 2008 permanent injunction claiming the prohibition on publishing on his websites was an unconstitutional prior restraint on speech because (1) the lawfully obtained and truthful information was part of the public record, and (2) the order did not specify the type of information that could not be published, but instead prohibited all information. *Id.*

In its oral ruling, the *Janzen* trial court found that the restrictions on the websites were appropriate. The court noted the importance of First Amendment rights, but found that the rights were not absolute and that harassing and defamatory speech is not constitutionally protected. *Janzen*, 190 Wash. App. 1041 (2015). Tomkins appealed on First Amendment grounds, in large part because he claimed his postings were not defamatory. The Washington court of appeals rejected Tompkins' argument, finding that even truthful speech that is harassing in nature loses its protections for purposes of Washington's ant-harassment and cyberstalking statutes. *Janzen*, 190 Wash. App. 1041 (2015) ("To the extent the injunction prohibits publication of harassing or defamatory speech, this does not involve a constitutionally protected right and can be properly prohibited.")

Similarly, in the matter of *In re Marriage of Guthrie*, 188 Wash. App. 1057 (2015), the petitioner sought and obtained an antiharassment restraining order against his estranged wife. The Order prohibited the wide from contacting the victim's military superiors and colleagues. The Court of appeals properly noted that when the plain elements of Washington's definition of harassment, the speech involved therein no longer receives First Amendment protection.

> A superior court may enter a civil antiharassment protection order if it finds by a preponderance of the evidence that unlawful harassment exists. "Unlawful harassment" is 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." "course of conduct" is "a pattern of conduct, composed of a series of acts over a period of time, however short, evidencing a continuity of purpose." An individual's course of conduct is measured both subjectively and

> objectively. The course of conduct must be "such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner." The course of conduct may include harassing behavior directed to others who have a relationship with the petitioner, even though the others are not parties to the action. "Constitutionally protected activity is not included within the meaning of 'course of conduct.'"

Guthrie, 188 Wash. App. 1057 (2015). Ms. Guthrie attempted to justify her attempted contacts with her husband's military colleagues by arguing that she feared her husband was committing fraud on the military, which rendered her speech a legitimate exercise of her First Amendment rights, but the court disagreed.

> [T]he trial court was not compelled to agree with Guthrie that the disability claim was fraudulent and that Guthrie's conduct was motivated by her interests in preventing a fraud. It was within the trial court's discretion to find that Guthrie was attempting to harass or intimidate those assisting Zaratkiewicz. Such conduct is not constitutionally protected and is adequate to support a protective order.

Guthrie, 188 Wash. App. 1057 (2015).

In *State v. Alphonse*, 142 Wash. App. 417, 435–36, 174 P.3d 684, 694 (2008) which was a prosecution brought under Washington's telephone harassment statute, the Court dealt with the defendant's First Amendment defense as follows:

> [T]he statute "regulates conduct implicating speech, not speech itself" by requiring an intent to harass, intimidate, torment or embarrass when the speech is uttered. Indeed, the footnote upon which Alphonse relies states: "such telephone calls [including those to a public official] would not fall within the purview of the subsection unless the caller had the requisite intent."

> Applying the statute here did not violate Alphonse's First Amendment rights. While Alphonse may have been legally voicing disapproval about the way in which Meyers handled the investigation, once he used speech to harass, intimidate, torment or embarrass Meyers, his conduct became criminal.

Alphonse, 142 Wash. App. at 431–32.

In *State v. Petz*, 97 Wash. App. 1010 (1999), the defendant was convicted of, and civilly restrained from, harassment and stalking of the victim, his former wife, because he placed flyers around her residential neighborhood that read as follows:

> REWARDS
> FOR INFORMATION
> AND EVIDENCE
> INDICATING [C's First and Last Names]
> HAS COMMITTED
> ADULTERY SINCE SHE
> ABANDONED HER
> HUSBAND
> For information or to assist please call [phone number]

Petz, 97 Wash. App. 1010 (1999). Mr. Petz appealed his conviction on grounds that his distribution of flyers constituted First Amendment protected speech. The trial court and court of appeals disagreed. *Id.* ("Petz has failed to demonstrate that he had a constitutional right to repeatedly post hundreds of flyers in...[his wife's neighborhood]... suggesting that she abandoned her husband and engaged in adulterous behavior...").

Notably, the court of appeals in Petz provided a clear articulation of the test for whether speech involved in harassment loses its first amendment protections.

> Petz claims that he was merely engaged in the constitutionally protected activity of leafletting. See *United States v. Grace,* 461 U.S. 171, 176, 103 S.Ct. 1702, 75 L.Ed.2d 736 (1983) ("There is no doubt that as a general matter peaceful picketing and leafletting are

> expressive activities involving 'speech' protected by the First Amendment."). But Petz was not prosecuted simply because he posted flyers. Rather, he was prosecuted for engaging in conduct (1) that intentionally and repeatedly harassed C, (2) that placed C in reasonable fear of injury, and (3) where Petz intended to frighten, intimidate, or harass C, or where Petz knew or reasonably should have known that C would be afraid, intimidated, or harassed by such actions. See RCW 9A.46.110.

State v. Petz, 97 Wash. App. 1010 (1999).

Based on cases like *Petz*, *Guthrie*, and many others, a clear test emerges. If a court finds by preponderance of the evidence that speech has been coupled with conduct meeting the plain language definition of harassment or cyberstalking, the speech loses first amendment protection. *Rogers v. Rushford*, No. 49598-8-II, 2018 WL 1168769, at *3 (Wash. Ct. App. Mar. 6, 2018) ("Under RCW 10.14.080(3), if after a hearing, the trial court "finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment."). This is because speech coupled with the appropriate mens rea and actus rea for harassment or cyberstalking, by definition because speech that falls outside the protections of the First Amendment. In this regard, the recitation that cyberstalking does not include First Amendment protected activities—not because they are carved out, but because by definition they do not meet the intent requirement that the speech at issue be motivated by a desire to harass, rather than another lawful purpose.

"The key to the analysis is whether the purpose of the challenged speech is to harass the victim, or the serve a lawful purpose." *Kencayd v. Priece*, 196 Wash. App. 1073 (2016); *State v. Stanley*, 200 Wash. App. 1035 (2017), review denied, 189 Wash. 2d 1036, 407 P.3d 1148 (2018), and cert. denied, 138 S. Ct. 1702, 200 L. Ed. 2d 959 (2018), reh'g denied, 138 S. Ct. 2670 (2018) ("Because the intent to harass element of the cyberstalking statute likewise proscribes only speech that is intended to abuse the listener, Stanley's argument fails."); *Matter of Condrey*, 197 Wash. App. 1076 (2017) ("The determination of whether unlawful harassment exists warranting an order of protection is largely controlled by statute."); *City of*

Tukwila v. Belec, 119 Wash. App. 1004 (2003) ("In order to determine whether the caller possessed the requisite intent, the evidence is viewed from the perspective of the caller. *Huff,* 111 Wn.2d at 930, (the statute "defines the proscribed conduct solely in reference to the caller"); *Dyson,* 74 Wn.App. at 246, n. 6 ("the focus is solely on the caller, not the subjective harm to the victim"); *State v. Corbin*, 186 Wash. App. 1038 (2015) ("Cyberstalking is an offense with the potential to be based on protected speech... For that reason, this court conducts an independent examination of the entire record to be sure that the speech in question actually falls within the unprotected category.")

In this case, Mr. Wade's conduct overwhelmingly demonstrates the intent to harass, torment and embarrass to satisfy the mens rea components of harassment and cyberstalking. His online posts and direct electronic messages expressly state that Mr. Wade's intent is to ruin Mr. Du Wors' life and take away Mr. Du Wors' livelihood. Mr. Wade will unquestionably claim he is motivated mainly by a desire to warn the public, which he will claim should receive the protections of the First Amendment. But the courts generally recognize this rationalization as pretextual, and enforce the ant-harassment and cyberstalking laws where it appears, by preponderance of the evidence, that harassment was the primary motivator. *See United States v. Matusiewicz*, 84 F. Supp. 3d 363, 366 (D. Del. 2015), aff'd sub nom. *United States v. Gonzalez*, 905 F.3d 165 (3d Cir. 2018), even speech purporting to address legitimate social concerns may be restrained where it is coupled with conduct amounting to stalking or harassment.

For instance, in *United States v. Sergentakis*, No. 15 CR 33 NSR, 2015 WL 3763988, at *6 (S.D.N.Y. June 15, 2015), the defendant was convicted of cyberstalking after he had waged a campaign of personal attacks against...[the victim] through letters, emails, and the Internet, concerning allegations of child molestation, animal cruelty, case fixing, and rape, among others." The defendant argued his speech was a matter of public concern and that his victim was a public figure, thus justifying First Amendment protection. The court articulated the following test when that defense is raised, providing that even if the victim was

> "a public figure, the speech at issue in this prosecution is not a matter of public concern. "Speech deals with matters of public

> concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community or when it is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public." *Snyder v. Phelps*, 131 S.Ct. 1207, 1216 (2011) (internal citations and quotation marks omitted). "Deciding whether speech is of public or private concern requires us to examine the content, form, and context of that speech." Id . (citing Dim & Bradstreet, Inc., 472 U.S. at 761)..."

United States v. Sergentakis, No. 15 CR 33 NSR, 2015 WL 3763988, at *6 (S.D.N.Y. June 15, 2015). The Court's review in this regard found the defendant was more motivated to harass than warn the public of the victim's character.

> Having determined that for purposes of this prosecution Walter is not a public figure, and that the speech in question does not implicate matters of public concern, this Court declines to follow *Cassidy*[1]. Looking to the as-applied challenges to the cyberstalking statute in *Osinger*, Sayer, and *Petrovic*, it is clear that "[a]ny expressive aspects of [the defendant's websites, letters, and emails described herein] were not protected under the First Amendment because they were integral to criminal conduct in intentionally

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[1] *United States v. Cassidy*, 814 F.Supp.2d 574 (D.Md.2011) is the only known federal case where the court has granted a motion to dismiss a cyberstalking prosecution, based on first amendment grounds. But in that case, the court understood the same weighing analysis. It concluded the defendant's online criticisms of the leader of a religious group to which the defendant had previously belonged seemed, by preponderance of the evidence, more intended to engage in commentary about public concern, than to harass. Interestingly, the *Cassidy* reasoning formed the primary basis for the Kitsap Superior Court to overturn the restraining orders issued in *Moriwaki v. Rynearson*. So the Kitsap Superior Court's decision to vacate those orders does not contradict the analysis set forth in this brief. It just reached a different conclusion based on the unique facts of that case.

harassing, intimidating or causing substantial emotional distress to" the defendant."

Sergentakis, No. 15 CR 33 NSR, 2015 WL 3763988, at *7.

B. The relief set forth in the TRO is supported by caselaw and First Amendment principles.

"Washington trial courts have the authority to enjoin dissemination of abusive speech, which includes defamation and harassment." *Armesto v. Rosolino*, 182 Wash. App. 1014 (2014). "Post-publication restrictions, on the other hand, 'simply prohibit further exercise of the right after a showing of abuse.' Subsequent punishment of abusive speech, including an injunction of repetitive defamation, is not a prior restraint." *Id.* Mr. Du Wors' primary requested relief is that Mr. Wade be restrained from posting about Mr. Du Wors on social media or the internet. This is not a speech content restriction, but a conduct restriction that has been approved by numerous courts. *See Campbell v. Drollinger, 198 Wash. App. 1057 (2017), as amended (Apr. 27, 2017)* (girlfriend ordered to remove posts about ex-boyfriend from www.LiarsCheatersRUs.com); *In re Guardianship of Janzen*, 190 Wash. App. 1041 (2015) (respondent ordered to remove posts about petitioner and third party victims on www.spokanestalker.com and www.valentinesdaystalker.com); *United States v. Sergentakis*, No. 15 CR 33 NSR, 2015 WL 3763988, at *6 (S.D.N.Y. June 15, 2015) (Ordering defendant to cease posting about his victim online); *United States v. Matusiewicz*, 84 F. Supp. 3d 363, 366 (D. Del. 2015), *aff'd sub nom. United States v. Gonzalez*, 905 F.3d 165 (3d Cir. 2018) (defendant/ respondent ordered to cease posting child abuse allegations about his victims online); *Bini v. City of Vancouver*, No. C16-5460 BHS, 2017 WL 2226233, at *1 (W.D. Wash. May 22, 2017), (defendant ordered to delete a website he created about the victim, who was his friend's estranged wife, claiming that she was a "fraud," "an excessive drinker," and that the failure of her marriage were actually the result of her "own alcohol-induced rage.")

Respectfully submitted,

John Du Wors

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NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KITSAP COUNTY

CLARENCE MORIWAKI,
Petitioner/Appellee,

v.

RICHARD RYNEARSON aka RICHARD LEE,
Respondent/Appellant.

No. 17-2-01463-1

DECISION ON RALJ APPEAL

**** Clerk's Action Required ****

THIS MATTER comes before the Court on appeal of a final decision of a Kitsap County court of limited jurisdiction pursuant to RALJ 1.1. Respondent Rynearson appeals the trial court's entry of a final stalking protection order issued pursuant to RCW 7.92.100 on July 17, 2017.

SUMMARY

Freedom of speech is strongly protected from executive, legislative and judicial branch interference under the First Amendment to the United States Constitution.

In the stalking protection order context, the legislature recognizes that victims of stalking conduct deserve protection which can be accomplished "without infringing on constitutionally protected speech or activity." RCW 7.92.010.

JUDGE KEVIN D. HULL
Kitsap County Superior Court
614 Division Street, MS-24
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On the record before this Court, Respondent's actions are protected by the First Amendment. Accordingly, the trial court's decision to grant the stalking protection order is reversed, the stalking protection order is vacated, and the matter is remanded to the trial court for entry of dismissal.

ISSUE

RCW 7.92.020(3) provides that "stalking conduct" occurs in one of three alternative ways – (1) any act of stalking under RCW 9A.46.110; (2) any act of cyberstalking under RCW 9.61.260; and/or (3) any course of conduct involving repeated or continuing contacts, attempts to contact, monitoring, tracking, keeping under observation, or following of another that: (i) would cause a reasonable person to feel intimidated frightened, or threatened and that actually causes such a feeling; (ii) serves no lawful purpose; and (iii) that stalking knows or reasonably should know threatens, frightens, or intimidates the person, even if the stalker did not intend to intimidate, frighten, or threaten the person.

The issue before the Court is whether the trial court properly issued a stalking protective order under any one of these alternative means.

FACTUAL AND PROCEDURAL HISTORY

Petitioner Clarence Moriwaki ("Moriwaki") and Respondent Richard Lee Rynearson, III ("Rynearson") both reside on Bainbridge Island, Washington. They have homes near one another.

Moriwaki is a founding member and volunteer director of the Bainbridge Island Japanese American Exclusion Memorial Association ("Memorial Association"). The Memorial Association is a non-profit organization that oversees a National Historic Site relating to the internment of Japanese-American residents forcibly removed from Bainbridge Island. The Memorial Association also promotes education about Japanese-American internment during World War II. Moriwaki gives speeches and has appeared in various media outlets to discuss internment and its lessons. Moriwaki regularly posts on Facebook regarding internment and related topics.

Rynearson frequently opines online about the National Defense Authorization Act of 2012 ("NDAA") which includes specific legislation about Guantanamo Bay detainees. He also comments on proposed legislation in Washington State such as Senate Bill 5176 that relates to the detention of United States citizens and lawful resident aliens under the NDAA. He regularly posts about the Memorial Association.

A timeline of relevant events is as follows:

November 20, 2016

Moriwaki accepted a "friend" request on his personal Facebook page from Rynearson. Over time the two voluntarily interacted on Facebook regarding a variety of topics. They eventually exchanged phone numbers.

January 24, 2017

In response to a Facebook comment by Rynearson, Moriwaki posted that Rynearson was "hijacking" comment threads.

January 25, 2017

Rynearson commented on the Memorial Association Facebook page, criticizing Moriwaki's support of President Obama and Governor Inslee. Over the next several days the two engaged in banter regarding a variety of topics.

January 27, 2017

Moriwaki posted an article on his personal Facebook page regarding hate crimes against Muslims and stated:

> Moriwaki: "So it begins."

To which Rynearson responded:

> Rynearson: "So what begins? You're not suggesting that attacks on Muslims are just beginning, or that bigotry against Muslim Americans is just beginning, are you? Surely not."

Moriwaki told Rynearson that this response offended him.

January 28, 2017

Moriwaki shared a post that he authored on behalf of the Memorial Association that contained an editorial he wrote for the *Seattle Times* after September 11, 2001. Rynearson responded asking why Moriwaki was not supporting SB 5176, which aimed at preventing usage of the NDAA against Washington citizens. Moriwaki responded by deleting the comment from his Facebook page. Rynearson later posted another public message on Moriwaki's page regarding the deletion of the post, and asking why Moriwaki was not engaging in the discussion surrounding the NDAA.

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Moriwaki: "Your post, re-post and this very comment are the definition of trolling, relentless contact that harasses. Along with being insulted and offended, you don't get to define when I feel harassed."

January 29, 2017

Moriwaki initiated a private Facebook message conversation with Rynearson addressing the exchanges of the past few days:

Moriwaki: "My patience is wearing thin. I waited to see what your response would be when I said that you had offended me." And:

Moriwaki: "you see it [(a post)] as an opportunity to promote your POV (of which I usually agree)," the comment was an "argumentative demand," and it reflected a "pious self-righteous audacity to write your bullying demand on My Timeline." He then said "You have crossed a line. You are not conversing but trolling."

Moriwaki continued, describing his Facebook page as hosting a party, where friends are:

Moriwaki: "welcome to comment," but "if someone at the party keeps butting in, trying to monopolize conversations, I as the host have the right to ask them please cease and desist." ... "You are clearly a passionate person, but please promote your ideas and attract people to your own wall. Create your own party. Stop the bullying and attempts to hijack my party."

Rynearson responded to Moriwaki's message, saying that he would read it and respond. Moriwaki replied by objecting to Rynearson publicly commenting again about Moriwaki's lack of support for SB 5176. From that point Rynearson's wife then commented (using Rynearson's account) to explain why her husband was engaging with Moriwaki regarding the NDAA and state legislation. Moriwaki responded that he was waiting to see Rynearson's response to Moriwaki being offended as:

Moriwaki: "a test of [Rynearson's] character and sincerity," and objected that Rynearson had not acknowledged that he offended Moriwaki.

Moriwaki: "Your post, re-post and this very comment are the definition of trolling, relentless contact that harasses. Along with being insulted and offended, you don't get to define when I feel harassed." ... "To be continued, I am late meeting a friend for breakfast ...."

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January 30 to February 4, 2017

Rynearson commented on four of Moriwaki's public posts. Moriwaki "liked" one of the comments and did not delete or object to any of the others.

February 3, 2017

Moriwaki posted a public comment supporting the Washington lawsuit challenging the federal travel ban, including tags and links to the official and personal Facebook pages of Governor Inslee. Rynearson posted a comment on this post regarding Inslee's vote for the NDAA while in Congress and replied to comments from several other people voicing support of Governor Inslee. Moriwaki responded to these comments, labelling them as trolling, and indicated he wanted to continue the private message conversation with Rynearson.

February 4, 2017

Rynearson posted a lengthy public comment on Moriwaki's page regarding President Obama and then U.S. Congressman Inslee's Support of the NDAA:

> Rynearson: "just because someone is different than you, Clarence Moriwaki, doesn't make them a "troll or someone who 'harasses' or a 'threat' or a 'subversive. Let's celebrate diversity, Clarence.'"

The following exchange took place via private Facebook message:

> Moriwaki: "you are doing real time trolling. Can't you control yourself? You are bullying … you are also a bit of a sociopath…"
>
> Rynearson: "Clarence I am not trolling or bullying … now you are about to cross my line I highly advise you to reconsider. my line is one of diversity and free speech. I promise to you with everything that I am, your efforts to stifle free speech will fail you massively."
>
> Moriwaki: "I'm going to do something that I gave [up] hoping that you would do. I am sorry. I didn't have my coffee and my phone lit up with multiple notifications from you. I'm sorry, and I didn't mean to hurt you. However, please reflect. I am going to be late. To be continued."

February 5, 2017

Moriwaki deleted several of Rynearson's comments from the thread regarding Governor Inslee and the travel ban lawsuit that was originally posted on February 3rd. Rynearson sent a private message to Moriwaki objecting to the deletions of the comments. Rynearson began reposting some of the deleted comments with screenshot photos and making commenting about deletion of the posts.

Moriwaki responded to Rynearson with a private Facebook message:

Moriwaki: "Stop trolling. Stop it. You are harassing, bullying and relentless. Stop. Your self-righteous reposting is the definition of harassment... Dude, I am going to report you to Facebook. KNOCK IT OFF!"

The two then argued back and forth, with Moriwaki twice describing his "party" analogy for Facebook. This culminated in the following exchange:

Moriwaki: "[Rynearson is trying to] hijack [Moriwaki's] page with [his] single-issue obsession."

Rynearson: "[A] differing view is not trolling or harassing or bullying."

Moriwaki: "KNOCK IT OFF!" ... "I have asked you to stop posting on MY PAGE!"... "We are done."

Rynearson: "Oh, we're not done. What follows next is done with love. You need my help to celebrate diversity. Should you reflect upon your behavior and your fear of those who are different and should you come to celebrate free speech and discourse in the future, please let me know."

Moriwaki then blocked Rynearson on Facebook.

The same day (shortly after blocking Rynearson on Facebook) Moriwaki received a text message from Rynearson and the following exchange took place:

Rynearson: "Mr. Moriwaki, I'm doing an initial story for a new up and coming blog (ClarenceMoriwakiBainbridgelsland.com) about your role as president of the memorial and your support for multiple politicians who expressly voted to make internment happen again. Looking forward to your comment for the story if you are interested. Thanks."

Moriwaki: "Of course, but first would you please ID yourself?"

Rynearson identified himself and there was a short text exchange:

Moriwaki: "Yeah, and this isn't trolling or harassment. Richard, your obsession is getting disturbing"

Rynearson stated that he was obsessed with preventing internment from happening again. Moriwaki responded:

Moriwaki: "Then start respecting me by leaving me alone."

Rynearson: "I understand you do not want me to contact you at this number you gave me. If you change your mind about a comment you know how to reach me. Goodnight."

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Rynearson did not Facebook message, text message, email, telephone, or otherwise contact Moriwaki after February 5th. There is no evidence Rynearson has posted on Moriwaki's Facebook page after being blocked. There is no evidence Rynearson contacted Moriwaki telephonically or otherwise after Moriwaki texted him to leave him alone.

February 5, 2017

On February 5, 2017 Rynearson created a public Facebook page entitled "Clarence Moriwaki of Bainbridge Island." The first post, dated February 6, states:

> Facebook Page: "This page is meant to be a discussion concerning our view that public figure, Clarence Moriwaki, President of the Bainbridge Island Japanese American Exclusion Memorial, is unfit to be President or board member for our memorial."

The page title was later changed to "Not Clarence Moriwaki of Bainbridge Island" after receiving critical posts regarding the title of the page.

On the page, there are a variety of memes, many bearing Moriwaki's photo. One has his photo with barbed wire and a message that Moriwaki supports "politicians who made indefinite detention without charge or trial 'legal'." Rynearson posted on the "Not Clarence Moriwaki of Bainbridge Island" Facebook page almost daily from February 23 until Rynearson was served the Temporary Protection Order on March 15. The posts criticized Moriwaki's role at the Memorial Association and his perceived support of politicians who supported the NDAA and related legislation. Other posts shared information about the NDAA and various efforts to fight it through lawsuits and state legislation. Rynearson paid for advertising of the page, causing it to appear in news feeds of those who did not sign up, or follow, the page. He made the page private after receiving the Temporary Protection Order.

February 7, 2017

A friend of Moriwaki's, Bonnie McBryan, made a public post on her Facebook page, open to public comments, sharing an article about liberal intolerance. Rynearson made some comments on McBryan's post (on her personal Facebook page) and mentioned Moriwaki censoring him as an example of liberal intolerance. Moriwaki could not see Rynearson's comments due to his Facebook block.

Rynearson commented:

> Rynearson: "I'm outside on the street, in Clarence's analogy, after Clarence put his hand over my mouth and threw me out. So I'm out on the public street now in front

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of his house talking to some of his guests (our mutual neighbors) as they leave his house, some of which appreciated my comments."

McBryan: "I am really concerned about your statement that you are outside Clarence Moriwaki's house and talking to his guests and mutual neighbors. I assume that is rhetorical; if not it sounds a bit threatening."

Rynearson: "Bonnie McBryan Now that is just silly."

McBryan: "Thank you -- and you see how easy it is for one to misunderstand a reference or misinterpret your actual intentions."

At some point during this exchange, McBryan messaged Moriwaki.

McBryan: "Richard announced he is outside your house. You might unblock him to take a screen shot– and consider calling the police."

Moriwaki: "Breathtaking. I hope that he is speaking metaphorically."

McBryan: "He just confirmed that he is."

July 17, 2017

On July 17, 2017, the trial court held a hearing as to whether the temporary stalking protection order previously entered should continue. Following the hearing the trial court issued a stalking protection order. The trial court determined that stalking, cyberstalking, and unlawful harassment occurred based upon the following findings:

- Rynearson posting on Moriwaki's Facebook page after being asked to stop;
- Rynearson re-posting screen captures of posts that had been deleted by Moriwaki;
- Rynearson's public post referring to Moriwaki's "party" analogy in explaining that, metaphorically, he was not at Moriwaki's party but on the public street outside his house;
- Rynearson's text message to Moriwaki seeking comment on his blog about Moriwaki;
- Rynearson's creation of the "Not Clarence Moriwaki of Bainbridge Island" page using Moriwaki's name;
- Rynearson's public posting of memes that used Moriwaki's image; and
- Rynearson advertising some of the posts from the "Not Clarence Moriwaki of Bainbridge Island" on Facebook.

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STANDARD OF REVIEW

In appeals of final decisions by courts of limited jurisdiction, the Superior Court sits as an appellate court. This Court reviews the trial court's decision for errors of law and accepts the trial court's findings of fact as verities where they are supported by sufficient evidence in the record.[1]

ANALYSIS

The trial court issued a stalking protection order. RCW 7.92.020(3) provides that "stalking conduct" occurs in one of three alternative ways – (1) any act of stalking under RCW 9A.46.110; (2) any act of cyberstalking under RCW 9.61.260; and/or (3) any course of conduct involving repeated or continuing contacts, attempts to contact, monitoring, tracking, keeping under observation, or following of another that: (i) would cause a reasonable person to feel intimidated frightened, or threatened and that actually causes such a feeling; (ii) serves no lawful purpose; and (iii) that stalking knows or reasonably should know threatens, frightens, or intimidates the person, even if the stalker did not intend to intimidate, frighten, or threaten the person.

For the trial court to be affirmed, the Court must find that at least one of the above statutory definitions of "stalking conduct" is satisfied.

In addition to the applicable statutes listed below, the Court is guided by the Washington Court of Appeals decision *State v. Noah*[2], and the Federal District Court decision *United States v. Cassidy*[3].

Unlawful Harassment

RCW 7.92.020(3)(c) clearly relates to RCW 10.14's unlawful harassment conduct. Reference to that statute is helpful. RCW 10.14.020 defines "course of conduct" and "unlawful harassment":

> 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

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[1] RALJ 9.1(a)–(b); *State v. Kessler*, 75 Wn. App. 634, 638–39, 879 P.2d 333 (1994).
[2] *State v. Noah*, 103 Wn. App. 29 (Div. I 2000).
[3] *United States v. Cassidy*, 814 F. Supp. 2d 574 (D. Md. 2011).

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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.[4]

"Course of conduct" does not include constitutionally protected free speech, constitutionally protected activity and constitutionally protected rights, including but not limited to, freedom of speech and freedom of assembly. Like RCW 7.92.020(3)(c)(ii), the Unlawful Harassment statute requires the court to determine whether course of conduct in question "serves no legitimate or lawful 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.[5]

State v. Noah provides persuasive guidance as to whether conduct "serves no legitimate or lawful purpose". In *Noah*, the respondent picketed outside on the sidewalk in front of a therapist's office. The respondent was protesting the legitimacy of recovered memory therapy. He carried signs that stated: "Voodoo Therapy Practiced Here," "David Calof, Mr. Windbag! Psychotherapist," "Big Bucks For Therapy Spreading Child Abuse Hysteria," and "David Calof Voice of Hatred And Revenge."[6] The Court of Appeals found that the picketing conduct could not serve as the basis of an anti-harassment order as it involved a legitimate and lawful purpose. The conduct was an exercise of the right of free speech, and therefore not unlawful.[7]

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[4] RCW 10.14.020.
[5] RCW 10.14.030.
[6] *State v. Noah*, 103 Wash. App. at 34–35.
[7] The anti-harassment order was upheld, however, because of other unprotected activity by the respondent.

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In the present case, it is difficult to reconcile how posting politically themed messages on a Facebook account about Moriwaki's role with the Memorial Association can be deemed unlawful harassment while the act of picketing directly outside a therapist's office in protest of the use of recovered memory therapy was considered constitutionally protected speech by the Washington State Court of Appeals in *Noah*. Both the posting on Moriwaki's personal Facebook page (until Moriwaki blocked Rynearson from his page), as well as the subsequent creation of the "Clarence Moriwaki of Bainbridge Island" Facebook page are an analogous extension of protected political speech or "picketing" on the internet.

Rynearson commented on the personal Facebook page of Moriwaki, voicing his opinions on topics that were relevant to posts initiated by Moriwaki. Moriwaki characterized this as "trolling," while Rynearson saw it as engagement of political discourse of public concern. "Speech deals with matters of public concern when it can 'be fairly considered as relating to any matter of political, social, or other concern to the community," ..., or when it 'is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public ....'"[8]

The United States Supreme Court has "long recognized that not all speech is of equal First Amendment importance. It is speech on " 'matters of public concern' " that is 'at the heart of the First Amendment's protection.'"[9] Rynearson criticized Moriwaki's role at the Memorial Association. This is not a purely private concern. The Memorial Association's work is a public issue (the forcible removal of Japanese-Americans and internment). Where Rynearson made statements against Moriwaki's role at the Memorial Association and generated images and memes using Moriwaki's likeness to post on the "Clarence Moriwaki of Bainbridge Island" Facebook page, this conduct is not substantially different than the statements on placards used to picket in *Noah*.

Rynearson asserts Moriwaki is a limited public figure regarding the issue of internment. Limited public figure status, in this context, requires that an affected party demonstrate by clear and convincing evidence that statements are uttered "with actual malice, that is, with knowledge of

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[8] *Snyder v. Phelps*, 562 U.S. 443, 453, 131 S. Ct. 1207, 1216, 179 L. Ed. 2d 172 (2011)(internal citations omitted).

[9] *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 758–59, 105 S. Ct. 2939, 2944–45, 86 L. Ed. 2d 593 (1985).

falsity or reckless disregard of the truth or falsity of the statement."[10] This is relevant because, as discussed below, "defamatory speech does not enjoy the protections of the First Amendment."[11]

> To be considered a public figure, courts usually require the plaintiff to voluntarily seek to influence the resolution of public issues. ...
>
> > [The] designation [as a public figure] may rest on either of two alternative bases. In some instances an individual may achieve such pervasive fame or notoriety that he becomes a public figure for all purposes and in all contexts. More commonly, an individual voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues....[12]

Moriwaki is not a "public figure". Moriwaki is a "limited public figure", specific to the issue of internment and the Memorial Association. Moriwaki is a volunteer board member of the Memorial Association. He has given speeches and appeared in the media discussing internment and the lessons we should learn from incarceration without due process. Moriwaki has commented frequently in public regarding internment and its relevance to the present political climate on both his private Facebook page[13], as well as writing Facebook posts in the name of the Memorial Association. He has also had letters to the editor published in the *Seattle Times* discussing internment.

In *Camer v. Seattle Post-Intelligencer*, the Court of Appeals found that the petitioner had become a "limited public figure" because he voluntarily sought to influence the resolution of public issues via "press release, 'letters to the editor,' frequent participation in public meetings and hearings."[14] Moriwaki's involvement with the Memorial Association, his public actions, and related public political discourse on issues related to internment and incarceration without due process meet the criteria of a limited public figure based on the factors set out in *Camer*.

Even if Moriwaki is not a limited public figure, Rynearson's postings are still protected under *Noah*. In *Noah*, the respondent was picketing a private individual and the court nevertheless found that the picketing was a permissible exercise of free speech since the speech was uttered on public property. Whether Moriwaki is a "limited public figure," or simply a private individual,

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[10] *Alpine Indus. Computers, Inc. v. Cowles Pub. Co.*, 114 Wash. App. 371, 388, 57 P.3d 1178, 1188 (2002), amended, 64 P.3d 49 (Wash. Ct. App. 2003).
[11] *Thomson v. Doe*, 189 Wash. App. 45, 50, 356 P.3d 727, 730 (2015).
[12] *Camer v. Seattle Post-Intelligencer*, 45 Wash. App. 29, 42, 723 P.2d 1195, 1203 (1986)(internal citations omitted).
[13] At least once "tagging" Governor Inslee's official and private Facebook pages.
[14] *Camer v. Seattle Post-Intelligencer*, 45 Wash. App. at 43.

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Rynearson's public internet postings opining about Moriwaki's involvement with the Memorial Association are subject to First Amendment protections.

Camer cites two cases relevant to the analysis of protected speech like that in *Noah*. In *Spelson v. CBS*, the court found that in the context of a series of news broadcasts entitled "Cashing in on Cancer", statements such as "Spelson had overstepped the bounds of his training", Spelson's practices were "unethical, unprofessional, inhuman and totally worthless", Spelson's behavior "really borders on the criminal", and other statements regarding "cancer con-artists" and "cancer quacks" were permissible statements of opinion.[15]

Camer also cites *Information Control Corp. v. Genesis One Computer Corp.*, where the court held that even apparent statements of fact may assume the character of opinions, and are therefore protected, when made in "public debate...or other circumstances in which an audience may anticipate efforts by the parties to persuade others to their position by use of epithets, fiery rhetoric or hyperbole."[16]

Other case law supports fundamental principles that uphold robust First Amendment protections in the field of public debate.[17,18]

Rynearson's internet postings qualify as public debate and therefore his criticisms of Moriwaki regarding his position with the Memorial Association and challenges to stated political opinions are permissible under the First Amendment.

The trial court held that the "true purpose of [Rynearson's] course of conduct is to harass, intimidate, torment and embarrass Moriwaki and to cause harm to his community reputation ... began as retaliation after being limited, rejected and eventually blocked from Moriwaki's personal site."[19] In *Noah*, the respondent may not have had any genuine interest in "recovered memory therapy," just as Rynearson may not have any genuine interest in the issue of internment and

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[15] *Spelson v. CBS, Inc.*, 581 F. Supp. 1195 (N.D. Ill. 1984), *aff'd*, 757 F.2d 1291 (7th Cir. 1985).
[16] *Info. Control Corp. v. Genesis One Computer Corp.*, 611 F.2d 781, 784 (9th Cir. 1980)(quoting *Gregory v. McDonnell Douglas Corp.*, 17 Cal. 3d 596, 601, 552 P.2d 425, 428, 131 Cal. Rptr. 641, 644 (1976)).
[17] See *Organization for a Better Austin v. Keefe*, 402 U.S. 415 (1971) (holding the First Amendment protected the right to distribute leaflets "critical of [a realtor's] real estate practices" that accused him of being a "panic peddler," requested calls to his home phone number, and were distributed among his neighbors, passed out at a local shopping center, and handed out to people on their way to or from the realtor's church).
[18] See *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982) (criticism of African-American residents who did not participate in a boycott of white-owned stores, whose names were listed in leaflets and mentioned in church speeches, was protected speech).
[19] See trial court's Conclusions of Law, paragraph 7.

Moriwaki's role with the Memorial Association. Nevertheless, the speech is protected even if it is not based on any firmly held belief so long as it does not fall within any of the categories of unprotected speech as enumerated in the *Cassidy* case analyzed below.

Moriwaki asserts that Rynearson's speech towards and about him is trolling, bullying and harassing. However, as the Court of Appeals noted over 20 years ago, Washington's unlawful harassment statute is "not designed to penalize people who are overbearing, obnoxious or rude."[20] Indeed, as stated in *Snyder v. Phelps*, in "public debate [we] must tolerate insulting, and even outrageous, speech in order to provide adequate 'breathing space' to freedoms protects by the First Amendment."[21] United States Supreme Court precedent firmly establishes a 'longstanding refusal' to allow civil remedies 'because the speech in question may have an emotional impact on the audience.'"[22]

Stalking and Cyberstalking

RCW 7.92.020(3)(a) provides that "stalking conduct" includes any act of stalking as defined by RCW 9A.46.110. Stalking under that statute occurs in one of three ways:

> (1) RCW 9A.46.110:
>
> > (1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:
> > (a) He or she intentionally and repeatedly harasses or repeatedly follows another person; and
> > (b) The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and
> > (c) The stalker either:
> > (i) Intends to frighten, intimidate, or harass the person; or
> > (ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person. ...[23]

Similarly, RCW 7.92.020(3)(b) provides that "stalking conduct" includes any act of cyberstalking as defined by RCW 9.61.260, which reads:

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[20] *Burchell v. Thibault*, 74 Wn. App. 517, 522 (1994).
[21] *Snyder v. Phelps*, 562 U.S. at 458 (quoting *Boos v. Barry*, 485 U.S. 312, 322, 108 S.Ct. 1157, 99 L.Ed.2d 333 (1988)).
[22] See *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 55, 108 S. Ct. 876, 882, 99 L. Ed. 2d 41 (1988).
[23] RCW 9A.46.110.

> (1) A person is guilty of cyberstalking if he or she, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to such other person or a third party: ...
>
> (b) Anonymously or repeatedly whether or not conversation occurs; ...[24]

As applied to the stalking and cyberstalking statutes, the *Cassidy* case is particularly persuasive. The defendant in *Cassidy* developed a personal relationship of a leader of a Buddhist sect, claiming to be follower of that sect. The leader declined his romantic advances, but confided intimate details of her personal life to defendant. Followers of the sect noticed inconsistencies in defendant's actions in line with their religious beliefs and they confronted him about that. The defendant left sect and began using Twitter and blog posts to comment on the sect and leader personally. The Federal Court found that all but a few hundred of nearly 8,000 Twitter posts were directed at or related to the sect or sect leader. The Federal Court, analyzed the First Amendment in conjunction with internet postings:

> Blogs are of unlimited size in terms of content, but must be accessed one at a time. Twitter is limited to 140 characters, but allows unlimited voluntary connectivity with other users. That connectivity, however, is subject to change at the whim of a user who has the ability to "turn off" ("block" or "unfollow") communications from another user.
> ...
>
> ... One does not have to walk over and look at another person's bulletin board; nor does one Blog or Twitter user have to see what is posted on another person's Blog or Twitter account. This is in sharp contrast to a telephone call, letter or e-mail specifically addressed to and directed at another person, and that difference, as will be seen, is fundamental to the First Amendment analysis in this case.[25]

The court in *Cassidy* further held:

> [T]he First Amendment protects speech even when the subject or manner of expression is uncomfortable and challenges conventional religious beliefs, political attitudes or standards of good taste. ... In *Cantwell v. Connecticut*, 310 U.S. 296, 310, 60 Sect. 900, 84 L.Ed. 1213 (1940), the Supreme Court overturned the conviction of three individuals for passing out religious leaflets in violation of a Connecticut statute that made it a crime to solicit and breach the peace and observed:
>
> > In the realm of religious faith, and in that of political belief, sharp differences arise. In both fields the tenets of one man may seem the rankest error to his neighbor. To persuade others to his own point of view, the pleader, as we know, at times, resorts to exaggeration, to vilification of men who have been, or are, prominent in church or state, and even to false

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[24] RCW 9.61.260.
[25] *United States v. Cassidy*, 814 F. Supp. 2d at 577-78.

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> statement. But the people of this nation have ordained in the light of history, that, in spite of the probability of excesses and abuses, these liberties are, in the long view, essential to enlightened opinion and right conduct on the part of the citizens of a democracy.
>
> ***Indeed, the Supreme Court has consistently classified emotionally distressing or outrageous speech as protected, especially where that speech touches on matters of political, religious or public concern.*** This is because "in public debate our own citizens must tolerate insulting, and even outrageous, speech in order to provide 'adequate 'breathing space' to the freedoms protected by the First Amendment.' [26]

In other words, *Cassidy* holds that where speech has a legitimate purpose it remains protected even if it causes distress to the individual being criticized. Rynearson's speech is entitled to "special protection" under the First Amendment because it was uttered at a public place (public postings on the internet) on matters of public concern (the Memorial Association, the forcible removal of Japanese-Americans and internment). Such speech, while causing emotional distress to Moriwaki, cannot be restricted solely because it is upsetting or arouses contempt.

The court in *Cassidy* enumerated the categories of speech specifically determined to not be protected under the First Amendment:

> Even though numerous court decisions have made a point to protect anonymous, uncomfortable speech and extend that protection to the Internet, not all speech is protected speech. There are certain "well-defined and narrowly limited classes of speech" that remain unprotected by the First Amendment. ... This type of unprotected speech is limited to, (a) obscenity, ... (b) defamation, ... (c) fraud, ... (d) incitement, ... (e) true threats, ... and (f) speech integral to criminal conduct ... ***Speech that does not fall into these exceptions remains protected.***[27]

There was never any demonstrated intent to injure, nor any physical threat by Rynearson toward Moriwaki or his property.[28] The closest instance of a "true threat" is the February 7, 2017, comment where Rynearson used Moriwaki's repeated party metaphor to say he was "out on the public street now in front of [Moriwaki's] house talking to some of his guests...." The subsequent relay of this message from the reader of the post to Moriwaki constituted a misinterpretation and misunderstanding of the metaphor introduced by Moriwaki, and was not a true threat. The record demonstrates multiple incidents where Moriwaki felt insulted, offended, bullied and harassed based on Rynearson's postings. Nevertheless, Moriwaki continued to both initiate and engage in private

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[26] *Id.* at 581–829 (emphasis added).
[27] *Id.* at 582–83 (internal citations omitted).
[28] The trial court reflected this fact in its decision to deny Moriwaki's petition for an order to surrender weapons.

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Facebook messaging with Rynearson. Moriwaki ended several conversations with "to be continued," as late as February 4, 2017, and "liked" at least one post by Rynearson between January 28 and February 3, 2017. These acts suggest a desire to continue engagement up until Moriwaki blocked Rynearson from his Facebook page.

There is no evidence that Rynearson surveilled, monitored, tracked or otherwise intentionally placed himself in proximity to Moriwaki for the purpose of stalking him, contacting him or interacting with him.

There was no obscenity by words or conduct.

There is no evidence incitement or speech integral to criminal conduct.

After their interactions on February 5th, Moriwaki properly exercised the remedy discussed in *Cassidy* by blocking Rynearson from his personal Facebook page. Moriwaki also had the ability to protect his "own sensibilities simply by averting" his eyes from Rynearson's subsequent internet postings on other pages after he blocked Rynearson.[29]

Following Rynearson's contact of Moriwaki via text message on February 5th, Rynearson did not have any telephonic contact with Moriwaki after Moriwaki told him to leave him alone.

Rynearson's creation of the "Clarence Moriwaki of Bainbridge Island" Facebook page is neither defamatory or fraudulent. The Facebook page does not purport to be run by Moriwaki, nor attempt to convince anyone that it is.

The elements a plaintiff must establish for defamation are "falsity, an unprivileged communication, fault, and damages."[30] The Facebook posts are protected speech and not defamatory. The posts largely relate to Rynearson's objections to NDAA and related proposed state legislation as well as his opinions about Moriwaki's involvement with the Memorial Association and challenges to Moriwaki's stated opinions. The trial court did not make any findings that Rynearson posted false

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[29] The decision in *United States v. Playboy Entertainment Group, Inc.*, 529 U.S. 803, 813, 120 S.Ct. 1878, 146 L.Ed.2d 865 (2000) underscores the fact that Moriwaki's interest limiting Rynearson's political speech is not a compelling one:

> Where the designed benefit of a content-based speech restriction is to shield the sensibilities of listeners, the general rule is that the right of expression prevails, even where no less restrictive alternative exists. We are expected to protect our own sensibilities simply by averting [our] eyes.

"Here, A.Z. had the ability to protect her 'own sensibilities simply by averting' her eyes from the Defendant's Blog and not looking at, or blocking his Tweets." *United States v. Cassidy*, 814 F. Supp. 2d at 585.

[30] *Mohr v. Grant*, 153 Wn.2d 812, 822, 108 P.3d 768, 773 (2005).

statements. At oral argument on appeal, Moriwaki argued that two statements in the February 6th post describing the Facebook page's purpose were false: (1) that Moriwaki was a public figure and (2) that Moriwaki was president of the Memorial Association. Whether one believes Moriwaki is a public figure regarding the issue of the forcible removal of Japanese-Americans and internment is a matter of opinion. If Moriwaki is incorrectly named as president of the Memorial Association and that statement is false, it is not actionable because it is not damaging to his reputation.

The Facebook page Rynearson created was a public communication, like the blogs and Twitter accounts at issue in *Cassidy*. Rynearson's challenges to Moriwaki's personal role with the Memorial Association on the Facebook page is analogous to the defendant in *Cassidy* challenging the leader's role in the Buddhist sect. While the Court understands Rynearson's conduct caused Moriwaki emotional distress, as stated in *Cassidy* "the Supreme Court has consistently classified emotionally distressing or outrageous speech as protected, especially where that speech touches on matters of political, religious or public concern."[31]

As to the subsequent "sponsored posts" that promoted the page on to public Facebook newsfeeds, while perhaps closer to more directed contacts like an email or a text message, the speech is still an amplification of the same public messages available on the page directed to the public. This conduct is the equivalent of picketing in a public place, which has been held to be protected speech in both *Noah* and *Snyder v. Phelps*[32].

Rynearson's internet postings critical of Moriwaki's role with the Memorial Association is permissible and protected speech. Rynearson's conduct undoubtedly and understandably caused significant and real annoyance and distress to Moriwaki, particularly with his persistence in posting. But Rynearson ceased contact with Moriwaki once there was an unequivocal request to do so. By blocking Rynearson, Moriwaki was able to prevent any further contacts from Rynearson via Facebook. Rynearson has likewise not contacted Moriwaki once Moriwaki texted him to leave him alone.

Rynearson did not commit "stalking conduct" as that term is defined by RCW 7.92.020(3). Accordingly, issuance of the stalking protection order below was an error of law. RALJ 9.1(a).

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[31] *United States v. Cassidy*, 814 F. Supp. 2d at 581.

[32] *Snyder v. Phelps*, 562 U.S. 443 (2011)(The Supreme Court held that protests at a soldier's funeral were of a public concern and thus entitled to First Amendment protections.).

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CONCLUSION

A stalking protection order is not an available remedy if the speech and conduct complained of is protected under the First Amendment. The communication and conduct in this case falls under the umbrella of constitutionally protected speech. The trial court erred by granting Moriwaki's petition for a stalking protection order.

It is hereby **ORDERED**, pursuant to RALJ 9.1(e), that (1) the trial court's decision to grant the stalking protection order herein is **REVERSED**, (2) the stalking protection order entered on July 17, 2017 is **VACATED**, and (3) the matter is remanded to the trial court for entry of an **ORDER OF DISMISSAL.**

DATED this 10th day of January, 2018.

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BAINBRIDGE ISLAND
MUNICIPAL COURT

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD L. RYNEARSON, III,

Plaintiff,

v.

ROBERT FERGUSON, Attorney General of the State of Washington, and TINA R. ROBINSON, Kitsap County Prosecuting Attorney,

Defendants.

NO. 3:17-cv-05531-RBL

DEFENDANTS' MOTION TO DISMISS AND OPPOSITION TO PLAINTIFF'S RENEWED MOTION FOR PRELIMINARY INJUNCTION

NOTE ON MOTION CALENDAR: November 30, 2018

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I. INTRODUCTION

This Court should reject Rynearson's attack on Washington's cyberstalking law, Wash. Rev. Code § 9.61.260(1)(b), which protects against stalkers using the Internet and other electronic means to terrorize and harm their intended victims.

As a threshold issue, this matter is not justiciable because of Rynearson's lack of standing. Rynearson cannot satisfy the constitutional requirement of having a personal, credible injury or threat of injury because the type of speech he wishes to engage in does not fall within the scope of Wash. Rev. Code § 9.61.260. Indeed, a Washington state court has already held Rynearson's speech to be protected under the First Amendment. Rynearson also cannot satisfy the constitutional requirements of causation and redressability when he faces no threat of prosecution for his protected speech from either of the named Defendants and any judgment in this case would provide ineffectual relief from enforcement of the statute statewide. Because Rynearson cannot establish an actual, genuine case or controversy instead of one based on hypotheticals or conjecture, his claims cannot proceed.

Even on the merits of Rynearson's motion, Rynearson has not met his heavy burden to obtain injunctive relief. Wash. Rev. Code § 9.61.260(1)(b) satisfies constitutional scrutiny. While Rynearson asserts the statute criminalizes protected speech, he ignores the wide swath of plainly legitimate applications to stalking conduct that are supported by the statute's plain meaning and Washington state case law. Even if Rynearson could show a likelihood of success on the merits, he has failed to prove the other elements required to obtain injunctive relief. In particular, Rynearson cannot demonstrate a likelihood of irreparable harm absent an injunction when his speech is constitutionally protected and outside the scope of cyberstalking law. He thus faces no risk that either Attorney General Ferguson or Kitsap County Prosecutor Robinson would seek to prosecute him or anyone else for engaging in the type of speech for which he seeks relief. Rynearson also cannot show that the balance of equities are in his favor or that an injunction against the cyberstalking law is in the public interest.

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II. FACTS RELEVANT TO MOTION

Clarence Moriwaki and Richard Lee Rynearson, III both reside on Bainbridge Island, Washington and have homes that are about 300 feet apart. Moriwaki is the founder of Bainbridge Island Japanese-American Exclusion Memorial, an organization dedicated to raising awareness about the internment of Japanese-Americans in Washington State during World War II. Rynearson regularly posts online about civil liberties issues. At issue in this case are Rynearson's repeated criticisms that Moriwaki failed to vocally condemn a provision in the National Defense Authorization Act of 2012 that Rynearson believed would permit indefinite detention of American citizens. The criticism came in the form of Facebook posts and messages to and about Moriwaki on Moriwaki's personal Facebook page; text messages to Moriwaki's cell phone; Rynearson's creation of a public Facebook page calling into question Moriwaki's fitness as President and board member of the Memorial; and public posting of a "meme" about Moriwaki on that Facebook page. *See* Dkt. 45 (Rynearson Decl.) ¶¶ 2-12; Mot. at 2:3-3:14; *see also* Dkt. 46 (Volokh Decl.) at 5-10, (Ex. A, Bainbridge Island Municipal Court Findings of Fact).

Based on allegations that Rynearson had stalked, cyberstalked, and harassed Moriwaki, a state municipal court entered a temporary stalking protection order against Rynearson in July 2017. Rynearson appealed the protection order. *See* Dkt. 46, Ex. B. In January 2018, the Washington State Kitsap County Superior Court vacated the protection order on grounds that Rynearson's speech was protected by the First Amendment. *Moriwaki v Rynearson*, No. 17-2-01463-1, 2018 WL 733811, at *1 (Wash. Super. Jan. 10, 2018). Applying Supreme Court precedent to Wash. Rev. Code § 9.61.260, the superior court found that Rynearson's online speech, "while causing emotional distress to Moriwaki, cannot be restricted solely because it is upsetting or arouses contempt." *Id.* at *10-11. The superior court therefore vacated the protection order because Rynearson's communications and conduct fell under the umbrella of constitutionally protected speech. *Id.* at *12.

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While these proceedings were pending in state court, Rynearson filed this lawsuit seeking a declaratory judgment that Washington's cyberstalking statute, Wash. Rev. Code § 9.61.260(1)(b) is facially invalid under the First Amendment, and an injunction prohibiting the named Defendants or any one "acting for, with or in active concert with" Defendants from enforcing Section .260(1)(b). Dkt. 1, at 7. This Court dismissed Rynearson's complaint based on *Younger* abstention. The Ninth Circuit reversed the dismissal and, following remand, Rynearson filed this motion for preliminary injunction again seeking to enjoin Attorney General Ferguson and Kitsap County Prosecutor Robinson from enforcing Wash. Rev. Code § 9.61.260(1)(b) to prohibit his "criticism of Mr. Moriwaki through online speech" and "substantially similar criticism of other civic leaders in the future" (Dkt. 45 ¶ 16), and so that "other Washingtonians can [similarly] speak their minds without fear of criminal penalty" (Mot. at 15:14-15).

III. ARGUMENT

A. Rynearson Lacks Standing to Challenge Washington's Cyberstalking Statute

As a threshold issue, this case is not justiciable because Rynearson lacks standing to challenge the constitutionality of Washington's cyberstalking statute. Article III of the federal Constitution limits the judicial power of federal courts to "cases" and "controversies." *Flast v. Cohen*, 392 U.S. 83, 94 (1968). Standing to bring a claim is a "controlling element[] in the definition of a case or controversy." *Alaska Right to Life Political Action Comm. v. Feldman*, 504 F.3d 840, 848 (9th Cir. 2007) (alteration in original). "At an 'irreducible constitutional minimum,' Article III standing requires proof (1) that the plaintiff suffered an injury in fact that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical;' (2) of a causal connection between that injury and the complained-of conduct; and (3) that a favorable decision will likely redress the alleged injury." *Id.* (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992)).

As part of this inquiry, the plaintiff must establish a "personal stake in the outcome" so as to assure "concrete adverseness" in the controversy. *Baker v. Carr*, 369 U.S. 186, 204 (1962).

While the Supreme Court has adopted a "relaxed approach" to standing when First Amendment overbreadth is asserted, it has done so only upon a showing that the plaintiff is "immediately in danger of sustaining[] a direct injury as a result of an [executive or legislative] action." *Alaska Right to Life*, 504 F.3d at 851 (alterations in original) (quoting *Laird v. Tatum*, 408 U.S. 1, 12-13 (1972)). In other words, even when the plaintiff challenges the constitutionality of a statute because it may "unconstitutionally chill" the First Amendment rights of others, the plaintiff must still satisfy the "rigid constitutional requirement" of having a personal, credible injury or threat of injury from the challenged statute. *Lopez v. Gandaele*, 630 F.3d 775, 785 (9th Cir. 2010). This requires proof not only that the plaintiff has "an actual and well-founded fear that the law will be enforced against [him]," but also that the "plaintiff's intended speech arguably falls within the statute's reach." *Cal. Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1095 (9th Cir. 2003) (alteration in original). If, however, the enforcing jurisdiction has already interpreted the challenged law as not applying to the plaintiff, then the plaintiff's claims of future harm "lack credibility" and dismissal is required. *Lopez*, 630 F.3d at 788.

Here, Rynearson cannot establish any "case" or "controversy" because the type of speech that he wishes to engage in does not fall within the scope of Washington's cyberstalking statute. First, Rynearson cannot show an "actual and well-grounded fear" that he risks criminal prosecution for violating the cyberstalking law. As a preliminary matter, Attorney General Ferguson does not possess inherent criminal law enforcement authority, Wash. Const. art. III, § 21, but may, pursuant to state law, only investigate or prosecute criminal matters if specifically requested to do so by the Governor or a local county prosecuting attorney. *See* Wash. Rev. Code §§ 43.10.090, .232. But Rynearson does not allege, nor could he, that Attorney General Ferguson has ever been asked by the Governor or a county prosecutor to "communicate a specific warning" or "threaten to initiate proceedings" against Rynearson—or anyone else—to enforce the

cyberstalking statute.[1] *Cf. S. Pac. Co. v. Conway*, 115 F.2d 746, 750 (9th Cir. 1940) (affirming dismissal of declaratory judgment action when no proof that state attorney general had ever threatened or taken any action to enforce statute). Further, while Rynearson points to the probable cause police report and resulting email from the Kitsap County Prosecuting Attorney's Office as a threat of prosecution (*see* Mot. at 14;Dkt. 45, Ex. C), a Washington superior court rejected the notion that the communications and conduct at issue in those reports fell under the scope of the cyberstalking statute. *Moriwawki*, 2018 WL 733811, at *10-12. If Rynearson cannot be subject to a protective order for cyberstalking because he was engaging in protected speech, then he certainly cannot be criminally prosecuted for the same communications. Thus, Rynearson faces no reasonable threat of prosecution from Kitsap County Prosecutor Robinson, as he claims. *See* Mot. at 14-15.

Second, Rynearson cannot establish that his proposed speech falls within the reach of the cyberstalking statute. One Washington court has already said Rynearson's speech was protected and thus could not be subject to a stalking protection order brought under the cyberstalking statute. There is no reason to believe that other Washington courts would apply a different interpretation should Rynearson "engage in the future in speech substantially similar to the speech that gave rise to the police department's probable cause finding." Mot. at 14-15. While Rynearson may claim he is chilled from future speech, his continued self-censorship is not based on any real threat of present or future harm because of application of the cyberstalking statute to him. *See Lopez*, 630 F.3d at 792 ("injury-in-fact does not turn on the strength of plaintiffs' concerns about a law, but rather on the credibility of the threat that the challenged law will be enforced against them").

[1] If Rynearson included Attorney General Ferguson not because of his own individual actions, but as an attempt to enjoin the State of Washington from enforcing Wash. Rev. Code § 9.61.260(1)(b), then his claims are barred by the Eleventh Amendment. *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 101 (1984) (The Eleventh Amendment bars a suit against state officials when "the state is the real, substantial party in interest," regardless whether the plaintiff seeks "damages or injunctive relief.").

Finally, Rynearson has provided no proof that either Defendant has any intent to enforce Wash. Rev. Code § 9.61.260(1)(b) against him. Thus without a threat of injury from these Defendants there is no "redress" for this Court to provide. *See Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41 (1976) (federal court may act only to "redress injury that fairly can be traced to the challenged action of the defendant"). Even if there were, granting injunctive and declaratory relief against Attorney General Ferguson and Kitsap County Prosecutor Robinson would not provide Rynearson complete, effectual relief from enforcement of the cyberstalking statute, and thus Rynearson cannot establish the final prong for standing. *See Lujan*, 504 U.S. at 569. The Supreme Court has long held that "courts . . . may not grant an enforcement order or injunction so broad as to make punishable the conduct of persons who act independently and whose rights have not been adjudged according to law." *Regal Knitwear Co. v. NLRB*, 324 U.S. 9, 13 (1945). To the extent that Rynearson seeks protection from prosecution should he engage in actual cyberstalking—not protected speech—in other jurisdictions, Rynearson has neither named any other local county prosecutor in this lawsuit nor attempted to show that either named Defendant could control the prosecutors' actions. In fact, they cannot. *See State v. Yates*, 161 Wash. 2d 714, 740, 168 P.3d 359 (2007) (recognizing that each county prosecutor has a "sovereign right" under the state constitution to determine how crimes within each county should be prosecuted), *overturned on other grounds by State v. Gregory*, 427 P.3d 621 (Wash. Oct. 11, 2018); *State v. Bryant*, 146 Wash. 2d 90, 102, 42 P.3d 1278 (2002) (decision to prosecute or not is within discretion of each county prosecutor; power does not include authority to bind prosecutors of neighboring counties); *State ex rel. Hamilton v. Superior Court for Whatcom Cty.*, 3 Wash. 2d 633, 638-40, 101 P.2d 588 (1940) (limiting attorney general's "supervisory control and direction" over county prosecutors to that specifically stated in Wash. Rev. Code 43.10, which does not include prohibiting prosecutors from taking specific criminal or civil action within their authority). Thus, even if this Court were to provide redress in this

case, it would not bind other prosecutors from enforcing Wash. Rev. Code § 9.61.260(1)(b) and would not provide Rynearson effective relief.

In sum, Rynearson lacks standing to raise his overbreadth challenge to Washington's cyberstalking statute because he cannot show that he personally faces a specific, credible threat of prosecution from the named Defendants for violating Washington's cyberstalking statute based on his intended communications. More importantly, Rynearson's public, online speech has already been held to be protected by the First Amendment. There is thus no present genuine case or controversy requiring this Court's attention. This action must be dismissed.

B. Rynearson Cannot Meet His High Burden to Obtain Injunctive Relief

A preliminary injunction is an "extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citing *Munaf v. Geren*, 553 U.S. 674, 689-90 (2008)). In each case, the court must balance the competing claims and consider the effects on each party, paying "'particular regard for the public consequences in employing the extraordinary remedy of injunction.'" *Id.* (quoting *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982)). The party seeking injunctive relief bears the burden of establishing that (1) he is likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Id.* at 20. Any preliminary relief "must be tailored to remedy the specific harm alleged" and can only apply to the specific plaintiff before the court. *McCormack v. Hiedeman*, 694 F.3d 1004, 1019 (9th Cir. 2012); *see also Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009). Moreover, "neither declaratory nor injunctive relief can directly interfere with enforcement of contested statutes or ordinances except with respect to the particular federal plaintiffs, and the State is free to prosecute others who may violate the statute." *McCormack*, 694 F.3d at 1020 (quoting *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975)).

Rynearson has not met his burden to obtain injunctive relief. He cannot show a likelihood of success on the merits. Rynearson mischaracterizes the function and application of Wash. Rev.

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Code § 9.61.260(1)(b), which primarily regulates stalking conduct achieved through electronic means and has never been held by a Washington court to apply to pure speech. Even if Rynearson could show a likelihood of success on the merits, he has failed to show the other elements required to obtain injunctive relief. In particular, Rynearson can show no likelihood of irreparable harm when his intended speech has already been held outside the scope of cyberstalking law. He thus faces no risk that either Attorney General Ferguson or Kitsap County Prosecutor Robinson would seek to prosecute him for engaging in the type of speech for which he seeks relief. Rynearson also cannot show that the balance of equities are in his favor or that an injunction is in the public interest. Washington's cyberstalking law, including its (1)(b) provisions, serves an important purpose of protecting victims of stalking from being terrorized through electronic means.

1. Rynearson Has Not Shown He Is Likely to Prevail on His Overbreadth Challenge to Wash. Rev. Code § 9.61.260(1)(b)

a. Overbreadth doctrine is strong medicine and requires Rynearson to show real and substantial overbreadth judged in relation to the statute's plainly legitimate sweep

Rynearson's overbreadth challenge has no merit. The Supreme Court has repeatedly "recognized that the overbreadth doctrine is 'strong medicine' and [has] employed it with hesitation, and then 'only as a last resort.'" *New York v. Ferber*, 458 U.S. 747, 769 (1982) (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 613 (1973)). This is because the overbreadth doctrine seeks to balance the "harmful effects" of "invalidating a law that in some of its applications is perfectly constitutional" against the possibility that "the threat of enforcement of an overbroad law [will] dete[r] people from engaging in constitutionally protected speech[.]" *United States v. Williams*, 553 U.S. 285, 292 (2008). Accordingly, the Court has "vigorously enforced the requirement that a statute's overbreadth be *substantial*, not only in an absolute sense, but also relative to the statute's plainly legitimate sweep," before it may be invalidated.

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Id. This is particularly true "where conduct and not merely speech is involved." *Broadrick*, 413 U.S. at 615.

In determining whether a statute's alleged overbreadth is substantial, courts consider a statute's application to real-world conduct, not "fanciful hypotheticals." *Williams*, 553 U.S. at 301-02. "[T]he mere fact that one can conceive of some impermissible applications of a statute is not sufficient to render it susceptible to an overbreadth challenge." *Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 800 (1984). Rather, "there must be a realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court for it to be facially challenged on overbreadth grounds." *Id.* at 801.

Here, Rynearson fails to meet his burden to prove "from the text of [the law] *and from actual fact*," that substantial overbreadth exists because (1) Wash. Rev. Code § 9.61.260(1)(b)'s plainly legitimate sweep is wide and it covers primarily stalking conduct; and (2) there are few—if any—unconstitutional applications of the statute as evidenced by how the statute has in fact been applied in Washington State. *Virginia v. Hicks*, 539 U.S. 113, 122 (2003) (alteration in original) (emphasis added).

b. The statute's plainly legitimate sweep is extensive because it regulates mostly conduct, not speech

"The first step in overbreadth analysis is to construe the challenged statute" to determine if and to what extent it reaches protected speech. *Williams*, 553 U.S. at 293. To do so, this Court must interpret the law the same as would the Washington Supreme Court, which is to ascertain and carry out the Washington Legislature's intent through the statute's plain meaning. *Powell's Books, Inc. v. Kroger*, 622 F.3d 1202, 1209 (9th Cir. 2010); *State Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wash. 2d 1, 9-10, 43 P.3d 4 (2002). "Plain meaning 'is to be discerned from the ordinary meaning of the language at issue, the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole.'" *State v. Gonzalez*, 168 Wash.

2d 256, 263, 226 P.3d 131 (2010). Here, the language of Wash. Rev. Code § 9.61.260(1)(b) indicates that its plainly legitimate sweep is considerable because it primarily regulates the conduct of harassment and stalking, as evidenced by the specific intent provision in the statute, which requires proof of an "intent to harass, intimidate, torment, or embarrass any other person." Wash. Rev. Code § 9.61.260(1).

Rynearson relies on selective definitions to argue that these terms suggest that "public figures and public officials could be subject to criminal prosecution and punishment if they are seen as intended to persistently 'vex' or 'annoy' those public figures, or to embarrass or make them 'self-conscious' about something." Mot. at 5:10-26. But this approach is squarely at odds with the rule that courts should construe statutes to avoid constitutional infirmities. *See, e.g.*, *INS v. St. Cyr*, 533 U.S. 289, 299 (2001). This is particularly true when the terms at issue are in fact susceptible to a narrower construction. Indeed, a facial challenge fails if the statute is susceptible to a narrowing construction that would cure its constitutional infirmity. *See Dombrowski v. Pfister*, 380 U.S. 479, 497 (1965) (allowing for "benefit of limiting construction"); *Ala. Fed'n of Labor, Local Union 103 v. McAdory*, 325 U.S. 450, 470 (1945) (one of primary ways to avoid unnecessary constitutional decisions is "to construe a statute, whenever reasonably possible, so that it may be constitutional rather than unconstitutional"); *Ashwander v. Tenn. Valley Auth.*, 297 U.S. 288, 348 n.8 (1936) (Brandeis, J., concurring) (citing cases). "[W]here an otherwise acceptable construction of a statute would raise serious constitutional problems, the Court will construe the statute to avoid such problems unless such construction is plainly contrary to the intent of [the Legislature]." *Edward J. DeBartolo Corp. v. Fla. Gulf Coast Bldg. & Constr. Trades Council*, 485 U.S. 568, 575 (1988) (citing *NLRB v. Catholic Bishop of Chi.*, 440 U.S. 490, 499-501, 504 (1979)).

As Rynearson must concede, the Washington Supreme Court has already "very narrowly" defined the term "intimidate" to include only "compel[ling] to action or inaction (as by threats)." *City of Seattle v. Huff*, 111 Wash. 2d 923, 929, 767 P.2d 572 (1989) (alteration in

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orginal); *see also* Mot. at 5:14-15. Further, Rynearson fails to mention that the dictionary primarily defines "harass" as "to lay waste" and "to worry and impede by repeated attacks." *Harass*, Webster's Third New International Dictionary of the English Language 1031 (2002). Similarly, the definition of "torment" includes "the infliction of torture . . . to punish or coerce someone." *Torment*, Webster's at 2412. And the term "embarrass" includes "to place in doubt, perplexity or difficulties," as well as "to hamper or impede the movement or freedom of movement of [a person]." *Embarrass*, Webster's at 739. Consistent with these dictionary definitions, Wash. Rev. Code § 9.61.260 can be narrowly construed to proscribe unwanted harassment and stalking conduct intended to cause victims extreme and persistent distress.

Moreover, the cyberstalking statute requires intent to form when the person "makes an electronic communication"—that is when the communication is sent or initiated (before anything is read or received). This is further evidence that Wash. Rev. Code § 9.61.260 proscribes conduct—the act of making an electronic communication with the intent to harass—and not speech. *Cf. State v. Lilyblad*, 163 Wash. 2d 1, 4, 10, 177 P.3d 686 (2008) ("to make" a telephone call includes only "the point of connection" so defendant must "form the specific intent to harass at the time the defendant initiates the call to the victim"); *accord State v. Sloan*, 149 Wash. App. 736, 744-45, 205 P.3d 172 (2009); *State v. Meneses*, 149 Wash. App. 707, 713, 205 P.3d 916 (2009) ("[t]he word 'makes' is critical" because it means "to begin or initiate the telephone call").

Further, under subsection (1)(b), the electronic communication must be made "anonymously and repeatedly *whether or not conversation occurs*." Wash. Rev. Code § 9.61.260(1)(b) (emphasis added). In other words, liability does not turn on conversation or even speech, but rather repeated and anonymous harassment. Cyberstalkers can easily use the Internet to send hundreds, even thousands, of frightening messages in a matter of minutes, which over days, weeks, or even years can cause extreme trauma to the victim, even if the messages

were in fact received by third persons.[2] This is true even if the thousands of messages contain a seemingly friendly message like "I love you." If sent with the requisite intent repeatedly and anonymously, it would still be conduct that constituted harassment notwithstanding the content of the message. Rynearson's argument that the statute criminalizes "pure speech, without any associated noncomunicative conduct," simply misreads the statute. Mot. at 7.

Wash. Rev. Code § 9.61.260's legislative history further confirms that the Washington Legislature did not intend for the cyberstalking statute to regulate constitutionally protected speech. Rather, it was intended to regulate the use of new technologies to stalk and harass victims. H.B. Rep. on Engrossed Substitute H.B. 2771, 58th Leg., Reg. Sess. (Wash. 2004) (cyberstalking statute was enacted to prevent predators from "us[ing] technology to terrorize their victims"). Indeed, testimony for the bill notes that "[c]yberstalking is an expression of an old crime: violence against women"—a nod to the federal cyberstalking law which was enacted as part of the Violence Against Women's Act and an acknowledgment that the statute was not meant to broaden criminal liability for protected speech, but rather to target violent acts that had simply found a new medium—the Internet. *Id.* at 4. Another bill report similarly notes that there are already "three criminal laws in Washington that prohibit harassment and stalking" but another is needed to address "the use of new technologies" to stalk and harass victims. S.B. Rep. on Engrossed Substitute H.B. 2771, at 2, 58th Leg., Reg. Sess. (Wash. 2004).

Finally, an identical intent provision in the telephone harassment statute, Wash. Rev. Code § 9.61.230, resulted in state courts narrowly construing that statute to reach only the conduct of harassment. *See State v. Dyson*, 74 Wash. App. 237, 245 n.5, 872 P.2d 1115 (1994) (telephone harassment statute "is clearly directed against specific conduct—making telephone calls with the intent to harass, intimidate, or torment another" (*id.* at 243); *State v. Alexander*, 76

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[2] *See, e.g.*, Denver Pratt, *He was sent to jail for harassing her. A year later, the threatening messages started again*, Bellingham Herald, Oct. 17, 2018, https://www.courts.wa.gov/content/publicupload/eclips/2018%2010%2017%20He%20was%20sent%20to%20jail%20for%20harassing%20her%20A%20year%20later%20the%20threatening%20messages%20started%20again.pdf.

Wash. App. 830, 839, 888 P.2d 175 (1995) ("the specific intent requirement, which places the focus of the statute on the caller, sufficiently narrows the scope of the proscribed conduct" with minimal—if any—impact on protected speech); *State v. Alphonse*, 147 Wash. App. 891, 903, 197 P.3d 1211 (2008) ("the statute regulates conduct implicating speech, not speech itself").

Washington courts have consistently found that intent to "harass, intimidate, torment or embarrass" does not render the telephone harassment statute overbroad and there is no reason to construe the intent provision in the cyberstalking statute broader where the plain language is identical, the terms are susceptible to a narrower construction, and both statutes are clearly intended to target harassing conduct. *See Alexander*, 76 Wash. App. at 839; *Huff*, 111 Wash. 2d at 923-29; *see also Holmes v. Lovick*, No. C11-1097-RSM-BAT, 2012 WL 1357028, at *5 (W.D. Wash. Jan. 30, 2012) ("[t]here has been no successful challenge to this statute on the basis of overbreadth or vagueness"), *report and recommendation adopted*, 2012 WL 1327813 (W.D. Wash. Apr. 16, 2012); *State v. Sanchez*, 177 Wash. 2d 835, 843-44, 306 P.3d 935 (2013) (faced with undefined terms, courts "look to related statutes," and will read them together "to achieve a harmonious total statutory scheme" (internal quotation marks omitted)).[3] Indeed, in an unpublished opinion, a Washington state court recently rejected an argument that "intent to 'harass' is overbroad" in the cyberstalking statute, noting that the "cyberstalking statute mirrors the telephone harassment statute, [Wash. Rev. Code §] 9.61.230, which has been upheld against numerous constitutional challenges." *State v. Stanley*, 200 Wash. App. 1035, *6 (2017) (footnote omitted), *review denied*, 189 Wash. 2d 1036 (2018), *cert. denied*, 138 S. Ct. 1702 (2018), *reh'g denied*, 138 S. Ct. 2670 (2018).

[3] Washington courts have construed other parts of the cyberstalking statute narrowly and there is also no reason to think they would take a different approach to subsection (1)(b). *See, e.g., State v. Bell*, 183 Wash. App. 1029 (2014) (requiring a finding of a "true threat" to sustain a cyberstalking conviction under subsection (1)(c)); *State v. Kohonen*, 192 Wash. App. 567, 370 P.3d 16 (2016) (same; blog posts stating that defendant wanted to punch alleged victim in the throat and containing a hashtag stating that victim "must die" did not constitute a "true threat," so as to lose their status as protected speech where speech was hyperbolic).

Rynearson argues that the requirement of bad purpose does not salvage Wash. Rev. Code § 9.61.260(1)(b) because a speaker's intent is irrelevant to First Amendment analysis. Mot. at 8:21-10:10. But the cases he cites do not involve cyberstalking—or any harassment statutes—and instead involve statutes and torts that, if applicable, would have the potential of suppressing the highest form of protected speech, i.e., political speech, if an intent-based test were to be adopted. *See, e.g.*, *Snyder v. Phelps*, 562 U.S. 443, 454-56 (2011) (picketing of a funeral involved matters of public concern); *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988) (First Amendment protects parodies of public figures); *Fed. Election Comm'n v. Wis. Right To Life, Inc.*, 551 U.S. 449, 467 (2007) (rejecting intent-based test for determining if ad is functional equivalent of express advocacy); *Garrison v. Louisana*, 379 U.S. 64, 73 (1964) ("debate on public issues" may be in inhibited if speaker fears he will be prosecuted for speaking out of hatred); *Hustler Magazine, Inc.*, 485 U.S. at 53 ("while such a bad motive may be deemed controlling for purposes of tort liability in other areas of the law, we think the First Amendment prohibits such a result in the area of public debate about public figures"); *Sheehan v. Gregoire*, 272 F. Supp. 2d 1135, 1142, 1149 (W.D. Wash. 2003) ("true threats do not hinge on a speaker's subjective intent" where "there is cause for concern when the Legislature enacts a statute proscribing a type of political speech in a concerted effort to silence particular speakers").

By contrast, intent can and has been properly considered when analyzing challenges to cyberstalking harassment statutes. Rynearson ignores the overwhelming consensus across jurisdictions finding that cyberstalking statutes with a mens rea element constitutionally criminalize the conduct of harassment.[4] Thus, the plain language of Wash. Rev. Code

[4] Federal courts have also upheld a similar federal cyberstalking statute which requires proof of an "intent to kill, injure, harass, intimidate, or place under surveillance" against overbreadth challenges, finding similarly that 18 U.S.C. § 2261A applies to conduct, not expression. *See United States v. Petrovic*, 701 F.3d 849, 856 (8th Cir. 2012) ("Because a substantial number of the statute's applications will not be unconstitutional, we decline to use the " 'strong medicine' of 'overbreadth[.]' "); *United States v. Osinger*, 753 F.3d 939 (9th Cir. 2014) (agreeing with reasoning in *Petrovic* and rejecting defendant's argument that, because the statute did not define "substantial emotional distress" or "harassment," it was overbroad); *United States v. Bowker*, 372 F.3d 365, 378 (6th Cir. 2004) (rejecting facial overbreadth challenge to a prior version of the statute and stating: "We fail to see how a law that prohibits interstate travel with the intent to kill, injure, harass or intimidate has a substantial sweep of

§ 9.61.260(1)(b) and state courts' narrow construction of an identical intent provision in the telephone harassment statute make clear that the cyberstalking statute targets harassing conduct, making its legitimate sweep considerable both in an absolute sense and judged in relation to any potential overbreadth. As discussed further below, Rynearson has not even come close to meeting his burden of showing a "substantial" number of unconstitutional applications based on actual fact.

c. Whatever hypothetical protected speech Wash. Rev. Code § 9.61.260(1)(b) may proscribe is marginal relative to its plainly legitimate sweep

The next question is whether the law burdens substantially more speech relative to the statute's plainly legitimate sweep. "[E]ven if there are marginal applications in which a statute would infringe on First Amendment values, facial invalidation is inappropriate if the 'remainder of the statute . . . covers a whole range of easily identifiable and constitutionally proscribable . . . conduct.'" *Ferber*, 458 U.S. at 770 n.25 (alterations in *Parker*) (quoting *Parker v. Levy*, 417 U.S. 733, 760 (1974)). As noted above, the cyberstalking statute criminalizes mostly conduct, and what little hypothetical speech it may reach does not render it overbroad because the statute is tailored to address concerns specific to cyberstalking conduct and the deleterious effects therefrom. Moreover, Rynearson has not shown a "realistic danger" of prosecution for any of the alleged hypotheticals. *Bd. of Airport Comm'rs of the City of Los Angeles v. Jews for Jesus, Inc.*, 482 U.S. 569, 574 (1987).

Recognizing the distinctive features of the Internet that make cyberstalking especially harmful, the Washington Legislature enacted the statute to include provisions regarding anonymity, repetitious communications, and third-party communications. Cyberstalking can

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constitutionally protected conduct."), *vacated on other grounds*, 543 U.S. 1182 (2005), *reinstated in relevant part*, 125 Fed. App'x 701 (6th Cir. 2005); *United States v. Moreland*, 207 F. Supp. 3d 1222, 1227-28 (N.D. Okla. 2016) (federal cyberstalking law not facially overbroad because it required proof of course of conduct done with specific intent to injure, harass, or intimidate); *see also Burroughs v. Corey*, 92 F. Supp. 3d 1201, 1208 (M.D. Fla. 2015), *aff'd*, 647 Fed. App'x 967 (11th Cir. 2016) (upholding Florida's cyberstalking statute against overbreadth claim where statute regulated conduct).

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take many forms and due to the omnipresence of the Internet, cyberstalkers have the ability to instantly stalk and harass their victims by repeatedly sending e-mails or texts, widely dispersing messages on blogs or message boards, stalking from anywhere in the world, concealing their own identity, stealing their victim's identity, or stalking their victim through a third party.

The requirement of anonymity narrows the statute's scope and addresses the ease with which stalkers can utilize the Internet and other technologies to remain anonymous, hide, or even change identities, making it difficult for law enforcement to find and prosecute cyberstalkers while at the same time enabling cyberstalkers to use more threatening speech without fear of repercussion. *See* Nisha Ajmani, *Cyberstalking and Free Speech: Rethinking the Rangel Standard in the Age of the Internet*, 90 Or. L. Rev. 303, 314 n.75 (2011) (citing Scott Hammack, *The Internet Loophole: Why Threatening Speech On-Line Requires a Modification of the Courts' Approach to True Threats and Incitement*, 36 Colum. J.L. & Soc. Probs. 65, 83-84 (2002)). Anonymity also causes more fear and uneasiness in victims who have may have no idea who is stalking them, making it difficult to evaluate the threat. Ajmani, 90 Or. L. Rev. at 324. These were the exact concerns facing the Washington Legislature. Testimony advocating for enactment of Wash. Rev. Code § 9.61.260 stated that "[a]nonymity and randomness are the tools of the cyberstalker" who can harass victims "for any reason" and "for any length of time" making "the victim feel terrorized and alone." H.B. Rep. on Engrossed Substitute H.B. 2771, at 4, 58th Leg., Reg. Sess. (Wash. 2004). Rynearson's argument that an author's decision to remain anonymous is an aspect of protected speech is not applicable where the anonymity is solely for the purpose of harassing victims or evading law enforcement. *See* Mot. at 10:13-23.

The requirement of repetition similarly narrows the scope of the statute by targeting stalking behavior—that is, repeated harassment over some length of time. Cyberstalkers can threaten and harass victims instantaneously from virtually anywhere in the world and with more frequency than offline stalkers because the Internet is faster and cheaper than other forms of communication, such as regular mail. Ajmani, 90 Or. L. Rev. at 316. A cyberstalker could even

set up his or her email account to send intimidating messages automatically and repeatedly. *Id.* at 315. Rynearson's argument that speech does not lose its protection because it is said more than once is a non-starter because passing out leaflets is not the same as stalking someone. Mot. at 10:24-11:4 (citing *Org. for a Better Austin v. Keefe*, 402 U.S. 415 (1971)).

Rynearson argues that the statute is overbroad because it criminalizes speech made to third parties. This feature of the cyberstalking statute admittedly broadens its scope but only to the extent necessary to address concerns that cyberstalkers could take on the identity of the victim, or encourage other like-minded individuals to stalk in their place. Indeed, the Washington Legislature was presented with testimony that an anonymous stalker had harassed a "constituent of the Senate and House prime sponsors" by sending malicious emails to the victim and victim's co-workers for over five years, and "pretended to be the victim in on-line chat rooms and posted her home and work phone number so that men seeking sexual liaisons could call her." S.B. Rep. on Engrossed Substitute H.B. 2771, at 2, 58th Leg., Reg. Sess. (Wash. 2004). Against this backdrop, the Legislature enacted a substitute bill that included communications to third parties. H.B. Rep. on Engrossed Substitute H.B. 2771, 58th Leg., Reg. Sess. (Wash. 2004).

Unfortunately, there are numerous examples of criminal cyberstalking behavior taking the form of communications to third parties. For example, in one case out of Maryland, the stalker used his ex-girlfriend's name and personal information to create Internet advertisements and fake social media accounts that implored men to visit the victim for sex. As a result, a number of strangers presented themselves at the victim's door seeking sexual intercourse, causing the victim terror and fear. *United States v. Sayer*, No. 2:11-CR-113-DBH, 2012 WL 1714746, at *1 (D. Me. May 15, 2012), *aff'd*, 748 F.3d 425 (1st Cir. 2014). In another case, a man took on his victim's identity and posted her phone number and address online, along with a message fantasizing about being raped. Several men went to her house, referring to the Internet solicitation that was posted in her name, and raped her. *See* Joanna Lee Mishler, *Cyberstalking: Can Communication Via the Internet Constitute a Credible Threat, and Should an Internet*

Service Provider Be Liable If It Does?, 17 Santa Clara Computer & High Tech. L.J. 115, 116 (Dec. 2000). Another woman found a message posted on the Internet, listing her home phone number, her address, and a message that read, "[she] was available for sex anytime of the day or night." *Id.* at 116-17 (alteration in orginal). Numerous individuals called the victim in response to the posting. *Id.* at 117. In yet another example, a cyberstalker devoted a website to fuel his obsession with his victim. He chronicled her daily activities and expressed thoughts about harming and killing her, which he finally did when he murdered her at her dentist office. Neither the victim nor her family were aware of the website, which had been live for two years. *Id.* at 129-30.

As evidenced by these horrific real-life examples, a requirement that the stalker convey a threat specifically to the target would fail to reach a substantial amount of cyberstalking conduct because cyberstalkers can and have posted alarming and frightening language online or used technology to incite other individuals to commit violence against a specific person. Likewise, a requirement that the victim tell the stalker to stop (*see* Mot. at 7) would insulate criminal conduct from liability in cases where the victim is completely unaware of the stalker's activities.

Importantly, Washington courts have not applied the telephone harassment statute to situations where "there was little doubt from the circumstances of the conduct that it formed a clear and particularized political or social message very much understood by those who viewed it." *Young v. New York City Transit Auth.*, 903 F.2d 146, 153 (2d Cir. 1990); *see, e.g.*, *Bini v. City of Vancouver*, No. C16-5460 BHS, 2017 WL 2226233, at *6 (W.D. Wash. May 22, 2017) (plaintiff sent emails to Smith's family and several of her business associates with attachments and links to a blog that grossly disparaged Smith's character, claiming that she was a "fraud," "an excessive drinker," and that the injuries she sustained at the hands of her incarcerated husband were actually the result of her "own alcohol-induced rage"); *Stanley*, 200 Wash. App. at 1035 (defendant sent hundreds of messages over the course of four years threatening to kill

his targets, including from accounts using a made up name, to "break [the women] down," "increase their stress," and to "scare" them (alteration in original)); *Bell*, 183 Wash. App. 1029 (conviction after defendant kicked and choked his wife, drove away, and then sent her a text message in which he called her a "bitch," and threatened to kill her). Thus, there is little danger that a person who "anonymously and repeatedly" makes electronic communications for the sole purpose of communicating a message—even one others might find objectionable—would be culpable under the statute.

And, as noted previously, a limiting construction could ameliorate any potential overbreadth concerns, as would partial severance of any unconstitutional applications; courts prefer these to facial invalidation which ought to be used "[r]arely, if ever." *Hicks*, 539 U.S. at 118-19, 124 (2003). If a particular word in the statute appears to cover both protected and unprotected speech, the correct remedy is not to "excise[] the word from the statute entirely" but to declare the application unconstitutional. *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 505 (1985) (severing application of obscenity statute). Here, like the statute in *Brockett*, Washington's cyberstalking statute explicitly authorizes courts to sever not just statutory provisions, but applications as well. 2004 Wash. Sess. Laws 326 ("If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."); *see also* Mot. at 1:18-19. The fact that the statute covers both protected and unprotected speech further compels this court to reject Rynearson's facial invalidation request.

In sum, Rynearson presents a weak case for facial invalidity. The statute's legitimate sweep is considerable, and it is difficult to show a "substantial" number of unconstitutional applications. His musings on Hillary Clinton and Donald Trump's tweets, or the woman who breaks up with her boyfriend and then posts on Facebook how she feels, or criticism of local and political leaders do not satisfy this requirement because they are based on speculation and inconsistent with how the statute has been applied in Washington State. Mot. at 8. Rynearson

does not—nor can he—point to a single case where the statute has been construed to criminalize his posited hypotheticals. Thus, any arguably impermissible applications of the statute amount to a tiny fraction of the materials within the statute's reach and the court "[should not] assume that the [Washington] courts will widen the possibly invalid reach of the statute by giving an expansive construction[.]" *Ferber*, 458 U.S. at 773.

2. Wash. Rev. Code § 9.61.260(1)(b) is not facially invalid for failure to meet intermediate or strict scrutiny

At the outset, Rynearson argues that the preliminary injunction factors are met only as to his theory that Wash. Rev. Code § 9.61.260(1)(b) is facially overbroad, and makes no argument regarding the statute's alleged invalidity due to failure to meet strict scrutiny. *See Ashcroft v. ACLU*, 535 U.S. 564, 585-86 (2002) (overbreadth differs from strict scrutiny; majority of the court found statute was not overbroad in violation of the First Amendment, but expressed no view on whether statue would survive strict scrutiny).[5] Thus, Rynearson has waived his right to an injunction based on his alleged theory that Washington's cyberstalking statute fails strict scrutiny. *Cf. Thalheimer v. City of San Diego*, 645 F.3d 1109, 1115 (9th Cir. 2011) (district court "properly considered the remaining *Winter* elements only as to claims it concluded were meritorious").

Further, Rynearson's facial challenge based on this theory fails because he has not shown that the statute can never be validly applied. An ordinance may be facially unconstitutional in one of two ways: "either [] it is unconstitutional in every conceivable application, or [] it seeks

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[5] Justice Thomas delivered the opinion of the Court in *Ashcroft* and, for this particular point, was joined by Justices Rehnquist, O'Connor, Scalia, and Breyer. Justice Stevens' dissenting opinion also affirms that overbreadth is a separate inquiry from whether a law survives strict scrutiny. *See Ashcroft*, 535 U.S. at 610 n.6 (Stevens, J., dissenting) (noting that Justice Kennedy's concerns went mostly to "whether [the law] survives strict scrutiny, not overbreadth"); *see also Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 263 (2002) (O'Connor, J., dissenting in part) (answering question of whether statute fails strict scrutiny prior to addressing overbreadth claim); *S.O.C., Inc. v. Cty. of Clark*, 152 F.3d 1136, 1142 n.5, *as amended by*, 160 F.3d 541 (9th Cir. 1998) (concluding that ordinance was overbroad and therefore declining to reach the issue of whether ordinance constituted a restriction on commercial speech triggering strict scrutiny review); *Klein v. San Diego Cty.*, 463 F.3d 1029, 1038 (9th Cir. 2006) (analyzing the two theories separately).

to prohibit such a broad range of protected conduct that it is unconstitutionally 'overbroad.'" *Members of the City Council of the City of Los Angeles*, 466 U.S. at 796; *see also id.* at 796 n.15 (citing cases); *accord Foti v. City of Menlo Park*, 146 F.3d 629, 635 (9th Cir. 1998), *as amended on denial of reh'g* (July 29, 1998). In other words, "a plaintiff whose conduct *is* protected may bring a facial challenge to a statute he contends is unconstitutional, without having to employ the overbreadth doctrine, [only] by arguing that the statute could never be applied in a valid manner and would chill the speech of others." *4805 Convoy, Inc. v. City of San Diego*, 183 F.3d 1108, 1112 n.4 (9th Cir. 1999). Rynearson does not even attempt to meet this standard and instead concedes that there are constitutional applications of the cyberstalking statute. *See* Mot. at 7 (repeated unwanted emails could be constitutionally prohibited if victim asked speaker to stop).

Rynearson's argument fails for the additional reason that the statute survives constitutional scrutiny. There are a number of reasons this Court should apply intermediate rather than strict scrutiny to Wash. Rev. Code § 9.61.260(1)(b). First, the statute is content neutral because it is not directed at particular groups or viewpoints and seeks to regulate cyberstalking behavior in an even-handed and neutral manner. *See Broadrick v. Oklahoma*, 413 U.S. 601, 616 (1973) (although breach-of-the-peace statute regulated in political expression, it was not directed at particular viewpoints and thus regulated an even-handed manner and was not overbroad). Indeed, a kind message (such as "Hey beautiful"), or a seemingly benign message (such as "I saw your daughter"), or even messages with only images could fall within the statute's reach if spoken (or typed) with the requisite intent repeatedly and anonymously.

Second, rather than targeting the content of speech, the cyberstalking statute targets the consequences of speech—or the "secondary effects." *See, e.g.*, *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425, 437-42 (2002) (government must have leeway to address secondary effects of speech). Specifically, the cyberstalking statute targets speech that causes "deleterious

effects" associated with cyberstalking, and the state's interests in privacy and safety of stalking victims is unrelated to the content of the speech. *See id.* at 446.

Third, the speech punished by the cyberstalking statute will rarely touch on matters of public concern because stalking is often fueled by a pre-existing *personal* relationship or conflict. *See Snyder*, 562 U.S. at 451-54 (whether the First Amendment prohibits regulation largely turns on "whether speech is of public or private concern" because speech on matters of public concern are at the "heart" of the First Amendment). Finally, cyberstalkers will undoubtedly invade the homes of their victims through messages via cell phone, tablet, or computer thereby invading victims' privacy and holding them "captive" to repeated harassing messages through the use of technology. *See FCC v. Pacifica Found.*, 438 U.S. 726, 759 (1978) (home is "the one place where people ordinarily have the right not to be assaulted by uninvited and offensive sights and sounds"); *Frisby v. Schultz*, 487 U.S. 474, 486 (1988) ("even if some such picketers have a broader communicative purpose, their activity nonetheless inherently and offensively intrudes on residential privacy").

Applying intermediate scrutiny, Washington's cyberstalking statute furthers an important or substantial governmental interest unrelated to the suppression of free speech, and reaches no broader than necessary to further that interest. *See Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 661-62 (1994). The rise of the Internet created a new medium for stalking behavior. The resulting harm to stalking victims spans a wide spectrum, leaving victims scared, traumatized, and depressed for years after stalking incidents. "Cyberstalking can make a victim feel fearful, powerless, frustrated, enraged, and isolated." H.B. Rep. on Engrossed Substitute H.B. 2771, at 4, 58th Leg., Reg. Sess. (Wash. 2004). To address these dangers, the Legislature enacted Wash. Rev. Code § 9.61.260. And as discussed above, the statute reaches no broader than necessary to further that interest. For these same reasons, even applying strict scrutiny, the statute survives.

C. Rynearson Has Not Shown He Will Suffer Immediate Irreparable Harm

Rynearson improperly "collapse[s the remaining *Winter* factors] into the merits" factor. *DISH Network Corp. v. FCC*, 653 F.3d 771, 776 (9th Cir. 2011). Although a colorable First Amendment claim "raises the specter" of irreparable harm and public interest considerations, proving the likelihood of success on the merits—a showing Rynearson has not made here—is not enough to satisfy *Winter*. *See Vivid Entm't, LLC v. Fielding*, 774 F.3d 566, 577 (9th Cir. 2014) (citing *Stormans, Inc.*, 586 F.3d at 1138); *see also Gresham v. Picker*, 705 Fed. App'x 554, 557 (9th Cir. 2017). Even in a First Amendment case, the moving party bears the burden of meeting *all four factors*, and therefore Rynearson must separately prove irreparable injury, that the balance of equities weighs in his favor, and that an injunction would be in the public interest. *DISH Network Corp.*, 653 F.3d at 776-77.

To establish "irreparable harm," Rynearson must show "immediate threatened injury" that is non-speculative. *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988); *Goldie's Bookstore, Inc. v. Superior Court of California*, 739 F.2d 466, 472 (9th Cir. 1984). This requirement is strictly applied where, as here, plaintiff seeks "injunctive relief against government actions[.]" *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 557 (9th Cir. 1990) (when seeking injunctive relief against government actions which allegedly violate the law, "the injury or threat of injury must be both 'real and immediate,' not 'conjectural' or 'hypothetical' ") (quoting *City of Los Angeles v. Lyons*, 461 U.S. 95, 101-02 (1983)).

Here, as with Rynearson's issues of standing, there is no current, let alone immediate, threat of prosecution or harm to Rynearson. Rynearson cannot credibly allege that he faces immediate and irreparable harm due to his fear of a hypothetical criminal prosecution where a state court has already determined that he is engaged in protected speech; the Kitsap County Prosecutor has not pursued any action against Rynearson; and Attorney General Ferguson has never taken any action that would result in Rynearson being prosecuted under Wash. Rev. Code § 9.61.260(1)(b).

D. The Balance of Equities and Public Interest Do Not Favor an Injunction

The balance of equities and public interest considerations do not favor an injunction because there is a strong public interest in prohibiting cyberstalking conduct, and the statute can and already has been given a narrowing construction to avoid concerns that it will reach beyond that to issues of public concern.

In considering the equities, the court "must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief." *Winter*, 555 U.S. at 24. Since this case involves the government, the balance of equities factor merges with the fourth factor, public interest. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2013). Here, Wash. Rev. Code § 9.61.260(1)(b) reflects the State's considered judgment of what policies and laws would effectively protect victims of cyberstalking from harassment, violence, and invasions of privacy through electronic means. The stated purpose of the cyberstalking statute is "for the immediate preservation of the public peace, health, or safety." 2004 Wash. Sess. Laws 326; *see also* H.B. Rep. on Engrossed Substitute H.B. 2771, 58th Leg., Reg. Sess. (Wash. 2004) (noting negative effects that cyberstalking has on victims). Thus, this Court "should give due weight to the serious consideration of the public interest in this case that has already been undertaken by the responsible state officials in Washington[.]" *Stormans, Inc.*, 586 F.3d at 1140. Moreover, the statute is narrowly drawn to address issues particular to cyberstalking and the negative effects that result, and Rynearson has not shown that any person in Washington advancing political or religious rhetoric or public discussion has ever been prosecuted under Wash. Rev. Code § 9.61.260(1)(b). Where a plaintiff has "not shown a likelihood of success on the merits of [a] First Amendment claim," this fact weighs against finding the public interest favors an injunction. *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005).

IV. CONCLUSION

This Court should dismiss Rynearson's case for lack of constitutional standing. In the alternative, Rynearson has not met his burden to obtain injunctive relief and, therefore, his motion for preliminary injunction should be denied.

DATED this 26th day of October 2018.

ROBERT W. FERGUSON
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CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2018, I electronically filed the foregoing document with the Clerk of the Court of the United States District Court Western District of Washington using the CM/ECF system. Service of such filing will be accomplished by the CM/ECF system upon all participants.

s/ *Stephanie N. Lindey*
STEPHANIE N. LINDEY
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1 November 2018

TO: Bainbridge Island Municipal Court

FROM: Richard Lee Rynearson III
217 Shepard Way
Bainbridge Island, WA 98110

FILED
NOV - 2 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

SUBJECT: Request leave to file letter as Amicus Curiae in support of Houston Wade (46-18 & 47-18)

As an individual against whom an unconstitutional protection order was granted by the Bainbridge Island Municipal Court on the basis of First Amendment protected speech, subsequently reversed and vacated by the Kitsap Superior Court, *Moriwaki v. Rynearson*, I have an interest in how this Court applies the law regarding the First Amendment in the context of protection orders. I take no position regarding the facts in these cases or the question whether any speech by Houston Wade falls into unprotected categories, but I respectfully request leave to file this letter regarding the legal contours of when speech falls into unprotected categories. I urge this court to acknowledge that a protection order may not be granted based upon content of respondent's speech outside narrow, historically recognized categories of unprotected speech (such as defamation and true threats).

Leaving aside unprotected speech like defamation and threats, Mr. Wade has the right under the First Amendment to the federal Constitution and Article 1, Section 5 of the Washington Constitution to engage in speech critical of others to third parties or to the public. *See, e.g., State v. Noah*, 103 Wn. App. 29, 34-35, 38-39 (Div. I 2000) (concluding that standing with signs outside a therapist's office with slogans like "David Calof, Mr. Windbag! Psychotherapist" and "David Calof Voice of Hatred and Revenge" was "protected speech and picketing" and "cannot

be the basis for an antiharassment order"); *Organization for a Better Austin v. Keefe*, 402 U.S. 415 (1971) (holding the First Amendment protected the right to distribute leaflets "critical of [a realtor's] real estate practices" that accused him of being a "panic peddler," requested calls to his home phone number, and were distributed among his neighbors, passed out at a local shopping center, and handed out to people on their way to or from the realtor's church); *see also NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982) (criticism of black residents who did not comply with a boycott of white-owned stores, whose names were listed in leaflets and mentioned in church speeches, was protected speech). Such speech to the public *about* someone else stands on a very different constitutional footing than unwanted one-to-one communication *to* an unwilling recipient, who has the right to cut off further communication.

Creating a Facebook page or utilizing other social media technology to express an opinion no more changes underlying speech than the printing press changed the works of Shakespeare and likewise in no way alters the protection afforded the speech transmitted. Our U.S. Supreme Court has put this matter to rest and ruled that the "quintessential forum for the exercise of First Amendment rights" today is in fact "...cyberspace—the 'vast democratic forums of the Internet' in general, *Reno v. American Civil Liberties Union*, 521 U. S. 844, 868 (1997), and social media in particular," *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017). The Internet does not provide leeway under our law for violating free speech protections no matter how novel the technology that transmits the speech in question might be.

Mr. Wade further has a right to use the name and image of others in such speech, including in "memes" or posts reflecting his criticism. *See Noah*, 103 Wn. App. at 38 (holding that picketing activity that included signs featuring the name of the petitioner could not form the

basis of an antiharassment protection order); *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 53-55 (1988) (the "art of the cartoonist is often not reasoned or evenhanded, but slashing and one-sided," but "graphic depictions and satirical cartoons have played a prominent role in public and political debate" and are constitutionally protected). Restricting the use of a picture or a name is a content-based speech restriction. *See Sarver v. Chartier*, 813 F.3d 891, 903 (9th Cir. 2016). And protection orders cannot, "consistent with the constitution," be based on the "speaker's ... message." *Trummel v. Mitchell*, 156 Wn. 2d 653, 667 (2006).

Wade's speech about Petitioners remains constitutionally protected regardless of whether it was motivated in part by an intent to embarrass, harass, or torment them (as would be required for a finding of cyberstalking under RCW 9.61.260(1)(b)). A "speaker's motivation" is generally "entirely irrelevant to the question of constitutional protection." *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 468 (2007) (lead op.); *id.* at 495 (Scalia, J., concurring in part and concurring in judgment). "Speech does not lose its protected character ... simply because it may embarrass others or coerce them into action." *NAACP*, 458 U.S. at 910. Thus, the Supreme Court has held that speech expressed with the "intent to inflict emotional distress" remains protected. *Hustler*, 485 U.S. at 53. As the Supreme Court explained in *Hustler*, it held in *Garrison v. Louisiana*, 379 U.S. 64 (1964), that "even when a speaker or writer is motivated by hatred or ill will his expression was protected by the First Amendment." 458 U.S. at 54. Furthermore, purpose-based regulation of speech is content discrimination, and under the First Amendment the government "has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2226, 2227 (2015).

Wade's speech about plaintiffs remains constitutionally protected regardless of whether it caused them to suffer emotional distress (as would be required for a finding of harassment under RCW 10.14.020 or finding of stalking predicated on harassment under RCW 9A.46.110). *See Noah*, 103 Wn. App. at 35 (holding picketing could not be the basis for an antiharassment order even though it caused the subject "emotional distress"). In "public debate [we] must tolerate insulting, and even outrageous, speech in order to provide adequate 'breathing space' to the freedoms protected by the First Amendment." *Snyder v. Phelps*, 131 S. Ct. 1207, 1219 (2011) (quoting *Boos v. Barry*, 485 U.S. 312, 322 (1988)) (alteration in original). Supreme Court precedent represents a "longstanding refusal" to allow civil remedies "because the speech in question may have an adverse emotional impact on the audience." *Hustler*, 485 U.S. at 55.

Wade's speech is further protected because it addresses a matter of local public concern. "[S]peech on public issues ... is entitled to special protection," and "cannot be restricted simply because it is upsetting or arouses contempt." *Snyder*, 131 S. Ct. at 1215, 1219 (so holding even in a private-figure-plaintiff case). Its "arguably inappropriate or controversial character ... is irrelevant." *Id.* at 1216. That the "speaker may have had a personal interest" in making the critique "does not diminish the concern the public would have." *White v. State*, 131 Wn. 2d 1, 13 (1997). The speech at issue here addresses matters of public concern as it purports to inform neighbors about potential threats. Regardless of the rightness or wrongness of Wade's opinions on these issues (and *assuming* his statements were either opinion or were true statements and therefore not defamatory), they relate to legitimate public issues.

The First Amendment also protects the right to communicate anonymously. *See, e.g., Buckley v. American Constitutional Law Found., Inc.*, 525 U.S. 182 (1999) (striking down a ban on anonymous solicitation of ballot access signatures); *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334 (1995) (striking down a ban on anonymous leafleting designed to influence voters in an election); *Talley v. California*, 362 U.S. 60 (1960) (striking down a ban on any anonymous leafleting). The Supreme Court has explained:

> Under our Constitution, anonymous pamphleteering is not a pernicious, fraudulent practice, but an honorable tradition of advocacy and of dissent. Anonymity is a shield from the tyranny of the majority. . . . It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand of an intolerant society.

McIntyre, 514 U.S. at 357. *See also id.* at 341-42 (emphasizing the use of anonymous speech by the founders of the American republic).

The First Amendment right to communicate anonymously also extends to the Internet to include using nom de plumes and anonymous social media identities. *See, e.g., Doe v. TheMart.com Inc.*, 140 F. Supp. 2d 1088, 1092 (W.D. Wash. 2001); *Doe v. Cahill*, 884 A.2d 451, 456 (Del. 2005). "Internet anonymity facilitates the rich, diverse, and far ranging exchange of ideas. The ability to speak one's mind on the Internet without the burden of the other party knowing all the facts about one's identity can foster open communication and robust debate." *TheMart.com Inc.*, 140 F. Supp. 2d at 1092.

In conclusion, this amicus brief is in no way a character reference for Mr. Wade nor does it attempt to ascertain whether Mr. Wade's speech was in fact protected rather than defamatory (or otherwise unprotected). Rather this brief simply makes the point that true statements, even critical or hurtful statements, constitute protected speech and thus cannot lose protection simply because others may not find his speech useful, lofty, appropriate, nice, or of any particular value.

1 November 2018

Should this court choose to grant a protection order restricting the speech of Mr. Wade, such an order would be unconstitutionally overbroad unless it were explicitly limited to unprotected categories of speech such as defamation or true threats. If this court determines that it cannot so limit its order, it should find for Mr. Wade. Petitioners, of course, retain their rights to pursue other remedies for any damages due to unprotected speech (for example, as by a defamation civil suit).

Respectfully Submitted,

Richard Lee Rynearson III

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1 November 2018

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BAINBRIDGE ISLAND
MUNICIPAL COURT

FROM: Richard Lee Rynearson III
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Creating a Facebook page or utilizing other social media technology to express an opinion no more changes underlying speech than the printing press changed the works of Shakespeare and likewise in no way alters the protection afforded the speech transmitted. Our U.S. Supreme Court has put this matter to rest and ruled that the "quintessential forum for the exercise of First Amendment rights" today is in fact "...cyberspace—the 'vast democratic forums of the Internet' in general, *Reno v. American Civil Liberties Union*, 521 U. S. 844, 868 (1997), and social media in particular," *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017). The Internet does not provide leeway under our law for violating free speech protections no matter how novel the technology that transmits the speech in question might be.

Mr. Wade further has a right to use the name and image of others in such speech, including in "memes" or posts reflecting his criticism. *See Noah*, 103 Wn. App. at 38 (holding that picketing activity that included signs featuring the name of the petitioner could not form the

basis of an antiharassment protection order); *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 53-55 (1988) (the "art of the cartoonist is often not reasoned or evenhanded, but slashing and one-sided," but "graphic depictions and satirical cartoons have played a prominent role in public and political debate" and are constitutionally protected). Restricting the use of a picture or a name is a content-based speech restriction. *See Sarver v. Chartier*, 813 F.3d 891, 903 (9th Cir. 2016). And protection orders cannot, "consistent with the constitution," be based on the "speaker's ... message." *Trummel v. Mitchell*, 156 Wn. 2d 653, 667 (2006).

Wade's speech about Petitioners remains constitutionally protected regardless of whether it was motivated in part by an intent to embarrass, harass, or torment them (as would be required for a finding of cyberstalking under RCW 9.61.260(1)(b)). A "speaker's motivation" is generally "entirely irrelevant to the question of constitutional protection." *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 468 (2007) (lead op.); *id.* at 495 (Scalia, J., concurring in part and concurring in judgment). "Speech does not lose its protected character ... simply because it may embarrass others or coerce them into action." *NAACP*, 458 U.S. at 910. Thus, the Supreme Court has held that speech expressed with the "intent to inflict emotional distress" remains protected. *Hustler*, 485 U.S. at 53. As the Supreme Court explained in *Hustler*, it held in *Garrison v. Louisiana*, 379 U.S. 64 (1964), that "even when a speaker or writer is motivated by hatred or ill will his expression was protected by the First Amendment." 458 U.S. at 54. Furthermore, purpose-based regulation of speech is content discrimination, and under the First Amendment the government "has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2226, 2227 (2015).

Wade's speech about plaintiffs remains constitutionally protected regardless of whether it caused them to suffer emotional distress (as would be required for a finding of harassment under RCW 10.14.020 or finding of stalking predicated on harassment under RCW 9A.46.110). *See Noah*, 103 Wn. App. at 35 (holding picketing could not be the basis for an antiharassment order even though it caused the subject "emotional distress"). In "public debate [we] must tolerate insulting, and even outrageous, speech in order to provide adequate 'breathing space' to the freedoms protected by the First Amendment." *Snyder v. Phelps*, 131 S. Ct. 1207, 1219 (2011) (quoting *Boos v. Barry*, 485 U.S. 312, 322 (1988)) (alteration in original). Supreme Court precedent represents a "longstanding refusal" to allow civil remedies "because the speech in question may have an adverse emotional impact on the audience." *Hustler*, 485 U.S. at 55.

Wade's speech is further protected because it addresses a matter of local public concern. "[S]peech on public issues ... is entitled to special protection," and "cannot be restricted simply because it is upsetting or arouses contempt." *Snyder*, 131 S. Ct. at 1215, 1219 (so holding even in a private-figure-plaintiff case). Its "arguably inappropriate or controversial character ... is irrelevant." *Id.* at 1216. That the "speaker may have had a personal interest" in making the critique "does not diminish the concern the public would have." *White v. State*, 131 Wn. 2d 1, 13 (1997). The speech at issue here addresses matters of public concern as it purports to inform neighbors about potential threats. Regardless of the rightness or wrongness of Wade's opinions on these issues (and *assuming* his statements were either opinion or were true statements and therefore not defamatory), they relate to legitimate public issues.

The First Amendment also protects the right to communicate anonymously. *See, e.g., Buckley v. American Constitutional Law Found., Inc.*, 525 U.S. 182 (1999) (striking down a ban on anonymous solicitation of ballot access signatures); *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334 (1995) (striking down a ban on anonymous leafleting designed to influence voters in an election); *Talley v. California*, 362 U.S. 60 (1960) (striking down a ban on any anonymous leafleting). The Supreme Court has explained:

> Under our Constitution, anonymous pamphleteering is not a pernicious, fraudulent practice, but an honorable tradition of advocacy and of dissent. Anonymity is a shield from the tyranny of the majority. . . . It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand of an intolerant society.

McIntyre, 514 U.S. at 357. *See also id.* at 341-42 (emphasizing the use of anonymous speech by the founders of the American republic).

The First Amendment right to communicate anonymously also extends to the Internet to include using nom de plumes and anonymous social media identities. *See, e.g., Doe v. TheMart.com Inc.*, 140 F. Supp. 2d 1088, 1092 (W.D. Wash. 2001); *Doe v. Cahill*, 884 A.2d 451, 456 (Del. 2005). "Internet anonymity facilitates the rich, diverse, and far ranging exchange of ideas. The ability to speak one's mind on the Internet without the burden of the other party knowing all the facts about one's identity can foster open communication and robust debate." *TheMart.com Inc.*, 140 F. Supp. 2d at 1092.

In conclusion, this amicus brief is in no way a character reference for Mr. Wade nor does it attempt to ascertain whether Mr. Wade's speech was in fact protected rather than defamatory (or otherwise unprotected). Rather this brief simply makes the point that true statements, even critical or hurtful statements, constitute protected speech and thus cannot lose protection simply because others may not find his speech useful, lofty, appropriate, nice, or of any particular value.

1 November 2018

Should this court choose to grant a protection order restricting the speech of Mr. Wade, such an order would be unconstitutionally overbroad unless it were explicitly limited to unprotected categories of speech such as defamation or true threats. If this court determines that it cannot so limit its order, it should find for Mr. Wade. Petitioners, of course, retain their rights to pursue other remedies for any damages due to unprotected speech (for example, as by a defamation civil suit).

Respectfully Submitted,

Richard Lee Rynearson III

Richard Lee Rynearson III

BAINBRIDGE ISLAND MUNICIPAL COURT Kitsap County, Washington	Mailing address: PO Box 151, Rollingbay, WA 98061 Location address: 10255 NE Valley Rd, Bainbridge Island, WA Phone # 206-842-5641 Fax # 206-842-0316 www.bainbridgewa.gov/court Email:court@bainbridgewa.gov
John DuVors, Petitioner, vs. Houston Wade, Respondent.	Case # 46-18 **RETURN OF SERVICE** (RTS)

FILED
OCT 25 2018
BAINBRIDGE ISLAND MUNICIPAL COURT

1. My name is G. Koon. I am ☒ a peace officer ☐ 18 years of age or older and not the petitioner.
2. ☐ I was unable to make personal service on the respondent. ☐ I have notified the petitioner that respondent was not served.
   ☐ Personal service was attempted on the following date(s)_____
   ☐ No service was attempted because _____
3. ☒ I served Houston Wade (name of person served) with the following documents:

☒ Temporary Order for Protection and Notice of Hearing - Stalking & Harrassment	☐ Motion to Modify/Terminate Order for Protection
☒ Petition for Order for Protection	☐ Order Modifying/Terminating Order for Protection
☐ Reissuance of Temporary Order for Protection and Notice of Hearing	☐ Order Transferring Case and Setting Hearing
☐ Order for Protection	☐ Other: _____
☐ Order to Surrender Weapons, Proof of Surrender, Declaration of Non-Surrender	

4. I served these documents on 10-24-2018 (date) at 2335 (time) at this address:
   6235 Winslow Way E, Bainbridge Island wa
5. Other: _____

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED 10-24-2018 at Bainbridge Island, Washington.

Fees: Service _____
Mileage _____
Total _____

G Koon
Signature of Server

Bainbridge Island PD
Law Enforcement Agency

FILED
OCT 23 2018
BAINBRIDGE ISLAND MUNICIPAL COURT

BAINBRIDGE ISLAND MUNICIPAL COURT Kitsap County, Washington	Mail: PO Box 151, Rollingbay, WA 98061 Location: 10255 NE Valley Rd, Bainbridge Island, WA Phone # 206-842-5641 Fax # 206-842-0316 Email: court@bainbridgewa.gov
John Downs Petitioner (Person Protected), DOB vs. Houston Wade Respondent (Person Restrained). DOB	**No.** 46-18 **Temporary Protection Order and Notice of Hearing – Stalking** AND HARRASSMENT **(TMOSTKH)** (Clerk's action required) **Next Hearing Date and Time:** TUESDAY Nov 6, 2018 1 PM **At:** BI Municipal Court

Respondent's Distinguishing Features:

Caution: Access to weapons: ☐ **yes** ☐ **no** ☒ **unknown**

Respondent Identifiers

Sex	Race	Hair
M	C	
Height	Weight	Eyes

The protected person/s is/are the:

☒ Petitioner who is 16 years of age or older and filed on his or her own behalf.

☐ Petitioner/s who is/are the following minor child/ren on whose behalf the petition was filed:

Name (First, Middle Initial, Last)	Age

☐ The child/ren's parent or guardian filed the petition; or

☐ A person who is not the parent or guardian, with whom the child/ren live/s, filed the petition; and the respondent is not the parent.

☐ Petitioner is a vulnerable adult as defined in RCW 74.34.020 or 74.34.021 on whose behalf the petition was filed. ☐ An interested person filed the petition.

The court has jurisdiction over the parties and the subject matter. The respondent will be served notice of his or her opportunity to be heard at the scheduled hearing.

No contact provisions begin on the next page.

the end of the hearing, noted above.

The terms of this order shall be effective until:

Based upon the petition, testimony, and case record, the court finds: 1) that the respondent committed stalking conduct against the protected person/s; 2) that there is good cause to grant each remedy, regardless of the lack of prior service or notice upon the respondent, because the harm which each remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief. **It is ordered that:**

☒ **No-Contact**: respondent is ***restrained*** from having any contact, including nonphysical contact, with the protected person/s directly, indirectly, or through third parties regardless of whether those third parties know of the order, except for mailing or service of process of court documents by a 3rd party or contact by respondent's lawyer/s.

☒ **Surveillance**: respondent is ***prohibited*** from keeping the protected person/s under surveillance, including electronic surveillance.

☒ **Exclude from places**: respondent is ***excluded*** from the protected person/s' ☒ residence ☒ workplace ☐ school ☐ day care

☒ **Stay Away**: respondent is ***prohibited*** from knowingly coming within or knowingly remaining within 500' (distance) of the protected person/s' ☒ residence ☒ workplace ☐ school ☐ day care.
☐ other:

☐ The address is confidential ☐ The petitioner waives confidentiality of the protected person's address which is:

☒ SEE ALSO ATTACHMENT 'A' FOR ADDITIONAL PROHIBITED CONDUCT

☐ **Surrender of Weapons**

Respondent shall immediately surrender any firearms and other dangerous weapons to the person or agency named in the Order to Surrender Weapons (Issued without Notice) signed by the court on this date, under this cause number.

- The respondent is directed to appear and show cause why the court should not enter an order for protection effective for one year or more and order the relief requested by the petitioner or other relief the court deems proper, which may include payment of costs.
- **Failure to appear at the hearing or to otherwise respond will result in the court issuing an order for protection – stalking pursuant to RCW Title 7.92, effective for a minimum of one year from the date of the hearing. The next hearing date and time is shown below the caption on page one.**
- The respondent may petition the court to modify or terminate the order if the respondent does not receive actual prior notice of the hearing and if the respondent alleges a meritorious defense to the order or that the order or its remedy is not authorized by this chapter.

Warning to the Respondent: A knowing violation of this stalking protection order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. ***You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions.*** You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order.

A knowing violation of this order is punishable under RCW 26.50.110.

Attachment A.

Respondent Houston Wade is RESTRAINED and ENJOINED from:

1) Creating or maintaining internet websites, Facebook pages, blogs, forums, or other online entities that use the name or personal identifying information of Petitioner Du Wors in the body, title, comments or domain name, or mention Petitioner Du Wors directly or indirectly;

2) Using the photographs or other images of Petitioner Du Wors to create memes, posters, or other online uses;

3) Subverting the purposes of this order directly or indirectly such as by encouraging or causing others to act on his behalf; and

4) Contacting Petitioner Du Wors' clients, professional colleagues, family members or peers about Petitioner Du Wors.

Respondent Houston Wade is further ORDERED to remove all online posts and comments that mention or refer to Petitioner Du Wors directly or indirectly, including but not limited to posts and related comments on his own Facebook page, the Facebook Page entitled "The Bainbridge Island Bad List", and any other online sites he controls directly or indirectly.

Pursuant to 18 U.S.C. § 2265, a court in any of the 50 states, the District of Columbia, Puerto Rico, any United States territory, and any tribal land within the United States shall accord full faith and credit to the order.

WACIC Data Entry

It is ordered that the clerk of court shall forward a copy of this order on or before the next judicial day to: Bainbridge Isl P.D. ☐ County Sheriff's Office ☒ Police Department **where petitioner lives** which shall enter it in the Washington Crime Information Center.

Service

☒ The clerk of court ☐ petitioner shall forward a copy of this order on or before the next judicial day to: BAINBRIDGE ISLAND ☐ County Sheriff's Office ☒ Police Department **where respondent lives** which shall personally serve the respondent with a copy of this order and shall promptly complete and return to this court proof of service.

Or ☐ Petitioner has made private arrangements for service of this order.

Or ☐ Respondent appeared; further service is not required.

This order is in effect until the next hearing date and time shown below the caption on page one.

Dated 10-23-18 at 1:23 a.m./p.m. [signature]
Judge

Presented by:

[signature] 10/23/2018
Petitioner/Petitioner's Lawyer Date

John Du Wors
Please print WSBA NO.

I acknowledge receipt of a copy of this Order:

Respondent Date

Please Print

Petitioner or Petitioner's Lawyer must complete a Law Enforcement Information Sheet.

FILED
OCT 23 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

BAINBRIDGE ISLAND MUNICIPAL COURT Kitsap County, Washington	Mailing Addr: PO Box 151, Rollingbay, WA 98061 Location Addr: 10255 NE Valley Rd, Bainbridge Island, WA Phone # 206-842-5641 Fax # 206-842-0316 www.bainbridgewa.gov/court Email:court@bainbridgewa.gov
John Du Wors Petitioner, vs. Houston Wade Respondent.	No. 46-18 **Petition for an Order for Protection -** ☒ **Harassment** (PTORAH) **and/or** ☒ **Stalking** (PTORSTK)

➢ This is a Petition for an Order for Protection against Harassment and/or Stalking as checked in the caption.

I believe:

☒ I am a victim of stalking.
☐ _____ (name) is the victim of stalking and he/she is a minor or vulnerable adult.
The respondent has been
- stalking the victim either in person or cyber stalking, **and**
- repeatedly contacting the victim or attempting to contact or monitor the victim for no lawful purpose and his/her actions caused the victim to feel intimidated, frightened or threatened.

☒ I am a victim of unlawful harassment.
☐ _____ (name) is a victim of unlawful harassment and he/she is a minor.
The respondent's actions toward the victim have seriously alarmed, annoyed or harassed the victim, or are detrimental to the victim and serve no legitimate or lawful purpose. The respondent's actions have caused substantial emotional distress to the victim or caused me to fear for the well-being of my child.

How do the victim and respondent know each other? Respondent is a friend/romantic partner of Petitioner's ex wife

I have given a detailed explanation below.

1. Who is the petitioner?

My name is (please print) John Du Wors. I am the petitioner.

☒ I am 18 or older and I am petitioning on my own behalf.
☐ I am 16 or 17 and I am petitioning on my own behalf.
☐ I am the parent or guardian of child/ren under age 18 and I am petitioning on their behalf:

Children's Name/s (First, Middle Initial, Last)	Age

☐ I am not the parent or guardian, but the child/ren live/s with me; and I am petitioning on their behalf; and the respondent is not a parent.

Children's Name/s (First, Middle Initial, Last)	Age

☐ I am filing this petition on behalf of petitioner, (name) _____, a vulnerable adult as defined in RCW 74.34.020, who is a victim of stalking. I am an interested person as defined in RCW 74.34.020(10). My relationship to this petitioner is _____.

2. Is the respondent 18 years of age or older?

☒ Yes ☐ No

(If no, use the Petition for Order for Protection Harassment/Stalking Respondent Under Age 18, instead of this petition.)

3. Where do the parties live?

Petitioner lives in Kitsap county.

Did the petitioner leave their residence because of stalking conduct and that is the county of their new residence?

☐ Yes ☒ No

Children named above live in _____ county.

Respondent lives in Kitsap county.

4. Where did the Conduct take place?

The conduct took place in Kitsap county.

5. Describe what the Respondent did or said that you think is harassment or stalking.

- You must describe what the respondent actually said.
- You must describe what the respondent actually did.

The respondent has committed acts of harassment or stalking as follows:

A. Describe the most recent incident of harassment or stalking.

Date and time (on or around): Starting October 13, 2018 until present

Location: Bainbridge Island, Washington

What did the respondent do or say that you believe to be harassing or stalking behavior?

Respondent has launched an online, harassing, embarassing, online campaign seeking to destroy my life and my job. He is acting at the request of my former spouse. He has also started contacting as many members of my law firm adn my social group as he can. A complete declaration and memorandum of authorities is attached.

How did the respondent make these statements? ☐ in person ☐ mail/written notes
☒ e-mail ☐ text ☐ phone ☒ social media (such as facebook and twitter)
☐ other (describe): _____

How did the respondent make these statements? ☐ in person ☒ mail/written notes
☒ e-mail ☐ text ☐ phone ☒ social media (such as facebook and twitter)
☐ other (describe): _____.

B. Describe other incidents of harassment or stalking. For <u>each</u> incident, include the date, time (on or about), location, what was said, how statements were made, and what was done to a victim.

6. How did the incidents you describe above make you, the minor, or the vulnerable adult feel?

Extreme emotional distress. Fear for the welfare of my children and my livelihood

7. Has the respondent used, displayed, or threatened to use a firearm or other dangerous weapon in a felony? Please describe:

N/A

8. Has the respondent previously committed an offense that makes him or her ineligible to possess a firearm under the provisions of RCW 9.41.040? Please describe:

Unknown.

9. Does possession of a firearm or other dangerous weapon by the respondent present a serious and imminent threat to public health or safety, or to the health or safety of a victim? Please describe:

Unknown.

10. Do you have any evidence of the harassment or stalking conduct other than testimony?

- ☐ No
- ☒ Yes. I have attached the following evidence:
  - ☒ Copy of mail or written notes
  - ☐ Copy of text messages
  - ☐ Copy of emailed messages
  - ☒ Copy of social media messages
  - ☐ Police report
  - ☐ Declaration or Affidavit from the following witness: _____
  - ☐ Other (describe): _____

11. Has/have the **victim/s or the respondent** ever requested or obtained protection from the other person in a restraining order, civil protection order, or criminal no-contact order? If yes, list the type of order, the name of the court and the approximate date, and whether the request was granted:

Unknown.

12. Is there any other litigation between the victim/s and the respondent? This includes all matters - pending or past - such as parenting plans, landlord-tenant disputes, employment disputes, or property disputes. If yes, provide case number/s if known, type of case, and name of court:

No.

➢ Requests

13. I ask the Court for an order approving the following requests for protection:

I Request an **Order for Protection** following a hearing that will:

☒ **No-Contact**: restrain the respondent from making any attempts or having any contact, including nonphysical contact, with the person/s to be protected, directly, indirectly, or through third parties regardless of whether those third parties know of the order, except for mailing of court documents.
☒ **Surveillance:** prohibit or restrain the respondent from making any attempt to keep or from keeping the person/s to be protected under surveillance, including electronic surveillance.
☐ **Exclude from places**: exclude the respondent from the ☐ residence ☐ workplace ☐ school ☐ day care of the person/s to be protected.
☐ **Stay Away**: Prohibit or restrain the respondent from entering or being within, or from knowingly coming within, or knowingly remaining within _____ (distance) of the ☐ residence ☐ workplace ☐ school ☐ day care of the person/s to be protected. ☐ other locations: _____
☒ **Other**: I request that the respondent be required to take down all online posts mentioning or referring to me, and/or contacting my family members, social contacts and/or professional contacts regarding me, including cyberstalking.
☐ **Evaluation**: Order the respondent to have a ☐ mental health ☐ chemical dependency evaluation. ☐ other: _____
☒ **Pay Fees and Costs:** Require the respondent to pay fees and costs of this action, which may include administrative court costs and service fees and petitioner's costs including attorneys' fees.
☐ **Surrender Firearms:** Require the respondent to surrender any firearm or other dangerous weapon, or any concealed pistol license and prohibit the respondent from obtaining or possessing a firearm or other dangerous weapon, or a concealed pistol license.
☒ **Duration**: Remain effective longer than one year because respondent is likely to resume acts of unlawful harassment or stalking conduct against the persons to be protected if the order expires in a year.

Emergency temporary protection (up to 14 days) until the court hearing:

☑ An emergency exists as described below. I request that a **Temporary Stalking Protection Order** granting the relief I requested above for a no-contact, surveillance, exclude from places, or stay away order be issued immediately, without prior notice to the respondent, to be effective until the hearing.

☐ I also request a temporary surrender of a firearm or other dangerous weapon without notice to the other party because irreparable injury could result if an order is not issued until the hearing.

What irreparable harm would result if an order is not issued immediately without prior notice to the respondent?

Continued loss of economic relationships, risk of loss of livelihood, emotional distress and public humiliation.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated: 10/23/2018 at Kitsap Washington.

John Dwors

Petitioner

John Dy Wors

Print or type name

My address for the purpose of receiving service of legal documents is:

4162 Sorrel Way, Bainbridge Island, WA 98110.

☐ This is not my residence address. My family, household or I would be at risk of abuse by respondent if I disclosed my residence address. I agree to receive service of process at this address.

1. I, John Du Wors, am over eighteen years of age; competent to testify herein; and make the following declaration from personal knowledge.

2. I am currently going through a contentious divorce with my wife, Amber Du Wors.

3. On October 13th, 2018, at Amber Du Wors' request, Amber Du Wors' close friend, Houston Wade, created a defamatory and derogatory Facebook page entitled, "The Bainbridge Island Bad List" (The "Cyberstalking Page"). The allegations contained on this page, and the comments by Mr. Wade on it, are almost entirely false, and constitute defamation per se.

4. The Cyberstalking Page accuses me of sexual misconduct, domestic violence, criminal conduct, and professional misconduct in the context of my law practice. Example screen shots of the Cyberstalking Page is attached as exhibit A. It appears multiple other individuals are victims of Mr. Wades defamatory and derogatory statements, including Bill Nelson, who is also a local islander.

5. Mr. Wade caused the content of his Cyberstalking Page to be transmitted to literally thousands of people, including hundreds of my law firm clients, professional colleagues, family members and friends.

6. I have received dozens of inquiries from clients, friends and colleagues about the Cyberstalking Page. It is causing me severe emotional distress, and profound professional disruption with corresponding economic loss.

7. On October 19th, 2018, I drafted a lawsuit against Mr. Wade, which I have not yet commenced. I transmitted a copy of the unfiled complaint to Mr. Wade, along with a demand that he cease and desist from further Cyberstalking activities.

8. In retaliation, Mr. Wade added derogatory content to his Cyberstalking Page, and made a virtually identical post on his own Facebook Page, which

he disseminated to thousands more people. A screen shot of the post on Mr. Wade's own page is attached as Exhibit B.

9. On October 19th, 2018, Mr. Wade also began emailing multiple members of my law firm, including my law partners, Derek Newman and Nathan Durrance, as well as my paralegal staff. A copy of Mr. Wade's letter is attached as Exhibit C. Copies of the email communications I have received from the members of my law firm are gathered and attached as Exhibit D.

10. Copies of a portion Mr. Wade's communication with my wife demonstrating her involvement in the posting of Mr. Wade's Cyberstalking Page are attached as Exhibit E.

11. At the demand of my divorce lawyer, my wife asked Mr. Wade to remove the derogatory posts against me, because her encouragement of it violated the temporary restraining orders that issued in our divorce.

12. Wade stated to me by electronic message that the purpose of his Cyberstalking Page was to ruin my life, destroy my law practice, and have my license to practice law taken away.

    a. Specifically, Mr. Wade states "I am going to ruin you, and it is going to be so much fun...".

    b. In another comment on his Cyberstalking Page, Mr. Wade states that the purpose of his efforts is to "ruin...[my] fucking world."

    c. In another communication, Mr. Wade states to me, "Why do you think I want you to sue me? I want you under oath so bad! The Bar Association is going to take your license. You will no longer have a livelihood."

A copy of those communicationsis attached as Exhibit F.

13. Mr. Wade's stated desire to destroy my livelihood is particularly troubling. Currently, I am the sole financial provider to four young children, and a soon-to-be ex-wife whom I support with roughly $15,000 per month. Mr. Wade's desire to destroy my livelihood, in my view, underscores the malice driving his posts, and the lack of any valid public interest that could support his free speech defense.

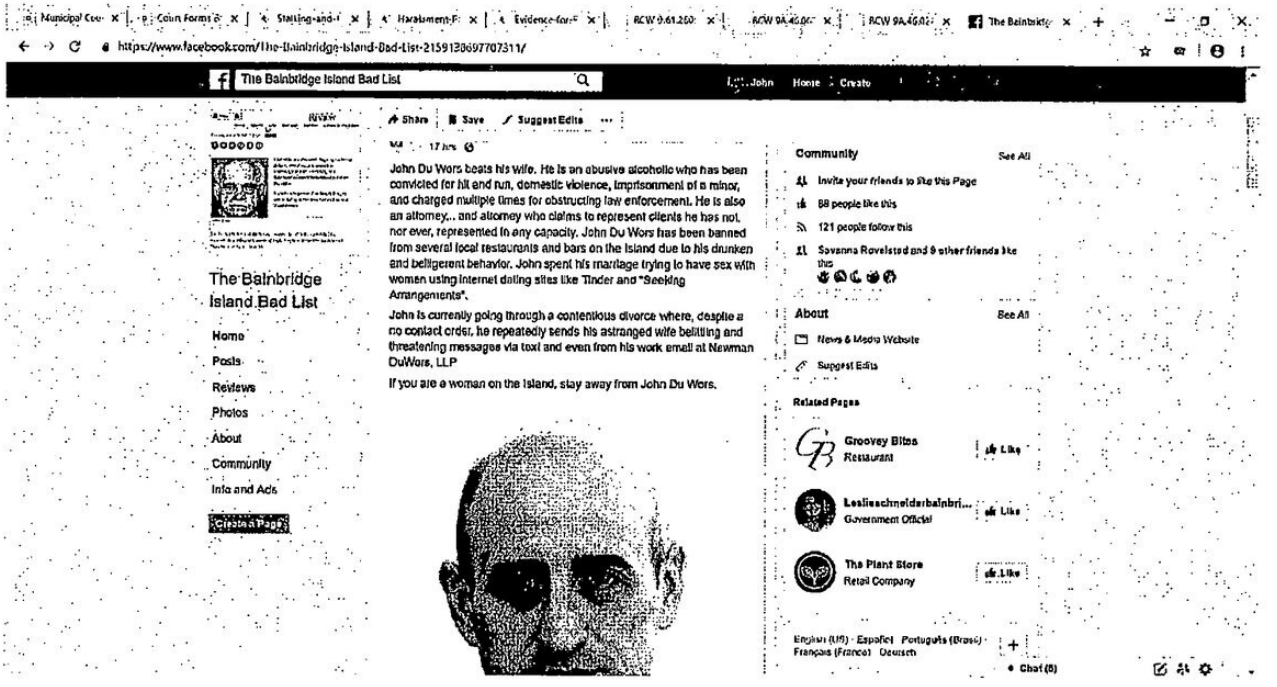
14. Attached as Exhibit G is a brief legal memorandum discussing, in abbreviated form, the legal principles that support the issuance of my requested restraining order.

Declared under penalty of perjury this 23rd day of October 2018.

_____

John Du Wors

Exhibit A


https://www.facebook.com/The-Bainbridge-Island-Bad-List-2159138697707311/
The Bainbridge Island Bad List
Home
Create
The Bainbridge Island Bad List
Home
Posts
Reviews
Photos
About
Community
Info and Ads
Create a Page
Share
Save
Suggest Edits
17 hrs
John Du Wors beats his wife. He is an abusive alcoholic who has been convicted for hit and run, domestic violence, imprisonment of a minor, and charged multiple times for obstructing law enforcement. He is also an attorney... and attorney who claims to represent clients he has not, nor ever, represented in any capacity. John Du Wors has been banned from several local restaurants and bars on the island due to his drunken and belligerent behavior. John spent his marriage trying to have sex with women using internet dating sites like Tinder and "Seeking Arrangements".
John is currently going through a contentious divorce where, despite a no contact order, he repeatedly sends his estranged wife belittling and threatening messages via text and even from his work email at Newman DuWors, LLP
If you are a woman on the Island, stay away from John Du Wors.
Community
See All
Invite your friends to like this Page
88 people like this
121 people follow this
Savanna Rovelstad and 9 other friends like this
About
See All
News & Media Website
Suggest Edits
Related Pages
Groovey Bites
Restaurant
Like
Leslieschneiderbainbri...
Government Official
Like
The Plant Store
Retail Company
Like
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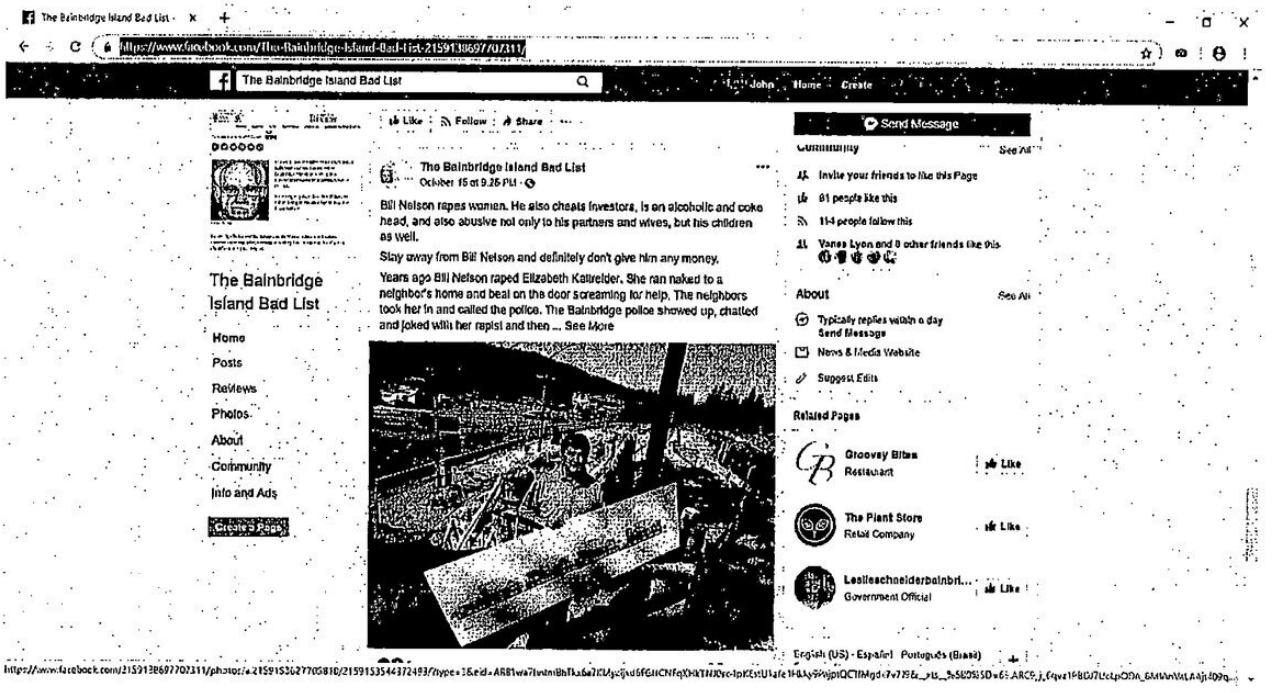

The Bainbridge Island Bad List
https://www.facebook.com/The-Bainbridge-Island-Bad-List-215913869770311/
The Bainbridge Island Bad List
John
Home
Create
Like
Follow
Share
Send Message
The Bainbridge Island Bad List
October 15 at 9:26 PM
Bill Nelson rapes women. He also cheats investors, is an alcoholic and coke head, and also abusive not only to his partners and wives, but his children as well.
Stay away from Bill Nelson and definitely don't give him any money.
Years ago Bill Nelson raped Elizabeth Kattreider. She ran naked to a neighbor's home and beat on the door screaming for help. The neighbors took her in and called the police. The Bainbridge police showed up, chatted and joked with her rapist and then ... See More
The Bainbridge Island Bad List
Home
Posts
Reviews
Photos
About
Community
Info and Ads
Create a Page
Community
See All
Invite your friends to like this Page
81 people like this
114 people follow this
Vanes Lyon and 8 other friends like this
About
See All
Typically replies within a day
Send Message
News & Media Website
Suggest Edits
Related Pages
Groovey Bites
Restaurant
Like
The Plant Store
Retail Company
Like
Leslieschneiderbainbri...
Government Official
Like
English (US) · Español · Português (Brasil)

Exhibit B

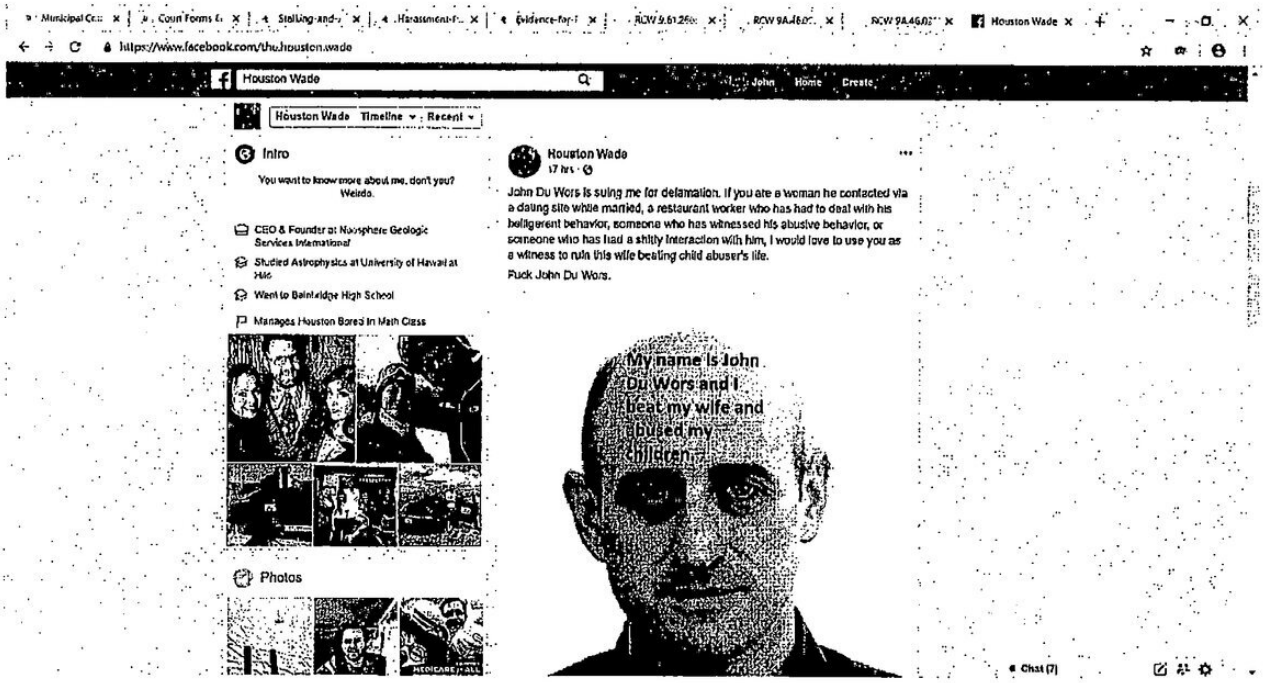
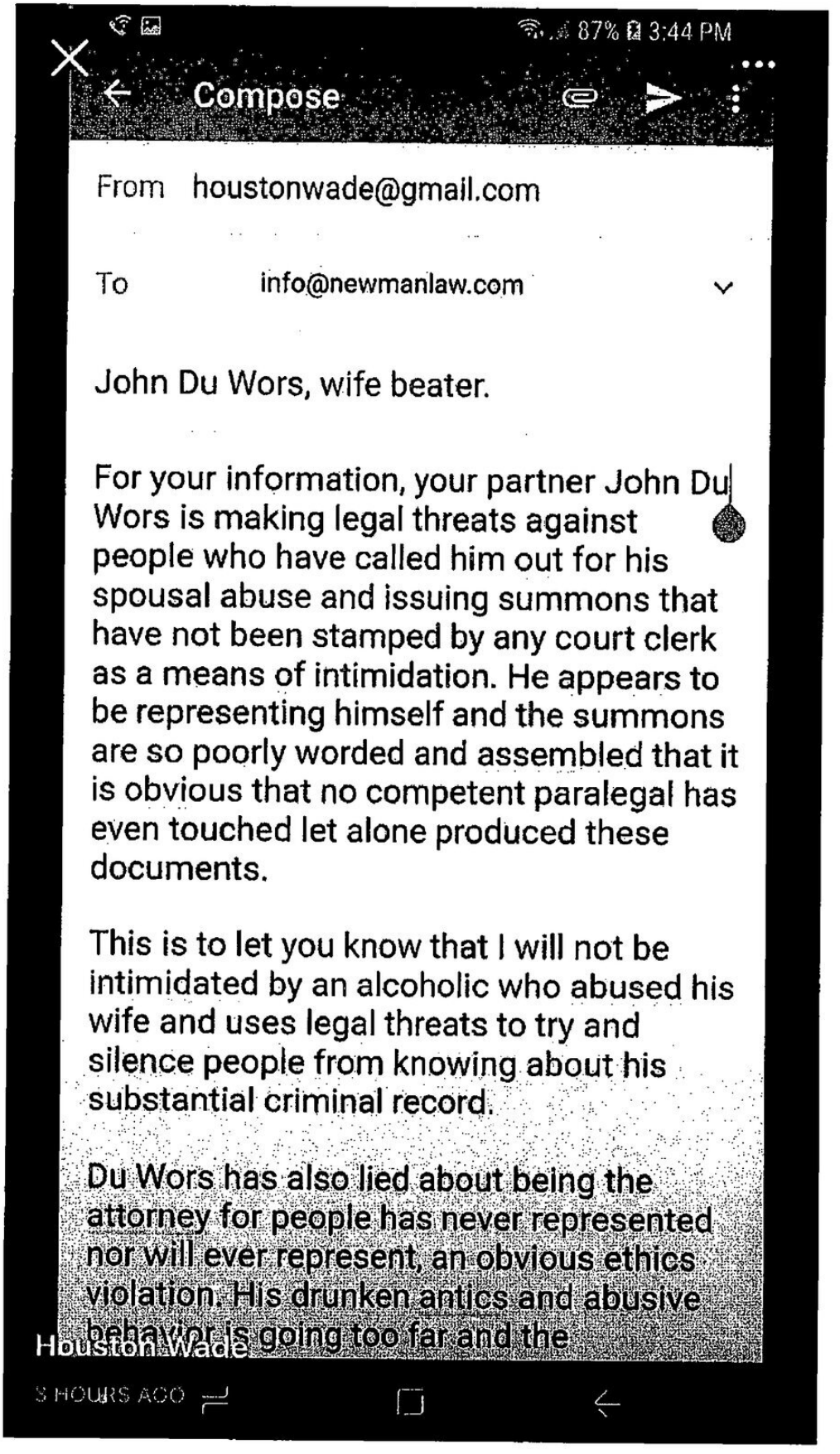

https://www.facebook.com/thu.houston.wade
Houston Wade
John
Home
Create
Houston Wade Timeline
Recent
Intro
You want to know more about me, don't you? Weirdo.
CEO & Founder at Noosphere Geologic Services International
Studied Astrophysics at University of Hawai'at Hilo
Went to Bainbridge High School
Manages Houston Bored In Math Class
Photos
Houston Wade
17 hrs
John Du Wors is suing me for defamation. If you are a woman he contacted via a dating site while married, a restaurant worker who has had to deal with his belligerent behavior, someone who has witnessed his abusive behavior, or someone who has had a shitty interaction with him, I would love to use you as a witness to ruin this wife beating child abuser's life.
Fuck John Du Wors.
My name is John Du Wors and I beat my wife and abused my children
Chat (7)

Exhibit C


87% 3:44 PM
Compose
From houstonwade@gmail.com
To info@newmanlaw.com
John Du Wors, wife beater.
For your information, your partner John Du Wors is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even touched let alone produced these documents.
This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.
Du Wors has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the
Houston Wade
5 HOURS AGO

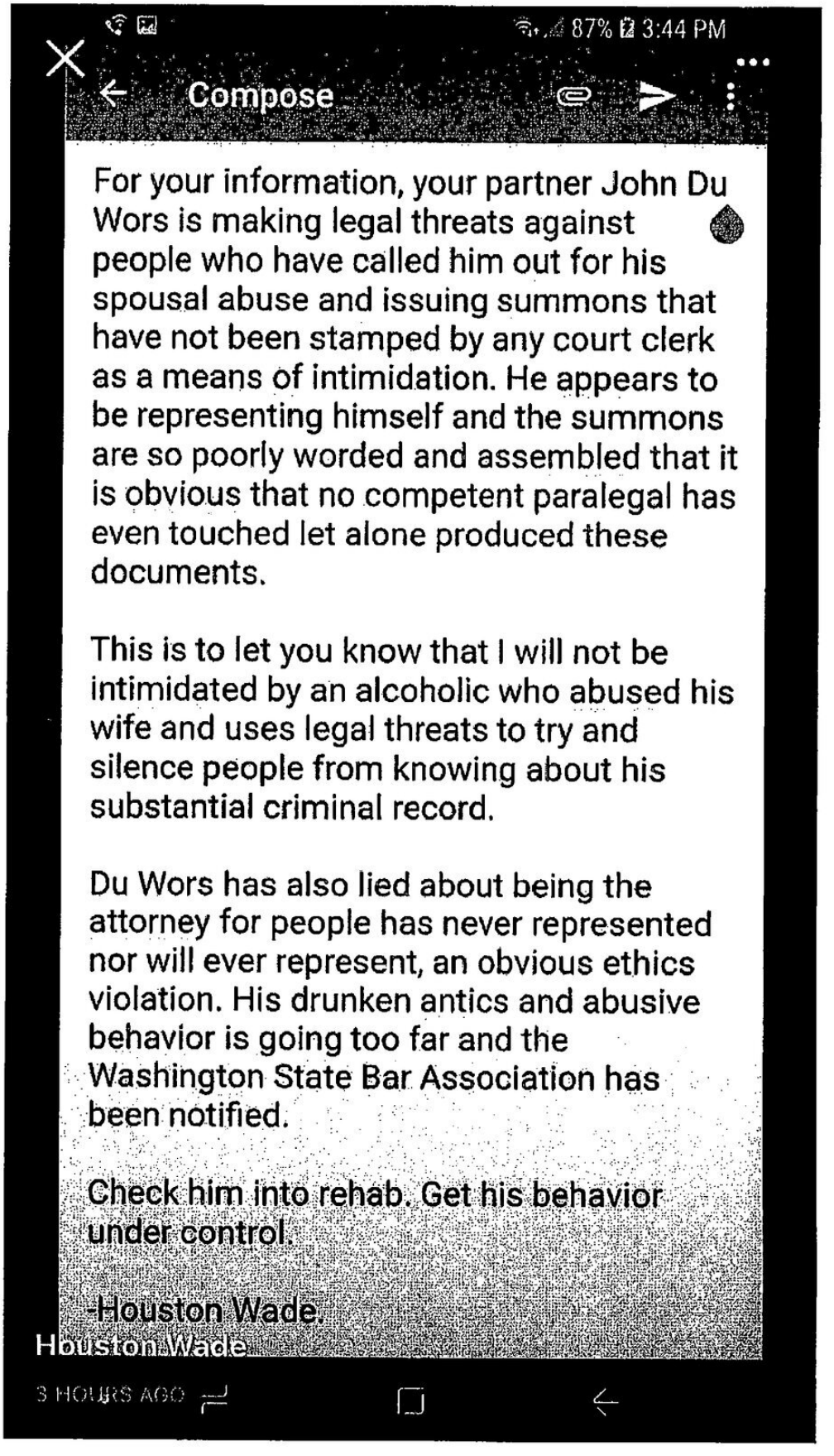
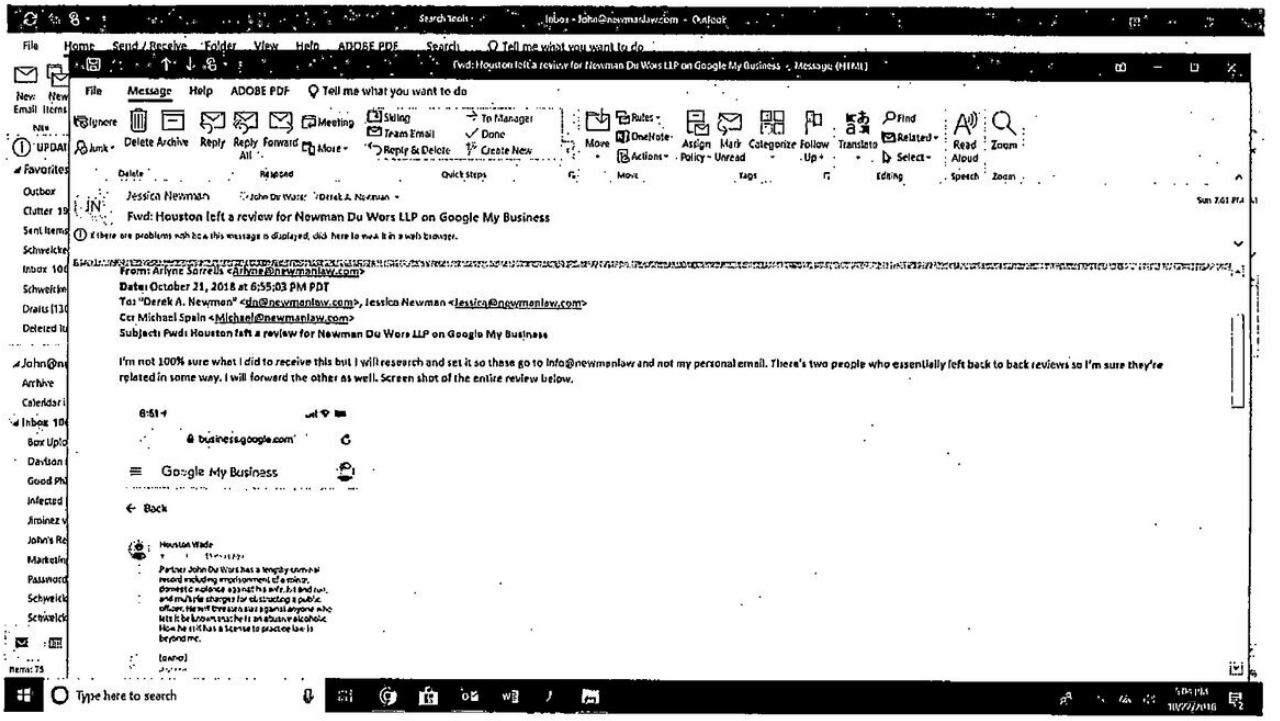

87% 3:44 PM
Compose
For your information, your partner John Du Wors is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even touched let alone produced these documents.
This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.
Du Wors has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the Washington State Bar Association has been notified.
Check him into rehab. Get his behavior under control.
-Houston Wade
Houston Wade
3 HOURS AGO

Exhibit D



Fwd: Houston left a review for Newman Du Wors LLP on Google My Business - Message (HTML)

Jessica Newman

Fwd: Houston left a review for Newman Du Wors LLP on Google My Business

If there are problems with how this message is displayed, click here to view it in a web browser.

From: Arlyne Sorrells <Arlyne@newmanlaw.com>
Date: October 21, 2018 at 6:55:03 PM PDT
To: "Derek A. Newman" <dn@newmanlaw.com>, Jessica Newman <Jessica@newmanlaw.com>
Cc: Michael Spain <Michael@newmanlaw.com>
Subject: Fwd: Houston left a review for Newman Du Wors LLP on Google My Business

I'm not 100% sure what I did to receive this but I will research and set it so these go to info@newmanlaw and not my personal email. There's two people who essentially left back to back reviews so I'm sure they're related in some way. I will forward the other as well. Screen shot of the entire review below.

business.google.com

Google My Business

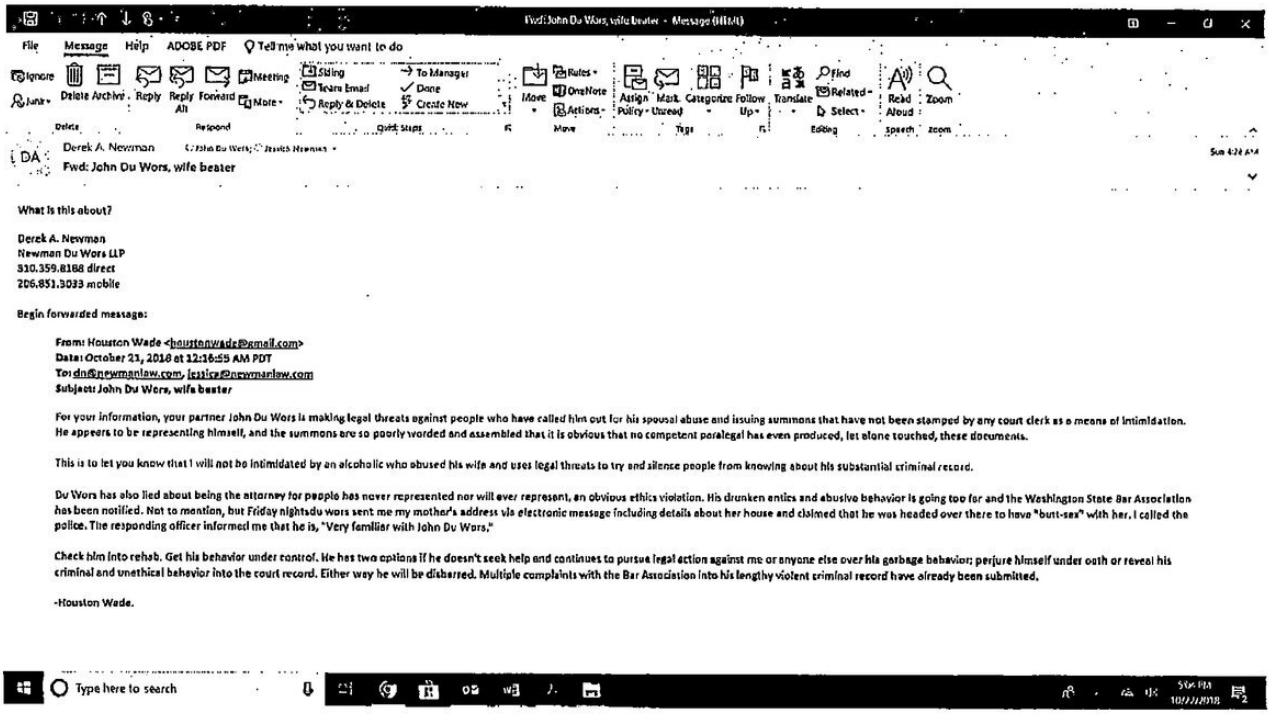
Back

Houston Wade

Partner John Du Wors has a lengthy criminal record including imprisonment of a minor, domestic violence against his wife, hit and run, and multiple charges for obstructing a public officer. He will threaten sue against anyone who lets it be known that he is an abusive alcoholic. How he still has a license to practice law is beyond me.

[ENHO]

Type here to search



Fwd: John Du Wors, wife beater - Message (HTML)

Derek A. Newman

Fwd: John Du Wors, wife beater

What is this about?

Derek A. Newman
Newman Du Wors LLP
310.359.8188 direct
206.851.3033 mobile

Begin forwarded message:

From: Houston Wade <houstonwade@gmail.com>
Date: October 21, 2018 at 12:16:55 AM PDT
To: dn@newmanlaw.com, jessica@newmanlaw.com
Subject: John Du Wors, wife beater

For your information, your partner John Du Wors is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself, and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even produced, let alone touched, these documents.

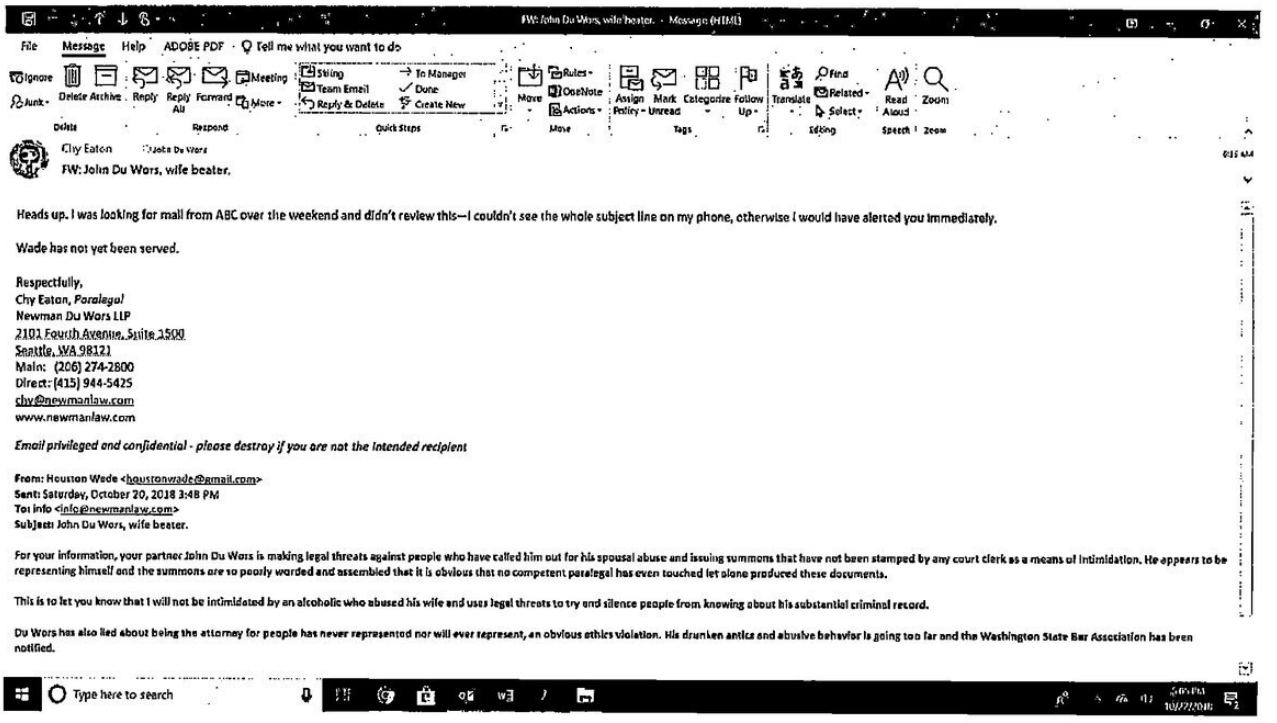
This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.

Du Wors has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the Washington State Bar Association has been notified. Not to mention, but Friday nightdu wors sent me my mother's address via electronic message including details about her house and claimed that he was headed over there to have "butt-sex" with her. I called the police. The responding officer informed me that he is, "Very familiar with John Du Wors."

Check him into rehab. Get his behavior under control. He has two options if he doesn't seek help and continues to pursue legal action against me or anyone else over his garbage behavior; perjure himself under oath or reveal his criminal and unethical behavior into the court record. Either way he will be disbarred. Multiple complaints with the Bar Association into his lengthy violent criminal record have already been submitted.

-Houston Wade.

Type here to search



FW: John Du Wors, wife beater. - Message (HTML)

File Message Help ADOBE PDF Tell me what you want to do

Ignore Junk Delete Archive Reply Reply All Forward Meeting More Delete Respond

String Team Email Reply & Delete To Manager Done Create New Quick Steps

Move Rules OneNote Actions Move

Assign Policy Mark Unread Categorize Follow Up Tags

Translate Find Related Select Editing

Read Aloud Zoom Speech Zoom

Chy Eaton Houston Wade

FW: John Du Wors, wife beater.

Heads up. I was looking for mail from ABC over the weekend and didn't review this—I couldn't see the whole subject line on my phone, otherwise I would have alerted you immediately.

Wade has not yet been served.

Respectfully,
Chy Eaton, *Paralegal*
Newman Du Wors LLP
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Main: (206) 274-2800
Direct: (415) 944-5425
chy@newmanlaw.com
www.newmanlaw.com

Email privileged and confidential - please destroy if you are not the intended recipient

From: Houston Wade <houstonwade@gmail.com>
Sent: Saturday, October 20, 2018 3:48 PM
To: Info <info@newmanlaw.com>
Subject: John Du Wors, wife beater.

For your information, your partner John Du Wors is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even touched let alone produced these documents.

This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.

Du Wors has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the Washington State Bar Association has been notified.

Type here to search

Saturday 7:36 PM

Now I'm getting these messages.

people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even touched let alone produced these documents.

This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.

Du Wors has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the Washington State Bar Association has been notified.

[illegible]

This guy Houston really is on a mission it seems.

Exhibit E

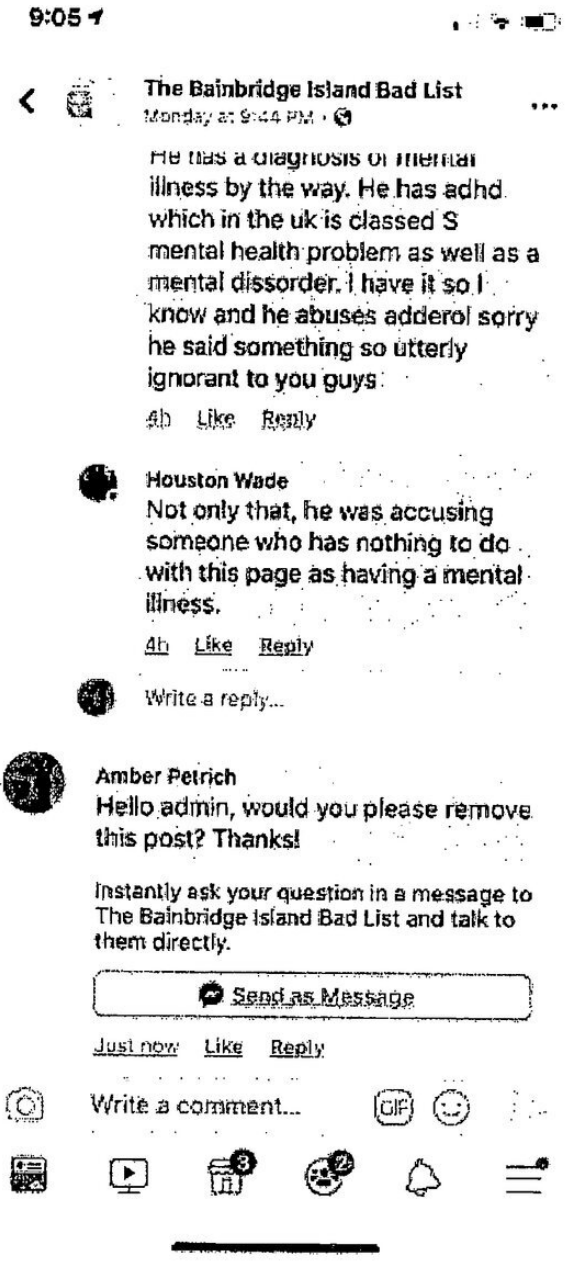
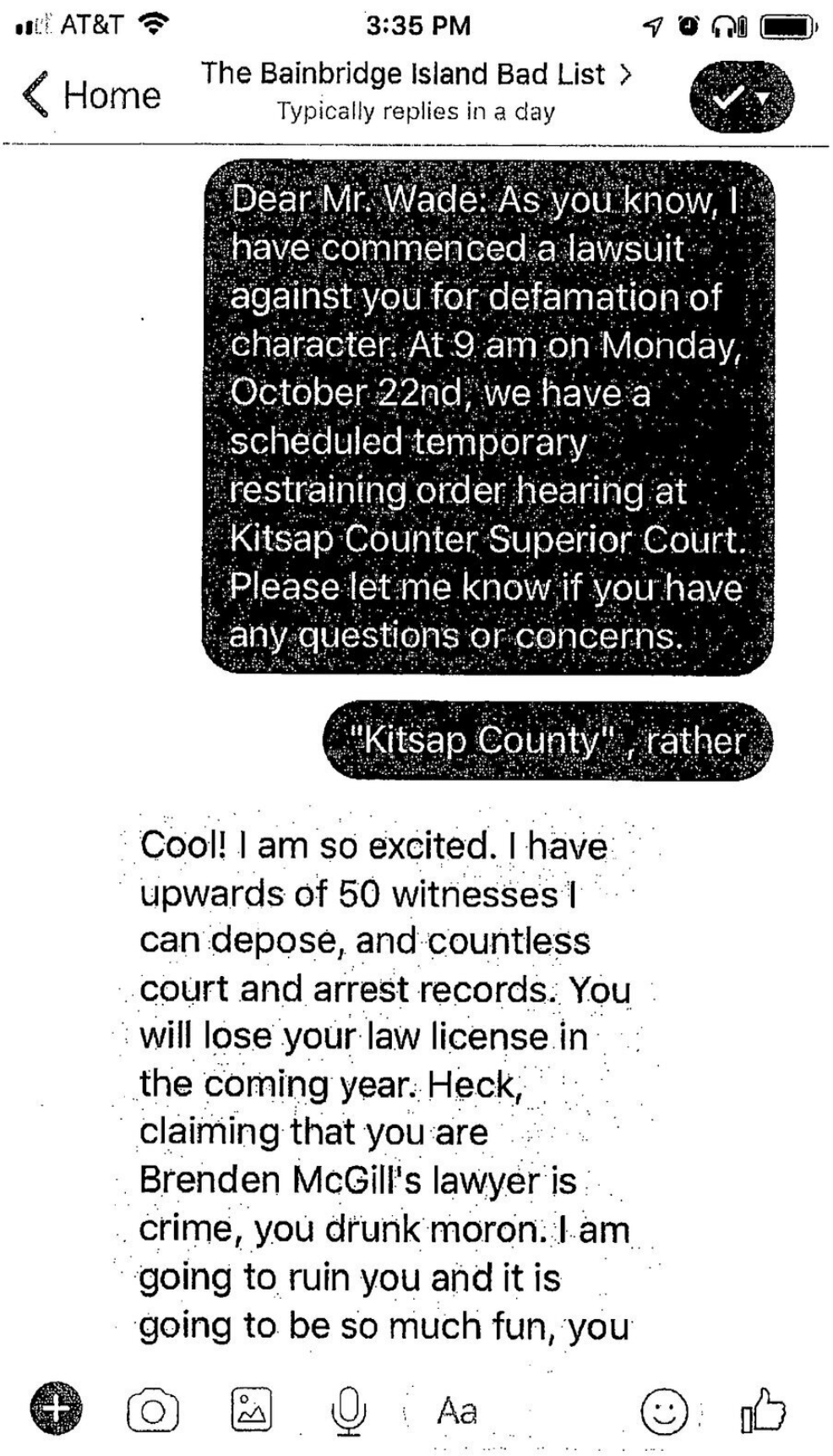
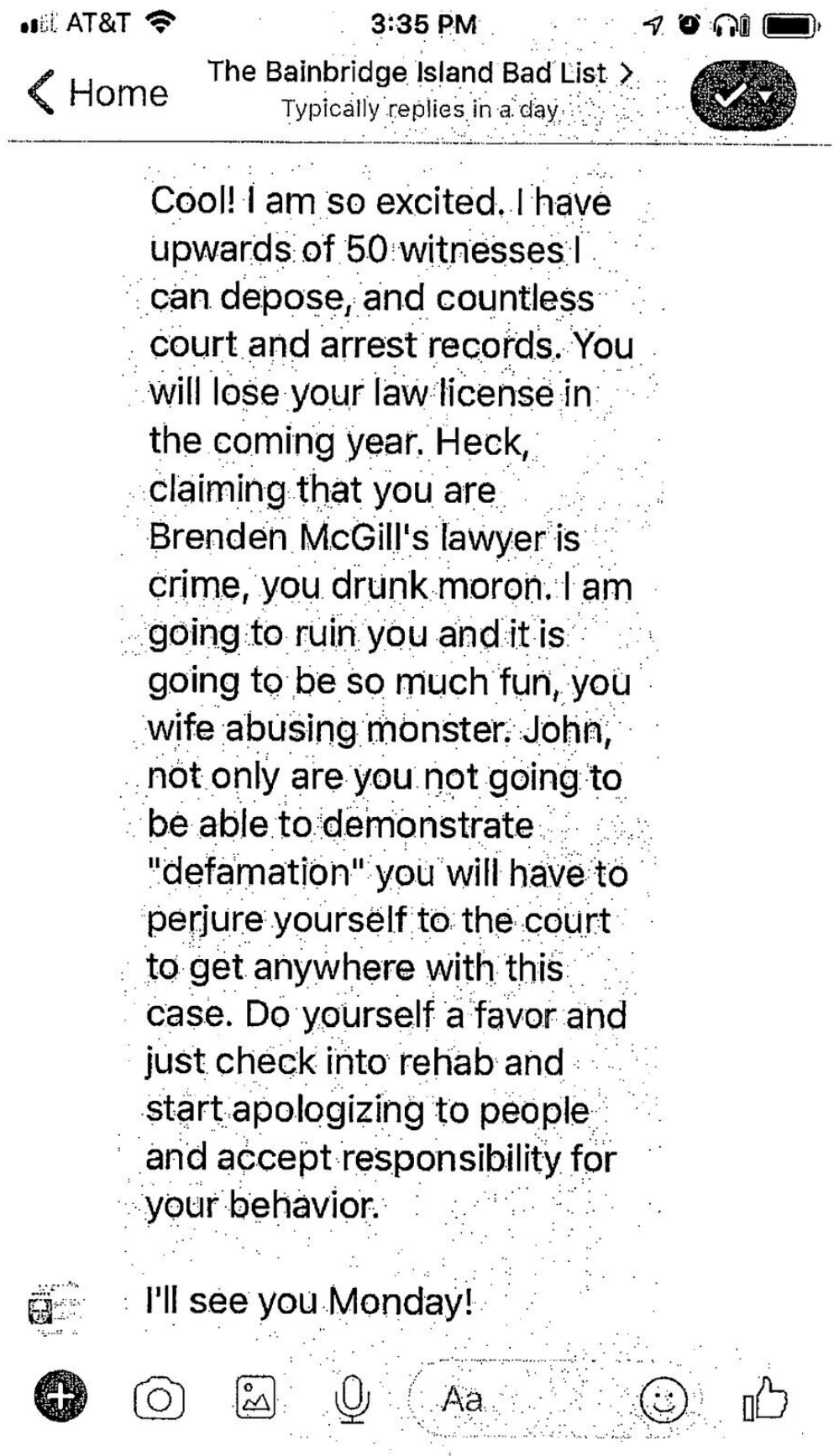

9:05
The Bainbridge Island Bad List
Monday at 9:44 PM
He has a diagnosis of mental illness by the way. He has adhd which in the uk is classed S mental health problem as well as a mental dissorder. I have it so I know and he abuses adderol sorry he said something so utterly ignorant to you guys
4h Like Reply
Houston Wade
Not only that, he was accusing someone who has nothing to do with this page as having a mental illness.
4h Like Reply
Write a reply...
Amber Petrich
Hello admin, would you please remove this post? Thanks!
Instantly ask your question in a message to The Bainbridge Island Bad List and talk to them directly.
Send as Message
Just now Like Reply
Write a comment...
GIF

Exhibit F


AT&T
3:35 PM
Home
The Bainbridge Island Bad List >
Typically replies in a day
Dear Mr. Wade: As you know, I have commenced a lawsuit against you for defamation of character. At 9 am on Monday, October 22nd, we have a scheduled temporary restraining order hearing at Kitsap Counter Superior Court. Please let me know if you have any questions or concerns.
"Kitsap County", rather
Cool! I am so excited. I have upwards of 50 witnesses I can depose, and countless court and arrest records. You will lose your law license in the coming year. Heck, claiming that you are Brenden McGill's lawyer is crime, you drunk moron. I am going to ruin you and it is going to be so much fun, you
Aa


AT&T
3:35 PM
Home
The Bainbridge Island Bad List >
Typically replies in a day
Cool! I am so excited. I have upwards of 50 witnesses I can depose, and countless court and arrest records. You will lose your law license in the coming year. Heck, claiming that you are Brenden McGill's lawyer is crime, you drunk moron. I am going to ruin you and it is going to be so much fun, you wife abusing monster. John, not only are you not going to be able to demonstrate "defamation" you will have to perjure yourself to the court to get anywhere with this case. Do yourself a favor and just check into rehab and start apologizing to people and accept responsibility for your behavior.
I'll see you Monday!
Aa

No Service 11:45 AM

Home

The Bainbridge Island Bad List >

Typically replies in a day

Why do you think I want you to sue me? I want you under oath so bad!

The Bar Association is going to take your license.

You will no longer have a livelihood.

You will have it soon. And I will have your deposition testimony. I will also have your communications with Amber. And those communications will most likely violate our divorce orders.

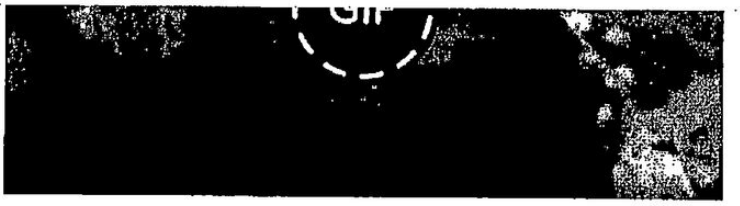
You fucked up.

Why would you not want me to have a livelihood? That's how I support Amber and the children.

Aa

AT&T LTE 10:23 AM

Houston Wade
Monday at 7:04 PM ·



TENOR

3d Like Reply

Write a reply...

Houston Wade
If any of you who happen to have had run ins with him want to volunteer to be character witnesses against him, if and when his frivolous suit gets a hearing, please join me in ruining his fucking world.

3d Like Reply 6

CarolAnn Barrows
Thank you, **Houston**, for standing with your friend and razing a ruckus!!!!!!!!

3d Like Reply 6

Write a comment... GIF

Exhibit G

Memorandum of Law

Petitioner John Du Wors seeks a temporary restraining order against Respondent Houston Wade on the bases of harassment and cyberstalking. Specifically, Mr. Du Wors asks the that the order prohibit Mr. Wade from

1) Creating or maintaining internet websites, Facebook pages, blogs, forums, or other online entities that use the name or personal identifying information of Petitioner Du Wors in the body, title or domain name; and

2) Using the photographs or other images of Petitioner Du Wors to create memes, posters, or other online uses.

This requested order language was, almost verbatim, issued by this municipal court, and held up by the federal courts, in a virtually identical case styled. Rynearson v. Ferguson, 903 F.3d 920, 923 (9th Cir. 2018). As discussed below, Rynearson is on all fours with the present matter, both factually and legally. Petitioner, therefore asks that a similar order issue in this case.

A. Issues Presented

Petitioner respectfully submits that the Court's analysis in relation to this Petition should focus on three issues.

1) Does Mr. Wade's posting of multiple cyberstalking websites constitute harassment and/or cyberstalking justifying the requested restraining order?

2) Does the issuance of Petitioner John Du Wors' requested order comport with free speech principles that the state and federal courts have examined in their uniform determinations that Washington's cyberstalking statute is constitution, notwithstanding the first amendment?

B. Discussion

1. **Houston Wade's online posts constitute both cyberstalking and harassment under Washington law, which supports the issuance of the requested antiharassment order.**

a. Cyberstalking

In 2004, the Washington Legislature passed legislation criminalizing cyberstalking. See 2004 Wash. Legis. Serv. Ch. 94 (codified at Wash. Rev. Code § 9.61.260). This law makes it a crime to anonymously or repeatedly harass another person online, providing in relevant part:

> (1) A person is guilty of cyberstalking if he or she, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to such other person or a third party:
>
> (a) Using any lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act;
>
> (b) Anonymously or repeatedly whether or not conversation occurs; or
>
> (c) Threatening to inflict injury on the person or property of the person called or any member of his or her family or household.

Rynearson v. Ferguson, No. 3:17-CV-05531 RBL, 2017 WL 4517790, at *1 (W.D. Wash. Oct. 10, 2017), *rev'd and remanded*, 903 F.3d 920 (9th Cir. 2018).Under Washington law, a court may issue a protection order if it "finds by a preponderance of the evidence that the petitioner has been a victim of stalking conduct by the respondent." Wash. Rev. Code § 7.92.100(1)(a). *Rynearson v. Ferguson*, 903 F.3d 920, 925 (9th Cir. 2018); *Kencayd v. Priece*, 196 Wash. App. 1073 (2016).

Mr. Wade's conduct violates this statute because first, his online postswere unquestionably intended to "harass, intimidate, torment, or embarrass" Mr. Du Wors. Second, the online posts use lewd, lascivious, indecent and obscene works, and suggest the commission of lewd and lascivious acts, such as accusations of sexual misconduct, violent conduct, chemical abuse, and professional misconduct. Alternatively, the second potential criteria for this disjunctive test is satisfied

because Mr. Wade posted his Cyberstalking Page anonymously, and the online posts on his personal page are repeated, and voluminous.

Rynearson is the seminal case under Washington's cyberstalking statute. Mr. Rynearson is a Bainbridge Island resident, who apparently utilizes online posting as activism to share political views. He began posting derogatory information about another Bainbridge Island resident, named ClarenceMoriwaki, who was a volunteer at the Japanese American Association, because Mr. Rynearson disagreed with Mr. Moriwaki's political views regarding the National Defense Authorization Act of 2012 ("the NDAA").

> Through regular posts on public Facebook pages, Rynearson began to criticize Moriwaki and other local leaders who failed to vocally condemn the NDAA. In January and February 2017, Rynearson posted numerous comments on Facebook and sent text messages to Moriwaki criticizing him for failing to express disapproval of public officials who supported the NDAA.
>
> ...
>
> Despite Moriwaki's request, Rynearson continued posting his critical comments on Moriwaki's Facebook page. Moriwaki then blocked Rynearson from posting on his Facebook page. Rynearson responded by creating a Facebook group initially called "Clarence Moriwaki of Bainbridge Island," where he posted memes criticizing Moriwaki. Rynearson ultimately renamed the page "Not Clarence Moriwaki of Bainbridge Island."

Rynearson v. Ferguson, 903 F.3d 920, 923 (9th Cir. 2018).In March 2017, Moriwaki sought and obtained from the Bainbridge Island Municipal Court a temporary stalking protection order against Rynearson. This order compelled Rynearson to "remove public webpages/Facebook page with [Moriwaki's] name" and prohibited him from, among other things, having any contact with Moriwaki, keeping Moriwaki under surveillance, going within 100 feet of Moriwaki's residence or workplace, and attending events at which Moriwaki was present.*Id.*

Mr. Rynearson brought a claim in federal court seeking to enjoin the Kitsap Superior Court's enforcement of the injunction against him. Judge Ronald Leighton, writing for the Tacoma division of the U.S. District Court for the Western District of Washington, dismissed Rynearson's case on abstention grounds.

> It is hard to envision how the state court proceeding could go forward if Rynearson is equipped with an injunction from this Court which essentially authorizes him to engage in conduct that violates the stalking protection order. If the Court were to grant this relief, it would undoubtedly have the practical effect of enjoining Rynearson's pending appeal in Kitsap Superior Court.

Rynearson v. Ferguson, No. 3:17-CV-05531 RBL, 2017 WL 4517790, at *5 (W.D. Wash. Oct. 10, 2017), rev'd and remanded for further proceedings, 903 F.3d 920 (9th Cir. 2018).

Another very similar case is *Bini v. City of Vancouver*, No. C16-5460 BHS, 2017 WL 2226233, at *1 (W.D. Wash. May 22, 2017). In that case, a woman named Sheryl Smith was divorcing her husband, Garrett Smith, following Mr. Smith's arrest and prosecution for assault of Ms. Smith. The girlfriend of the plaintiff—Mr. Bini (who was ostensibly a friend of Mr. Smith), created a derogatory website about the wife.

> The website made many disparaging statements about Sheryl Smith's character, claiming that she was a "fraud," "an excessive drinker," and that the horrendous injuries inflicted by Garrett Smith were actually the result of her "own alcohol-induced rage."
>
> ...
>
> At the request of Garrett Smith, Plaintiff also began contacting common business associates and family members of Sheryl and Garrett Smith. Plaintiff's contact with these persons included sending them emails with links to and copies of the information posted on the blog. [Internal citations omitted.]

Based on the content of the blog, plaintiff's jail communications with Garrett Smith, and complaints by Smith, the plaintiff Bini was investigated for cyberstalking in violation of RCW 9.61.260.

On April 29, 2014, Sheryl Smith obtained a temporary anti-harassment order against Bini based on cyberstalking. Bini briefly removed his derogatory posts about Ms. Smith, but then republished them. Accordingly, Mr. Bini was arrested for cyberstalking in violation of the antiharassment order.

On May 28, 2014, following an evidentiary hearing, Sheryl Smith obtained a permanent anti-harassment restraining order from the Clark County Superior Court, which found

> Mr. Bini admitted that he contacted these individuals for the purpose of "mak[ing] them aware of the blog"; "mentioning" the underlying criminal proceeding against Mr. Smith; and informing them that Ms. Smith was a fraud, a drunk and subject to habitual drinking rages. Furthermore, Mr. Bini admitted he had no knowledge whether or not these allegations were true, and admitted that these statements were embarrassing and harassing in nature.
>
> With respect to the publication of the blog, Mr. Bini further admitted that he provided the details to his so called girlfriend to post certain information about Ms. Smith, and had discussions with her to post said derogatory comments.
>
> The evidence presented at the district court level showed that Ms. Smith felt intimidated, harassed, and humiliated. The conduct engaged by Mr. Bini served no lawful purpose.

Bini v. City of Vancouver, No. C16-5460 BHS, 2017 WL 2226233, at *2 (W.D. Wash. May 22, 2017).

Mr. Blini brought suit in the US District Court in the Western District of Washington against the city of Vancouver for wrongful arrest based, in part, on an argument that the issuance of the anti-harassment order in favor of Sheryl Smith violated Mr. Blini's first amendment free speech rights. The Federal District Court rejected Mr. Blini's argument, noting that "the First Amendment does not protect certain types of speech, including libelous speech, fighting words, incitement to riot, obscenity, and child pornography, and true threats."*Bini v. City of Vancouver*, No. C16-5460 BHS, 2017 WL 2226233, at *8 (W.D. Wash. May 22, 2017). The

Court "determined that probable cause existed to arrest Plaintiff for cyberstalking..." based on his dissemination of the harassing blog posts, and dismissed Mr. Bini's claims on summary judgment.

2. Mr. Wade has no free speech defense.

Under the circumstances of this case, Mr. Wade is not legally entitled to claim free speech rights as a justification for his cyberstalking and harassment activities. It is true that the exercise of free speech cannot be the subject of either a stalking or harassment based restraining order, or a criminal prosecution for the same. However, the Washington courts have uniformly held that harassment and cyberstalking restraining orders can be based on speech alone, including speech that does not involve threats of violence.

The analysis can be difficult, because courts evaluating restraining order applications based on must examine whether the content, context, purpose and intent of the speech at issue. *State v. Corbin*, 186 Wash. App. 1038 (2015) ("Cyberstalking is an offense with the potential to be based on protected speech... For that reason, this court conducts an independent examination of the entire record to be sure that the speech in question actually falls within the unprotected category.")

> In order to preserve the vital right to free speech, it is imperative that a court carefully assess statements at issue to determine whether they fall within or without the protection of the First Amendment. It is, at this point, settled that certain kinds of speech are unprotected.
>
> [T]here are categories of communication and certain special utterances to which the majestic protection of the First Amendment does not extend because they "are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."
>
> [internal citations omitted]
>
> Among these categories are libelous speech, fighting words, incitement to riot, obscenity, and child pornography. Id.

State v. Kilburn, 151 Wash. 2d 36, 42–43, 84 P.3d 1215, 1219 (2004), as amended (Feb. 17, 2004).

The key to the analysis is whether the purpose of the challenged speech to harass the victim, or the serve a lawful purpose. *Kencayd v. Priece*, 196 Wash. App. 1073 (2016); *State v. Stanley*, 200 Wash. App. 1035 (2017), review denied, 189 Wash. 2d 1036, 407 P.3d 1148 (2018), and cert. denied, 138 S. Ct. 1702, 200 L. Ed. 2d 959 (2018), reh'g denied, 138 S. Ct. 2670 (2018) ("Because the intent to harass element of the cyberstalking statute likewise proscribes only speech that is intended to abuse the listener, Stanley's argument fails.")

And the Washington courts have taken special pains to note that in the context of that analysis, many kinds of speech are excluded from speech protections under the cyberstalking statute, including defamation and fighting words—i.e., more than just physically threats. *State v. Trey M.*, 186 Wash. 2d 884, 893, 383 P.3d 474, 478 (2016), cert. denied, 138 S. Ct. 313, 199 L. Ed. 2d 207 (2017). ("The Supreme Court...[has]...permitted restrictions on the content of speech in a few limited areas, such as " 'fighting words' ")[1]

---

[1]*E.g.*: "Indecent" is defined as: "not decent: ... altogether unbecoming: contrary to what the nature of things for which circumstances would dictate as right or expected or appropriate: hardly suitable: unseemly." Webster's [Third New International Dictionary], at 1147. "Obscene" is defined as: "marked by violation of accepted language inhibitions and by the use of words regarded as taboo in polite usage." Webster's, supra, at 1557. Ms. Lansdowne used the word "bitch" not in reference to a female dog, but in reference to a female human being. Such usage is both indecent and obscene as those words are commonly defined. A rational trier of fact could have determined that Ms. Lansdowne's words were indecent or obscene.

Lansdowne, 111 Wn.App. at 891–92.

The analysis in Lansdowne is persuasive here. Warren used the terms "bitch" and "shit" in a comparable manner in his text message. A rational

As one Washington court has noted, it is important to observe that some speech can constitute indefensible harassment and/or cyberstalking in part because of the role of technology in today's world.*State v. Stanley*, 200 Wash. App. 1035 (2017), review denied, 189 Wash. 2d 1036, 407 P.3d 1148 (2018), and cert. denied, 138 S. Ct. 1702, 200 L. Ed. 2d 959 (2018), reh'g denied, 138 S. Ct. 2670 (2018). ("In today's culture, where personal devices especially are omnipresent, the internet is arguably as intrusive as the telephone, providing a cyberstalker substantial access into the private space of a person emailed or messaged.")

At the Superior Court hearing, Petitioner Du Wors will demonstrate that Mr. Wade's derogatory online posts fall outside the protections of free speech because, among other things, they constitute defamation and fighting words. They also serve no meaningful social purpose and are intended only to harm Mr. Du Wors. For purposes of an ex parte application, the Court should accept Mr. Du Wors' representation on those points, and allow the Superior Court to make a final determination on the merits, after evaluating Mr. Wade's testimony.

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trier of fact could have found those words to be indecent or obscene. Sufficient evidence supported his conviction for cyberstalking under RCW 9.61.260(1)(a).*State v. Bell*, 183 Wash. App. 1029 (2014)

BAINBRIDGE ISLAND MUNICIPAL COURT Kitsap County, Washington	Mailing Address: PO Box 151, Rollingbay, WA 98061 Location Address: 10255 NE Valley Rd, Bainbridge Is., WA Phone # 206-842-5641 Fax # 206-842-0316 www.bainbridgewa.gov/court email: court@bainbridgewa.gov
DU WORS, JOHN DAVID Plaintiff/Petitioner. vs **WADE, HOUSTON CURRY** Defendant/Respondent.	Case No: **46-18** **EXHIBIT LIST**

EXHIBIT #	RULING		TITLE / DESCRIPTION OF EXHIBIT	DATE
P. 1	X	Admitted	TWITTER CONVERSATION (1 PAGE)	
		Not Admitted		
R. 1	X	Admitted	E-MAIL (3 PAGES)	
		Not Admitted		
R. 2	X	Admitted	E-MAIL (1 PAGE)	
		Not Admitted		
R. 3	X	Admitted	B.I. BAD LIST CONVERSATION (10 PAGES)	
		Not Admitted		
R. 4	X	Admitted	E-MAIL (3 PAGES)	
		Not Admitted		
R. 5	X	Admitted	TEXT (1 PAGE)	
		Not Admitted		
R. 6	X	Admitted	TEXT (1 PAGE)	
		Not Admitted		
R. 7	X	Admitted	E-MAIL (1 PAGE)	
		Not Admitted		
R. 8	X	Admitted	E-MAIL (1 PAGE)	
		Not Admitted		
R. 9	X	Admitted	DOCUMENT CRIMINAL RECORD (1 PAGE)	
		Not Admitted		
R. 10	X	Admitted	B.I. BAD LIST CONVERSATION (29 PAGES)	
		Not Admitted		
R. 11	X	Admitted	SOCIAL MEDIA CONVERSATION (50 PAGES)	
		Not Admitted		
R. 12		Admitted	MISSING OR MISMARKED	
		Not Admitted		
R. 13	X	Admitted	SOCIAL MEDIA CONVERSATION (22 PAGES)	
		Not Admitted		
R. 14	X	Admitted	B.I. BAD LIST DOCUMENT (1 PAGE)	
		Not Admitted		

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DU WORS, JOHN DAVID Plaintiff/Petitioner. vs WADE, HOUSTON CURRY. Defendant/Respondent.	Case No: 46-18 **EXHIBIT LIST**

EXHIBIT #	RULING		TITLE / DESCRIPTION OF EXHIBIT	DATE
R. 15	X	Admitted	TEXT (11 PAGES)	
		Not Admitted		
R. 16	X	Admitted	TEXT (9 PAGES)	
		Not Admitted		
R. 17	X	Admitted	TEXT (22 PAGES)	
		Not Admitted		
R. 18	X	Admitted	TEXT (18 PAGES)	
		Not Admitted		
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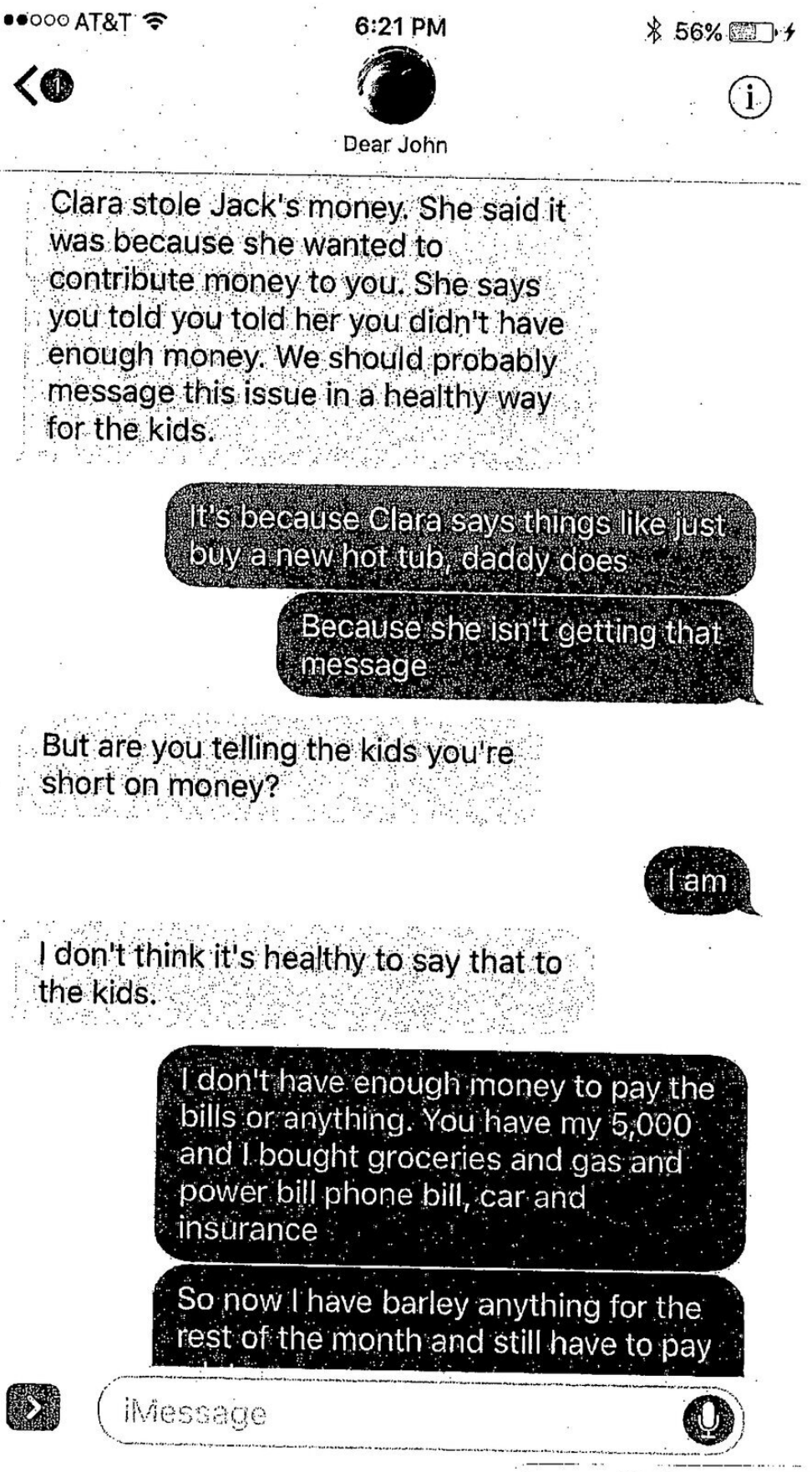
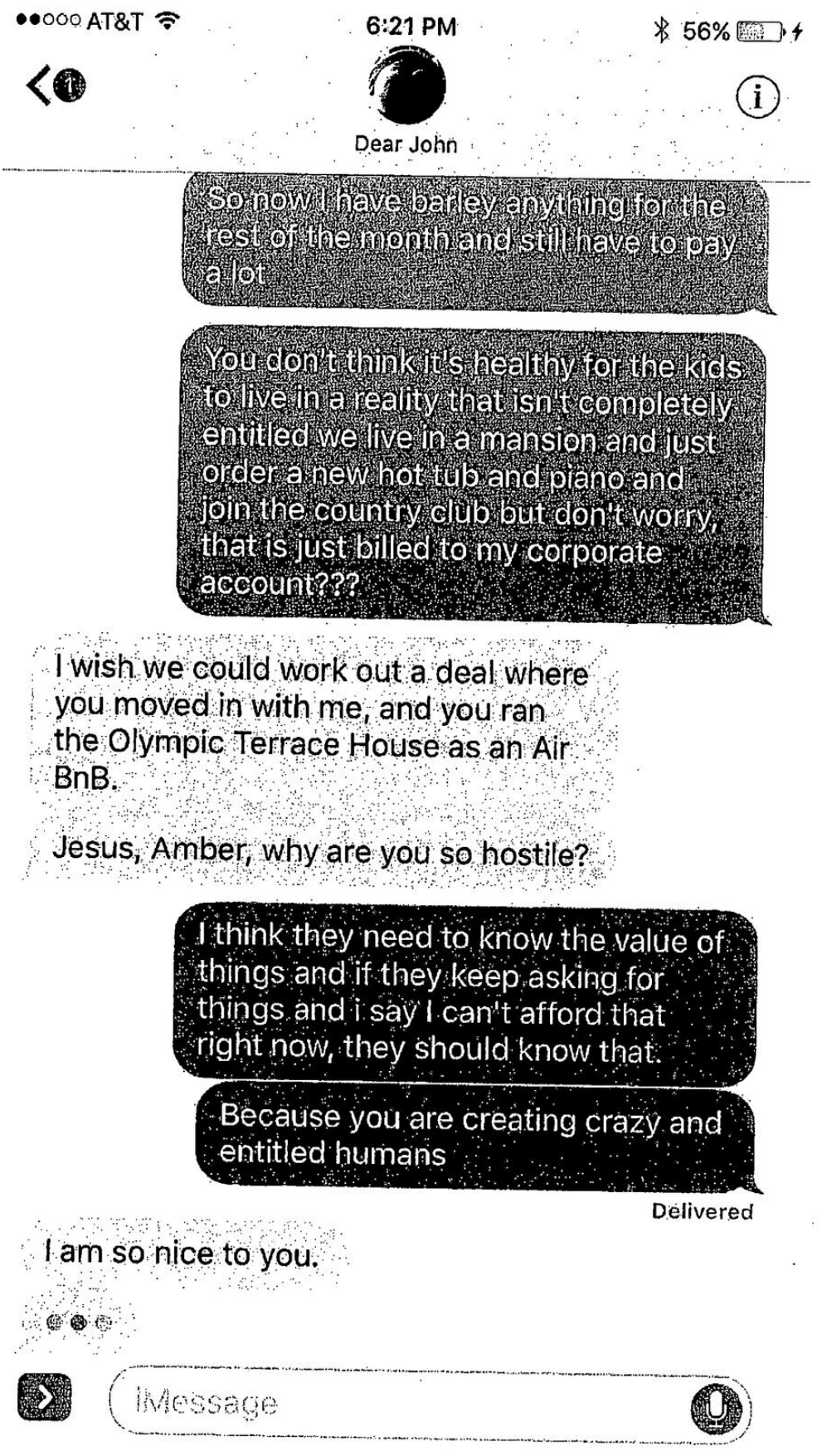
MUNICIPAL COURT



RESPONDENT	Exhibit# R-18
Case: 46-18	Date: 11-6-18
☒ Admitted	☐ Not Admitted


●●○○○ AT&T
6:21 PM
56%
1
Dear John
So now I have barley anything for the rest of the month and still have to pay a lot
You don't think it's healthy for the kids to live in a reality that isn't completely entitled we live in a mansion and just order a new hot tub and piano and join the country club but don't worry, that is just billed to my corporate account???
I wish we could work out a deal where you moved in with me, and you ran the Olympic Terrace House as an Air BnB.
Jesus, Amber, why are you so hostile?
I think they need to know the value of things and if they keep asking for things and i say I can't afford that right now, they should know that.
Because you are creating crazy and entitled humans
Delivered
I am so nice to you.
iMessage


●●○○○ AT&T
6:23 PM
58%
Dear John
things and i say I can't afford that right now, they should know that.
Because you are creating crazy and entitled humans
I am so nice to you.
Uhm stop. I am setting an awesome example by working hard and loving hard. It really sucks that you don't appreciate me.
Your rage is really lame.
This is not rage
Rage is you calling me a cunt
I'm just a loving a devoted and responsible dad.
Or breaking our doors down
Just
Delivered
And I'm loving and devoted to you
iMessage


Facebook
8:29 PM
94%
Dear John
That's the ducking point
Yet you haven't made that happen
So I can have the weekend to make hose repairs and try to find a new careeer
I've spent literally 1000 hours or more working my ass off
We'll see. So far, you've wasted your time.
Fuck you
You rely on people living at your house to do all your work
Or pay someone
I've done everything, you stupid cunt
Stupid cunt??
Bye bitch
Stop texting me now
Blocking you
iMessage

Livia Hernandez commented on the memory you shared.



Dear John

Sent as Text Message

Calling me a bitch and a stupid cunt again

Sent as Text Message

How ridiculous. You are an unhealthy child. And you comfortably speak without any foundation of knowledge. In short, you are ignorant.

Do you not see what you are saying?

I am a very intelligent person

Can you be serious?

You are awful and cruel to me at every turn, no matter how loving I am toward you

This is why our marriage failed

Do you not see that?????!!!!^^^^

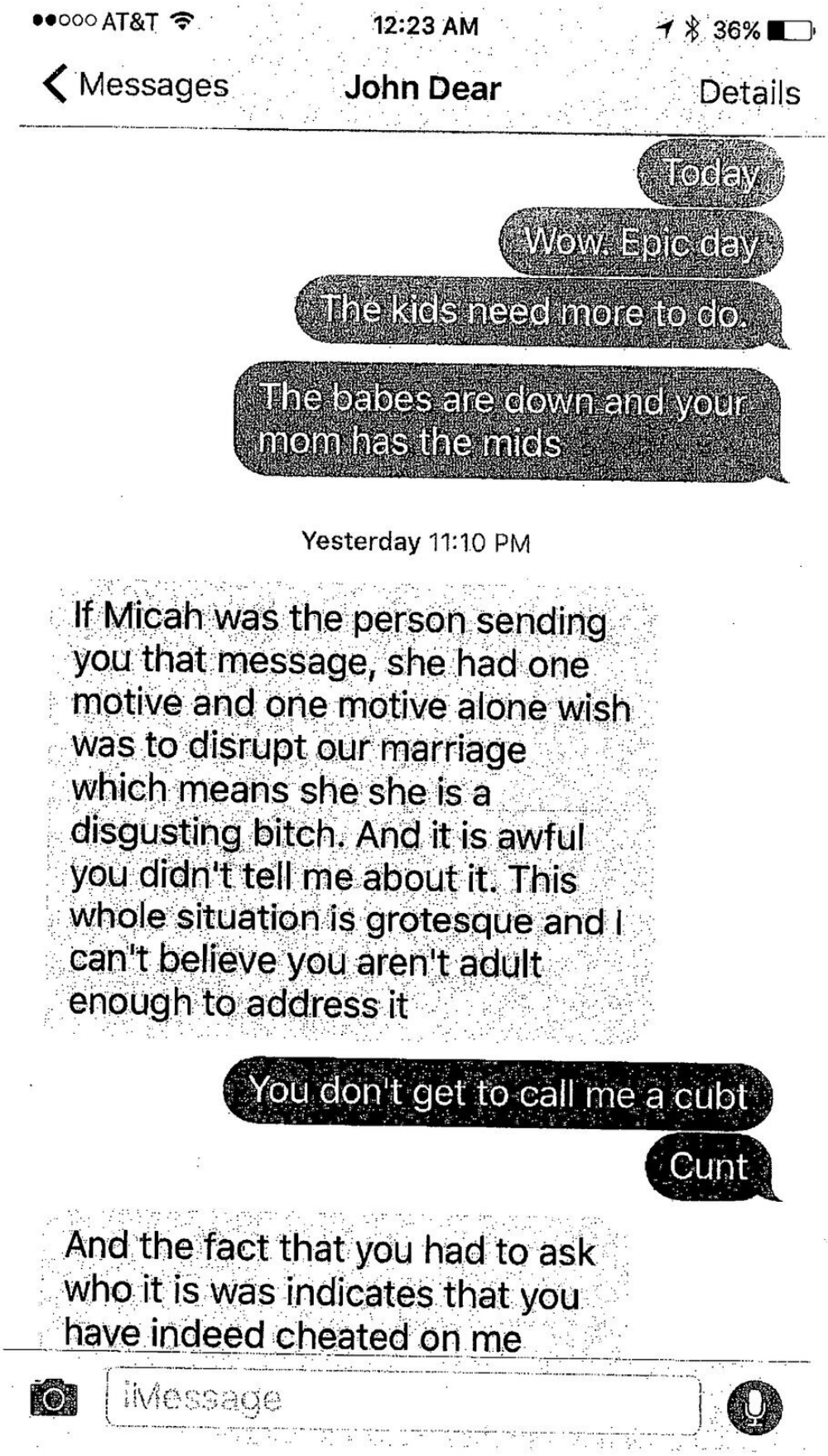
You are stuck in your own narrative

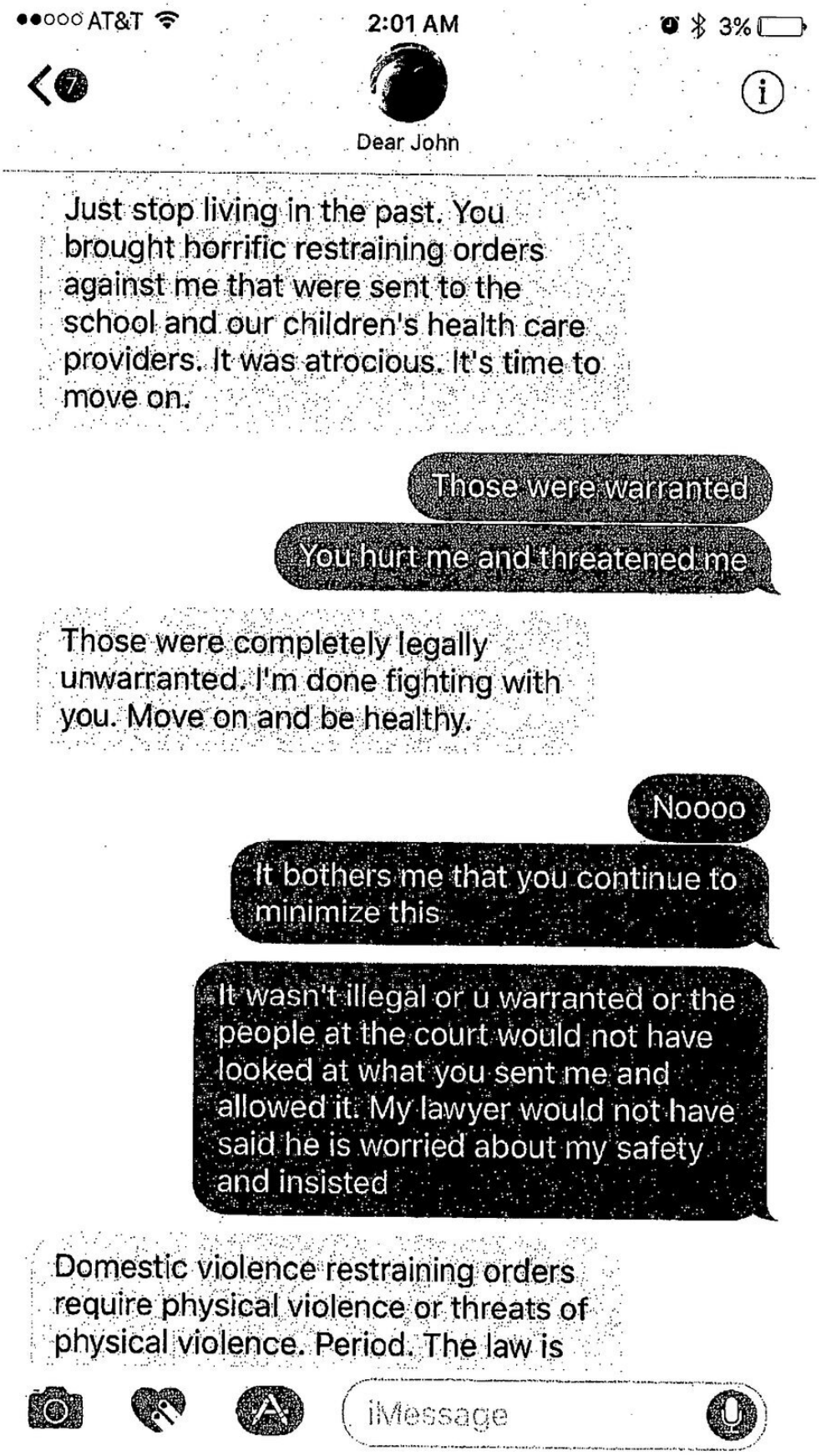
You can call me a bitch and a stupid cunt, ignorant, useless, parasitic and think you are a good person???

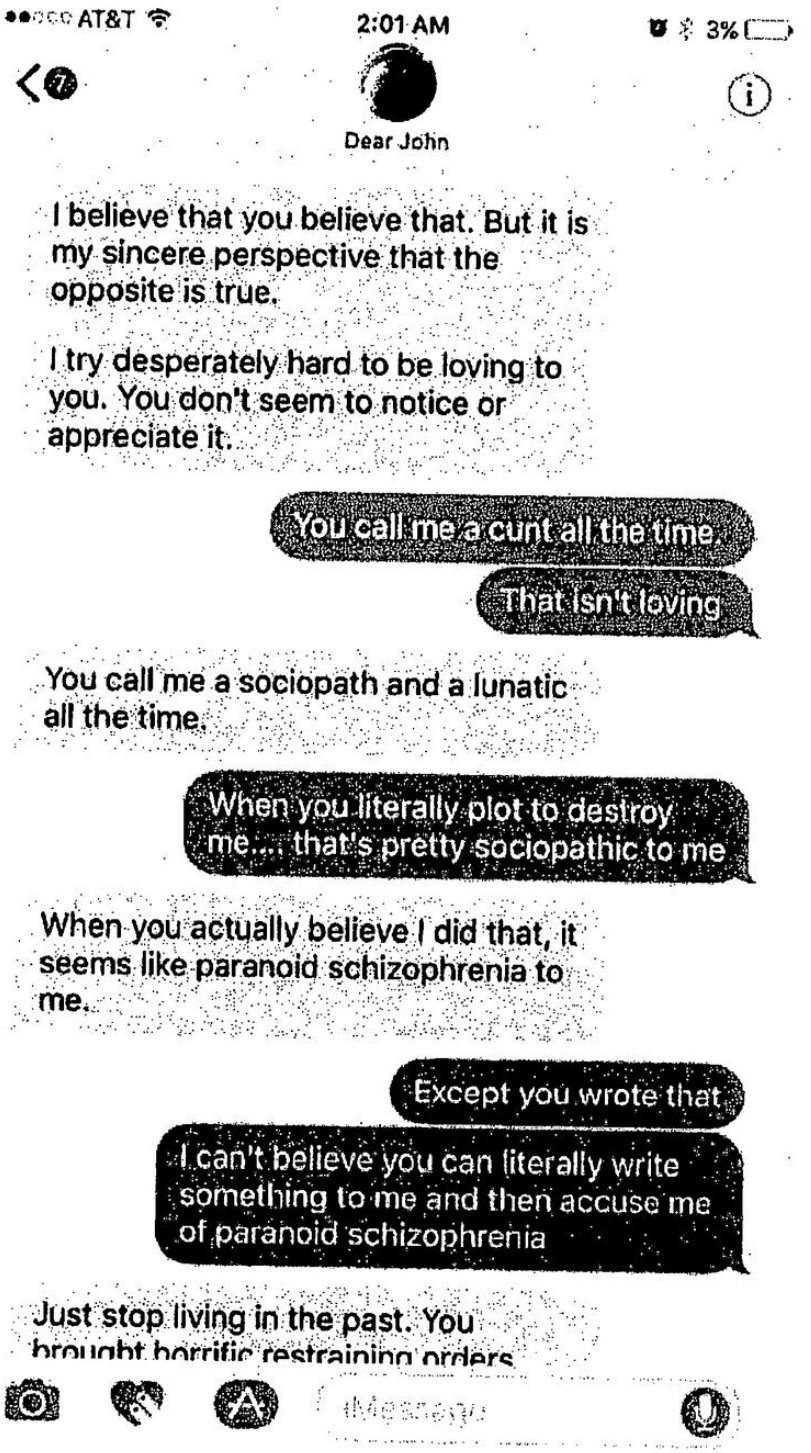
Delivered

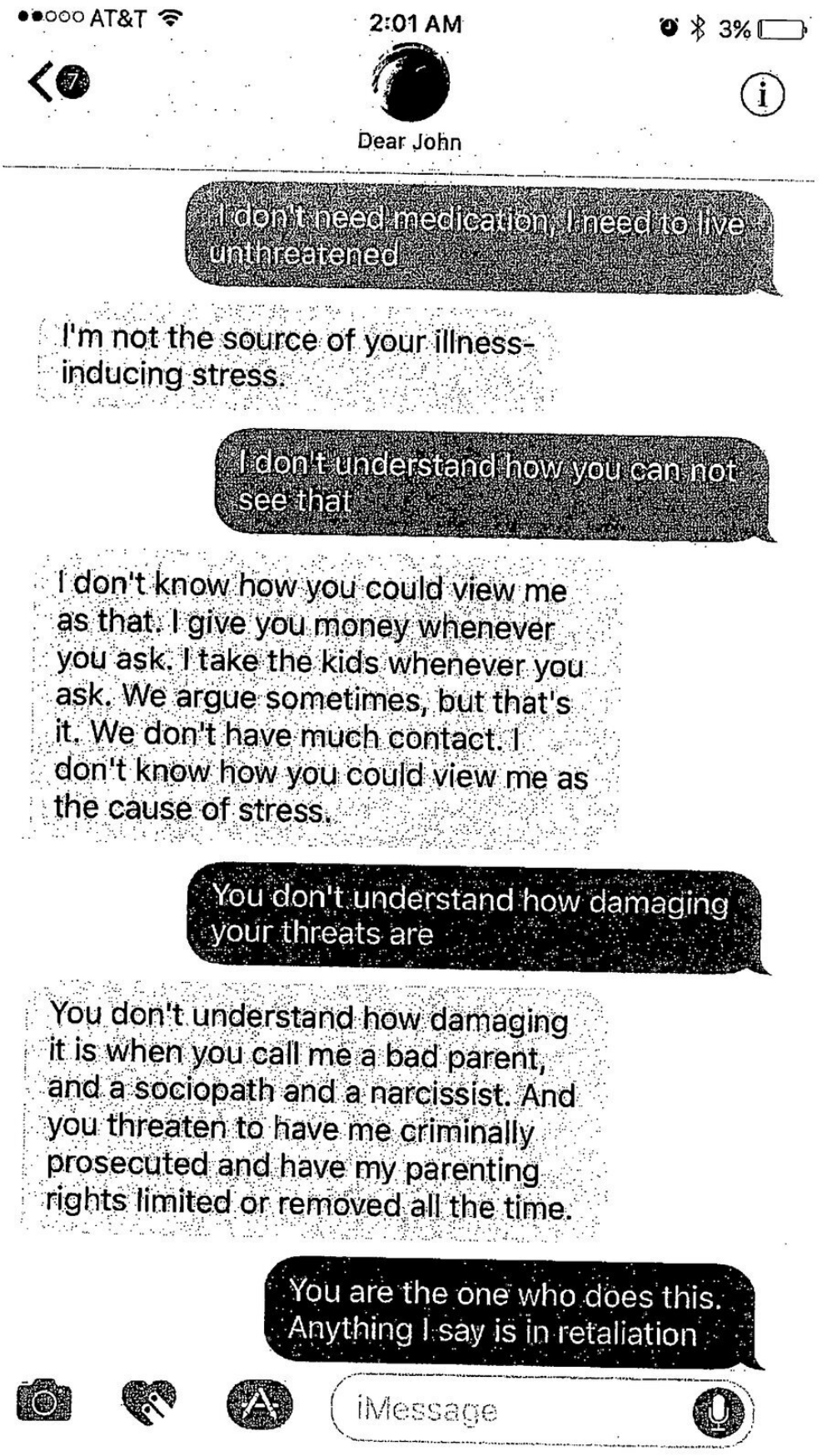
iMessage

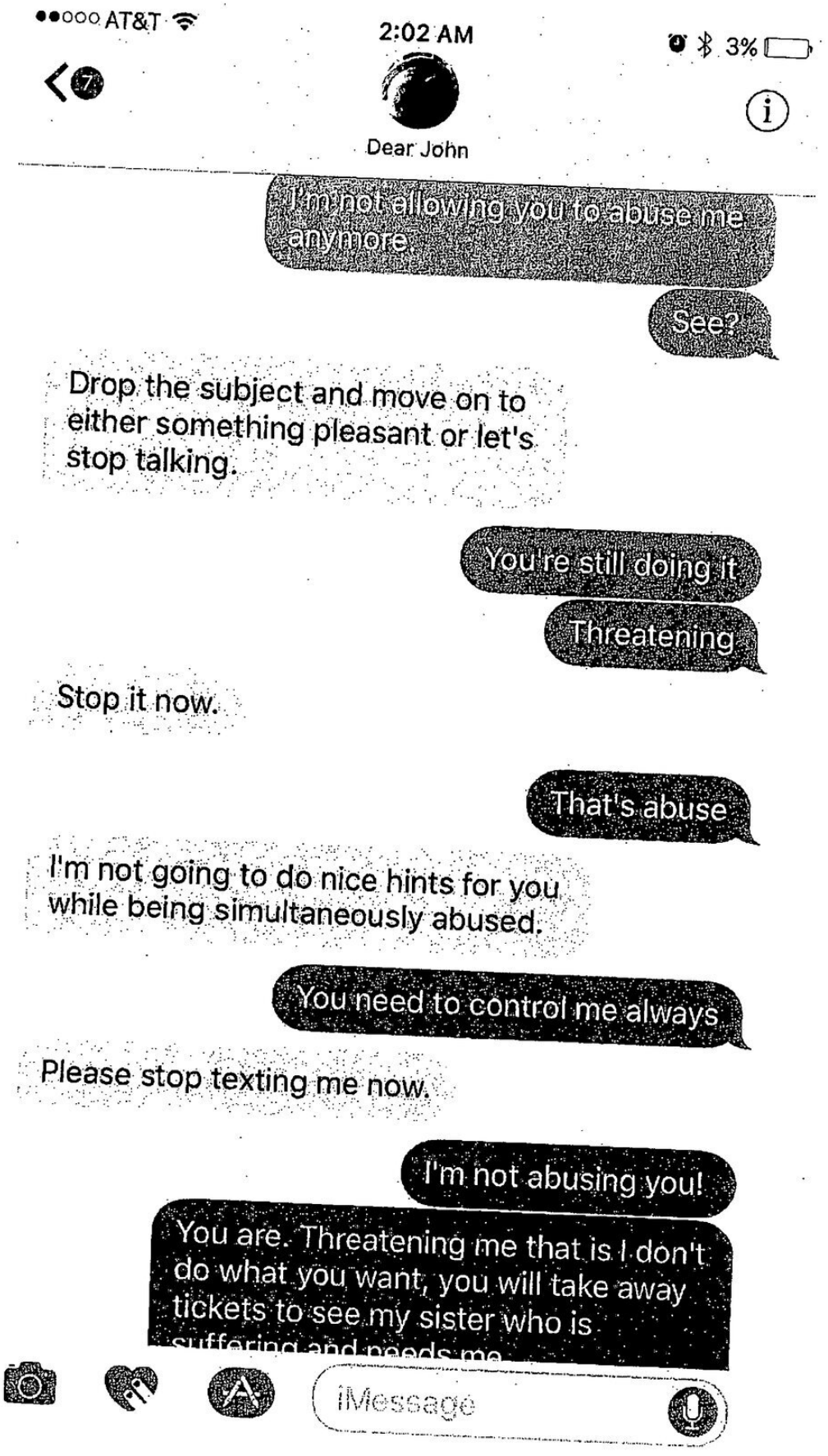

●●○○○ AT&T
9:42 PM
38%
Dear John
Is best probably
Okay.
Did you take notes for me regarding Clara's back to school? Can you send them?
Your mom was there...
Ok
Do you have all your flight info?
Yes, thanks
Okay
Have a good weekend
She needs me
She's having a really hard time
Delivered
I believe you
I'm having a really hard time too. I wish I could have you. I love you.
iMessage

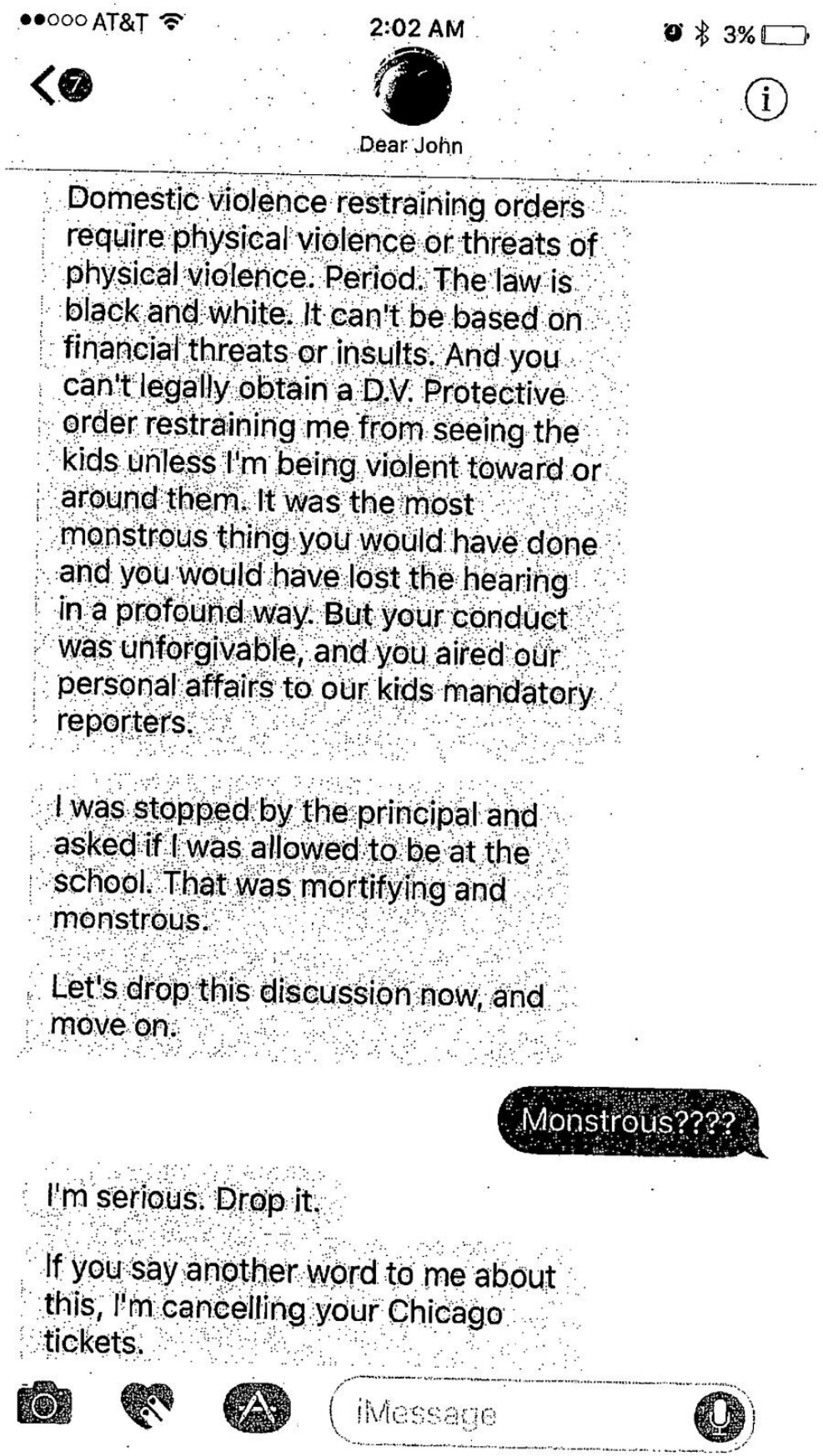

●●○○○ AT&T
12:23 AM
36%
Messages
John Dear
Details
Today
Wow. Epic day
The kids need more to do.
The babes are down and your mom has the mids
Yesterday 11:10 PM
If Micah was the person sending you that message, she had one motive and one motive alone wish was to disrupt our marriage which means she she is a disgusting bitch. And it is awful you didn't tell me about it. This whole situation is grotesque and I can't believe you aren't adult enough to address it
You don't get to call me a cubt
Cunt
And the fact that you had to ask who it is was indicates that you have indeed cheated on me
iMessage


●●○○○ AT&T
2:01 AM
3%
7
Dear John
Just stop living in the past. You brought horrific restraining orders against me that were sent to the school and our children's health care providers. It was atrocious. It's time to move on.
Those were warranted
You hurt me and threatened me
Those were completely legally unwarranted. I'm done fighting with you. Move on and be healthy.
Noooo
It bothers me that you continue to minimize this
It wasn't illegal or u warranted or the people at the court would not have looked at what you sent me and allowed it. My lawyer would not have said he is worried about my safety and insisted
Domestic violence restraining orders require physical violence or threats of physical violence. Period. The law is
iMessage


AT&T
2:01 AM
3%
Dear John
I believe that you believe that. But it is my sincere perspective that the opposite is true.
I try desperately hard to be loving to you. You don't seem to notice or appreciate it.
You call me a cunt all the time.
That isn't loving
You call me a sociopath and a lunatic all the time.
When you literally plot to destroy me.... that's pretty sociopathic to me
When you actually believe I did that, it seems like paranoid schizophrenia to me.
Except you wrote that
I can't believe you can literally write something to me and then accuse me of paranoid schizophrenia
Just stop living in the past. You
brought horrific restraining orders
iMessage


●●○○○ AT&T
2:01 AM
3%
7
Dear John
I don't need medication, I need to live unthreatened
I'm not the source of your illness-inducing stress.
I don't understand how you can not see that
I don't know how you could view me as that. I give you money whenever you ask. I take the kids whenever you ask. We argue sometimes, but that's it. We don't have much contact. I don't know how you could view me as the cause of stress.
You don't understand how damaging your threats are
You don't understand how damaging it is when you call me a bad parent, and a sociopath and a narcissist. And you threaten to have me criminally prosecuted and have my parenting rights limited or removed all the time.
You are the one who does this. Anything I say is in retaliation
iMessage


●●○○○ AT&T
2:02 AM
3%
7
Dear John
I'm not allowing you to abuse me anymore
See?
Drop the subject and move on to either something pleasant or let's stop talking.
You're still doing it
Threatening
Stop it now.
That's abuse
I'm not going to do nice hints for you while being simultaneously abused.
You need to control me always
Please stop texting me now.
I'm not abusing you!
You are. Threatening me that is I don't do what you want, you will take away tickets to see my sister who is
iMessage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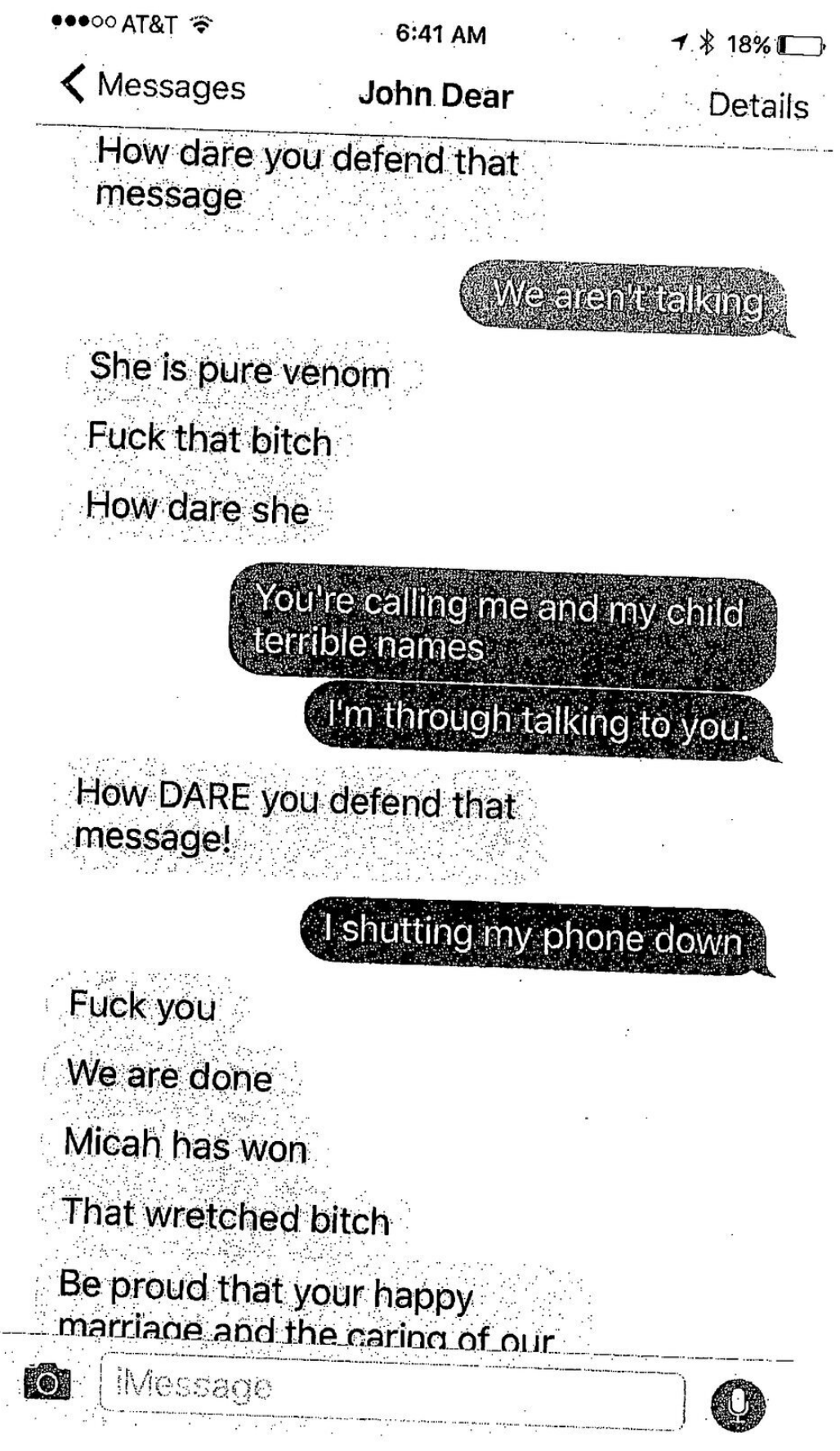
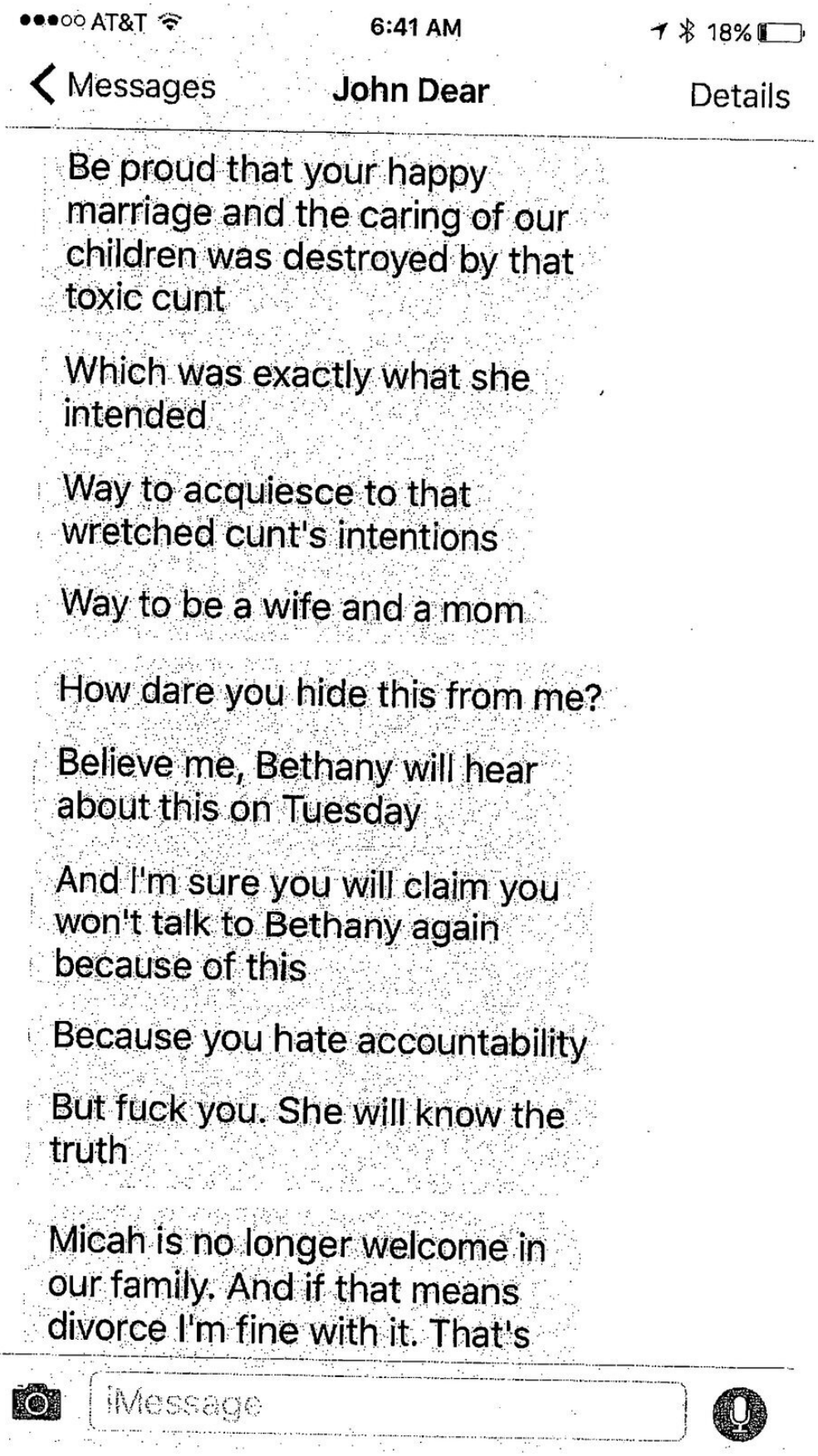
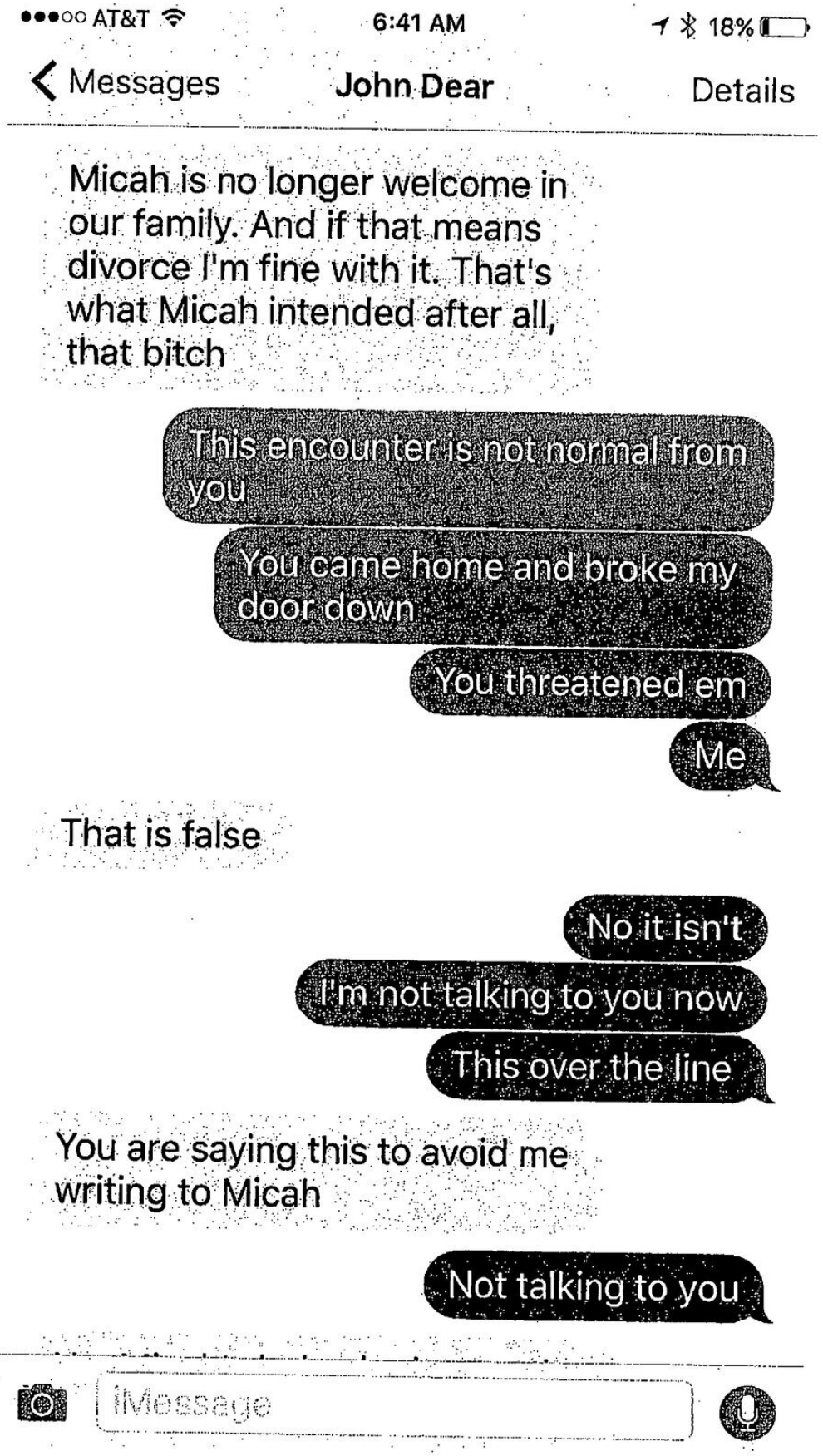
2:02 AM
3%
7
Dear John
Domestic violence restraining orders require physical violence or threats of physical violence. Period. The law is black and white. It can't be based on financial threats or insults. And you can't legally obtain a D.V. Protective order restraining me from seeing the kids unless I'm being violent toward or around them. It was the most monstrous thing you would have done and you would have lost the hearing in a profound way. But your conduct was unforgivable, and you aired our personal affairs to our kids mandatory reporters.
I was stopped by the principal and asked if I was allowed to be at the school. That was mortifying and monstrous.
Let's drop this discussion now, and move on.
Monstrous????
I'm serious. Drop it.
If you say another word to me about this, I'm cancelling your Chicago tickets.
iMessage


●●●○○ AT&T
6:41 AM
18%
Messages
John Dear
Details
How dare you defend that message
We aren't talking
She is pure venom
Fuck that bitch
How dare she
You're calling me and my child terrible names
I'm through talking to you.
How DARE you defend that message!
I shutting my phone down
Fuck you
We are done
Micah has won
That wretched bitch
Be proud that your happy marriage and the caring of our
iMessage


●●●○○ AT&T
6:41 AM
18%
Messages
John Dear
Details
Be proud that your happy marriage and the caring of our children was destroyed by that toxic cunt
Which was exactly what she intended
Way to acquiesce to that wretched cunt's intentions
Way to be a wife and a mom
How dare you hide this from me?
Believe me, Bethany will hear about this on Tuesday
And I'm sure you will claim you won't talk to Bethany again because of this
Because you hate accountability
But fuck you. She will know the truth
Micah is no longer welcome in our family. And if that means divorce I'm fine with it. That's
iMessage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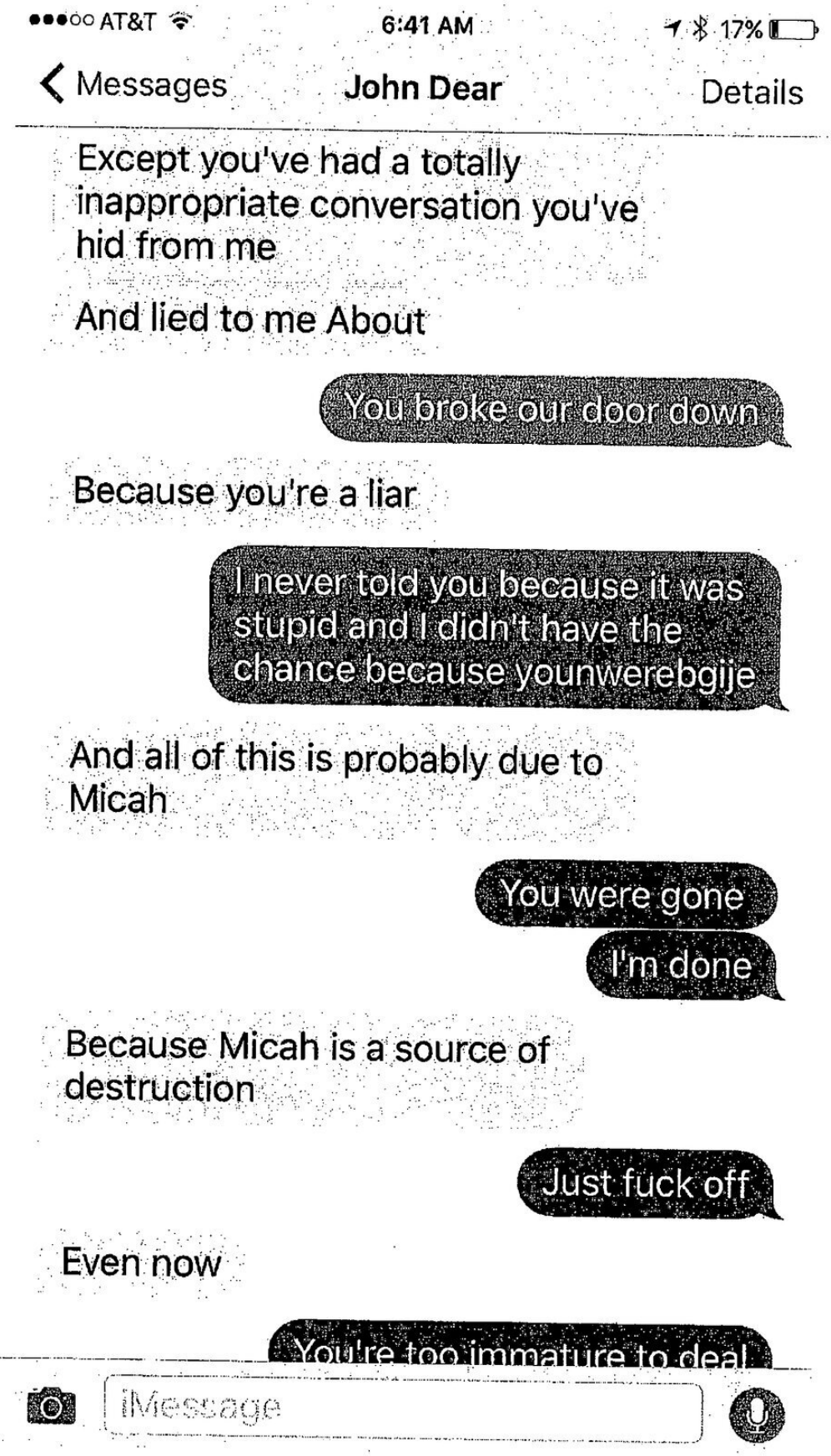
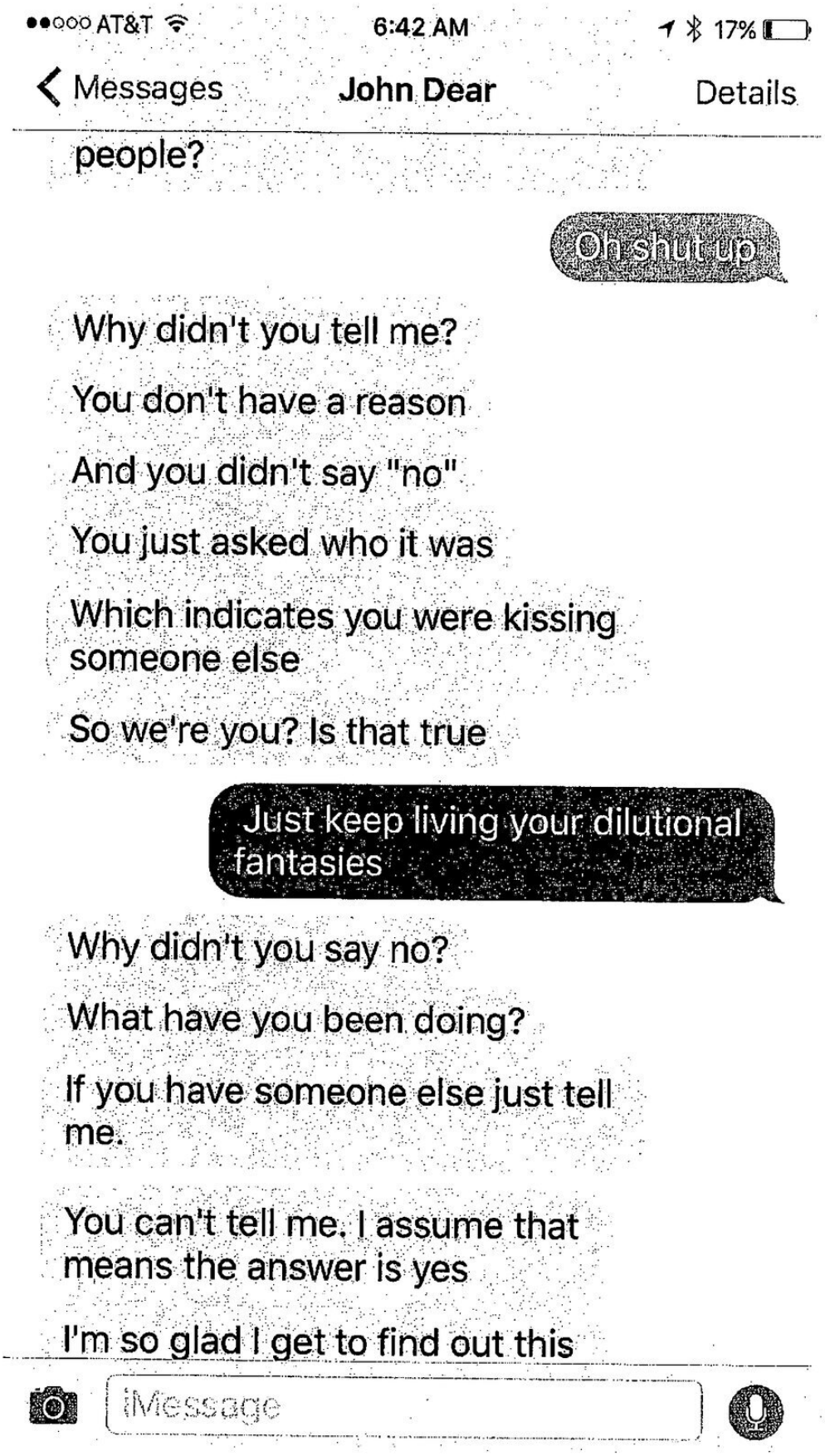
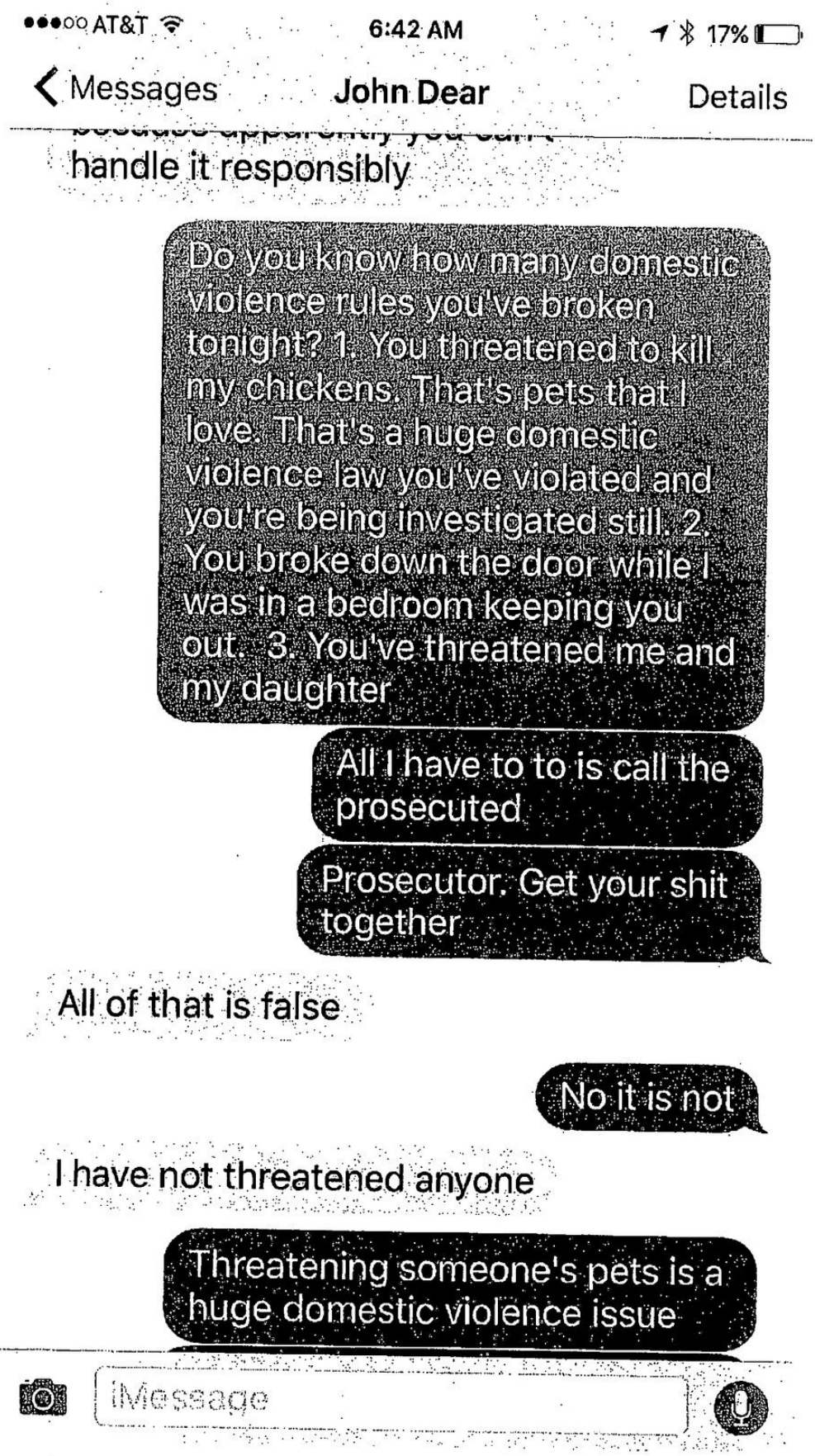
6:41 AM
18%
Messages
John Dear
Details
Micah is no longer welcome in our family. And if that means divorce I'm fine with it. That's what Micah intended after all, that bitch
This encounter is not normal from you
You came home and broke my door down
You threatened em
Me
That is false
No it isn't
I'm not talking to you now
This over the line
You are saying this to avoid me writing to Micah
Not talking to you
iMessage


●●●○○ AT&T
6:41 AM
17%
Messages
John Dear
Details
Except you've had a totally inappropriate conversation you've hid from me
And lied to me About
You broke our door down
Because you're a liar
I never told you because it was stupid and I didn't have the chance because younwerebgije
And all of this is probably due to Micah
You were gone
I'm done
Because Micah is a source of destruction
Just fuck off
Even now
You're too immature to deal
iMessage


●●○○○ AT&T
6:42 AM
17%
Messages
John Dear
Details
people?
Oh shut up
Why didn't you tell me?
You don't have a reason
And you didn't say "no"
You just asked who it was
Which indicates you were kissing someone else
So we're you? Is that true
Just keep living your dilutional fantasies
Why didn't you say no?
What have you been doing?
If you have someone else just tell me.
You can't tell me. I assume that means the answer is yes
I'm so glad I get to find out this
iMessage


AT&T
6:42 AM
17%
Messages
John Dear
Details
handle it responsibly
Do you know how many domestic violence rules you've broken tonight? 1. You threatened to kill my chickens. That's pets that I love. That's a huge domestic violence law you've violated and you're being investigated still. 2. You broke down the door while I was in a bedroom keeping you out. 3. You've threatened me and my daughter
All I have to to is call the prosecuted
Prosecutor. Get your shit together
All of that is false
No it is not
I have not threatened anyone
Threatening someone's pets is a huge domestic violence issue
iMessage

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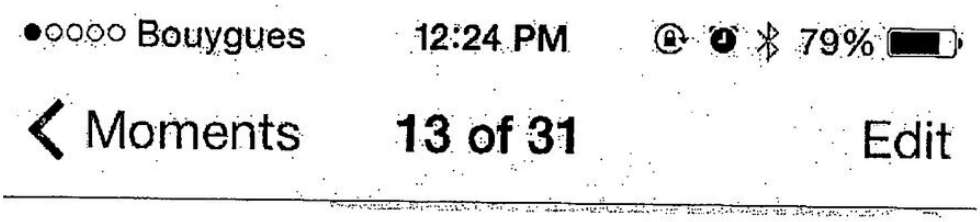
MUNICIPAL COURT



Jason is a better father than me? My kids aren't criminally disturbed like Micah. My kids will go to college. They will function. They will have normal relationships. Micah never will because you chose a criminal for her father and you failed to manage her afterward.

You are a criminal

You abused her

You think Jason is a better father than me? Go marry him. He wants you back. time will tell whose kids turn out better.





RESPONDENT Exhibit# R-17
Case: 46-18 Date: 11-6-18
☒ Admitted ☐ Not Admitted

●○○○○ Bouygues 12:24 PM 79%

Moments 14 of 31 Edit

Fuck off

I only lived there so my child could have a good life

Fuck you, you trashy useless, selfish cunt

What will be your next excuse?

Stop calling me names. You have no idea how abusive you are

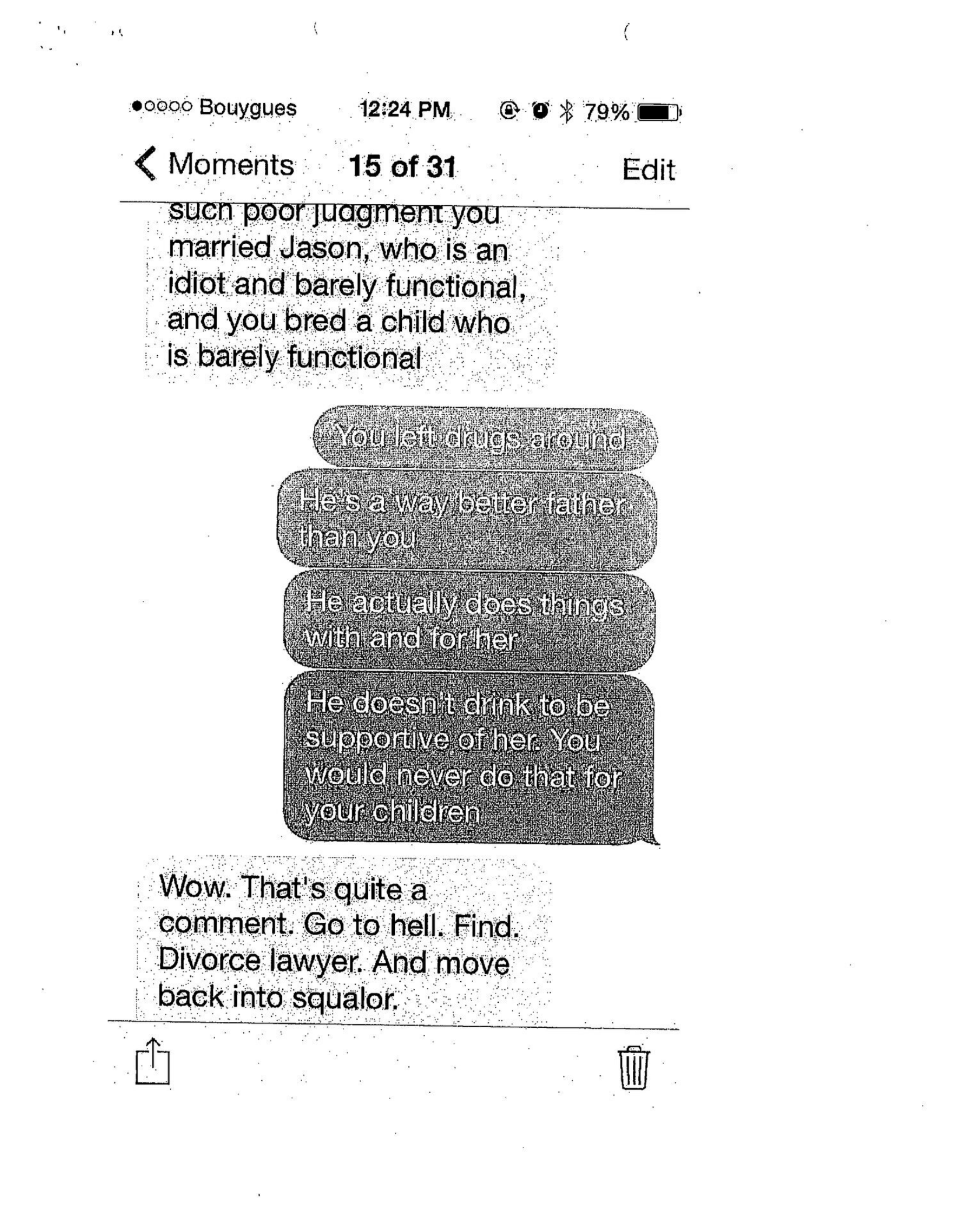
Fuck off

I'm not any of those things

You are the one who is being all of those things.






●○○○○ Bouygues 12:24 PM @ ⏰ ᛒ 79%
Moments 15 of 31 Edit
such poor judgment you married Jason, who is an idiot and barely functional, and you bred a child who is barely functional
You left drugs around
He's a way better father than you
He actually does things with and for her
He doesn't drink to be supportive of her. You would never do that for your children
Wow. That's quite a comment. Go to hell. Find. Divorce lawyer. And move back into squalor.

●●●○○ AT&T LTE 8:13 PM 50%

< Messages (1) **John Dear** Contact

Not drinking during the week does not mean you can start at 9 am on Saturdays and get aggressively verbally abusive. You need to stop drinking. Period

Yesterday 10:34 AM

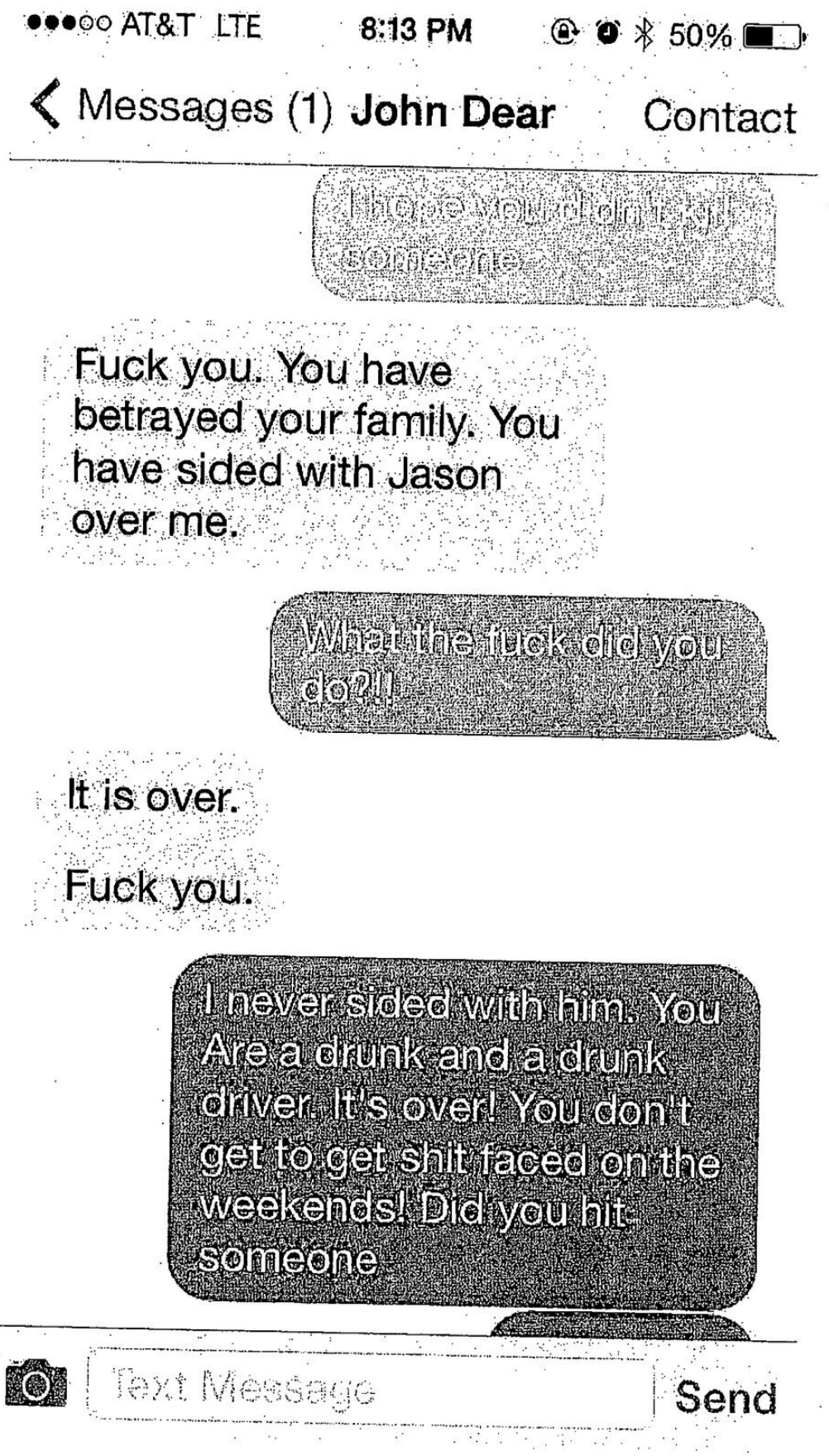


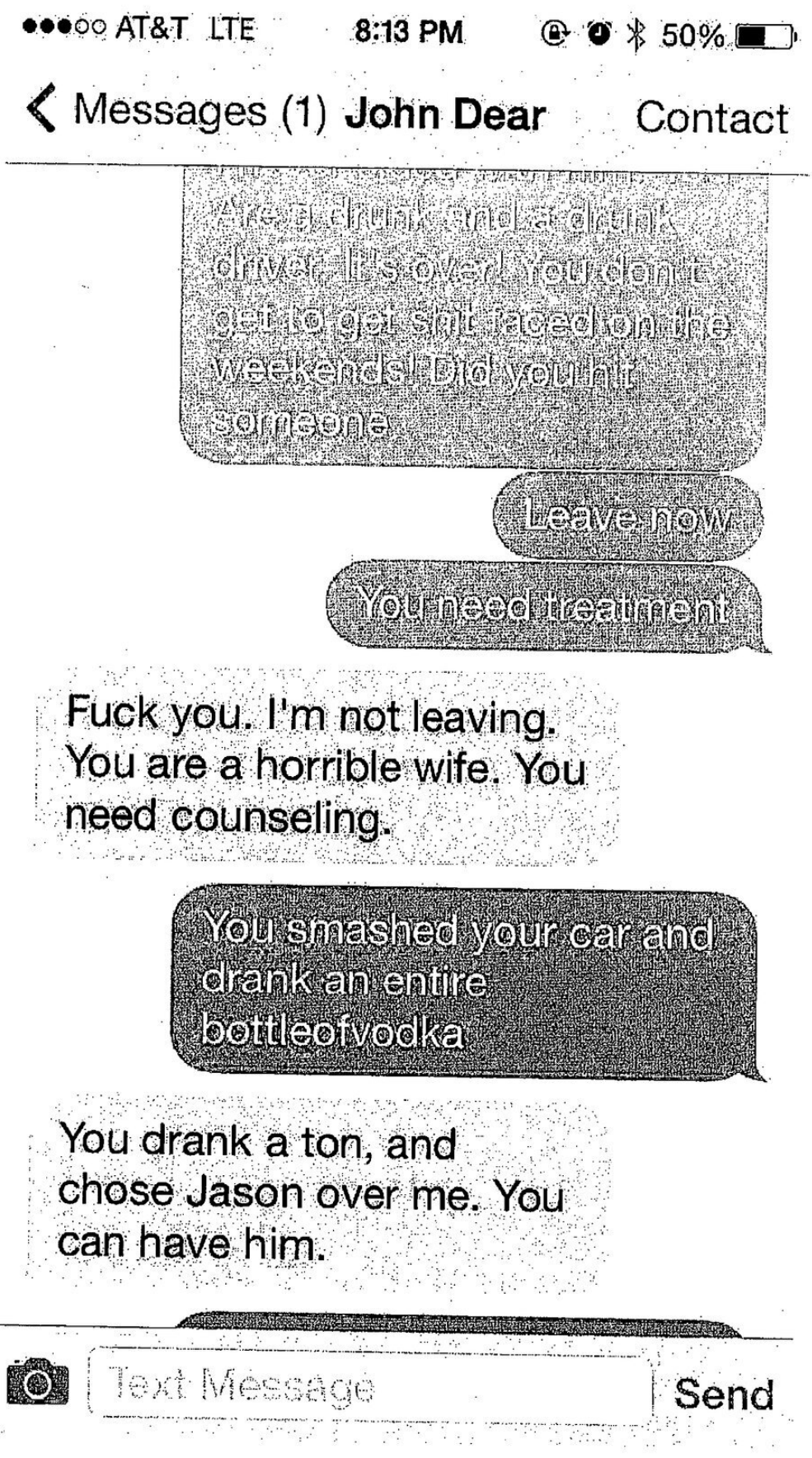
You are done! Done drinking!!!!

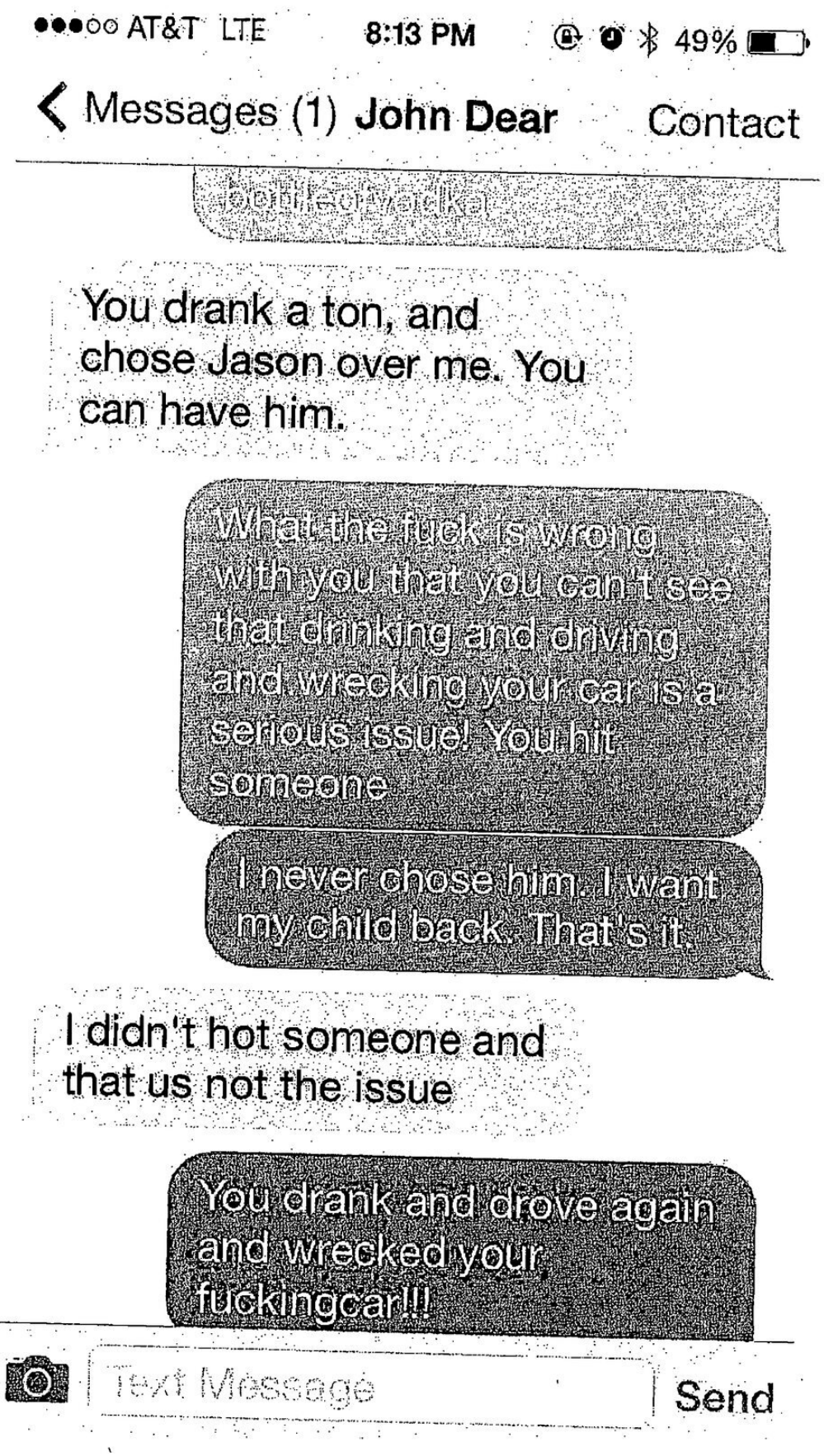
It's over!

I hope you didn't kill

Text Message Send


●●●○○ AT&T LTE 8:13 PM @ ⏰ ᛒ 50%
Messages (1) John Dear Contact
I hope you didn't hit someone
Fuck you. You have betrayed your family. You have sided with Jason over me.
What the fuck did you do?!!
It is over.
Fuck you.
I never sided with him. You Are a drunk and a drunk driver. It's over! You don't get to get shit faced on the weekends! Did you hit someone
Text Message
Send


●●●○○ AT&T LTE 8:13 PM 50%
Messages (1) John Dear Contact
Are u drunk and a drunk driver. It's over. You don't get to get shit faced on the weekends! Did you hit someone
Leave now
You need treatment
Fuck you. I'm not leaving. You are a horrible wife. You need counseling.
You smashed your car and drank an entire bottleofvodka
You drank a ton, and chose Jason over me. You can have him.
Text Message
Send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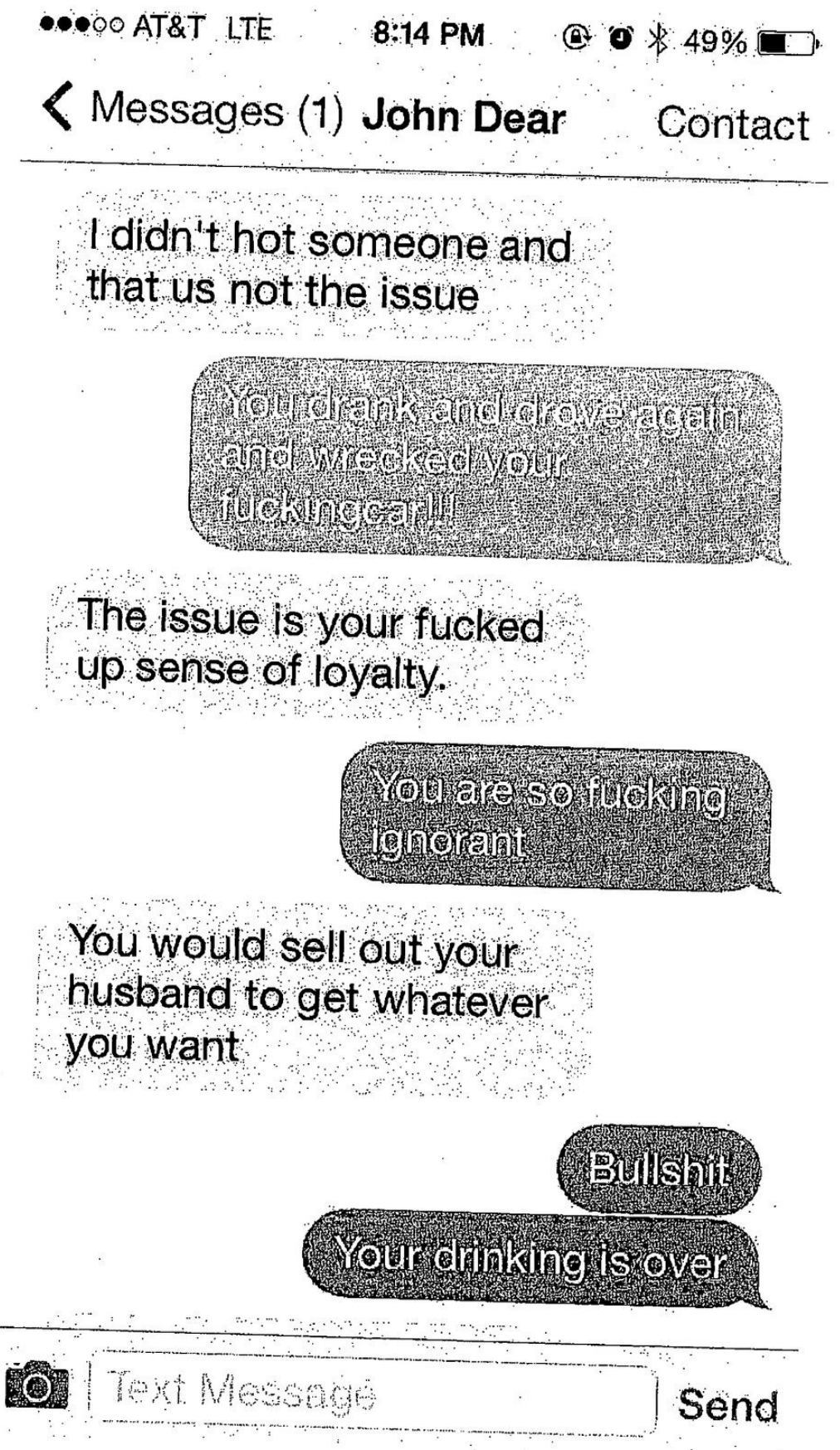
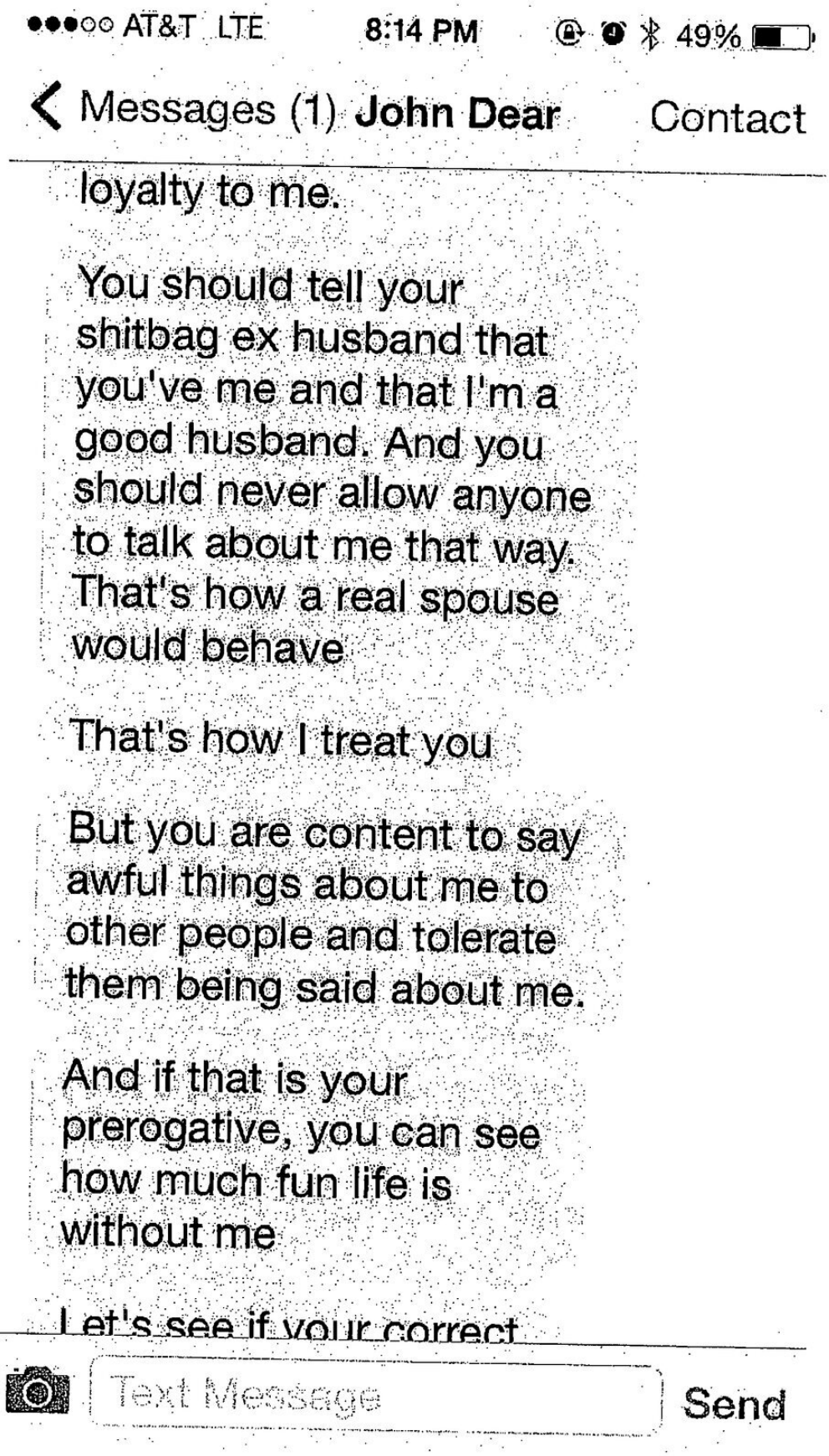
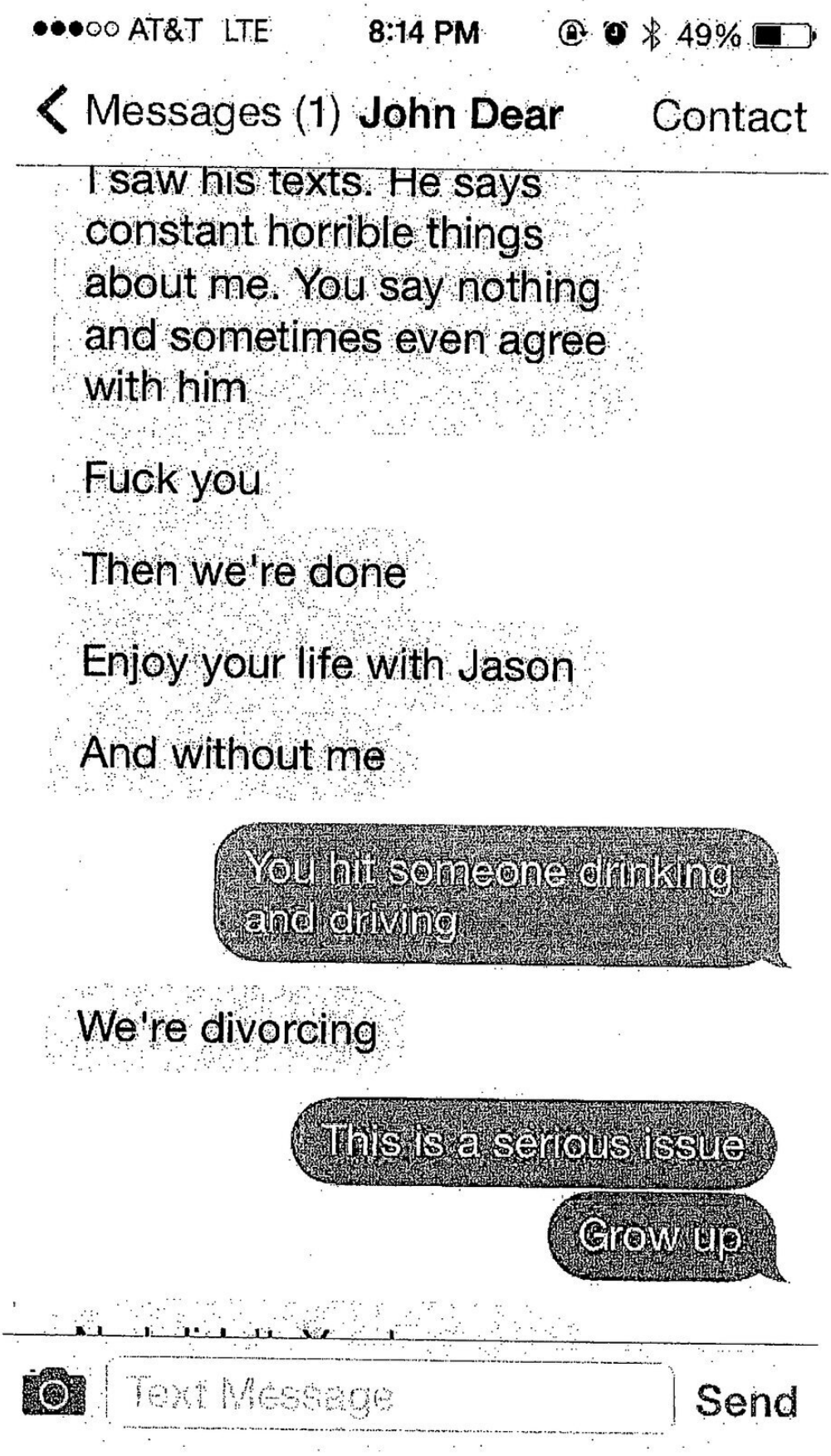
8:13 PM
49%
Messages (1) John Dear
Contact
bottle of vodka
You drank a ton, and chose Jason over me. You can have him.
What the fuck is wrong with you that you can't see that drinking and driving and wrecking your car is a serious issue! You hit someone
I never chose him. I want my child back. That's it.
I didn't hot someone and that us not the issue
You drank and drove again and wrecked your fuckingcar!!!
Text Message
Send


●●●○○ AT&T LTE
8:14 PM
49%
Messages (1) John Dear
Contact
I didn't hot someone and that us not the issue
You drank and drove again and wrecked your fucking car!!!
The issue is your fucked up sense of loyalty.
You are so fucking ignorant
You would sell out your husband to get whatever you want
Bullshit
Your drinking is over
Text Message
Send


●●●○○ AT&T LTE 8:14 PM @ ⏰ ᛒ 49%
Messages (1) John Dear Contact
loyalty to me.
You should tell your shitbag ex husband that you've me and that I'm a good husband. And you should never allow anyone to talk about me that way. That's how a real spouse would behave
That's how I treat you
But you are content to say awful things about me to other people and tolerate them being said about me.
And if that is your prerogative, you can see how much fun life is without me
Let's see if your correct
Text Message
Send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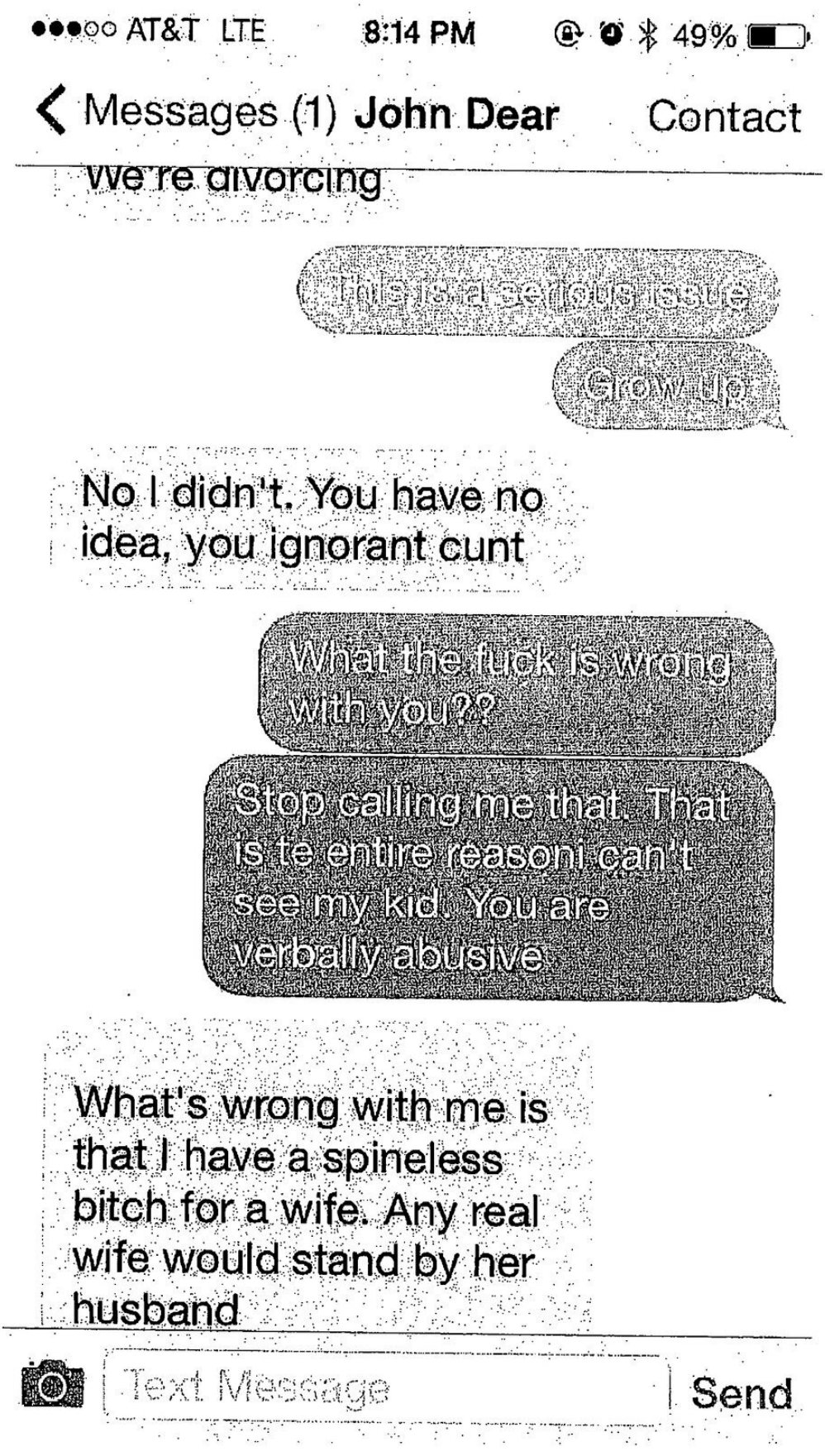
8:14 PM
49%
Messages (1) John Dear
Contact
I saw his texts. He says constant horrible things about me. You say nothing and sometimes even agree with him
Fuck you
Then we're done
Enjoy your life with Jason
And without me
You hit someone drinking and driving
We're divorcing
This is a serious issue
Grow up
Text Message
Send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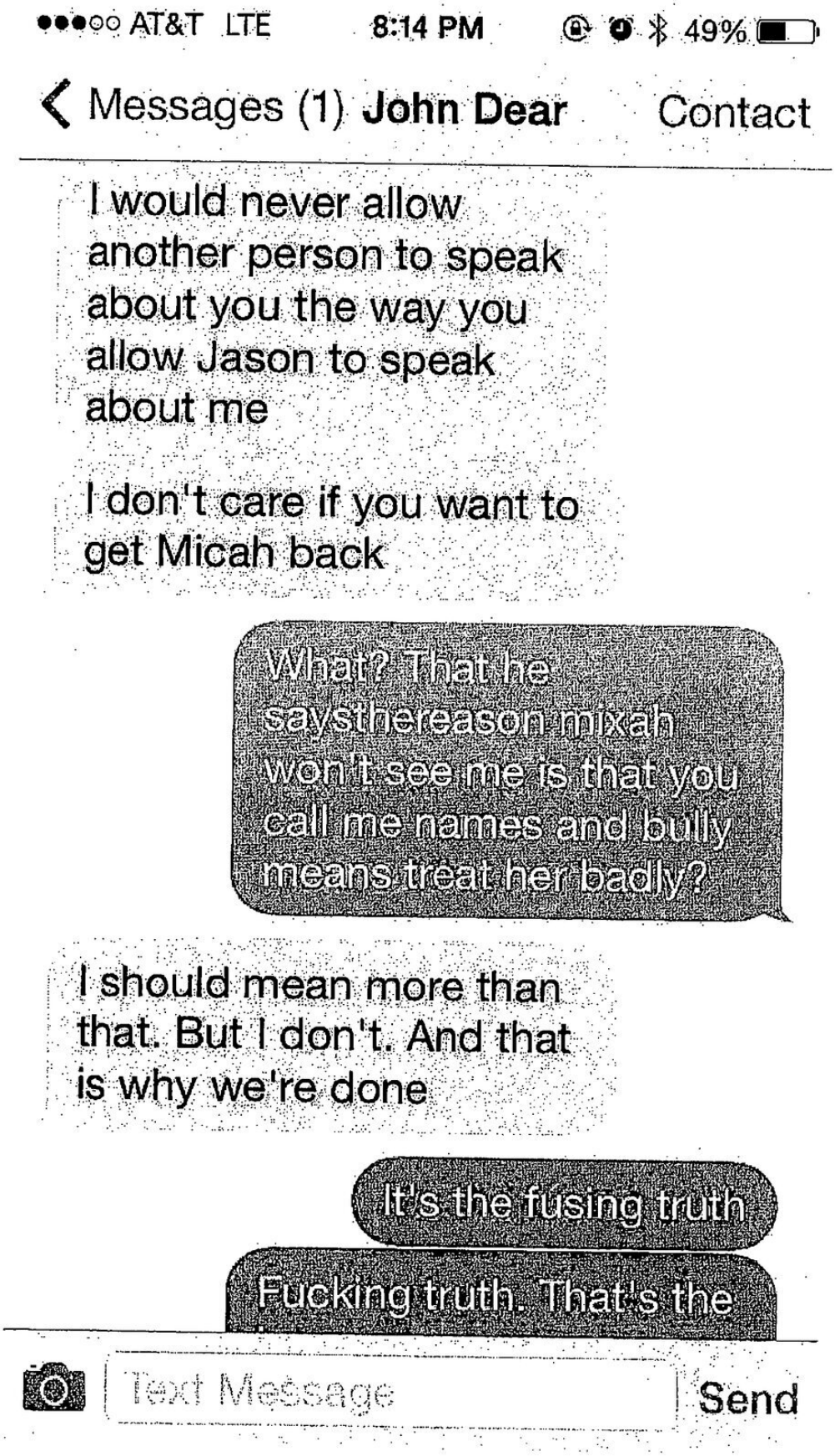
Messages (1) John Dear Contact
We're divorcing
This is a serious issue
Grow Up
No I didn't. You have no idea, you ignorant cunt
What the fuck is wrong with you??
Stop calling me that. That is te entire reasoni can't see my kid. You are verbally abusive
What's wrong with me is that I have a spineless bitch for a wife. Any real wife would stand by her husband
Text Message
Send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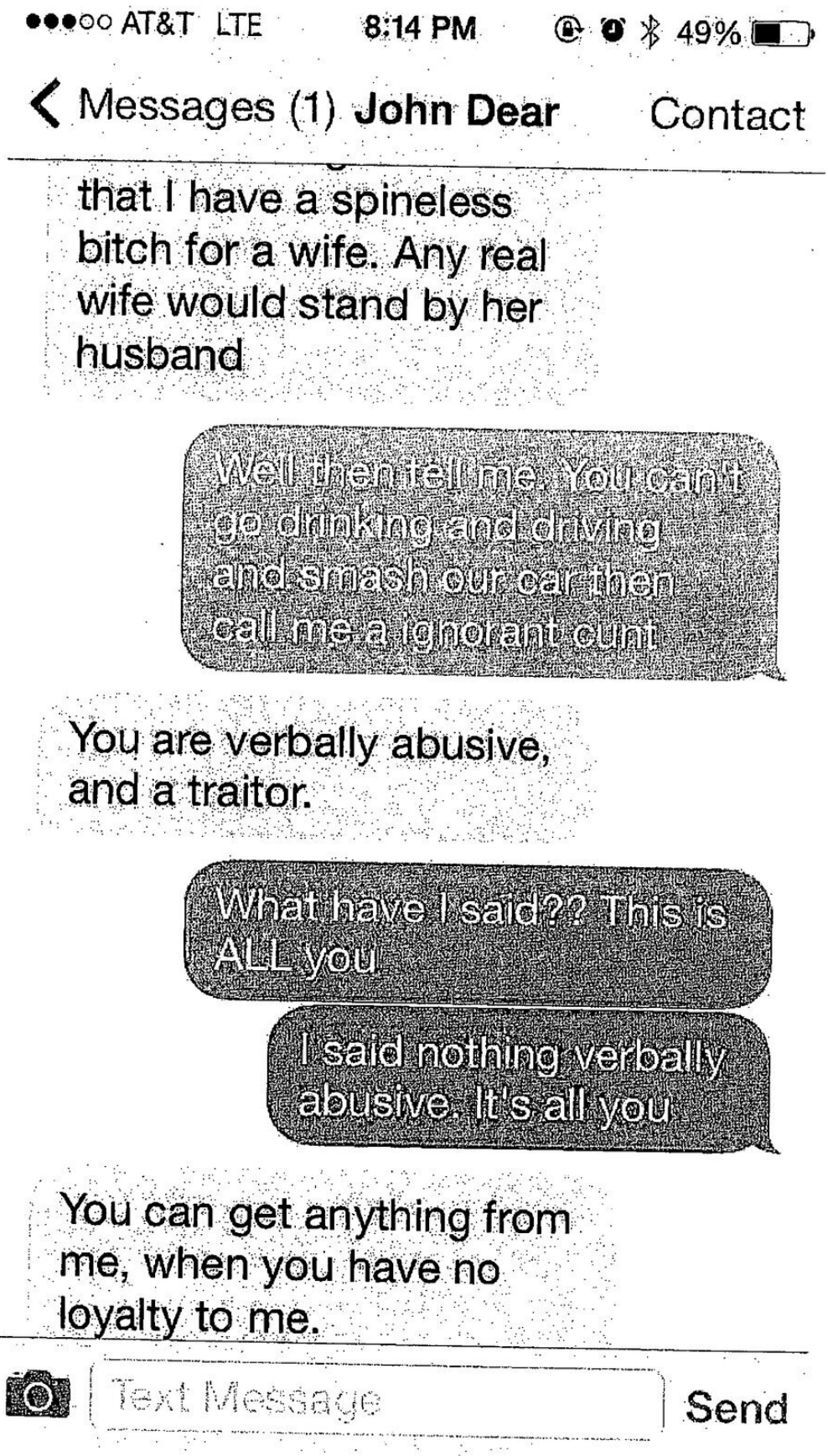
Messages (1) John Dear Contact
I would never allow another person to speak about you the way you allow Jason to speak about me
I don't care if you want to get Micah back
What? That he saysthereason mixah won't see me is that you call me names and bully means treat her badly?
I should mean more than that. But I don't. And that is why we're done
It's the fusing truth
Fucking truth. That's the
Text Message
Send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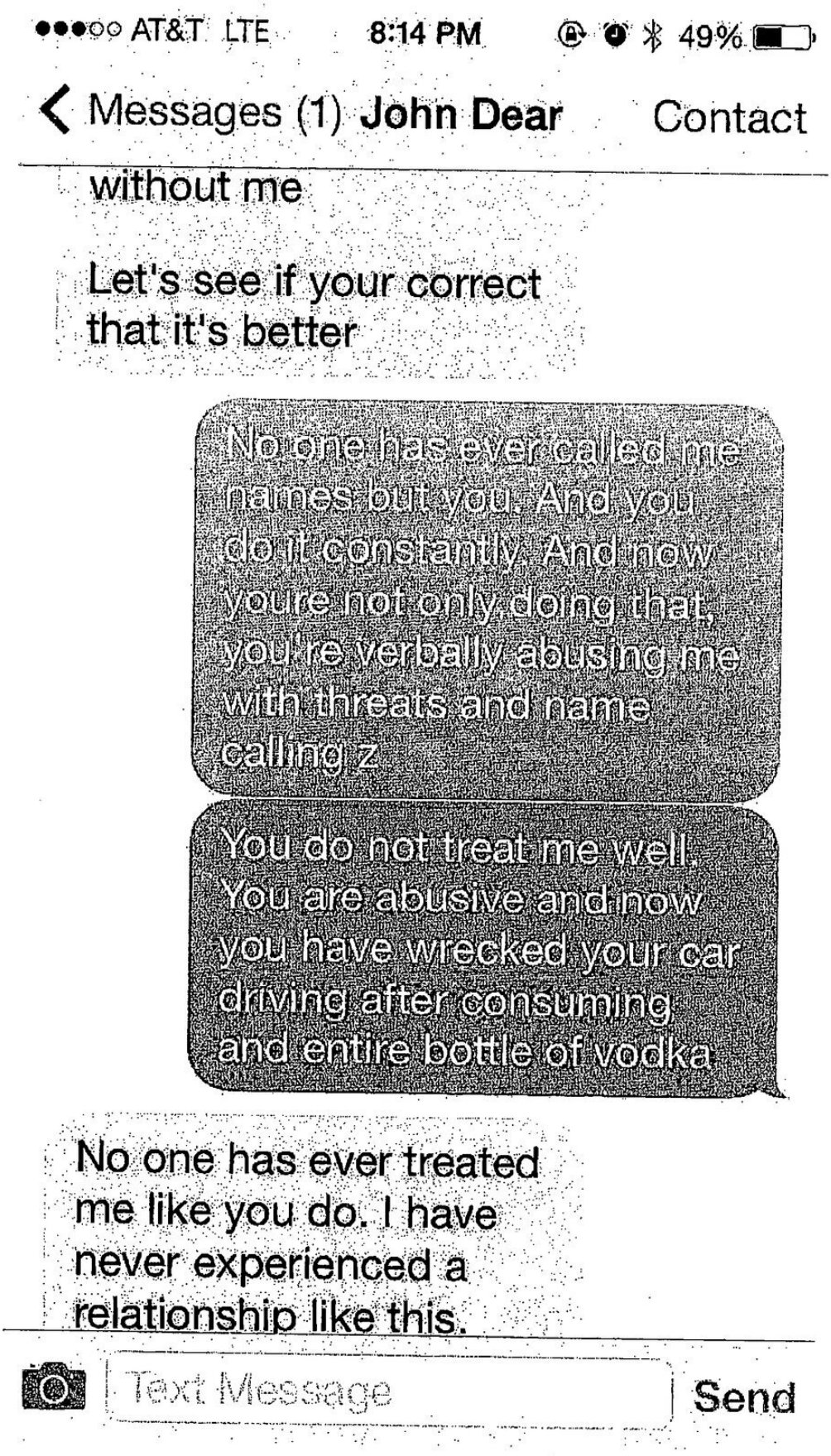
Messages (1) John Dear Contact
that I have a spineless bitch for a wife. Any real wife would stand by her husband
Well then tell me. You can't go drinking and driving and smash our car then call me a ignorant cunt
You are verbally abusive, and a traitor.
What have I said?? This is ALL you
I said nothing verbally abusive. It's all you
You can get anything from me, when you have no loyalty to me.
Text Message
Send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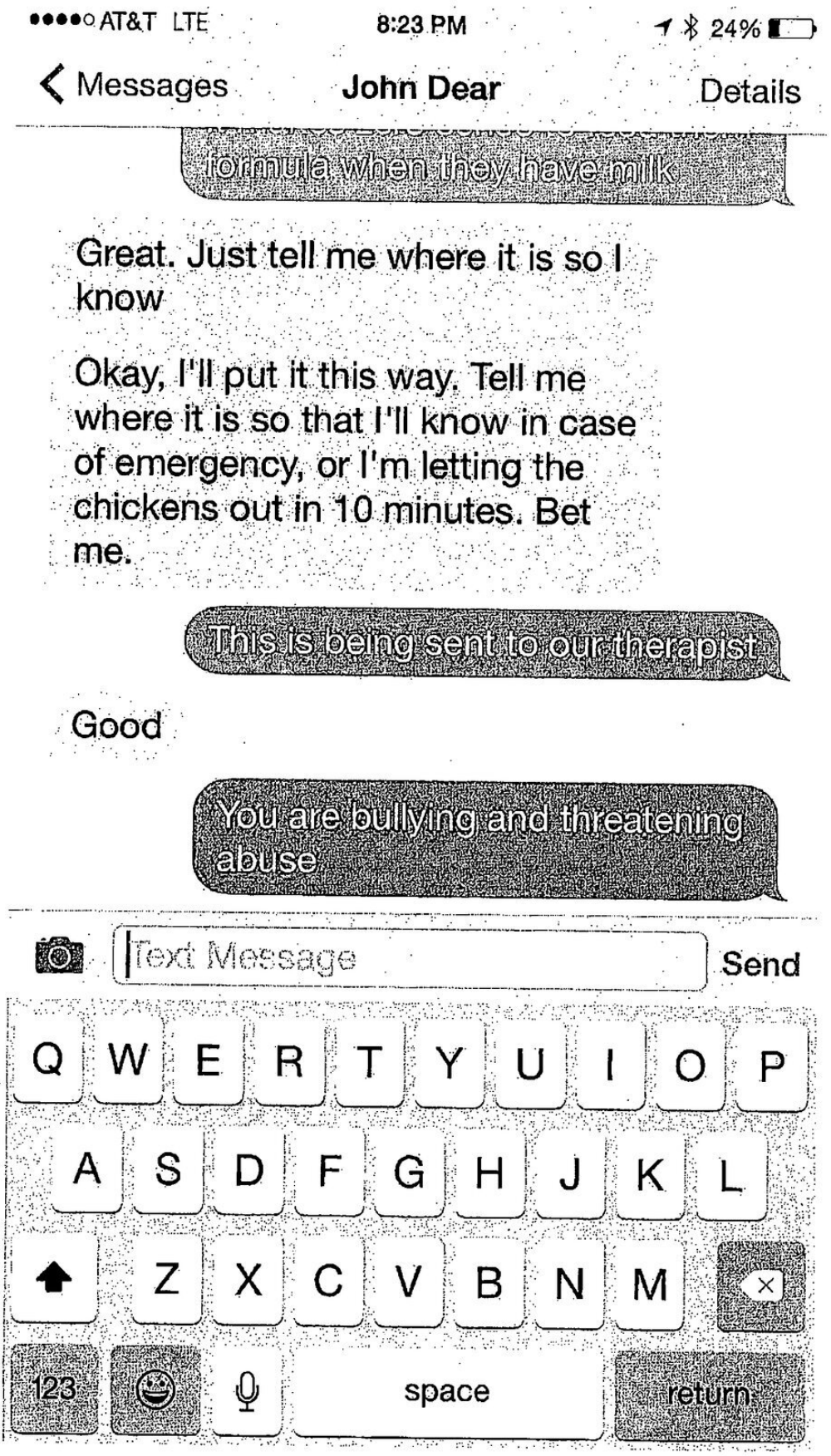
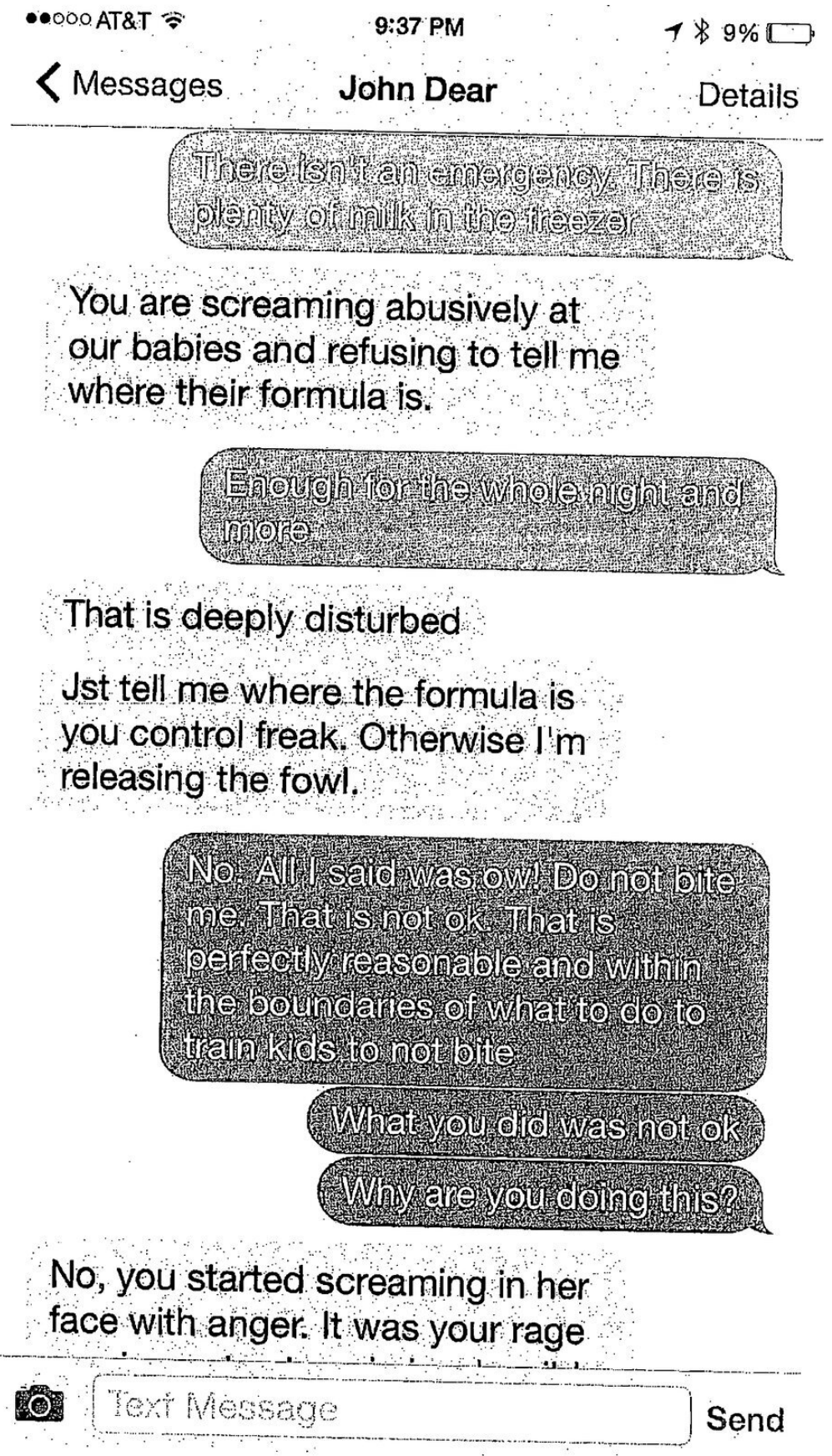
Messages (1) John Dear Contact
without me
Let's see if your correct that it's better
No one has ever called me names but you. And you do it constantly. And now youre not only doing that, you're verbally abusing me with threats and name calling z
You do not treat me well. You are abusive and now you have wrecked your car driving after consuming and entire bottle of vodka
No one has ever treated me like you do. I have never experienced a relationship like this.
Text Message
Send


AT&T LTE
8:23 PM
24%
Messages
John Dear
Details
formula when they have milk
Great. Just tell me where it is so I know
Okay, I'll put it this way. Tell me where it is so that I'll know in case of emergency, or I'm letting the chickens out in 10 minutes. Bet me.
This is being sent to our therapist
Good
You are bullying and threatening abuse
Text Message
Send
Q W E R T Y U I O P
A S D F G H J K L
Z X C V B N M
123
space
return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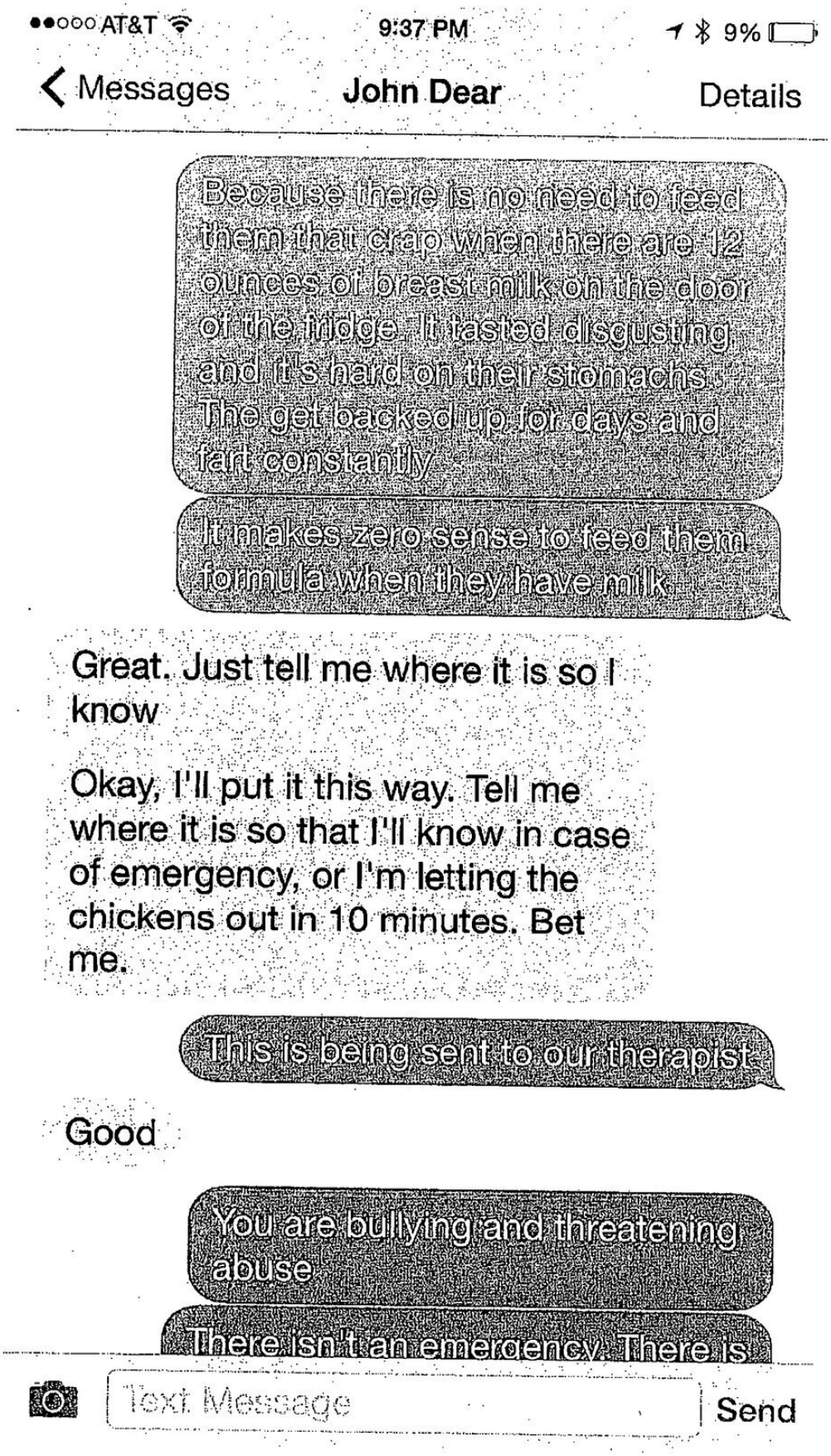
Messages
John Dear
Details
There isn't an emergency. There is plenty of milk in the freezer
You are screaming abusively at our babies and refusing to tell me where their formula is.
Enough for the whole night and more
That is deeply disturbed
Jst tell me where the formula is you control freak. Otherwise I'm releasing the fowl.
No. All I said was ow! Do not bite me. That is not ok. That is perfectly reasonable and within the boundaries of what to do to train kids to not bite
What you did was not ok
Why are you doing this?
No, you started screaming in her face with anger. It was your rage
Text Message
Send


AT&T
9:37 PM
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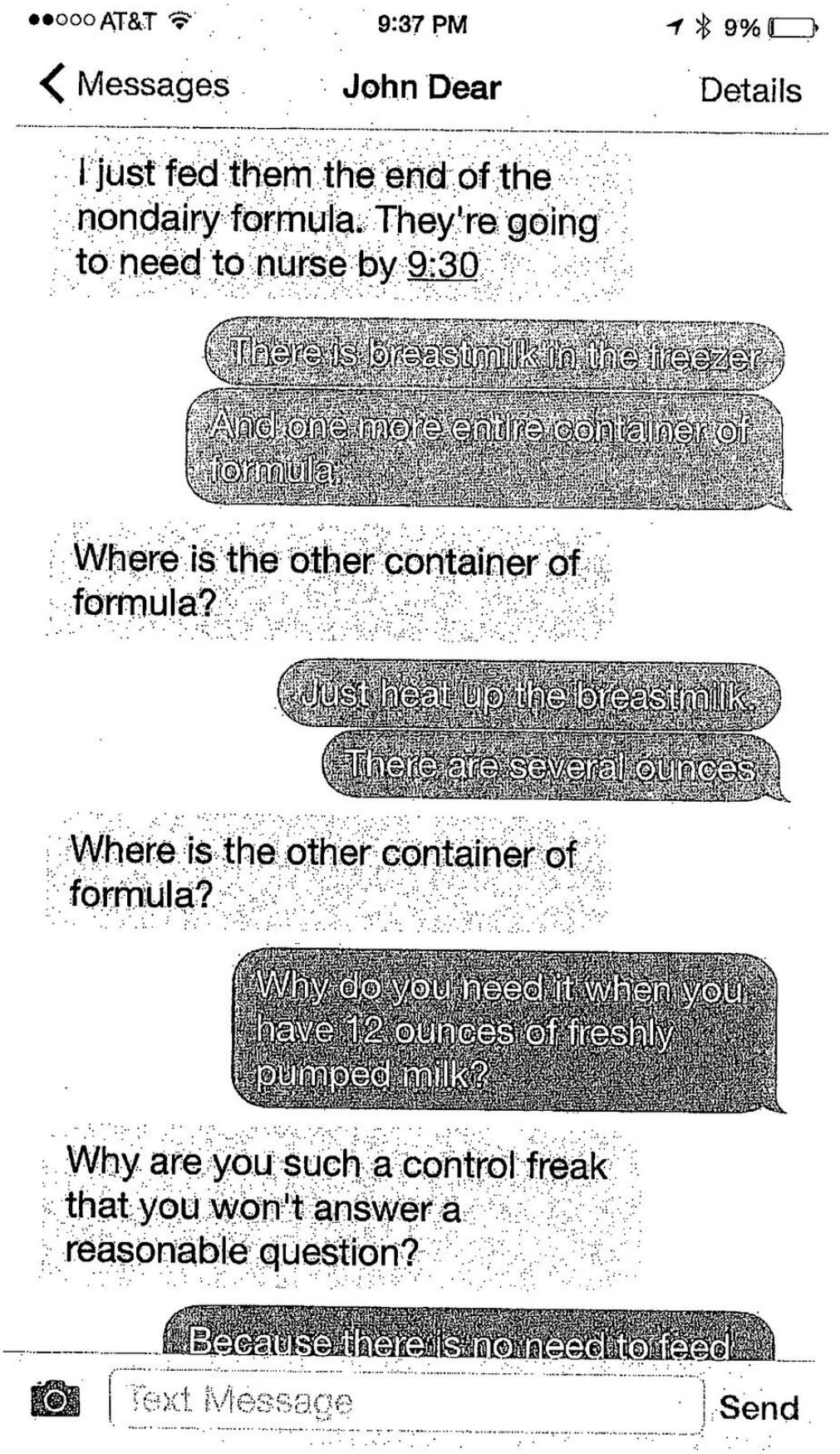
Messages
John Dear
Details
Because there is no need to feed them that crap when there are 12 ounces of breast milk on the door of the fridge. It tasted disgusting and it's hard on their stomachs. The get backed up for days and fart constantly
It makes zero sense to feed them formula when they have milk
Great. Just tell me where it is so I know
Okay, I'll put it this way. Tell me where it is so that I'll know in case of emergency, or I'm letting the chickens out in 10 minutes. Bet me.
This is being sent to our therapist
Good
You are bullying and threatening abuse
There isn't an emergency. There is
Text Message
Send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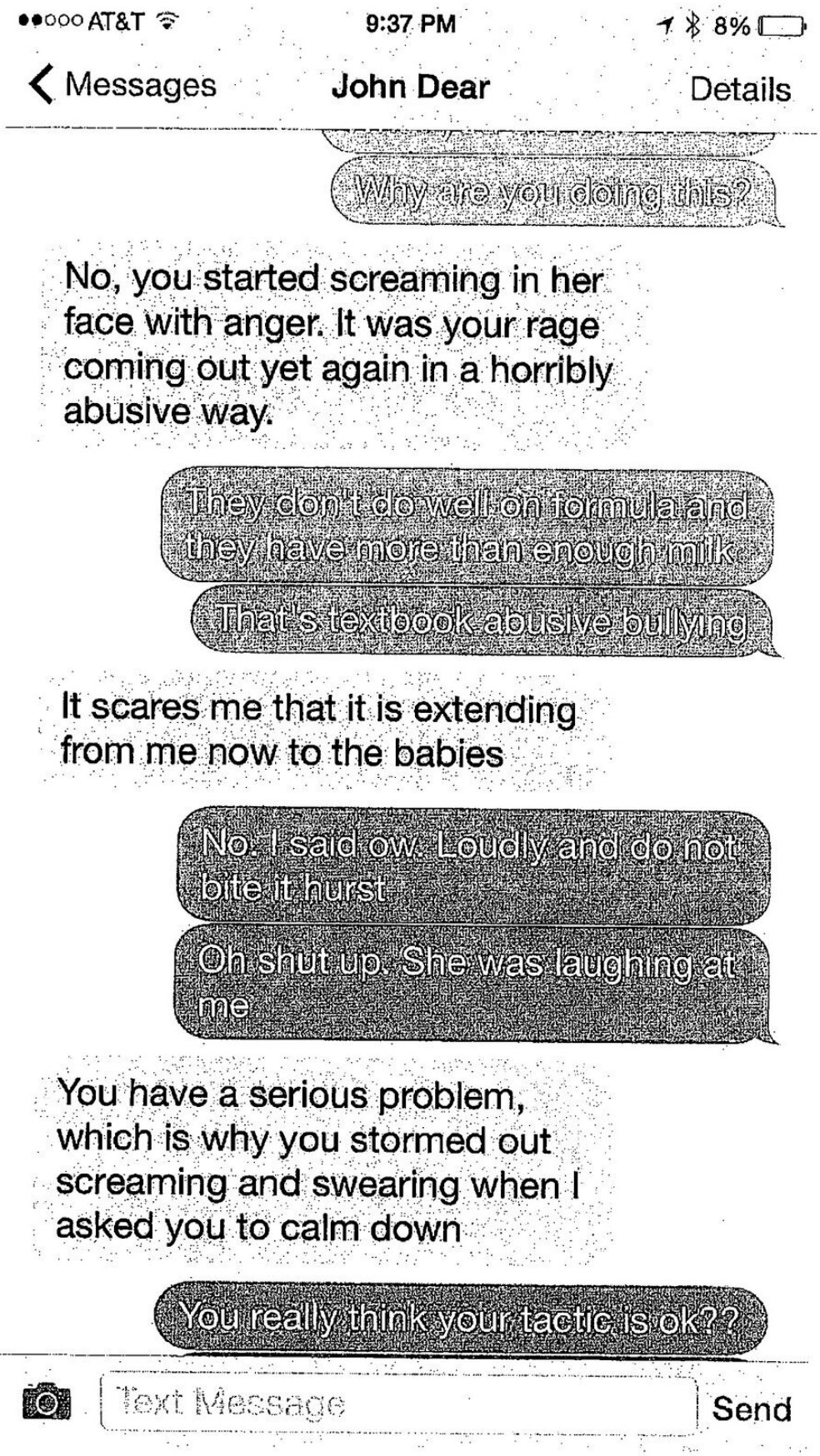
Messages
John Dear
Details
I just fed them the end of the nondairy formula. They're going to need to nurse by 9:30
There is breastmilk in the freezer
And one more entire container of formula
Where is the other container of formula?
Just heat up the breastmilk.
There are several ounces
Where is the other container of formula?
Why do you need it when you have 12 ounces of freshly pumped milk?
Why are you such a control freak that you won't answer a reasonable question?
Because there is no need to feed
Text Message
Send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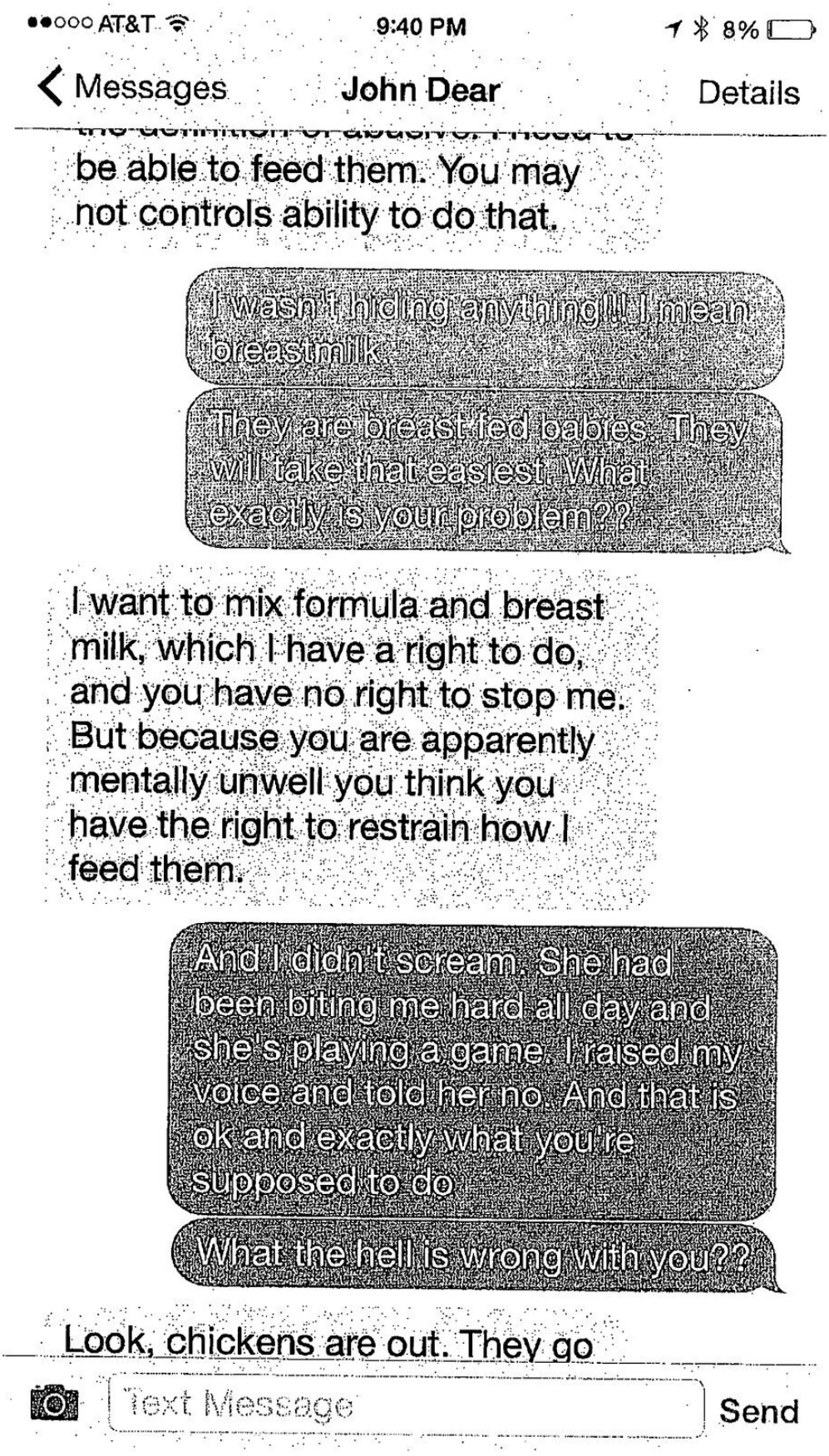
9:37 PM
8%
Messages
John Dear
Details
Why are you doing this?
No, you started screaming in her face with anger. It was your rage coming out yet again in a horribly abusive way.
They don't do well on formula and they have more than enough milk
That's textbook abusive bullying
It scares me that it is extending from me now to the babies
No. I said ow. Loudly and do not bite it hurst
Oh shut up. She was laughing at me
You have a serious problem, which is why you stormed out screaming and swearing when I asked you to calm down
You really think your tactic is ok??
Text Message
Send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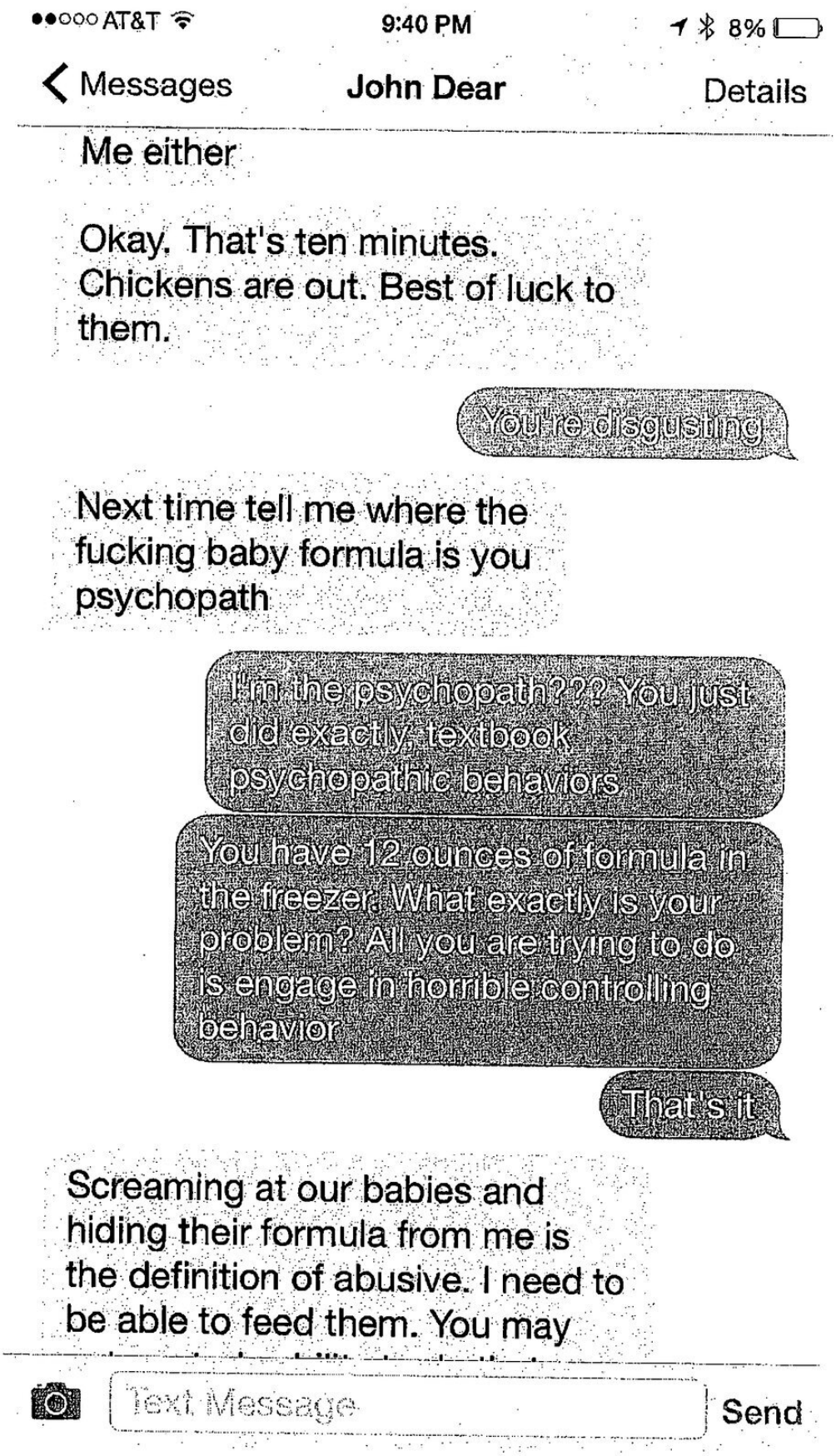
Messages
John Dear
Details
be able to feed them. You may not controls ability to do that.
I wasn't hiding anything!!! I mean breastmilk
They are breast fed babies. They will take that easiest. What exactly is your problem??
I want to mix formula and breast milk, which I have a right to do, and you have no right to stop me. But because you are apparently mentally unwell you think you have the right to restrain how I feed them.
And I didn't scream. She had been biting me hard all day and she's playing a game. I raised my voice and told her no. And that is ok and exactly what you're supposed to do
What the hell is wrong with you??
Look, chickens are out. They go
Text Message
Send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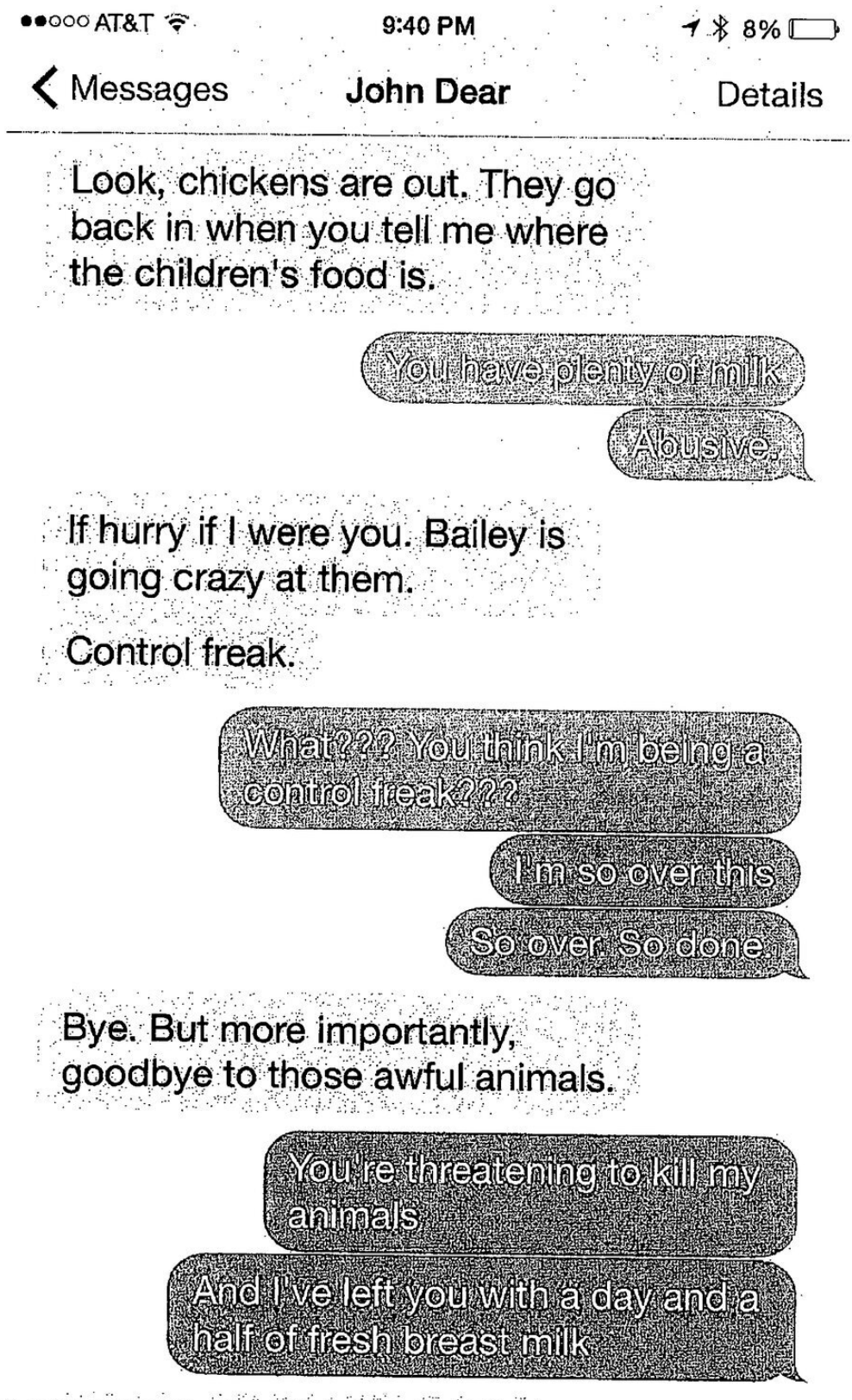
Messages
John Dear
Details
Me either
Okay. That's ten minutes. Chickens are out. Best of luck to them.
You're disgusting
Next time tell me where the fucking baby formula is you psychopath
I'm the psychopath??? You just did exactly, textbook psychopathic behaviors
You have 12 ounces of formula in the freezer. What exactly is your problem? All you are trying to do is engage in horrible controlling behavior
That's it
Screaming at our babies and hiding their formula from me is the definition of abusive. I need to be able to feed them. You may
Text Message
Send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9:40 PM
8%
Messages
John Dear
Details
Look, chickens are out. They go back in when you tell me where the children's food is.
You have plenty of milk
Abusive.
If hurry if I were you. Bailey is going crazy at them.
Control freak.
What??? You think I'm being a control freak???
I'm so over this
So over. So done.
Bye. But more importantly, goodbye to those awful animals.
You're threatening to kill my animals
And I've left you with a day and a half of fresh breast milk
Text Message
Send

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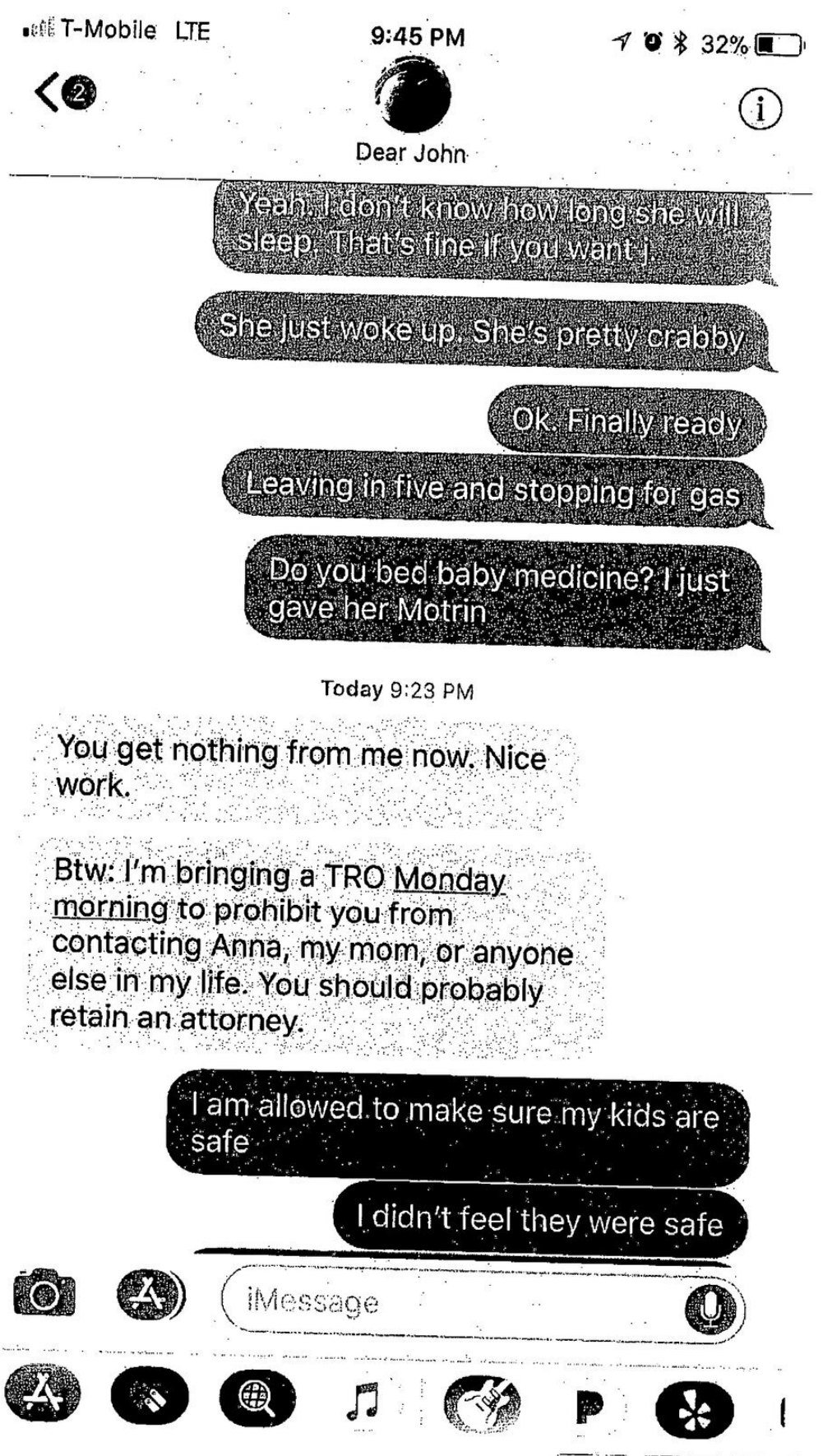
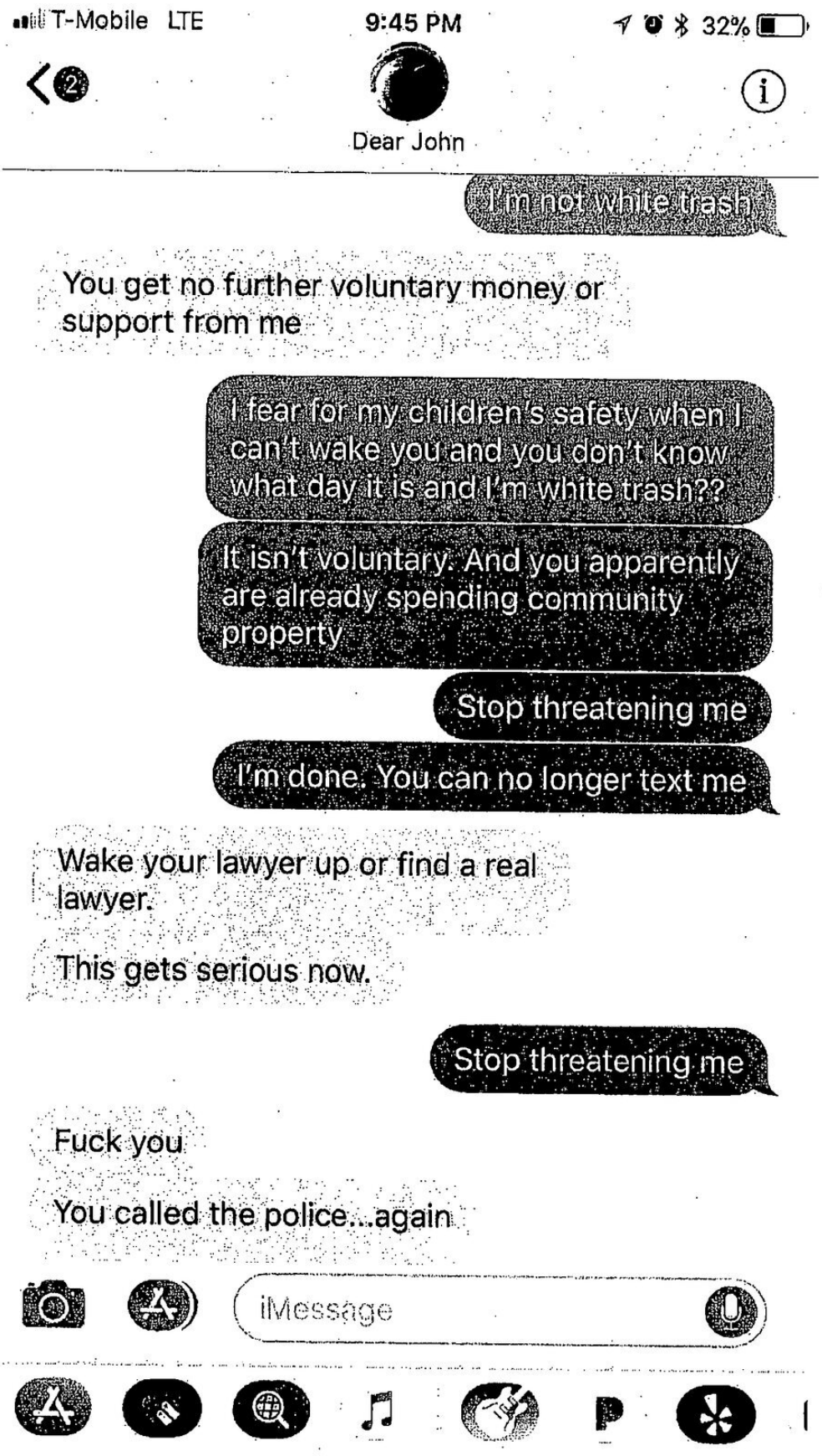
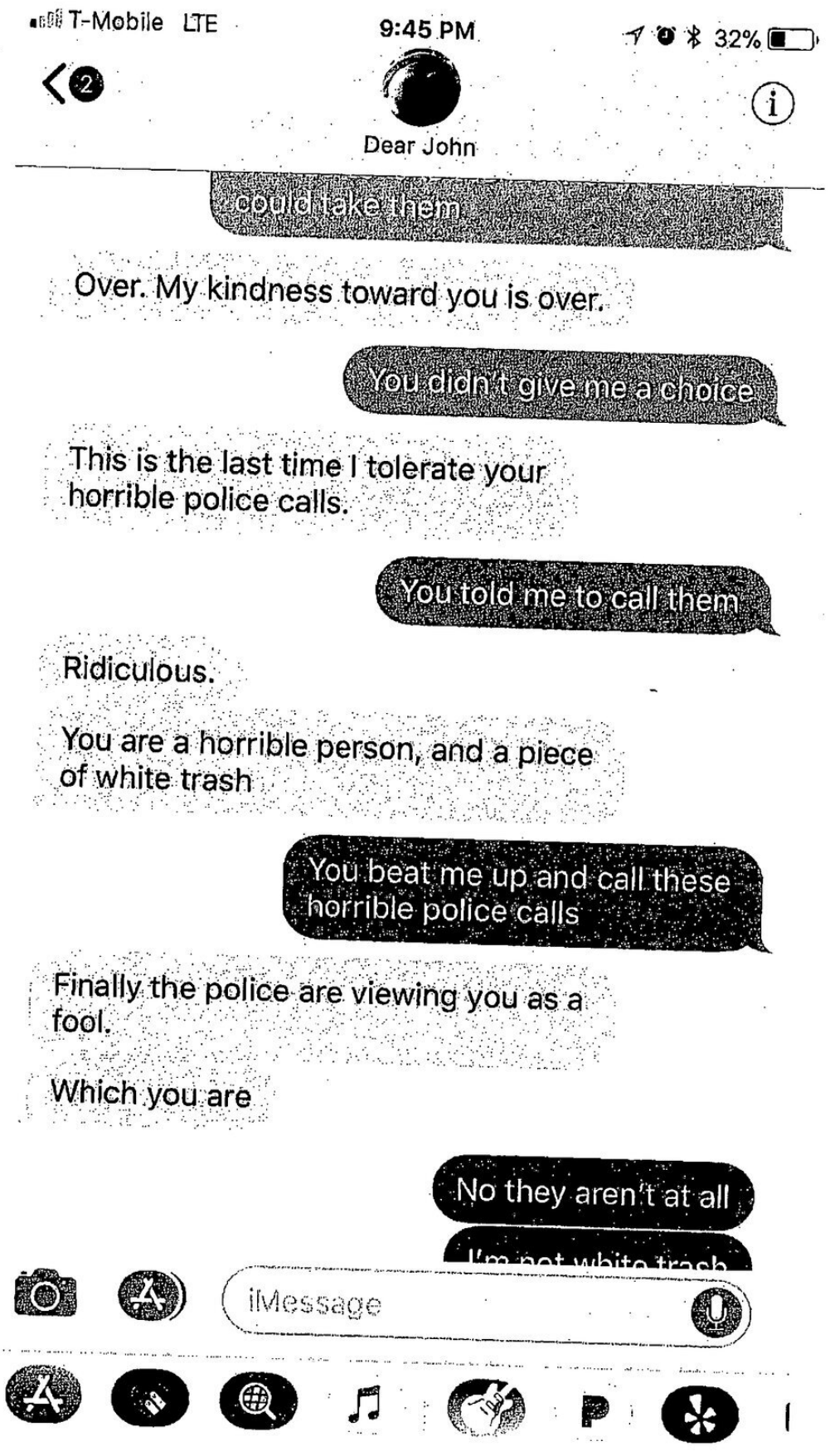
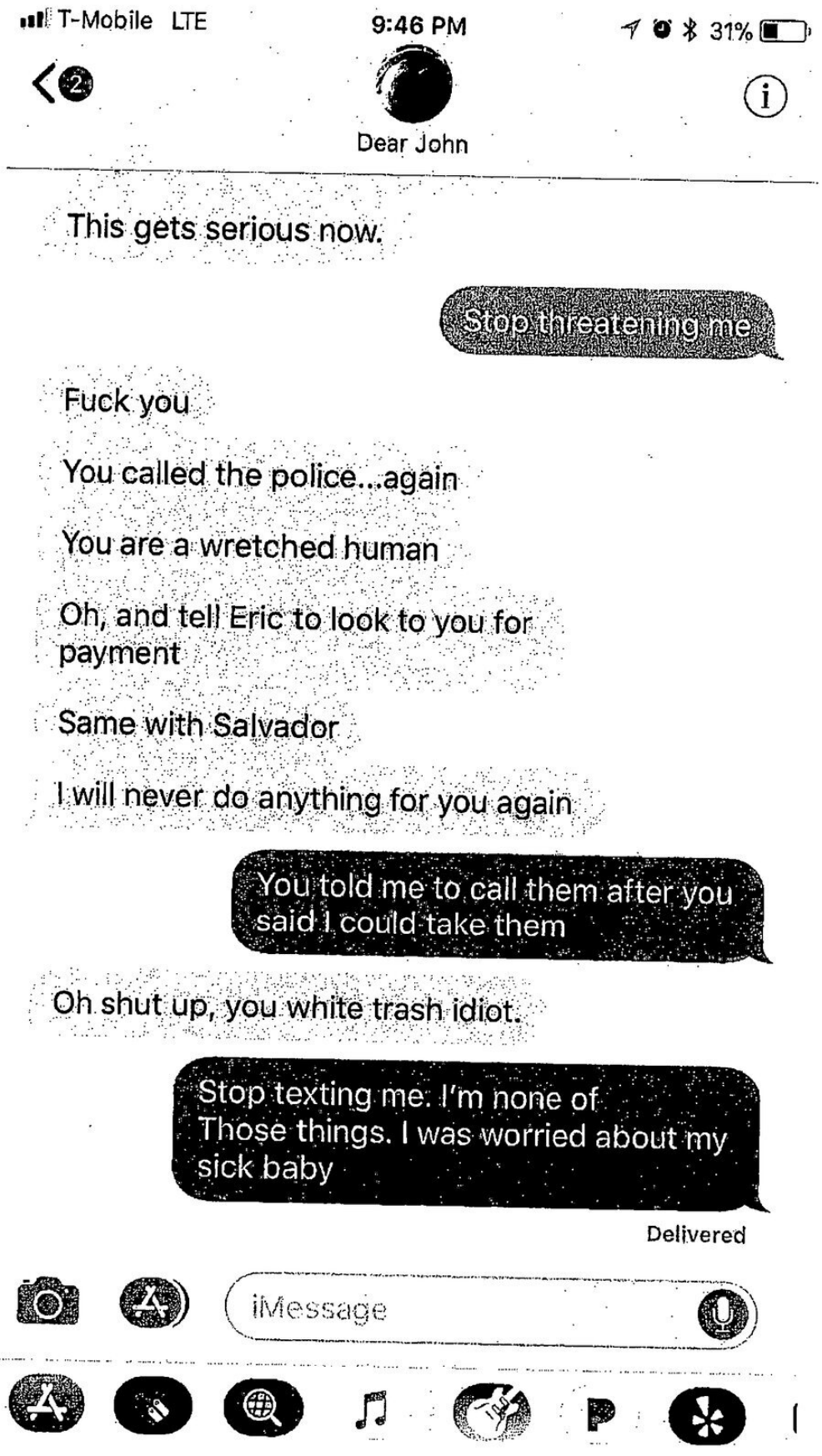
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

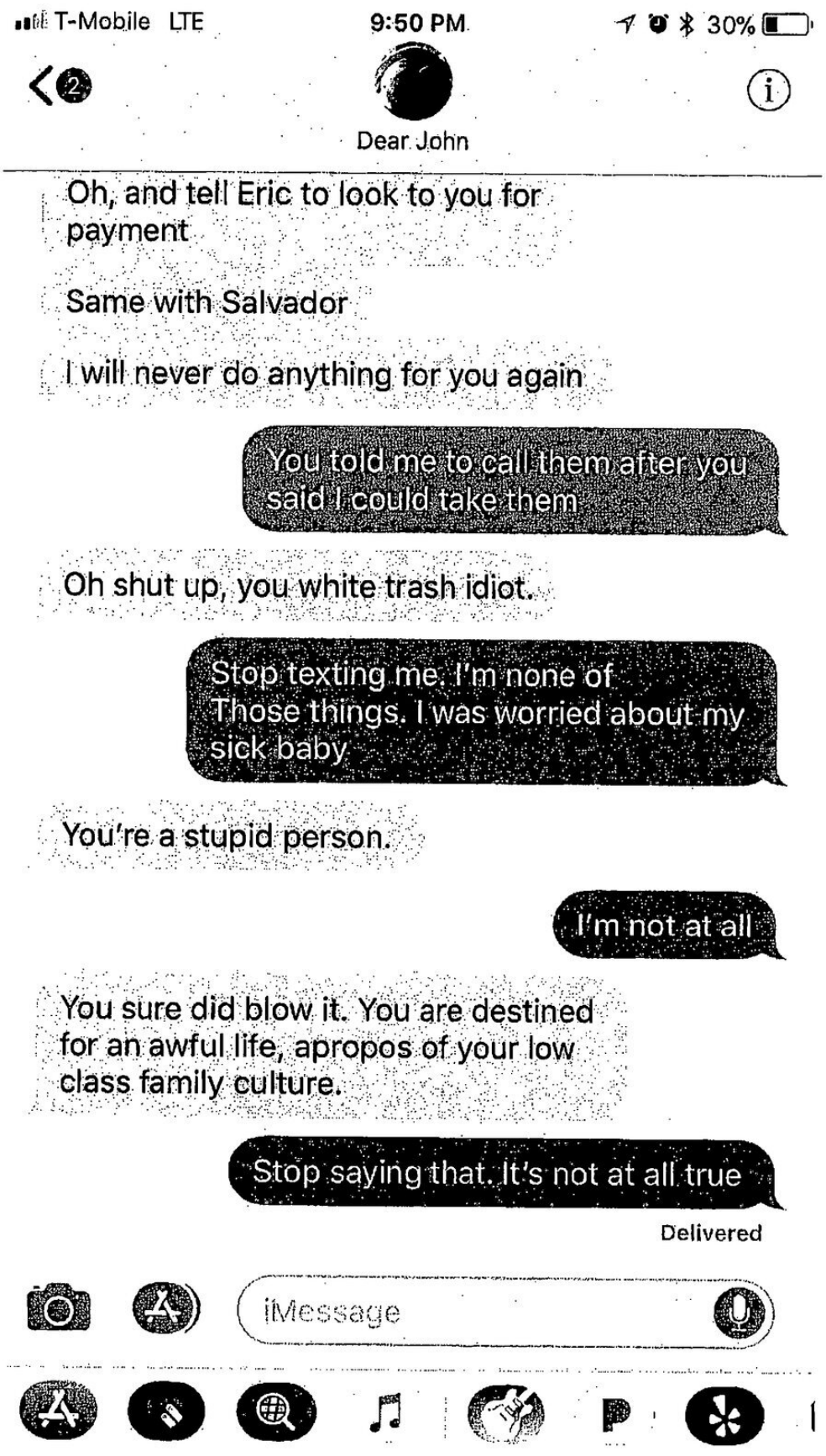


RESPONDENT	Exhibit# R-16
Case: 46-18	Date: 11-6-18
☒ Admitted	☐ Not Admitted


T-Mobile LTE
9:45 PM
32%
2
Dear John
I'm not white trash
You get no further voluntary money or support from me
I fear for my children's safety when I can't wake you and you don't know what day it is and I'm white trash??
It isn't voluntary. And you apparently are already spending community property
Stop threatening me
I'm done. You can no longer text me
Wake your lawyer up or find a real lawyer.
This gets serious now.
Stop threatening me
Fuck you
You called the police...again
iMessage


T-Mobile LTE
9:45 PM
32%
2
Dear John
could take them
Over. My kindness toward you is over.
You didn't give me a choice
This is the last time I tolerate your horrible police calls.
You told me to call them
Ridiculous.
You are a horrible person, and a piece of white trash
You beat me up and call these horrible police calls
Finally the police are viewing you as a fool.
Which you are
No they aren't at all
iMessage


T-Mobile LTE
9:46 PM
31%
Dear John
This gets serious now.
Stop threatening me
Fuck you
You called the police...again
You are a wretched human
Oh, and tell Eric to look to you for payment
Same with Salvador
I will never do anything for you again
You told me to call them after you said I could take them
Oh shut up, you white trash idiot.
Stop texting me. I'm none of Those things. I was worried about my sick baby
Delivered
iMessage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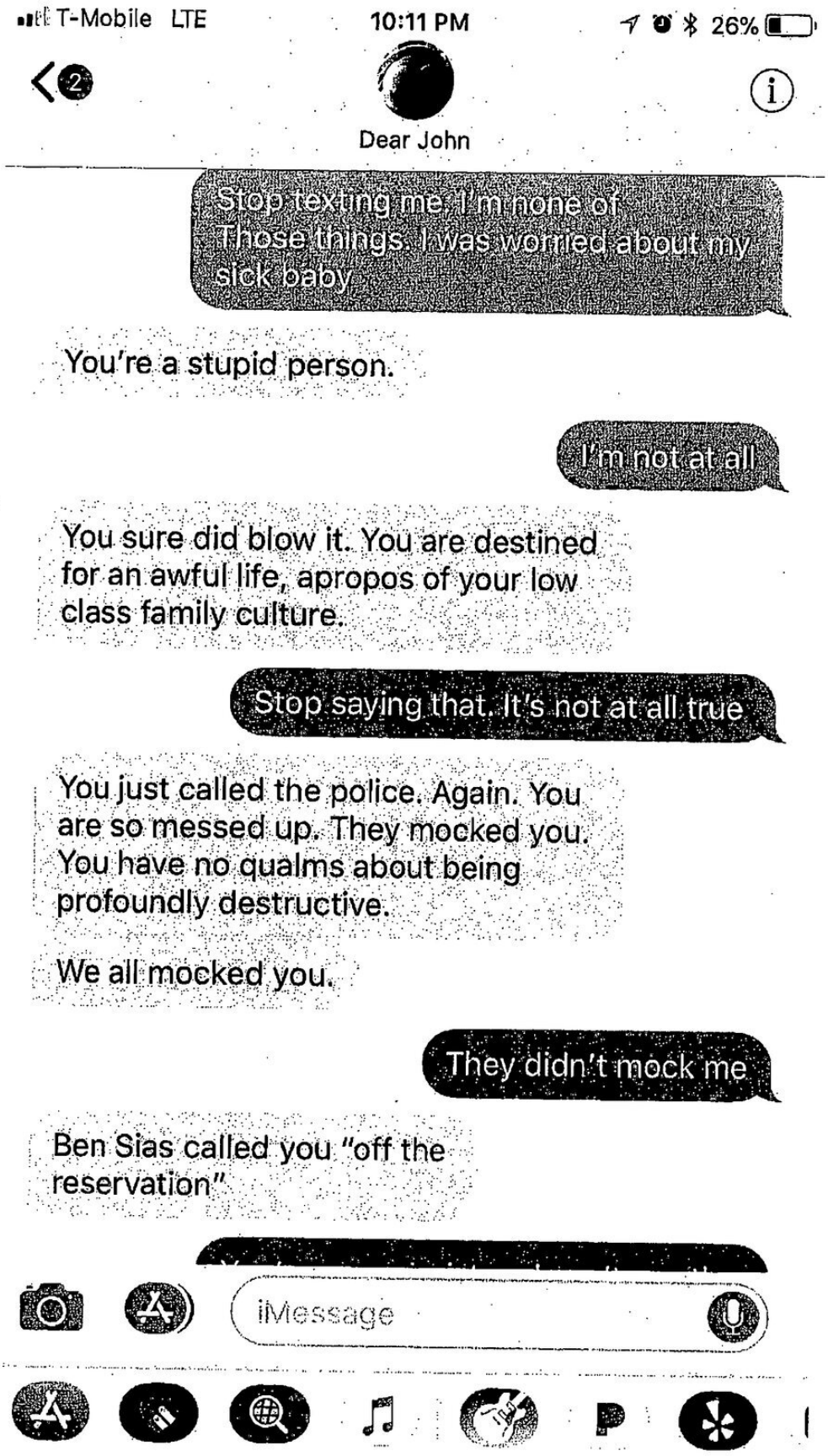
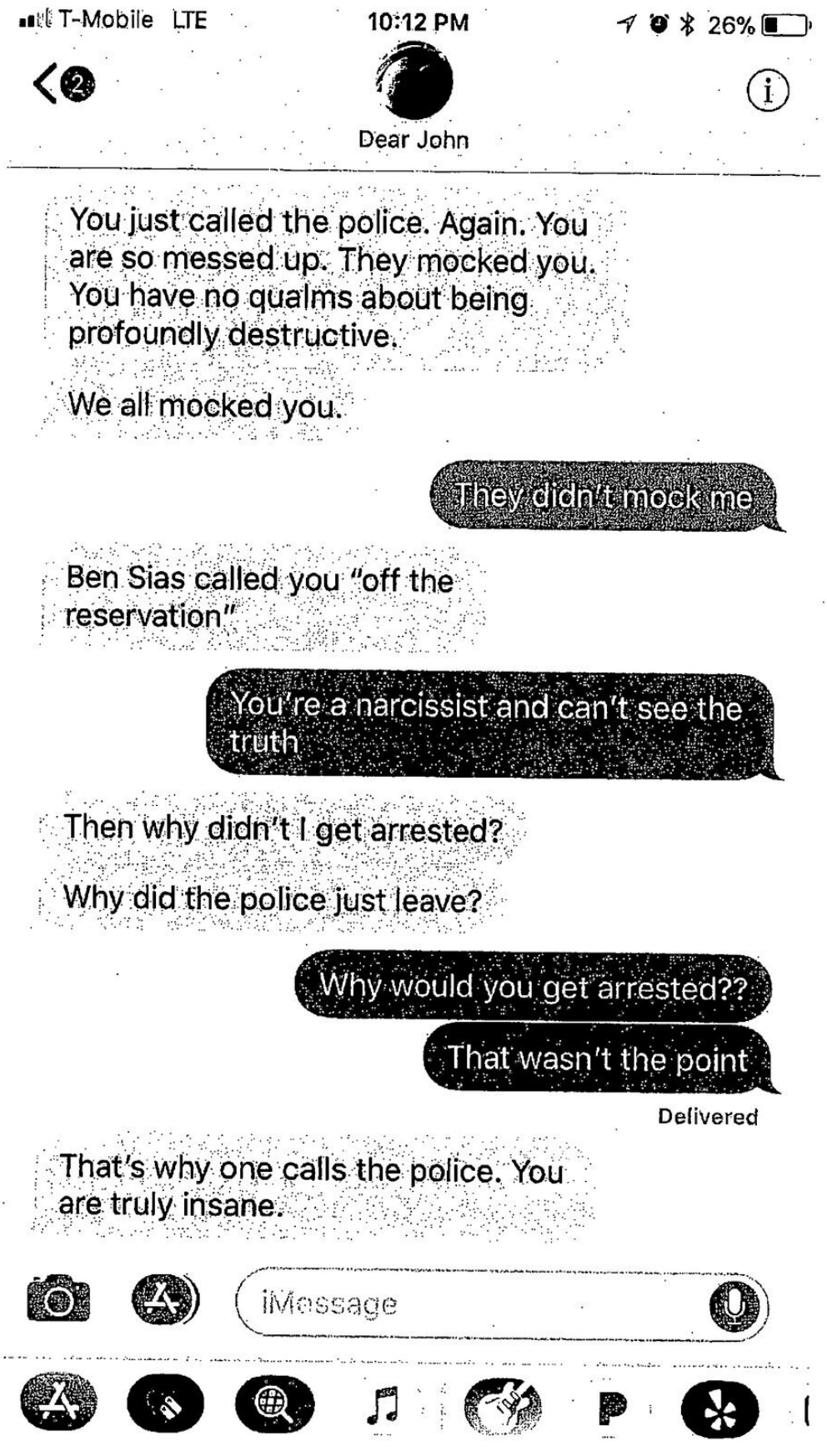
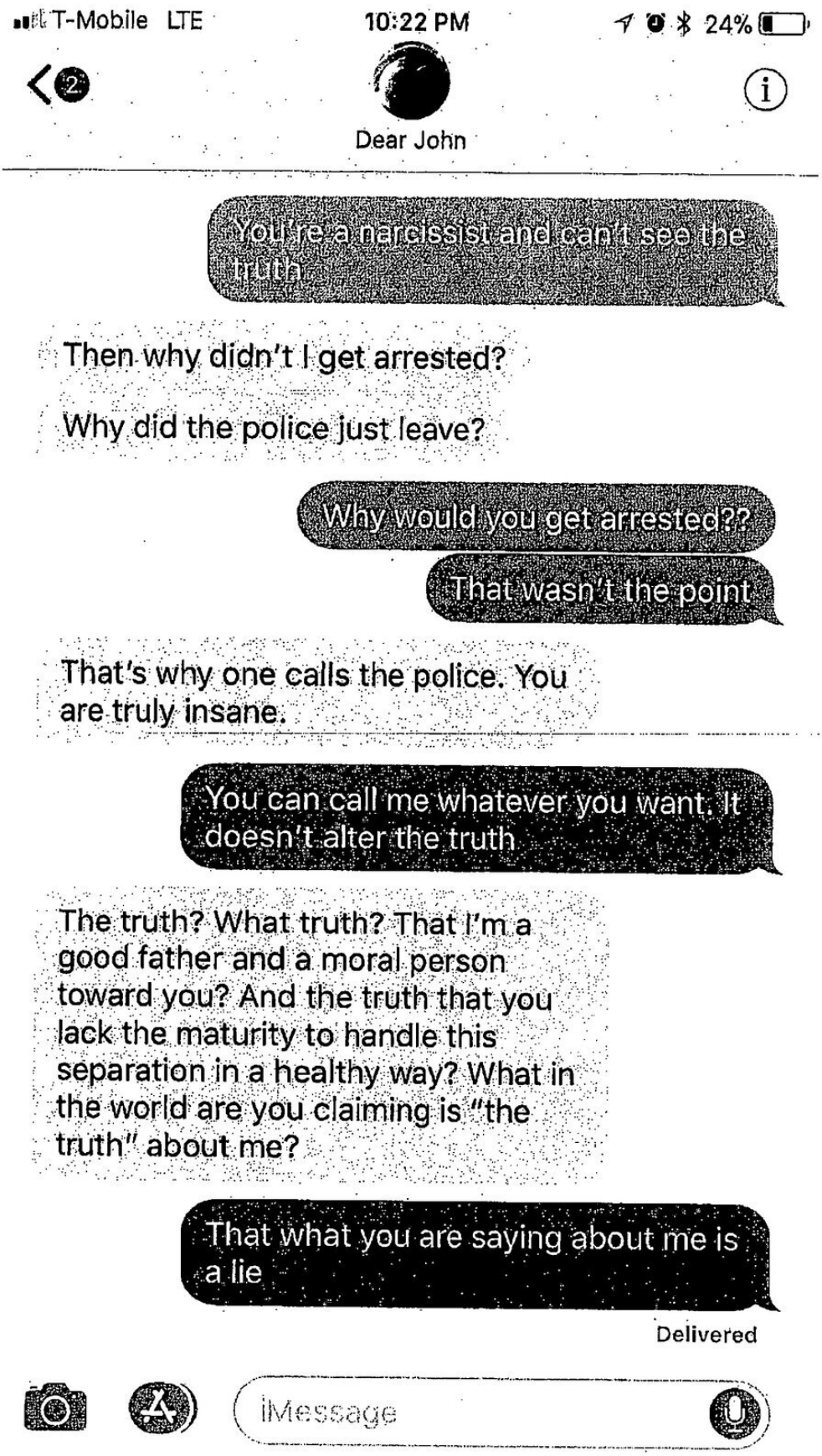
30%
2
Dear John
Oh, and tell Eric to look to you for payment
Same with Salvador
I will never do anything for you again
You told me to call them after you said I could take them
Oh shut up, you white trash idiot.
Stop texting me. I'm none of Those things. I was worried about my sick baby
You're a stupid person.
I'm not at all
You sure did blow it. You are destined for an awful life, apropos of your low class family culture.
Stop saying that. It's not at all true
Delivered
iMessage


T-Mobile LTE
10:11 PM
26%
2
Dear John
Stop texting me. I'm none of Those things. I was worried about my sick baby
You're a stupid person.
I'm not at all
You sure did blow it. You are destined for an awful life, apropos of your low class family culture.
Stop saying that. It's not at all true
You just called the police. Again. You are so messed up. They mocked you. You have no qualms about being profoundly destructive.
We all mocked you.
They didn't mock me
Ben Sias called you "off the reservation"
iMessage


T-Mobile LTE
10:12 PM
26%
2
Dear John
You just called the police. Again. You are so messed up. They mocked you. You have no qualms about being profoundly destructive.
We all mocked you.
They didn't mock me
Ben Sias called you "off the reservation"
You're a narcissist and can't see the truth
Then why didn't I get arrested?
Why did the police just leave?
Why would you get arrested??
That wasn't the point
Delivered
That's why one calls the police. You are truly insane.
iMessage


T-Mobile LTE
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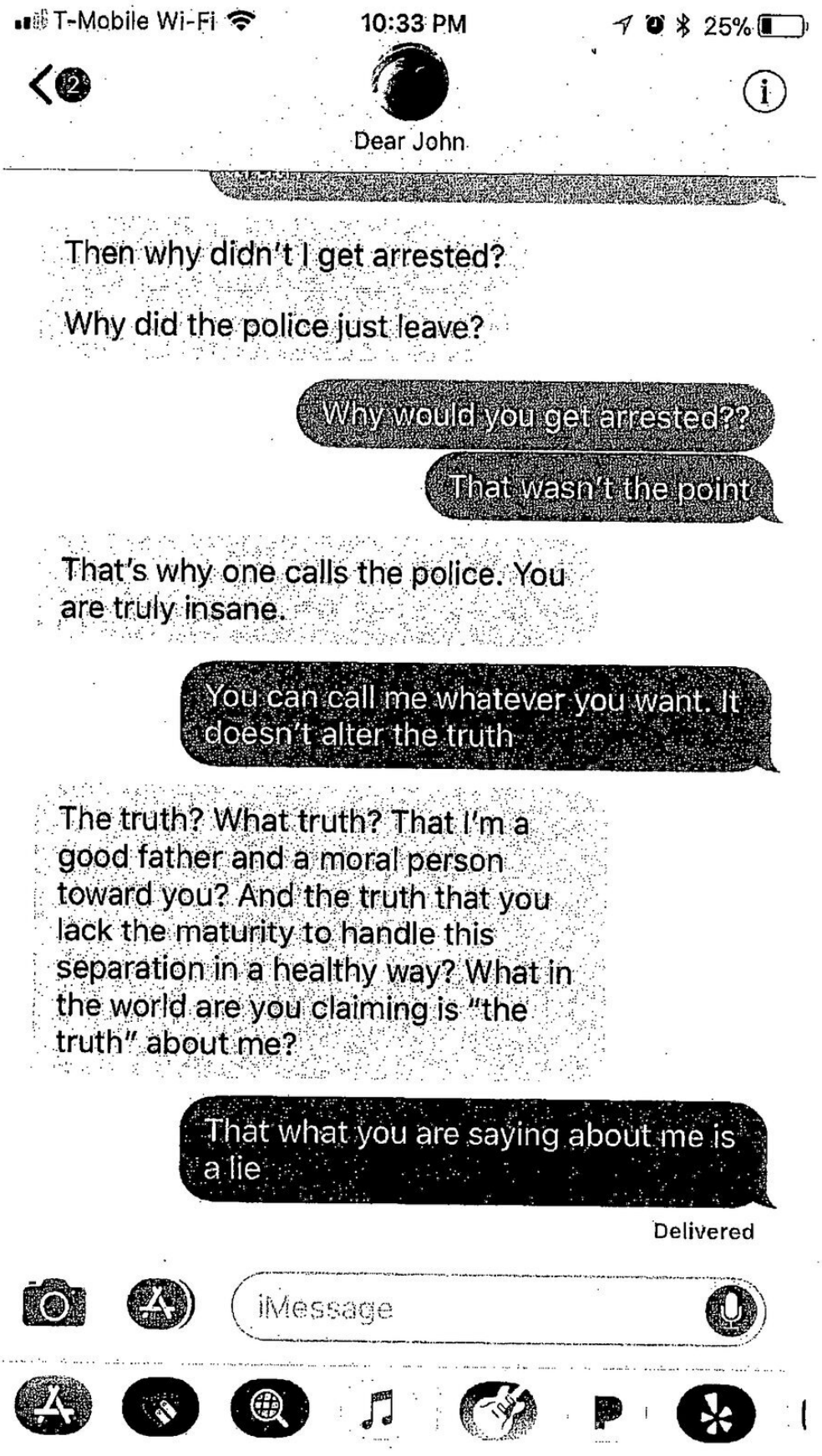
24%
2
Dear John
You're a narcissist and can't see the truth
Then why didn't I get arrested?
Why did the police just leave?
Why would you get arrested??
That wasn't the point
That's why one calls the police. You are truly insane.
You can call me whatever you want. It doesn't alter the truth
The truth? What truth? That I'm a good father and a moral person toward you? And the truth that you lack the maturity to handle this separation in a healthy way? What in the world are you claiming is "the truth" about me?
That what you are saying about me is a lie
Delivered
iMessage


T-Mobile Wi-Fi
10:33 PM
25%
2
Dear John
Then why didn't I get arrested?
Why did the police just leave?
Why would you get arrested??
That wasn't the point
That's why one calls the police. You are truly insane.
You can call me whatever you want. It doesn't alter the truth
The truth? What truth? That I'm a good father and a moral person toward you? And the truth that you lack the maturity to handle this separation in a healthy way? What in the world are you claiming is "the truth" about me?
That what you are saying about me is a lie
Delivered
iMessage

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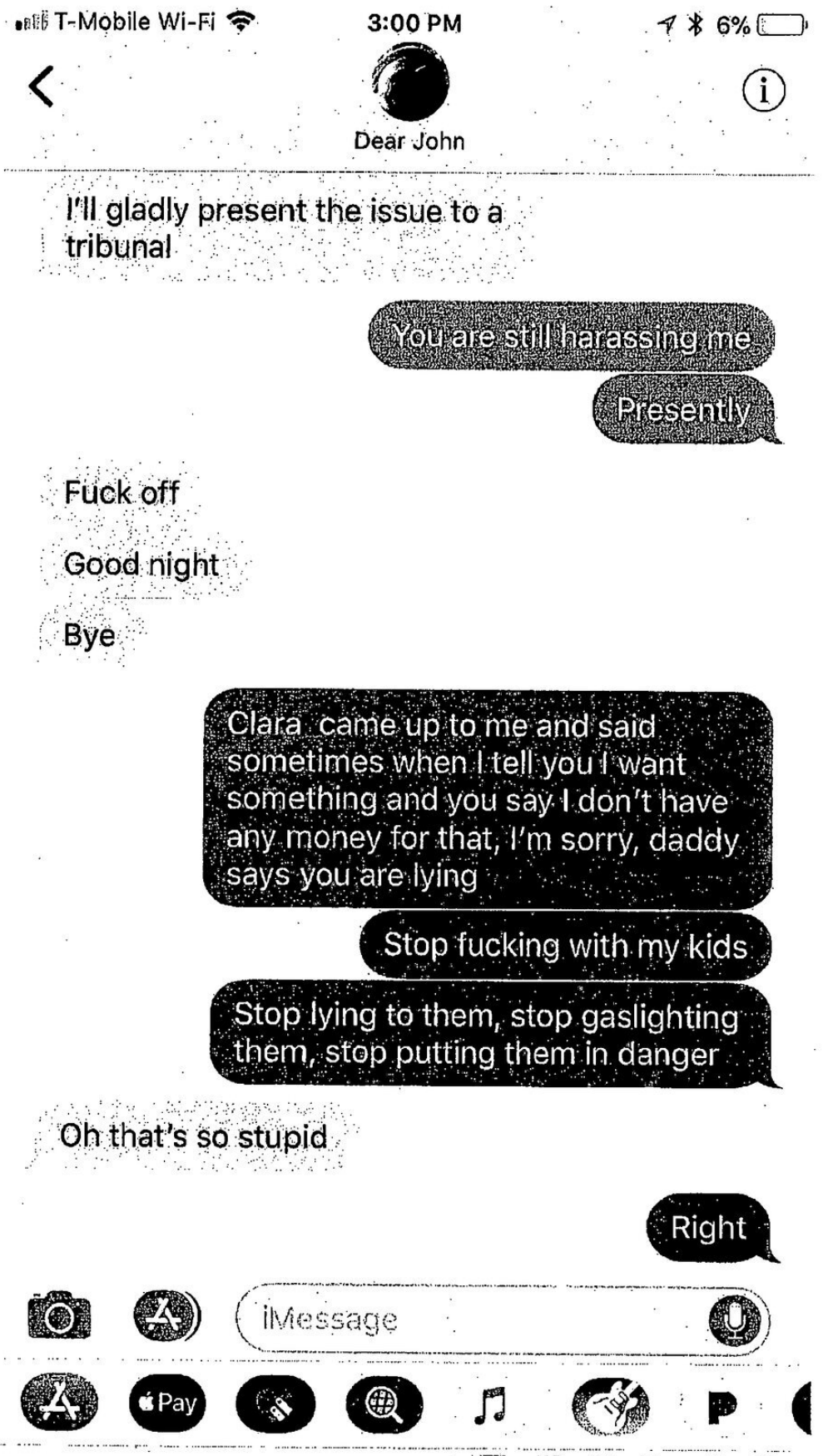
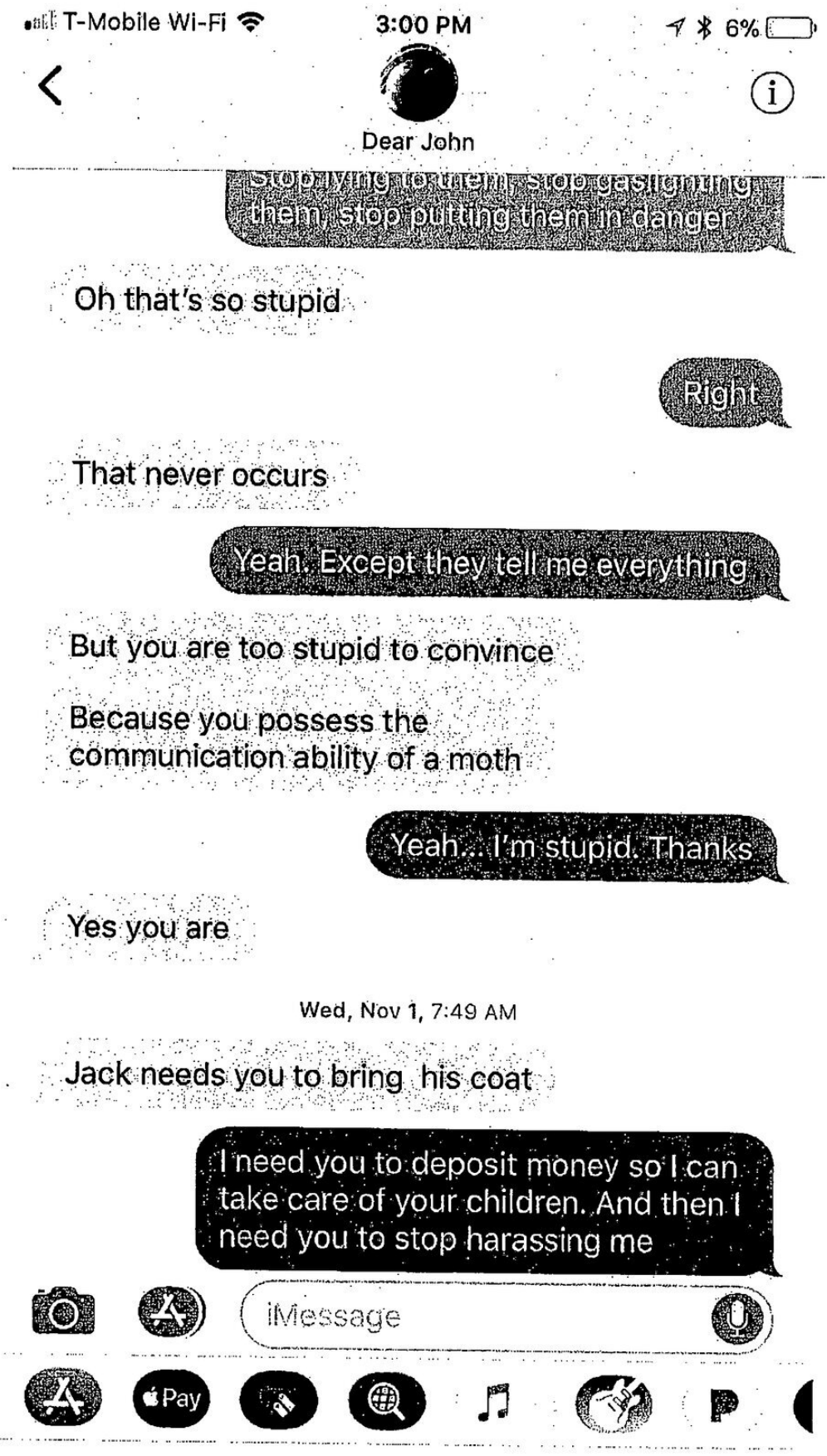
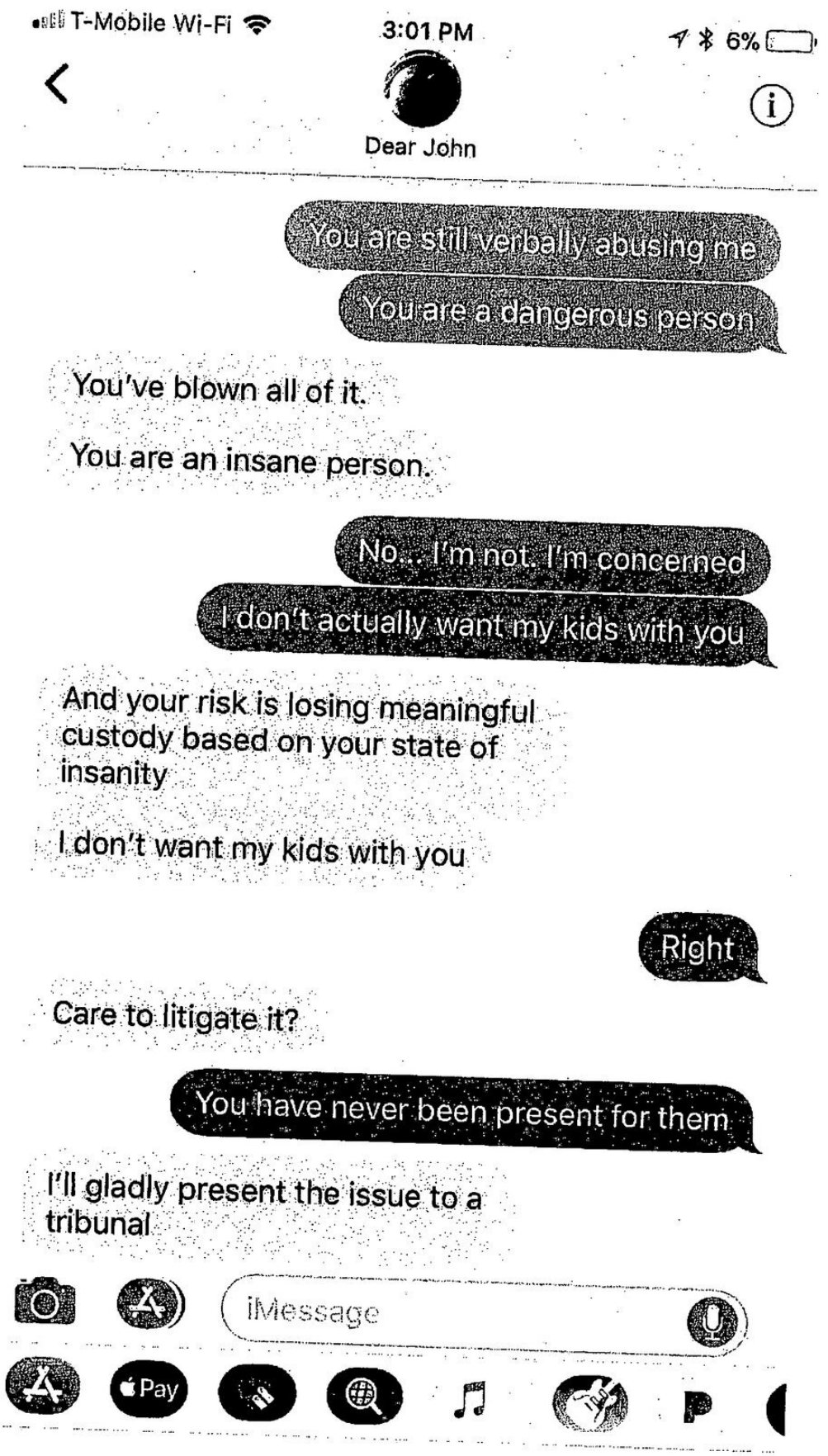
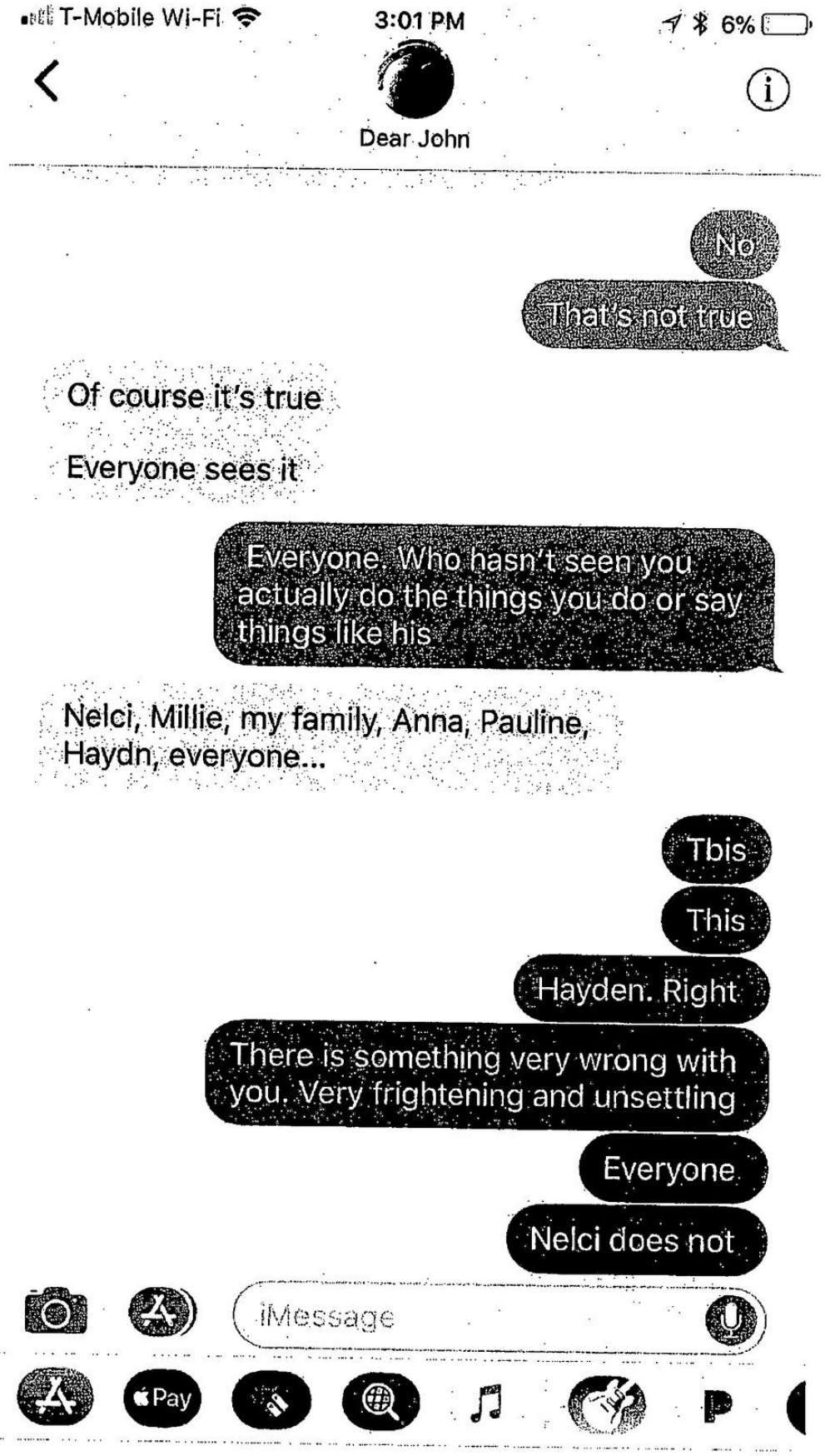
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

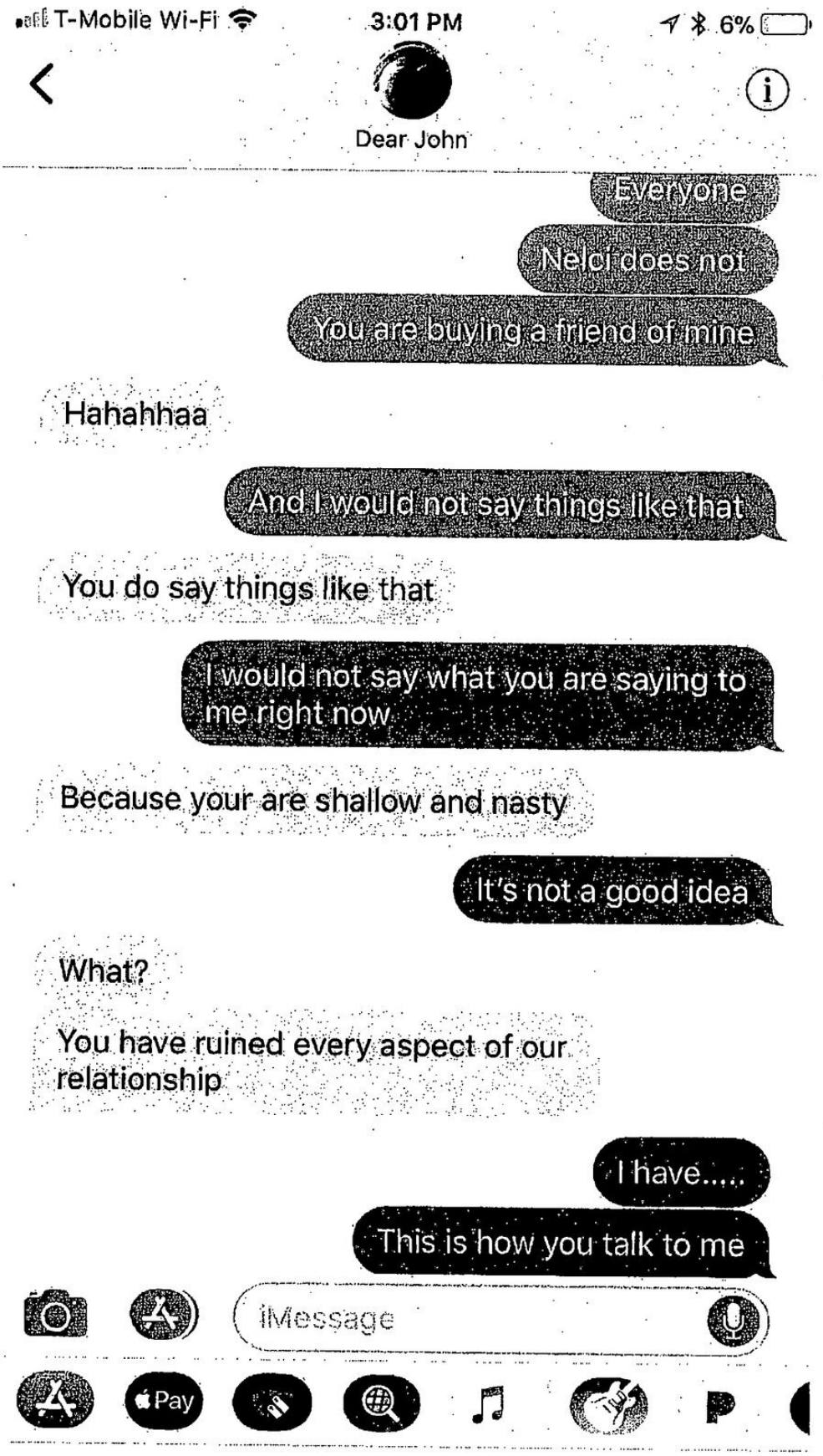


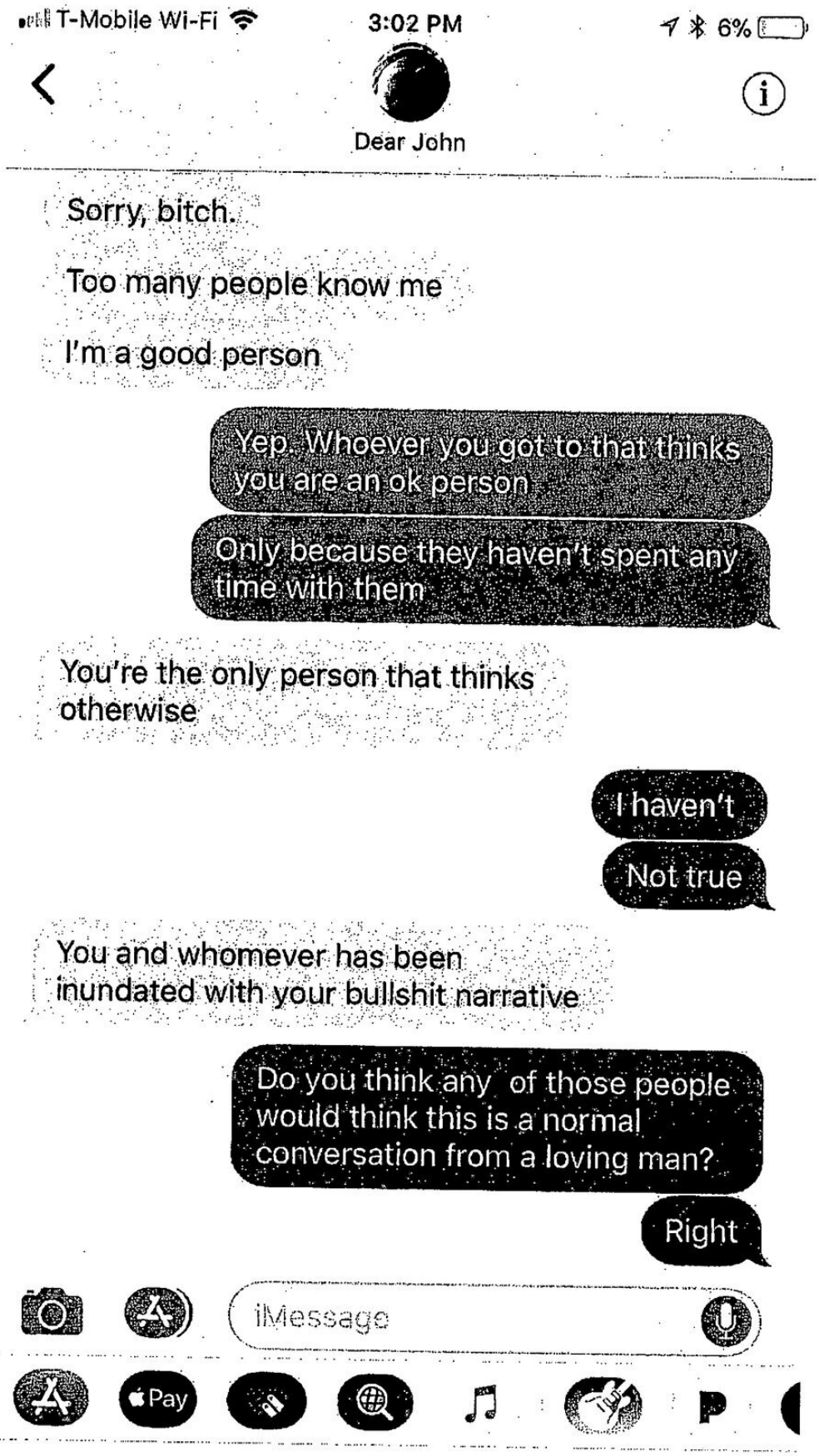
RESPONDENT Exhibit# R-15
Case: 46-18 Date: 11-6-18
☒ Admitted ☐ Not Admitted

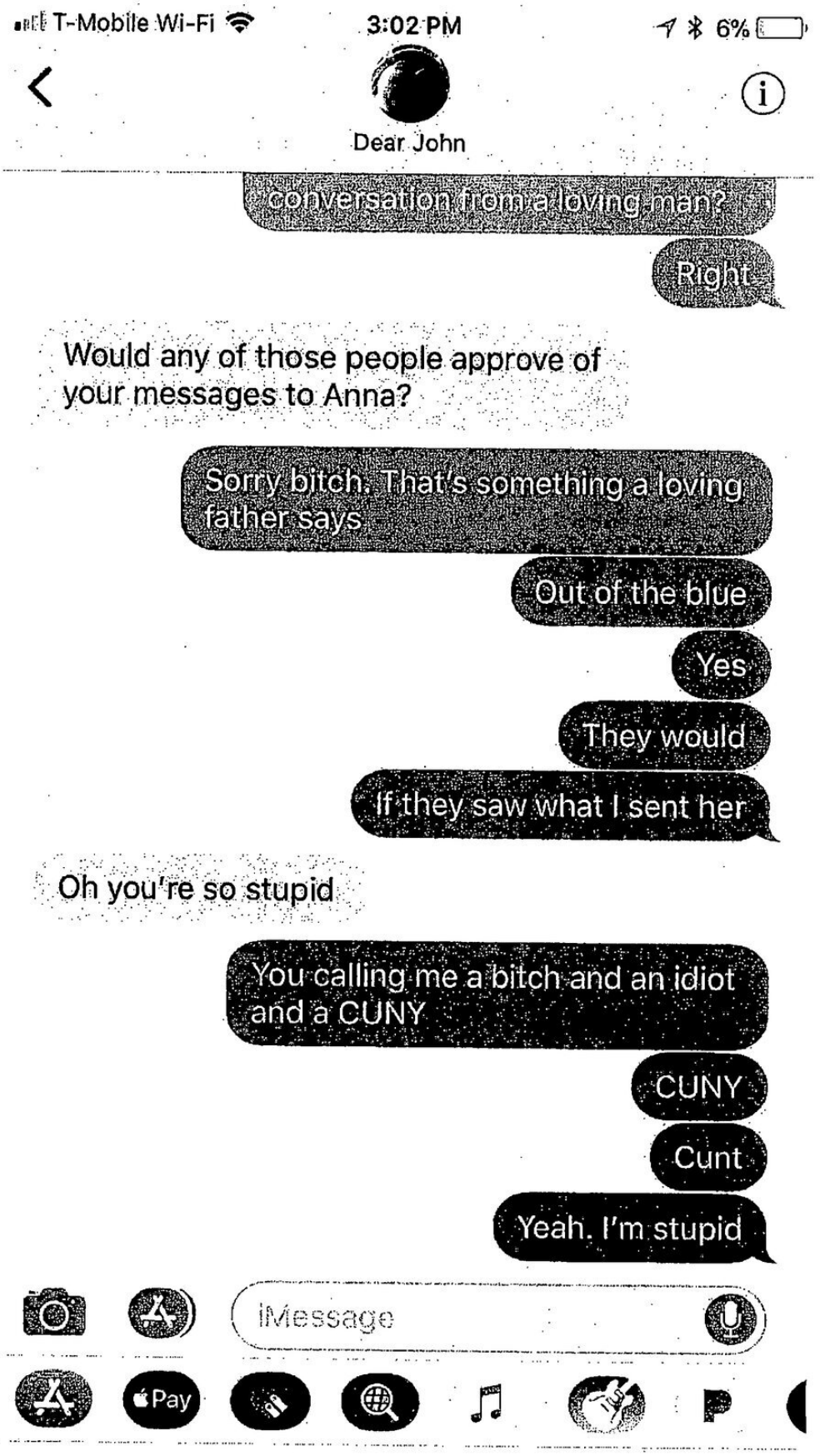

T-Mobile Wi-Fi
3:00 PM
6%
Dear John
them, stop putting them in danger
Oh that's so stupid
Right
That never occurs
Yeah. Except they tell me everything
But you are too stupid to convince
Because you possess the communication ability of a moth
Yeah... I'm stupid. Thanks
Yes you are
Wed, Nov 1, 7:49 AM
Jack needs you to bring his coat
I need you to deposit money so I can take care of your children. And then I need you to stop harassing me
iMessage
Pay

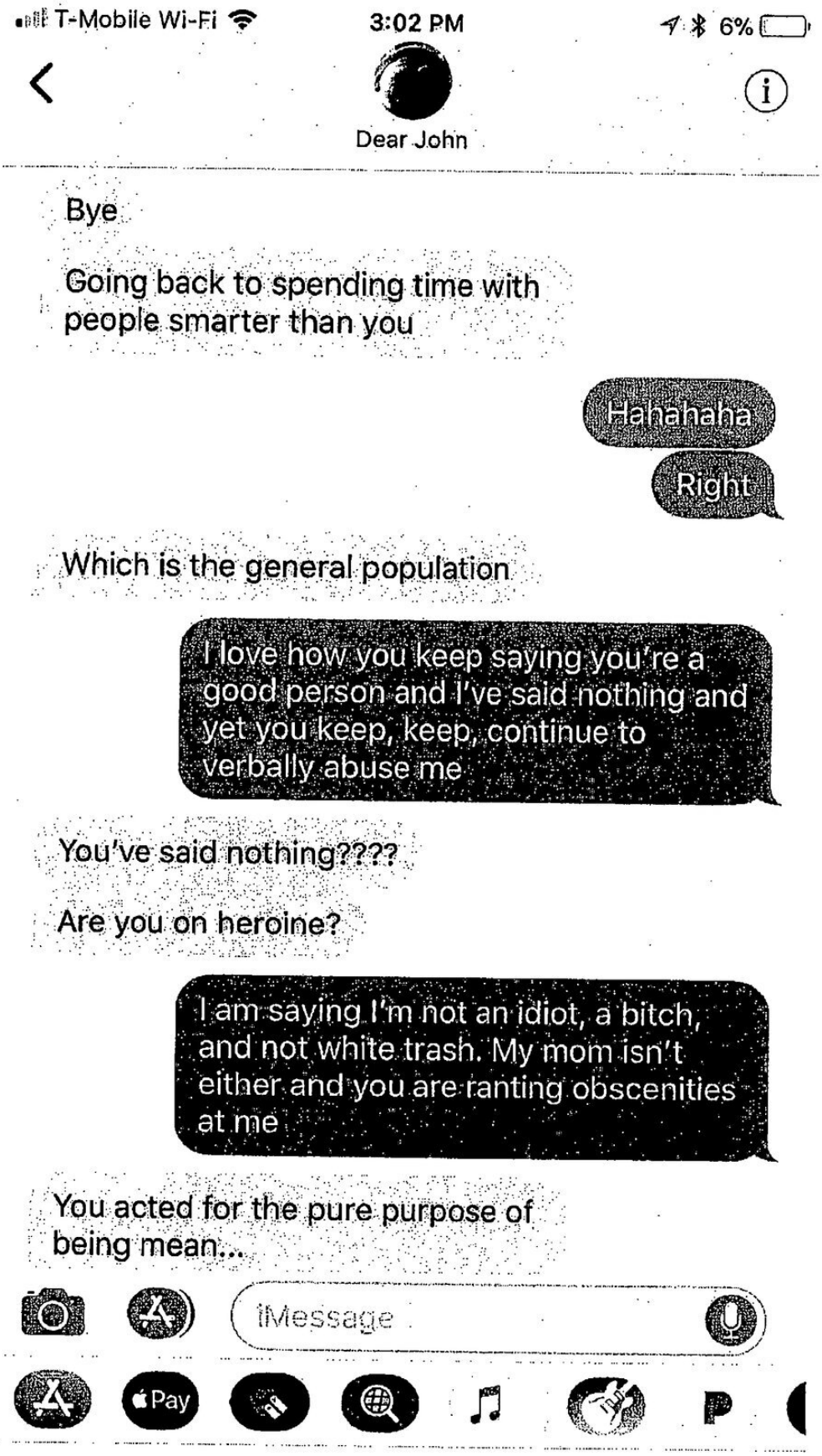

T-Mobile Wi-Fi
3:01 PM
6%
Dear John
You are still verbally abusing me
You are a dangerous person
You've blown all of it.
You are an insane person.
No... I'm not. I'm concerned
I don't actually want my kids with you
And your risk is losing meaningful custody based on your state of insanity
I don't want my kids with you
Right
Care to litigate it?
You have never been present for them
I'll gladly present the issue to a tribunal
iMessage
Pay

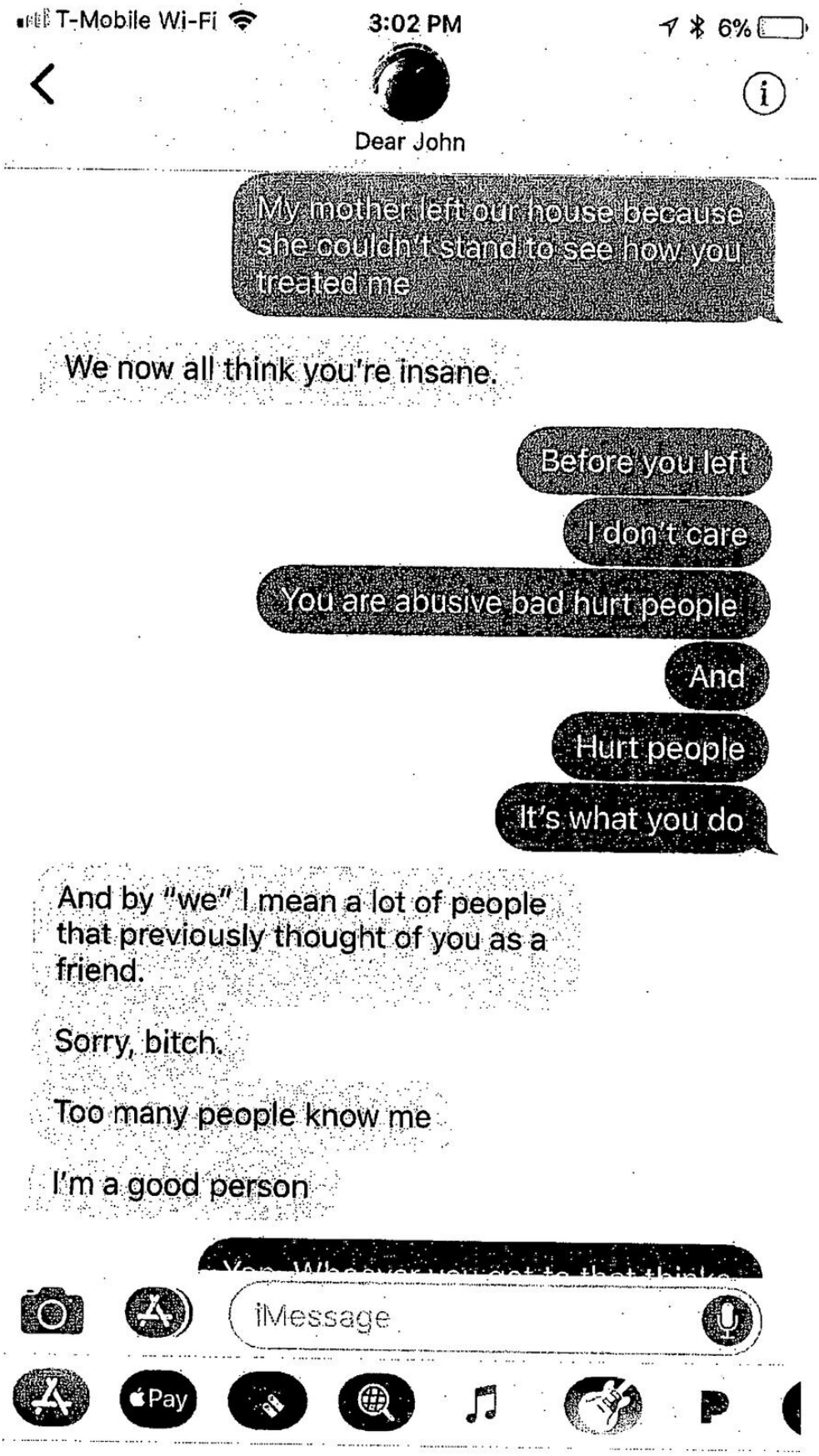

T-Mobile Wi-Fi
3:01 PM
6%
Dear John
No
That's not true
Of course it's true
Everyone sees it
Everyone. Who hasn't seen you actually do the things you do or say things like his
Nelci, Millie, my family, Anna, Pauline, Haydn, everyone...
Tbis
This
Hayden. Right
There is something very wrong with you. Very frightening and unsettling
Everyone
Nelci does not
iMessage
Pay

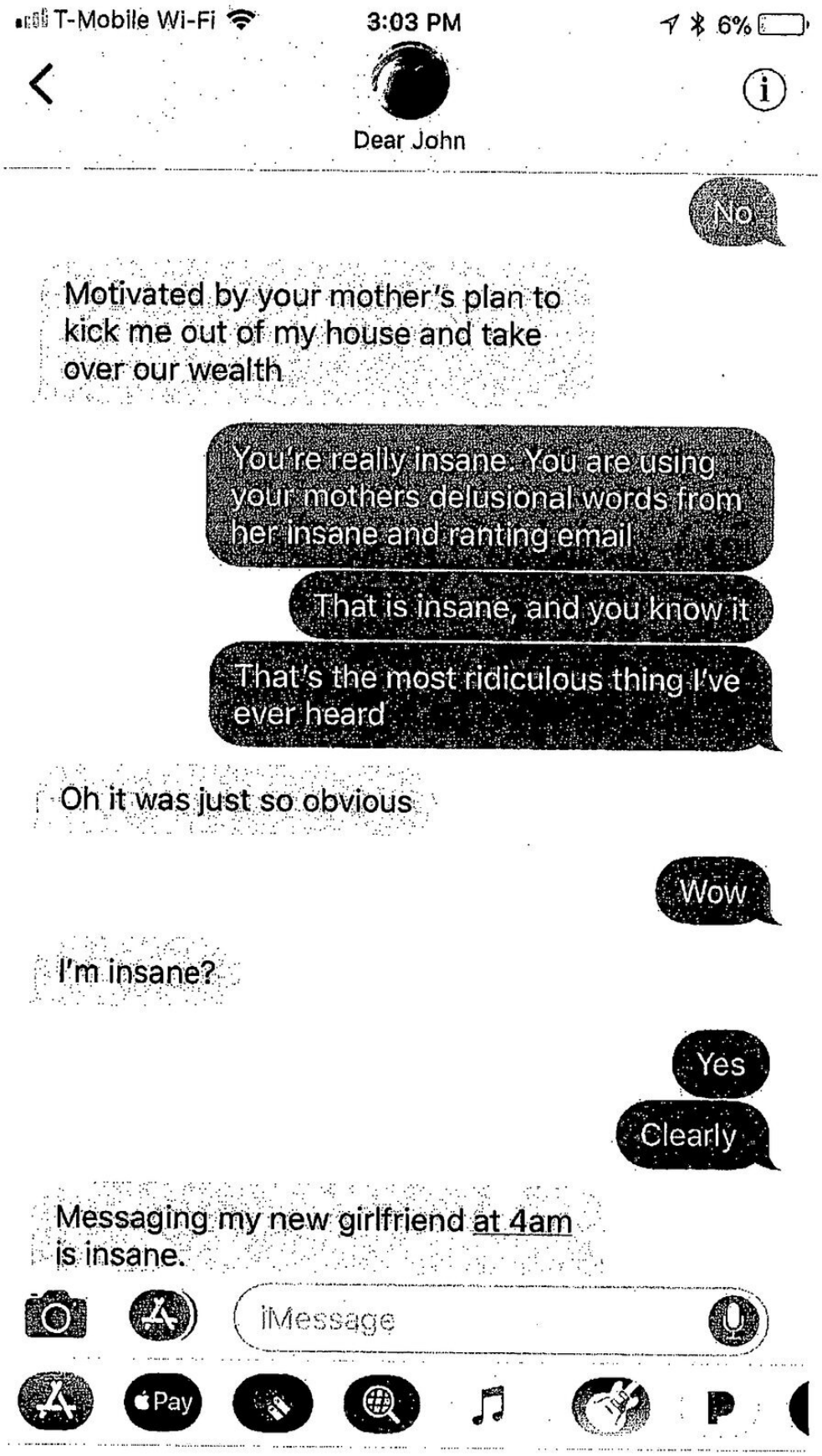

T-Mobile Wi-Fi
3:01 PM
6%
Dear John
Everyone
Nelci does not
You are buying a friend of mine
Hahahhaa
And I would not say things like that
You do say things like that
I would not say what you are saying to me right now
Because your are shallow and nasty
It's not a good idea
What?
You have ruined every aspect of our relationship
I have.....
This is how you talk to me
iMessage
Pay

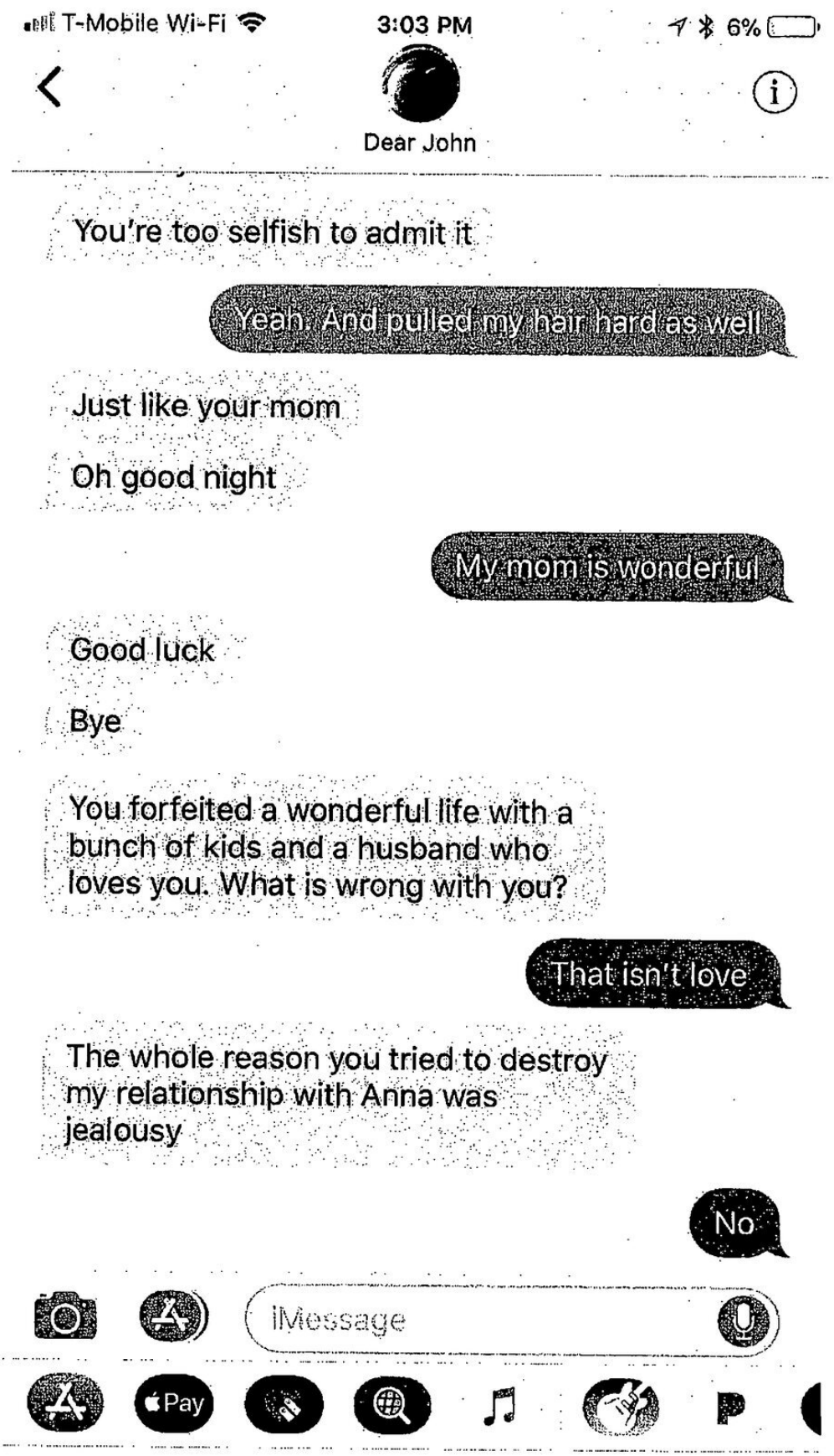

T-Mobile Wi-Fi
3:02 PM
6%
Dear John
Sorry, bitch.
Too many people know me
I'm a good person
Yep. Whoever you got to that thinks you are an ok person
Only because they haven't spent any time with them
You're the only person that thinks otherwise
I haven't
Not true
You and whomever has been inundated with your bullshit narrative
Do you think any of those people would think this is a normal conversation from a loving man?
Right
iMessage
Pay


T-Mobile Wi-Fi
3:02 PM
6%
Dear John
conversation from a loving man?
Right
Would any of those people approve of your messages to Anna?
Sorry bitch. That's something a loving father says
Out of the blue
Yes
They would
If they saw what I sent her
Oh you're so stupid
You calling me a bitch and an idiot and a CUNY
CUNY
Cunt
Yeah. I'm stupid
iMessage
Pay


T-Mobile Wi-Fi
3:02 PM
6%
Dear John
Bye
Going back to spending time with people smarter than you
Hahahaha
Right
Which is the general population
I love how you keep saying you're a good person and I've said nothing and yet you keep, keep, continue to verbally abuse me
You've said nothing????
Are you on heroine?
I am saying I'm not an idiot, a bitch, and not white trash. My mom isn't either and you are ranting obscenities at me
You acted for the pure purpose of being mean...
iMessage
Pay


T-Mobile Wi-Fi
3:02 PM
6%
Dear John
My mother left our house because she couldn't stand to see how you treated me
We now all think you're insane.
Before you left
I don't care
You are abusive bad hurt people
And
Hurt people
It's what you do
And by "we" I mean a lot of people that previously thought of you as a friend.
Sorry, bitch.
Too many people know me
I'm a good person
iMessage
Pay


T-Mobile Wi-Fi
3:03 PM
6%
Dear John
No
Motivated by your mother's plan to kick me out of my house and take over our wealth
You're really insane. You are using your mothers delusional words from her insane and ranting email
That is insane, and you know it
That's the most ridiculous thing I've ever heard
Oh it was just so obvious
Wow
I'm insane?
Yes
Clearly
Messaging my new girlfriend at 4am is insane.
iMessage
Pay


T-Mobile Wi-Fi
3:03 PM
6%
Dear John
You're too selfish to admit it
Yeah. And pulled my hair hard as well
Just like your mom
Oh good night
My mom is wonderful
Good luck
Bye
You forfeited a wonderful life with a bunch of kids and a husband who loves you. What is wrong with you?
That isn't love
The whole reason you tried to destroy my relationship with Anna was jealousy
No
iMessage
Pay

The Bainbridge Island Bad List

Houston Home

Page Inbox Notifications Insights Publishing To... Ad Center Settings Help



The Bainbridge Island Bad List

Create Page @Username

Home
Posts
Reviews
Videos
Photos
About
Community
Groups
Jobs
Info and Ads

Promote

Manage Promotions



A Level III sex offender, twice convicted of child molestation, has moved to Bainbridge Island, according to a statement released by Bainbridge Police Thursday.

According to police, Franklin D. Roe, 72,

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About

Edit Page Info

GENERAL

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Name The Bainbridge Island Bad List Edit

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PAGE INFO

Edit Start date

Edit business types

Mission

Here at the Bainbridge Island Bad List our goal is to let you know just who the worst of our neighbors are, We think you should know who the rapists, abusers, a... See More

CONTACT INFO

+ Enter phone number

m.me/2159138697707311

+ Enter email

+ Enter website

Edit Other Accounts

MORE INFO

Edit Release Date

Edit About

Edit Impressum

Edit Company Overview

Edit Founding date

Edit Awards

Edit Products

STORY

Our Story

+ Tell people about your business

TEAM MEMBERS

These people manage the The Bainbridge Island Bad List Page and have chosen to have the Page appear on their profile and their name and profile picture shown on the Page.

Add yourself as a team member

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

RESPONDENT Exhibit# R-14
Case: 46-18 Date: 11-6-18
☒ Admitted ☐ Not Admitted

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT



Houston Wade
Oct 15 at 7:04pm •

Abusers really piss me off. A friend who is divorcing a physically and emotionally abusive man, a man who happens to be a very wealthy attorney, finally had enough of his threats and belittling insults so she posted his own words from his own work email address to her private Facebook page. I have seen worse from him than what she screenshotted, but now he is suing her for harassment for posting his own words.

He is also apparently attempting to contact and threaten her friends who saw the post and commented on it... and last week, the gas lighting sack of shit sent me a friend request 😕

Abusers abuse, and they dont stop until they die or finally have a stroke.

Like Comment Share

Rebecca Rockefeller and 50 others

Bethanee Randles
Wow.
1w Like Reply

Emily Sato
I'm divorced from one and it's an

Write a comment...

RESPONDENT	Exhibit# R-13
Case: 46-18	Date: 11-6-18
☒ Admitted	☐ Not Admitted



Bethanee Randles
Wow.
1w **Like** **Reply**



Emily Sato
I'm divorced from one and it's an endless shitshow—right now I'm sitting in his driveway waiting to pick up my kids, who I should've had two hours ago. He decided to take them to Silverdale instead of having them get ready for me to pick them up.
1w **Like** **Reply** 8



Sal DeRosalia
Who?
1w **Like** **Reply**



Benjamin Kardong
John Du Wors said some fucked up shit. You'd think that an attorney would know better...
1w **Like** **Reply** 3



Karter Williams He's a narcissist. He believ...



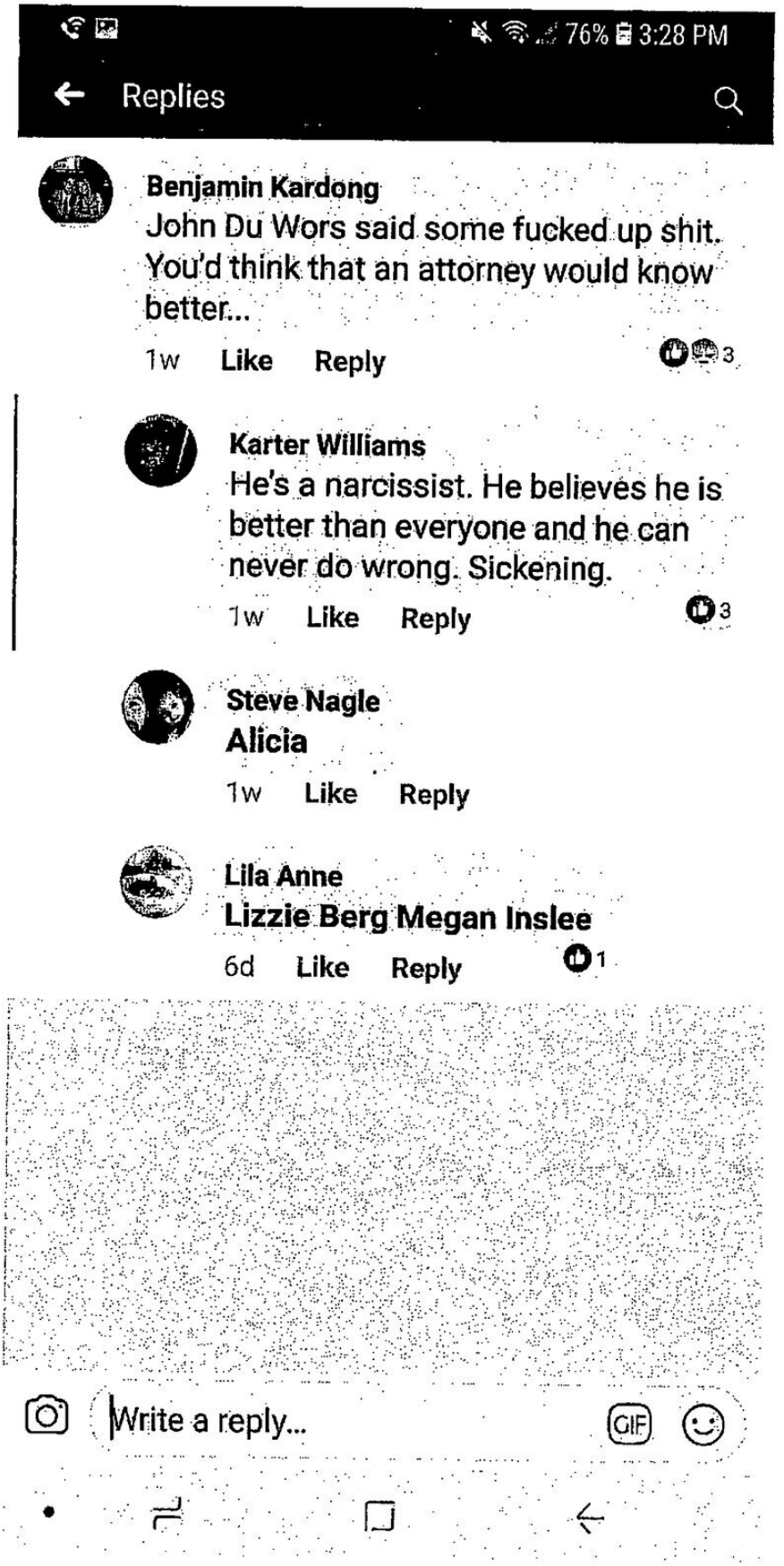
Steve Nagle Alicia



Lila Anne Lizzie Berg Megan Inslee



Write a comment... GIF


76% 3:28 PM
Replies
Benjamin Kardong
John Du Wors said some fucked up shit. You'd think that an attorney would know better...
1w Like Reply 3
Karter Williams
He's a narcissist. He believes he is better than everyone and he can never do wrong. Sickening.
1w Like Reply 3
Steve Nagle
Alicia
1w Like Reply
Lila Anne
Lizzie Berg Megan Inslee
6d Like Reply 1
Write a reply...
GIF

Karter Williams
He hasn't messaged me yet. I'll tell him to fuck off!
1w **Like** **Reply** 1

Samantha Goakey
I HATE THAT MOTHER FUCKER. He's disgusting. How can he sue her for posting what he fucking said??? Lol! If you don't want it to be seen, don't fucking say it, idiot. There's also a reason he has been 86d out of almost every place on the island.
1w **Like** **Reply** 5

Shannon Evans Well, he will keep digging.....

Samantha Goakey Yes, she's a friend of mi...

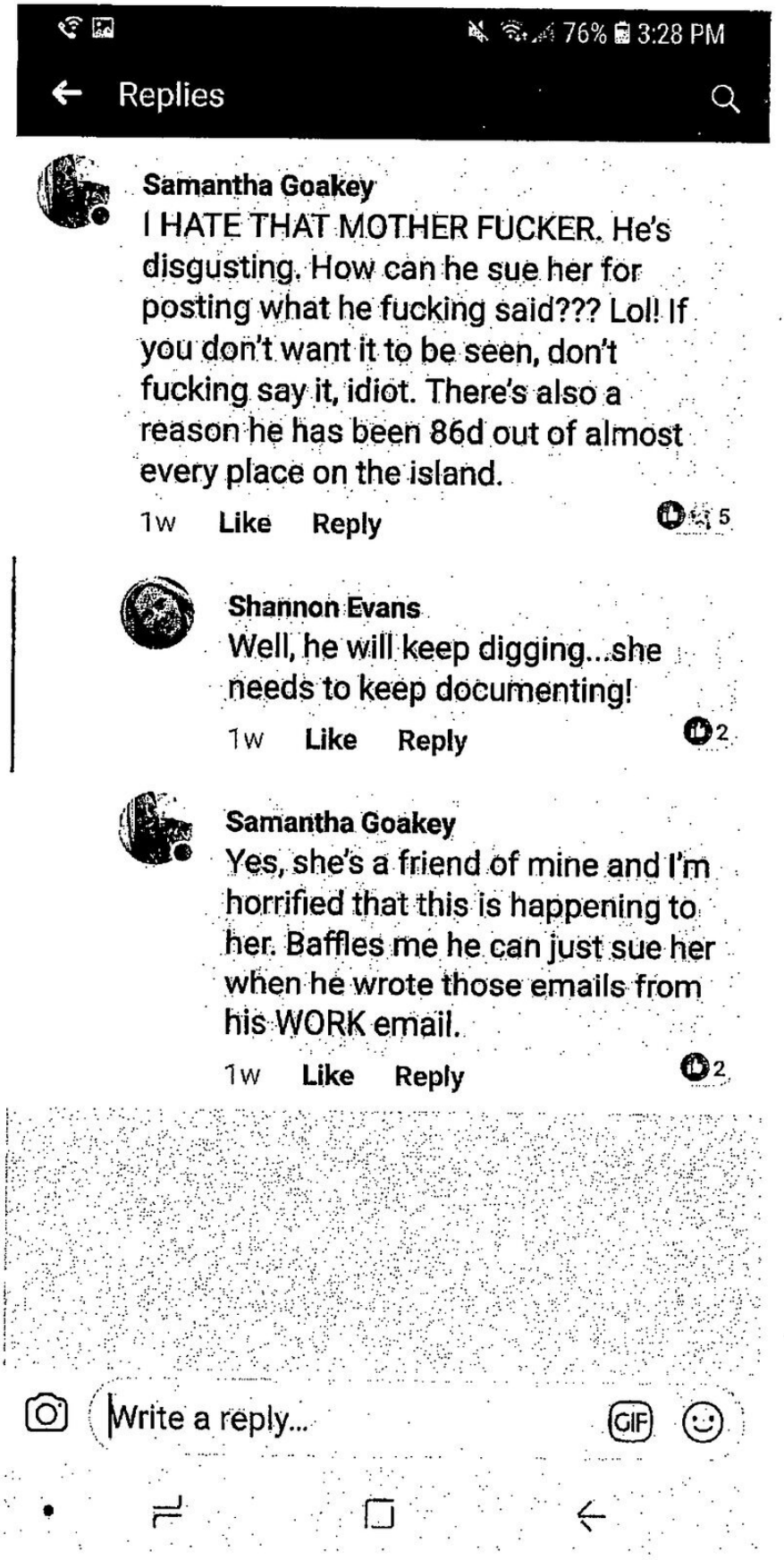
Ingrid Ougland
Why do so many of these men exist???
1w **Like** **Reply** 1

View 10 previous replies

Samantha Goakey Sal DeRosalia your dog i...

CarolAnn Barrows Thank you all for calling...

Talina Wood replied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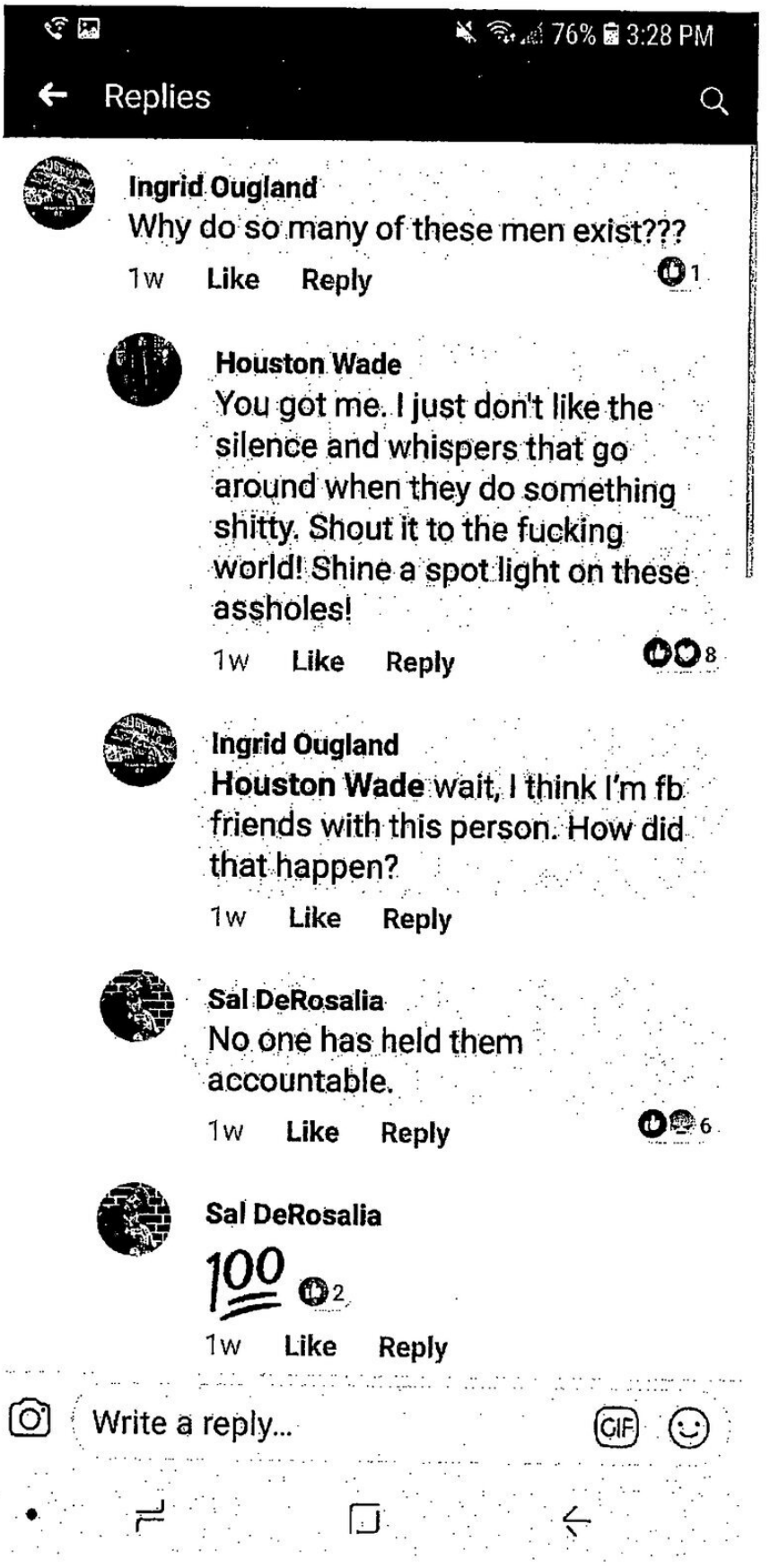
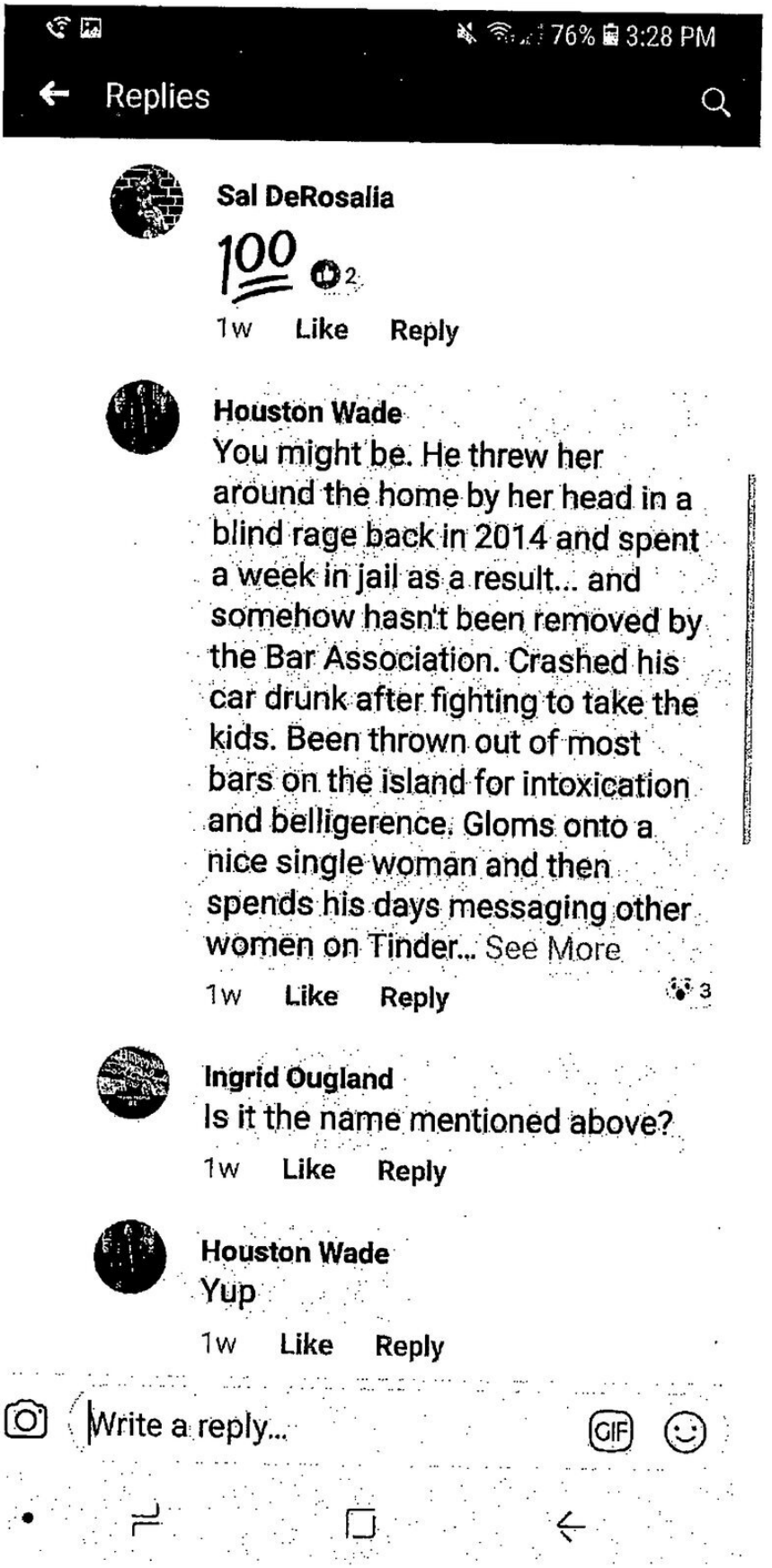
1w Like Reply
5
Shannon Evans
Well, he will keep digging...she needs to keep documenting!
1w Like Reply
2
Samantha Goakey
Yes, she's a friend of mine and I'm horrified that this is happening to her. Baffles me he can just sue her when he wrote those emails from his WORK email.
1w Like Reply
2
Write a reply...
GIF


76% 3:28 PM
Replies
Ingrid Ougland
Why do so many of these men exist???
1w Like Reply 1
Houston Wade
You got me. I just don't like the silence and whispers that go around when they do something shitty. Shout it to the fucking world! Shine a spot light on these assholes!
1w Like Reply 8
Ingrid Ougland
Houston Wade wait, I think I'm fb friends with this person. How did that happen?
1w Like Reply
Sal DeRosalia
No one has held them accountable.
1w Like Reply 6
Sal DeRosalia
100 2
1w Like Reply
Write a reply...
GIF


76% 3:28 PM
Replies
Sal DeRosalia
100
2
1w Like Reply
Houston Wade
You might be. He threw her around the home by her head in a blind rage back in 2014 and spent a week in jail as a result... and somehow hasn't been removed by the Bar Association. Crashed his car drunk after fighting to take the kids. Been thrown out of most bars on the island for intoxication and belligerence. Gloms onto a nice single woman and then spends his days messaging other women on Tinder... See More
1w Like Reply
3
Ingrid Ougland
Is it the name mentioned above?
1w Like Reply
Houston Wade
Yup
1w Like Reply
Write a reply...
GIF


76% 3:28 PM
Replies
Ingrid Ougland
Is it the name mentioned above?
1w Like Reply
Houston Wade
Yup
1w Like Reply
Samantha Goakey
P I G
1w Like Reply
Sal DeRosalia
this John three name guy?
1w Like Reply 4
Sal DeRosalia
Thank you.
1w Like Reply
Samantha Goakey
Sal DeRosalia your dog is cute
1w Like Reply 2
CarolAnn Barrows
Thank you all for calling out his name. No more secrets!
1w Like Reply 3
Write a reply...
GIF

Sal DeRosalia
this John three name guy?
1w **Like** **Reply** 4

Sal DeRosalia
Thank you.
1w **Like** **Reply**

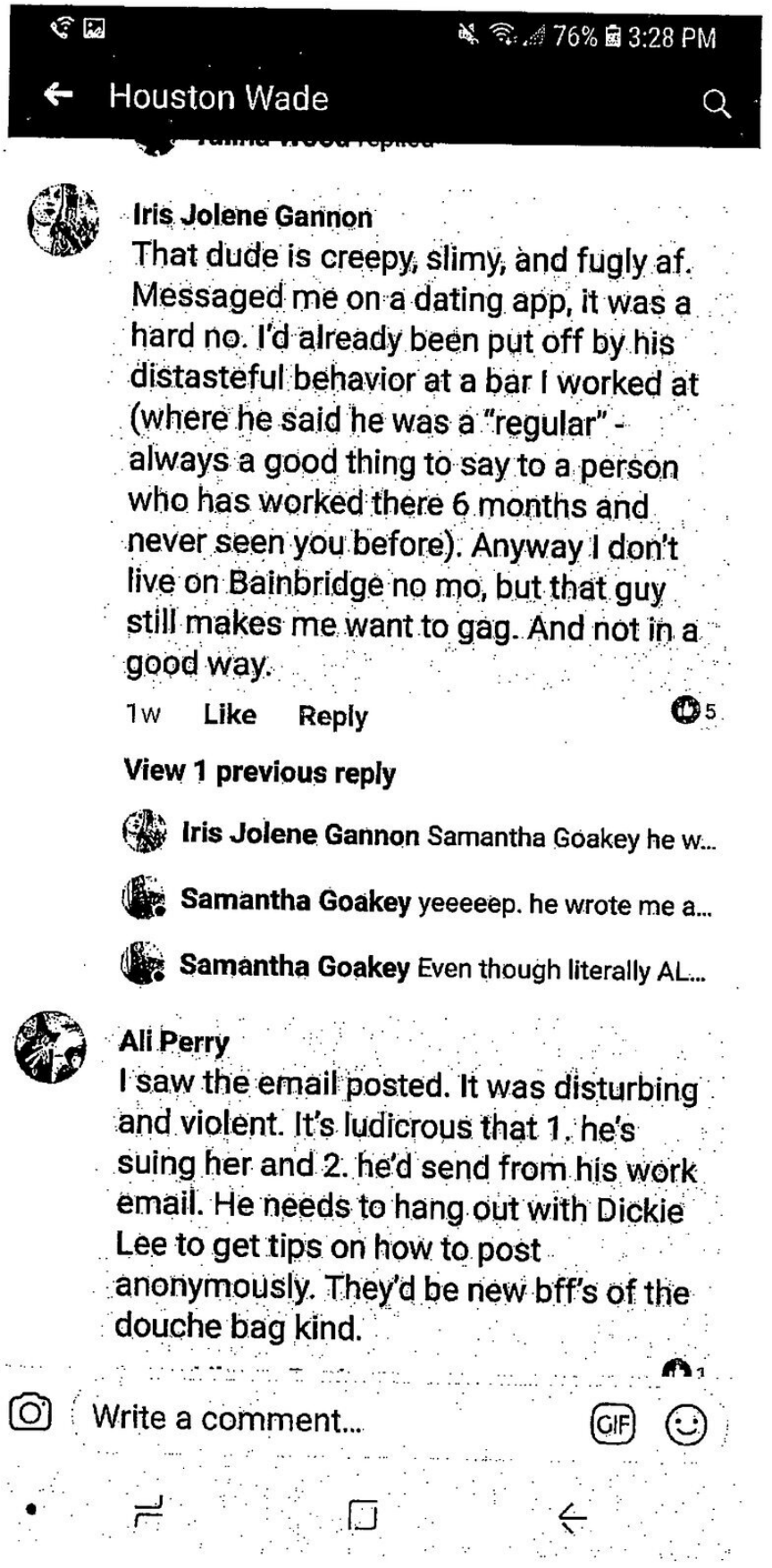
Samantha Goakey
Sal DeRosalia your dog is cute
1w **Like** **Reply** 2

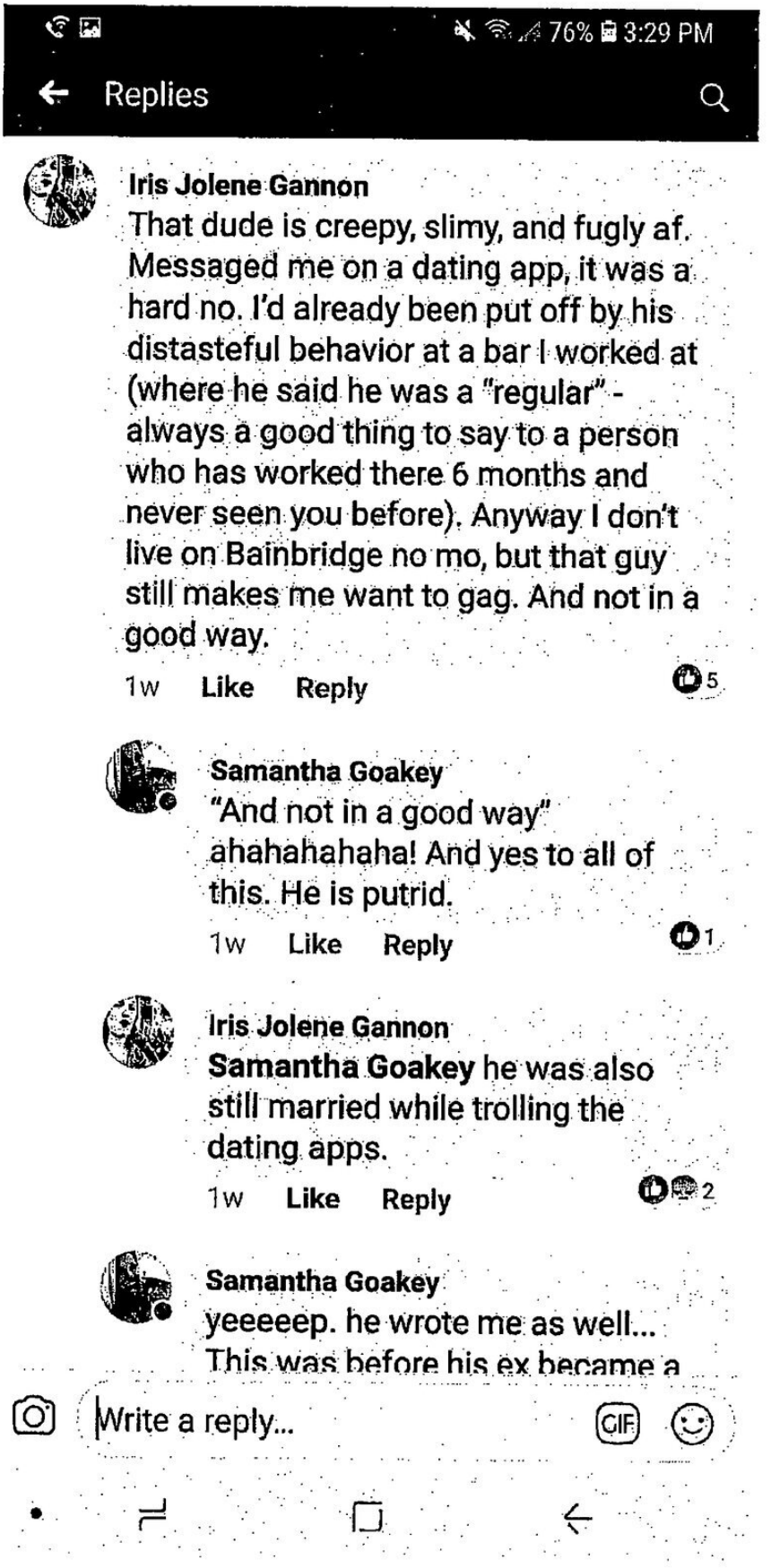
CarolAnn Barrows
Thank you all for calling out his name. No more secrets!
1w **Like** **Reply** 3

Talina Wood



Tenor
1w **Like** **Reply** 1


76% 3:28 PM
Houston Wade
Iris Jolene Gannon
That dude is creepy, slimy, and fugly af. Messaged me on a dating app, it was a hard no. I'd already been put off by his distasteful behavior at a bar I worked at (where he said he was a "regular" - always a good thing to say to a person who has worked there 6 months and never seen you before). Anyway I don't live on Bainbridge no mo, but that guy still makes me want to gag. And not in a good way.
1w Like Reply 5
View 1 previous reply
Iris Jolene Gannon Samantha Goakey he w...
Samantha Goakey yeeeeep. he wrote me a...
Samantha Goakey Even though literally AL...
Ali Perry
I saw the email posted. It was disturbing and violent. It's ludicrous that 1. he's suing her and 2. he'd send from his work email. He needs to hang out with Dickie Lee to get tips on how to post anonymously. They'd be new bff's of the douche bag kind.
1
Write a comment...
GIF


76% 3:29 PM
Replies
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1w Like Reply
5
Samantha Goakey
"And not in a good way" ahahahahaha! And yes to all of this. He is putrid.
1w Like Reply
1
Iris Jolene Gannon
Samantha Goakey he was also still married while trolling the dating apps.
1w Like Reply
2
Samantha Goakey
yeeeeep. he wrote me as well... This was before his ex became a
Write a reply...
GIF

76% 3:29 PM

Replies



Samantha Goakey
"And not in a good way" ahahahahaha! And yes to all of this. He is putrid.

1w **Like** **Reply** 1



Iris Jolene Gannon
Samantha Goakey he was also still married while trolling the dating apps.

1w **Like** **Reply** 2



Samantha Goakey
yeeeeep. he wrote me as well... This was before his ex became a friend of mine.. he said they had an open marriage lol. Weeeeellllll... that was a lie. As is everything else that comes out of his grody mouth.

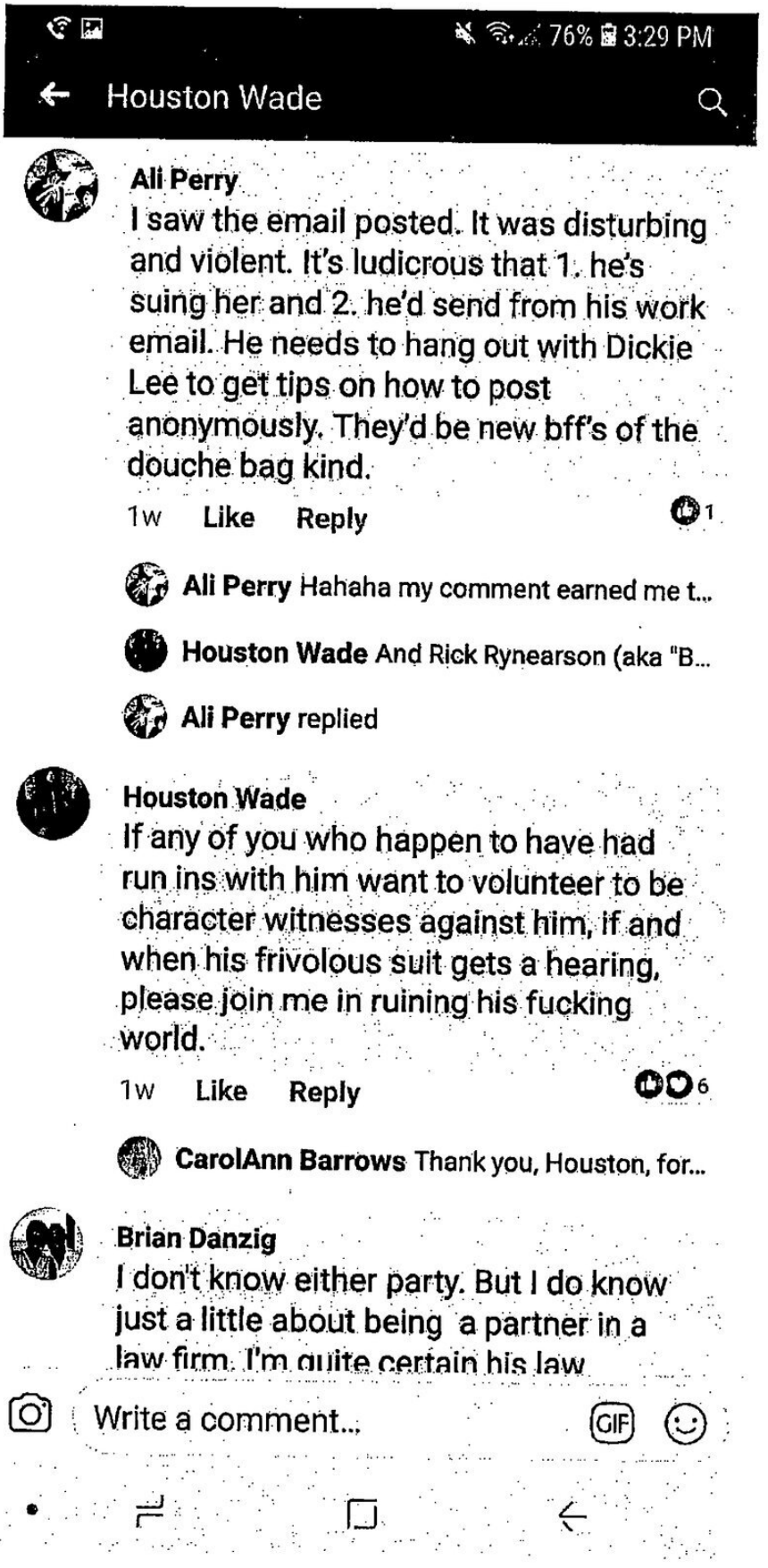
1w **Like** **Reply** 2



Samantha Goakey
Even though literally ALL of the men him and I mutually know told him I was not the one to try and mess with lol

1w **Like** **Reply** 1

Write a reply... GIF


76% 3:29 PM
Houston Wade
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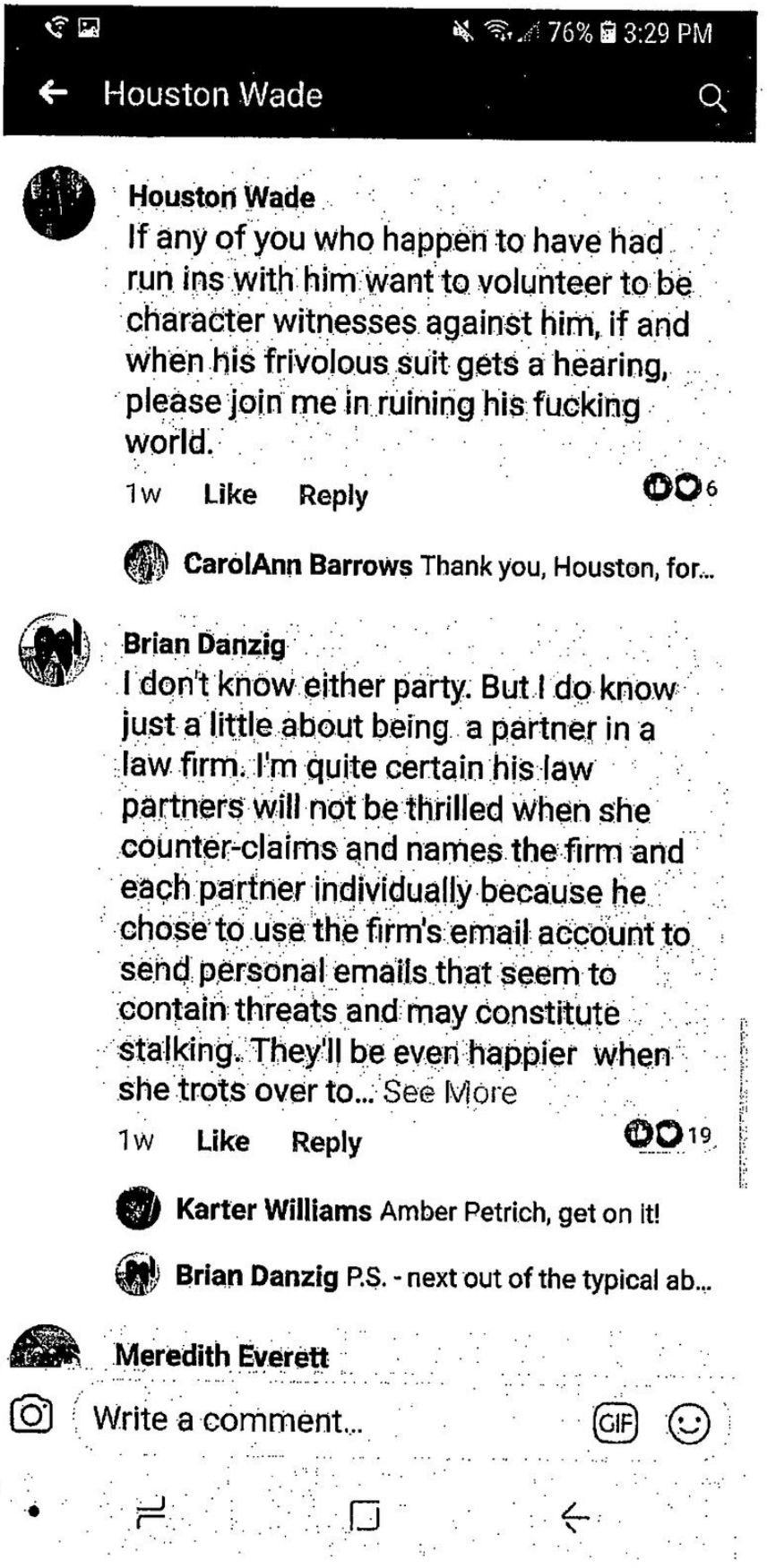
1w Like Reply 1
Ali Perry Hahaha my comment earned me t...
Houston Wade And Rick Rynearson (aka "B...
Ali Perry replied
Houston Wade
If any of you who happen to have had run ins with him want to volunteer to be character witnesses against him, if and when his frivolous suit gets a hearing, please join me in ruining his fucking world.
1w Like Reply 6
CarolAnn Barrows Thank you, Houston, for...
Brian Danzig
I don't know either party. But I do know just a little about being a partner in a law firm. I'm quite certain his law
Write a comment...
GIF


76% 3:29 PM
Replies
anonymously. They'd be new bff's of the douche bag kind.
1w Like Reply 1
Ali Perry
Hahaha my comment earned me the title "human blow up doll." Yeah. Drinkie McWifebeater would get along great with DuWors.
1w Like Reply 1
Houston Wade
And Rick Rynearson (aka "Betty") is grabbing screenshots and tweeting to minimize spousal abuse. Gee, I wonder why?
1w Like Reply 1
Ali Perry
Tenor
1w Like Reply
Write a reply...
GIF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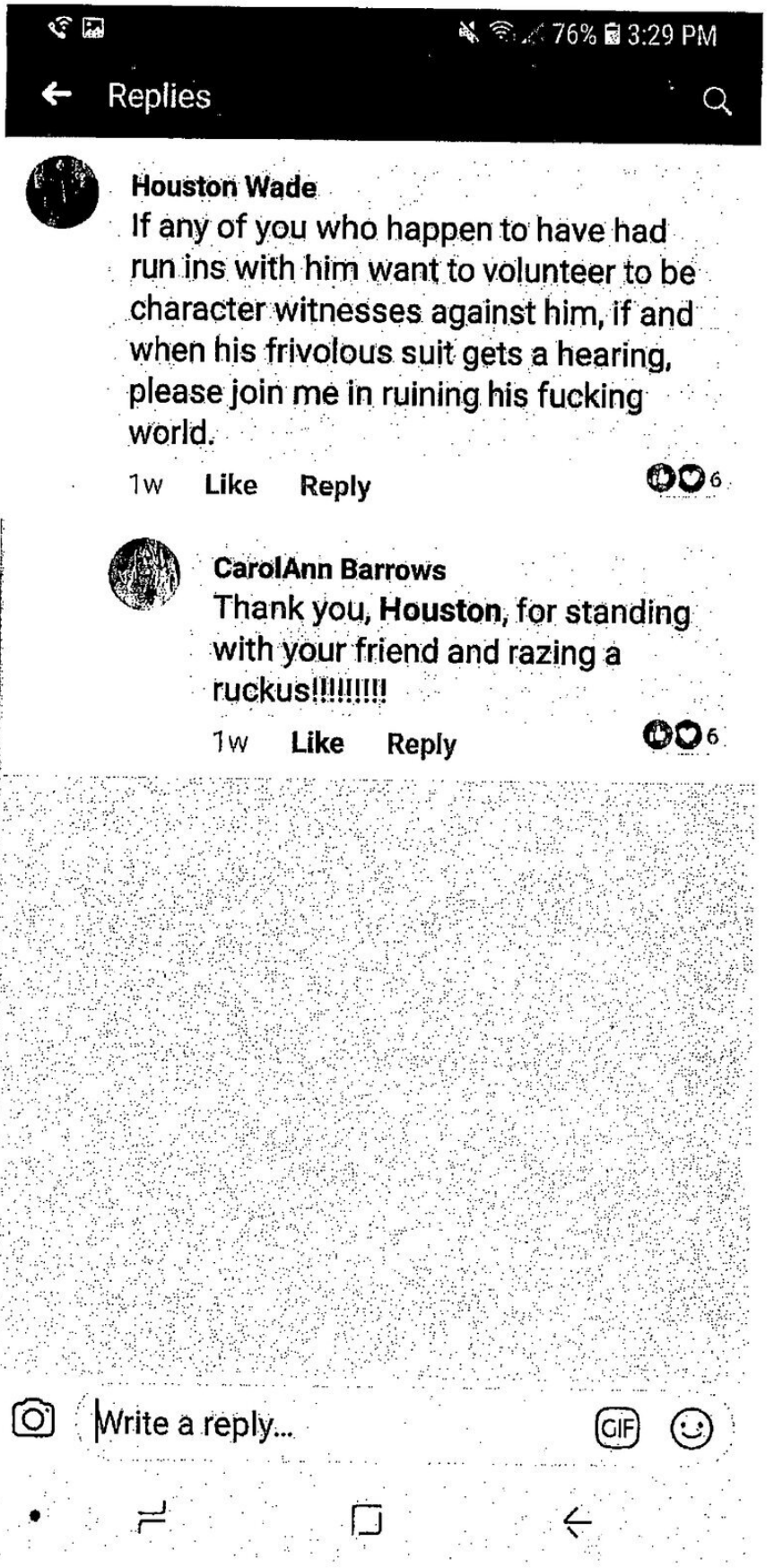
1w Like Reply
6
CarolAnn Barrows Thank you, Houston, for...
Brian Danzig
I don't know either party. But I do know just a little about being a partner in a law firm. I'm quite certain his law partners will not be thrilled when she counter-claims and names the firm and each partner individually because he chose to use the firm's email account to send personal emails that seem to contain threats and may constitute stalking. They'll be even happier when she trots over to... See More
1w Like Reply
19
Karter Williams Amber Petrich, get on it!
Brian Danzig P.S. - next out of the typical ab...
Meredith Everett
Write a comment...
GIF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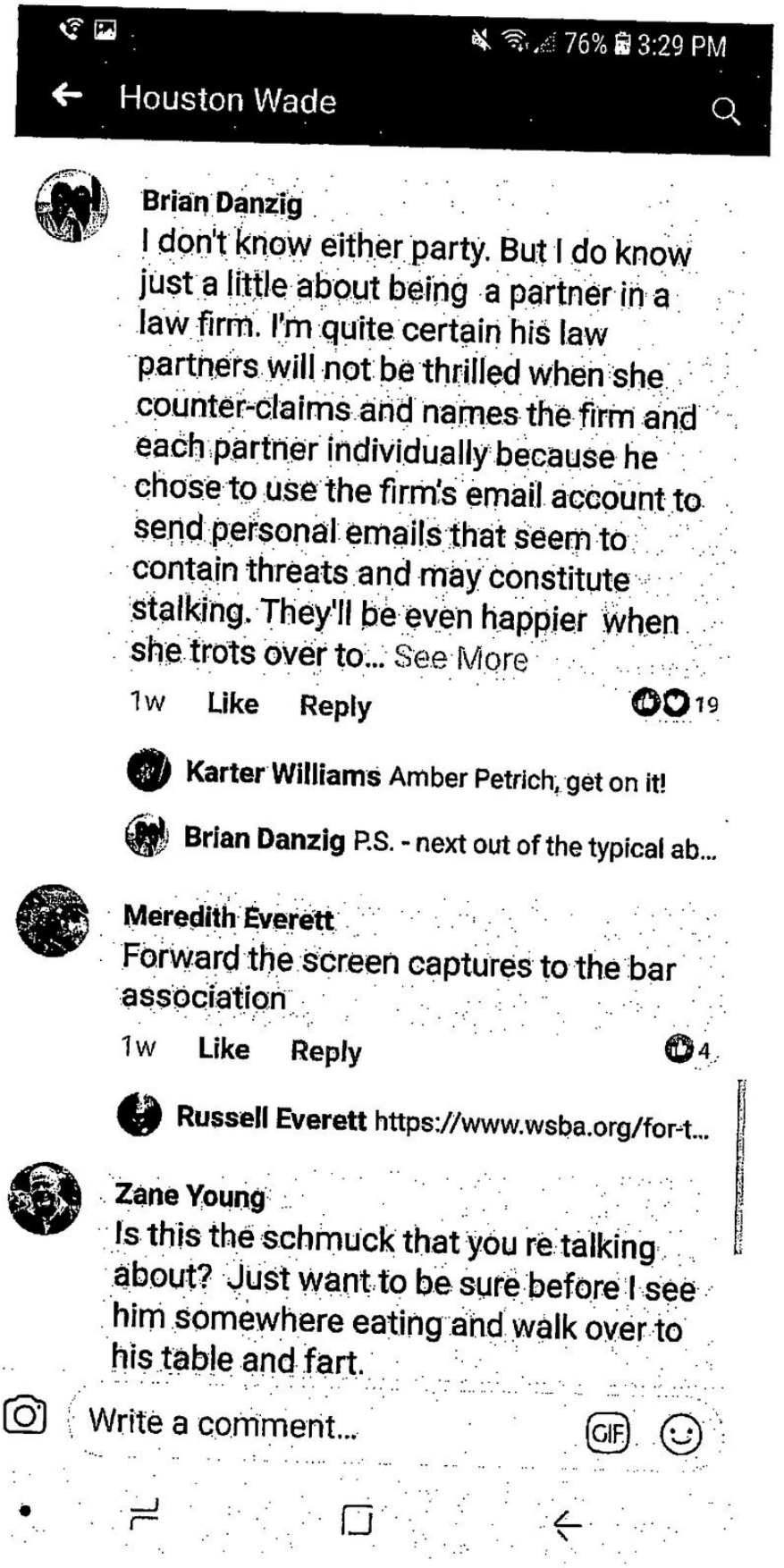
1w Like Reply
6
CarolAnn Barrows
Thank you, Houston, for standing with your friend and razing a ruckus!!!!!!!!
1w Like Reply
6
Write a reply...
GIF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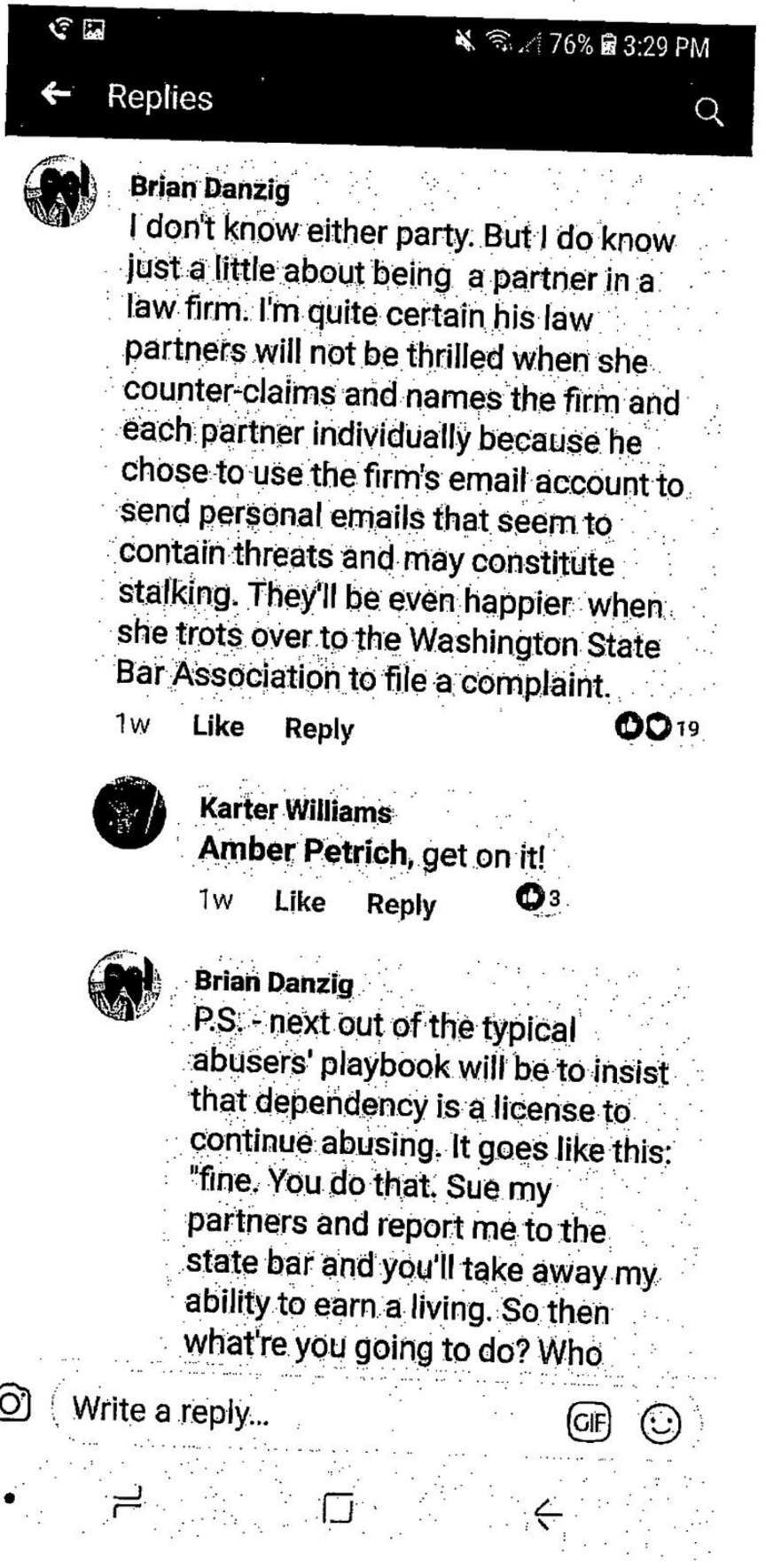
1w Like Reply 19
Karter Williams Amber Petrich, get on it!
Brian Danzig P.S. - next out of the typical ab...
Meredith Everett
Forward the screen captures to the bar association
1w Like Reply 4
Russell Everett https://www.wsba.org/for-t...
Zane Young
Is this the schmuck that you re talking about? Just want to be sure before I see him somewhere eating and walk over to his table and fart.
Write a comment...
GIF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Replies
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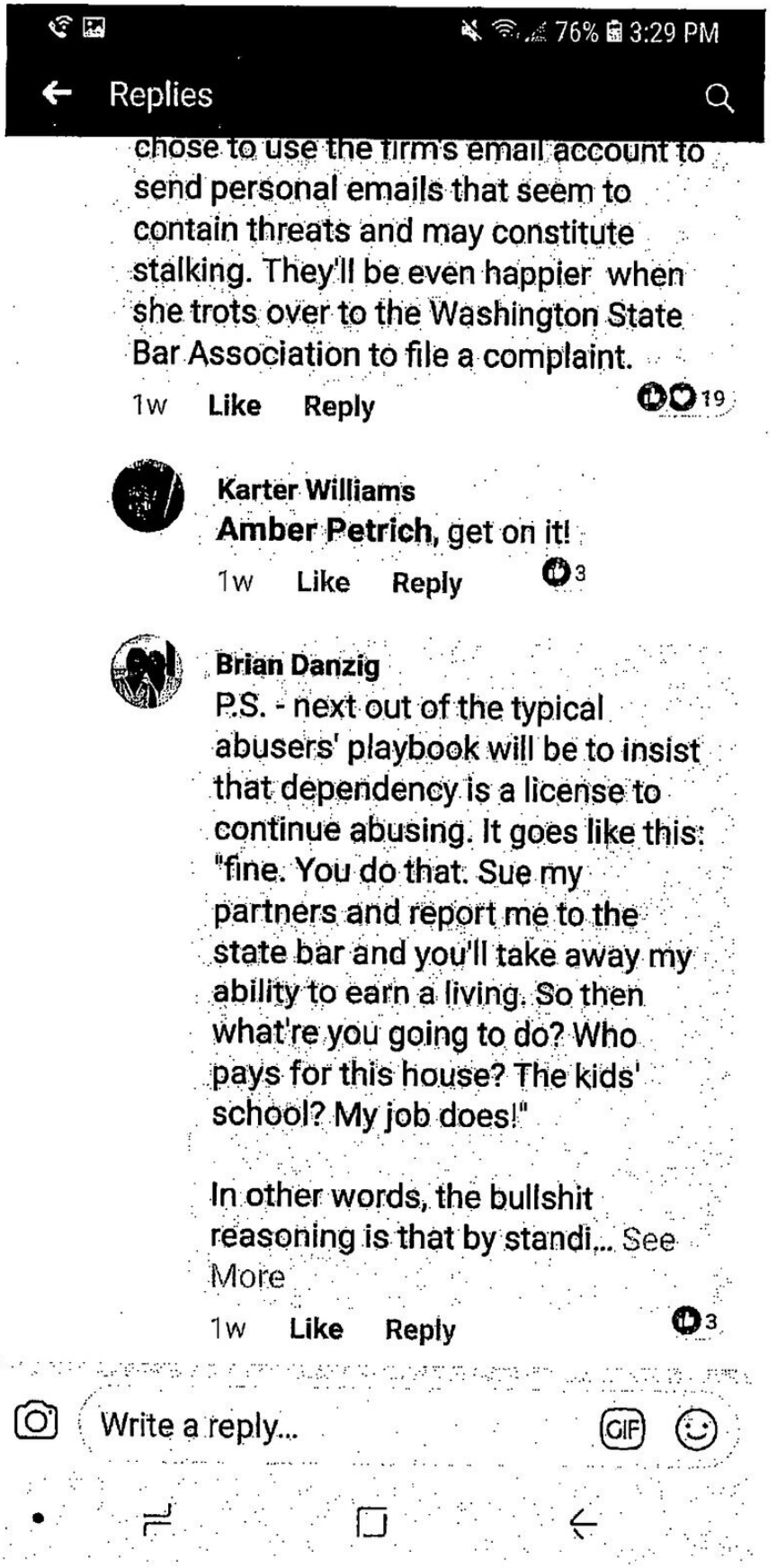
1w Like Reply 19
Karter Williams
Amber Petrich, get on it!
1w Like Reply 3
Brian Danzig
P.S. - next out of the typical abusers' playbook will be to insist that dependency is a license to continue abusing. It goes like this: "fine. You do that. Sue my partners and report me to the state bar and you'll take away my ability to earn a living. So then what're you going to do? Who
Write a reply...
GIF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In other words, the bullshit reasoning is that by standi... See More
1w Like Reply 3
Write a reply...
GIF



Amber Petrich, get on it!

1w **Like** **Reply** 3



Brian Danzig

P.S. - next out of the typical abusers' playbook will be to insist that dependency is a license to continue abusing. It goes like this: "fine. You do that. Sue my partners and report me to the state bar and you'll take away my ability to earn a living. So then what're you going to do? Who pays for this house? The kids' school? My job does!"

In other words, the bullshit reasoning is that by standing up for yourself you're only harming yourself.

Don't believe it. Not for one second.

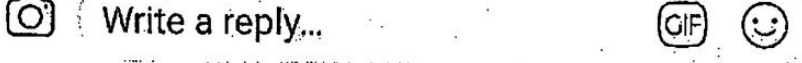
1w **Like** **Reply** 3



Houston Wade

The above is exactly what he wrote me!

Just now **Like** **Reply**





76% 3:30 PM

Replies

Meredith Everett
Forward the screen captures to the bar association

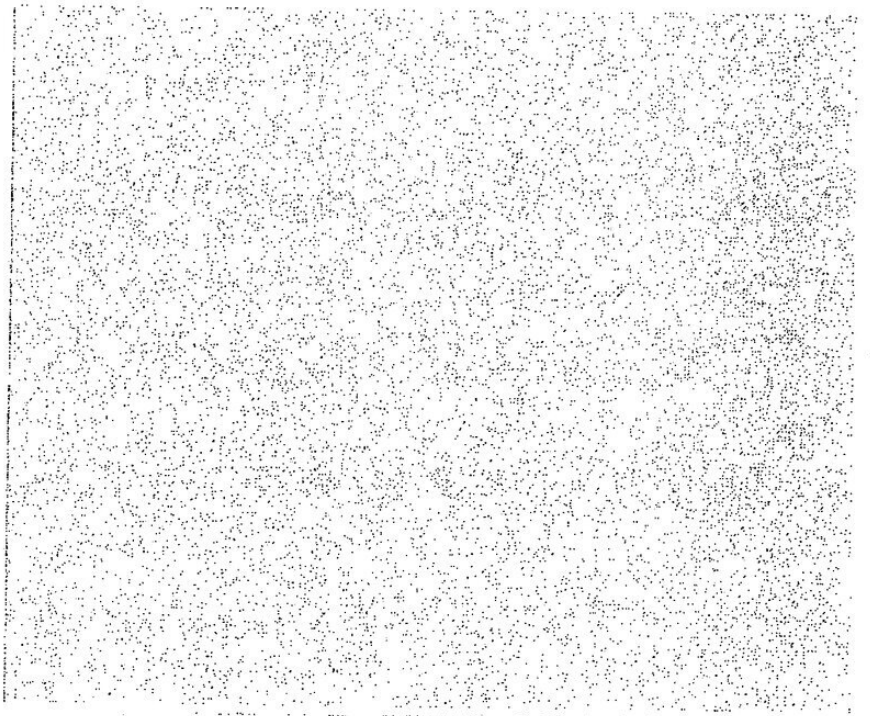
1w **Like** **Reply** 4

Russell Everett
https://www.wsba.org/for-the-public/concerns-about-a-lawyer 1



WSBA.ORG
Concerns About a Lawyer

1w **Like** **Reply**



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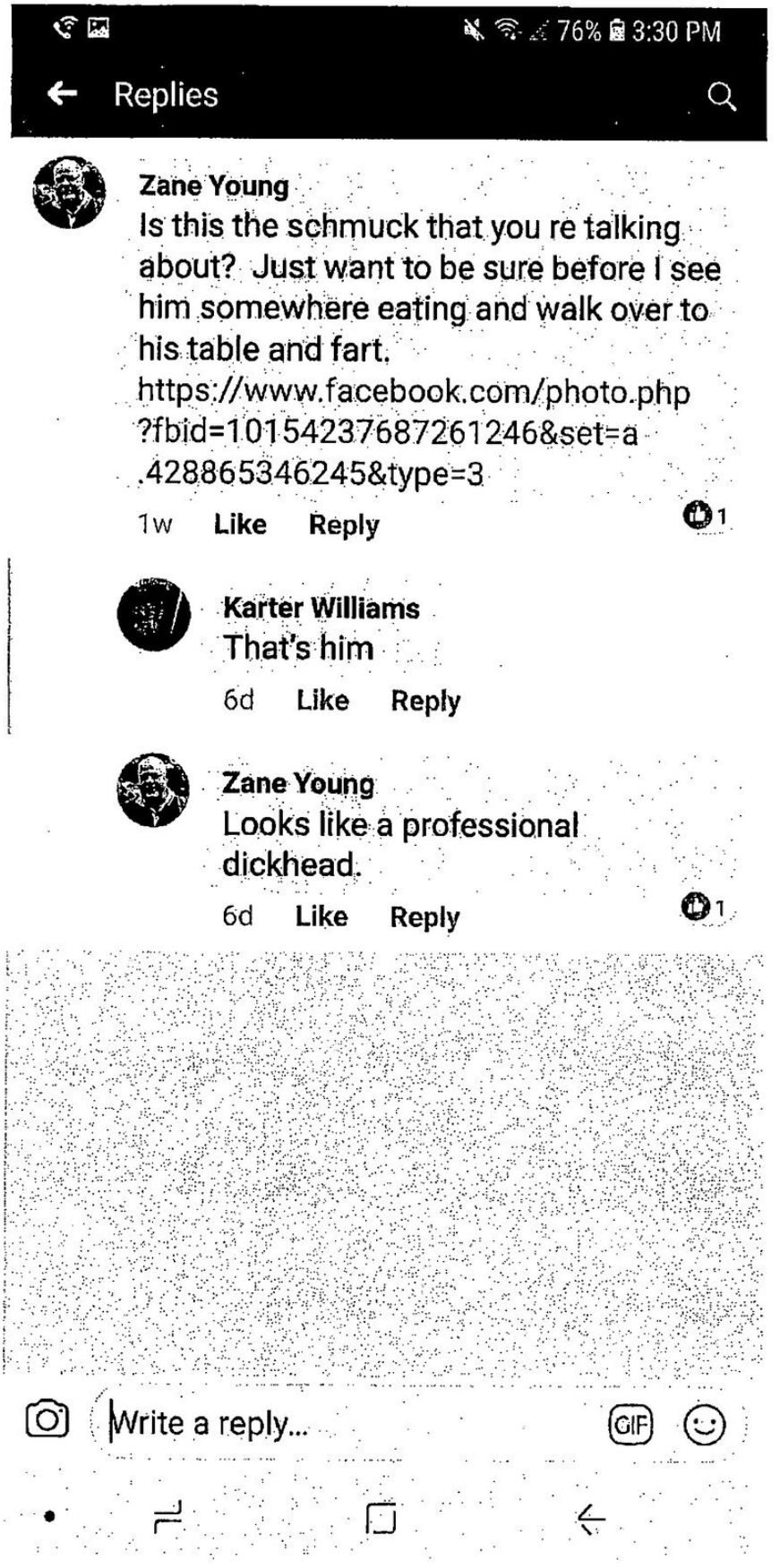
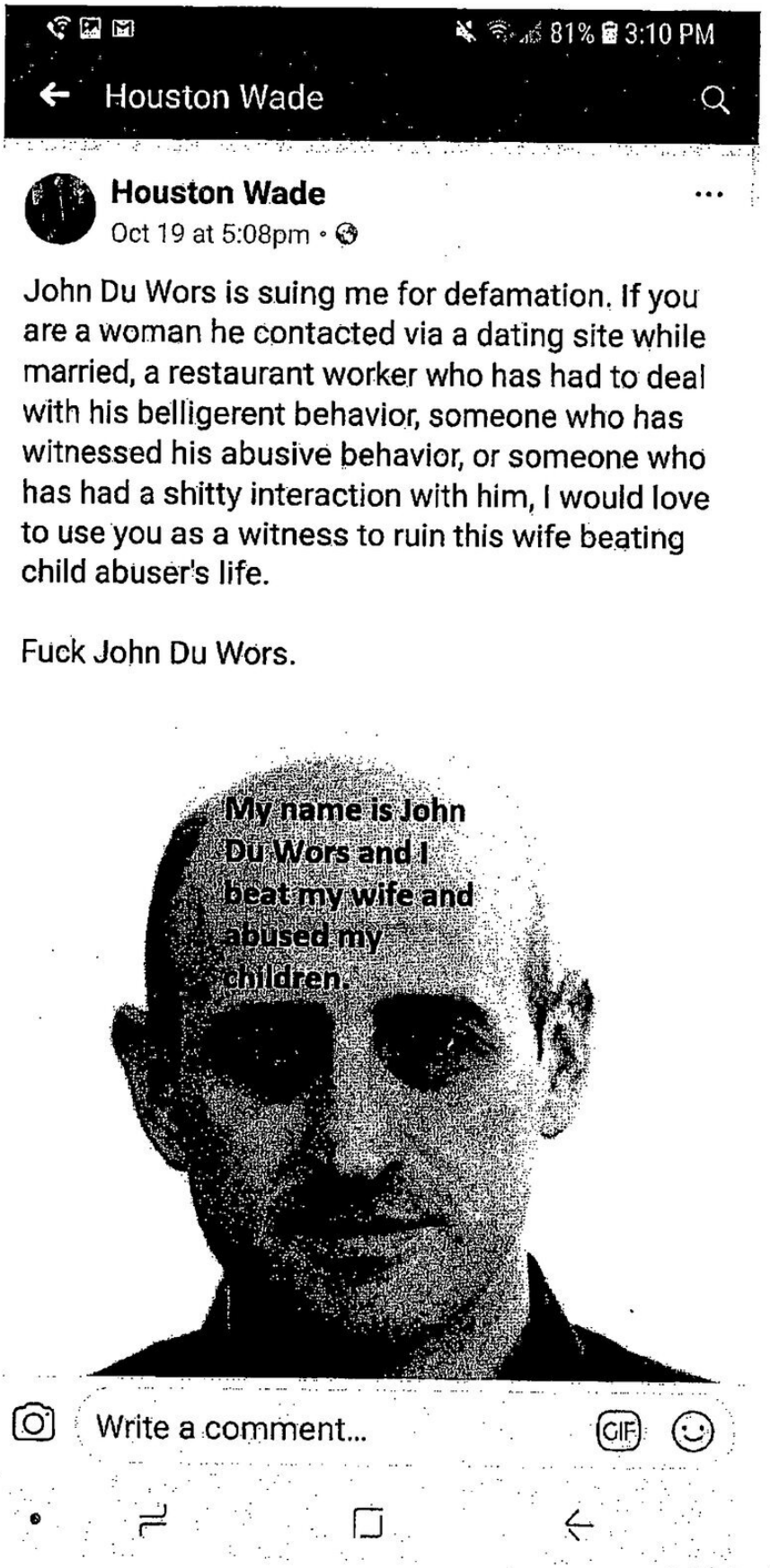

76% 3:30 PM
Replies
Zane Young
Is this the schmuck that you re talking about? Just want to be sure before I see him somewhere eating and walk over to his table and fart.
https://www.facebook.com/photo.php?fbid=10154237687261246&set=a.428865346245&type=3
1w Like Reply
1
Karter Williams
That's him
6d Like Reply
Zane Young
Looks like a professional dickhead.
6d Like Reply
1
Write a reply...
GIF


76% 3:31 PM
Replies
Richard Moore
Hey remember when we 86d that asshole? Good times.
5d Like Reply
1
Shannon Evans
Check your "other" messages!
5d Like Reply
Write a reply...
GIF

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT



RESPONDENT	Exhibit# R-11
Case: 46-18	Date: 11-6-18
☒ Admitted	☐ Not Admitted


81% 3:10 PM
Replies
Samantha Goakey
What is he suing you for exactly?? Lol Did you get served?
3d Like Reply
Houston Wade
He had someone serve my mom. Ha! Whatever, I am going to destroy him.
3d Like Reply 2
Samantha Goakey
LOL your mom???!!! Jesus Christ. What do the papers say? Yeah, he ain't gonna win this one.
3d Like Reply 1
Brian Danzig
As I recall you are over 18. I am not a litigator by trade, but I do not remember anything about service on a defendant's mother being valid service of process
3d Like Reply 3
Houston Wade
It's not.
3d Like Reply
Write a reply...
GIF





Susan Jeswine Oshea

What? Your Mom?
I'm afraid that's not how it works.
What did your mother do to him?

3d **Like** **Reply**



Emily Sato

That's not proper service, and he knows that. That means he knows he doesn't have a case, he's just fucking with you.

3d **Like** **Reply** 5



Houston Wade

Yup! That's why he is going to lose on Monday.

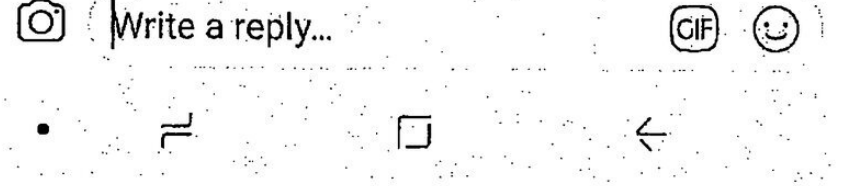
3d **Like** **Reply** 2

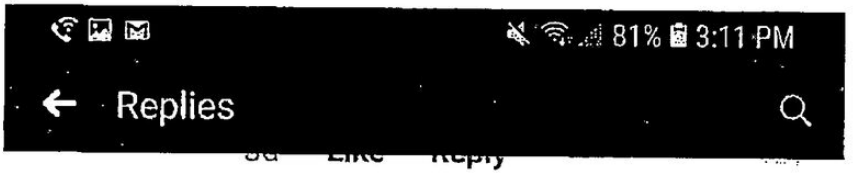


Brian Danzig

This Federal rule has a Washington State counterpart:

SANCTIONS, RULE 11. Federal Rule of Civil Procedure 11 provides that a district court may sanction attorneys or parties who submit pleadings for an improper





Brian Danzig
This Federal rule has a Washington State counterpart:

SANCTIONS, RULE 11. Federal Rule of Civil Procedure 11 provides that a district court may sanction attorneys or parties who submit pleadings for an improper purpose or that contain frivolous arguments or arguments that have no evidentiary support.

Use it.

3d **Like** **Reply** 4

Houston Wade
Thank you, Brian!

3d **Like** **Reply**

Brian Danzig
Monday? 1

3d **Like** **Reply**

Houston Wade
9am in Port Orchard 1

3d **Like** **Reply**

Write a reply...



Brian Danzig Monday?

Houston Wade 9am in Port Orchard

Katie Fisher
I have my own story about that shit for brains, pompous asshole!
3d **Like** **Reply** 3

Katie Fisher
Isn't his ex an admirer of yours?
3d **Like** **Reply**

Katie Fisher
I really wish I could share....
3d **Like** **Reply**

Houston Wade You can share!

Katie Fisher Houston Wade oh I'm gonna

Marisa Castañeda
Its not legal if your not served, it has to go to you directly
3d **Like** **Reply** 4

View 1 previous reply

Megan Marie Sater Houston Wade yeah be...

Houston Wade Touché

Write a comment... GIF

80% 3:11 PM

Replies

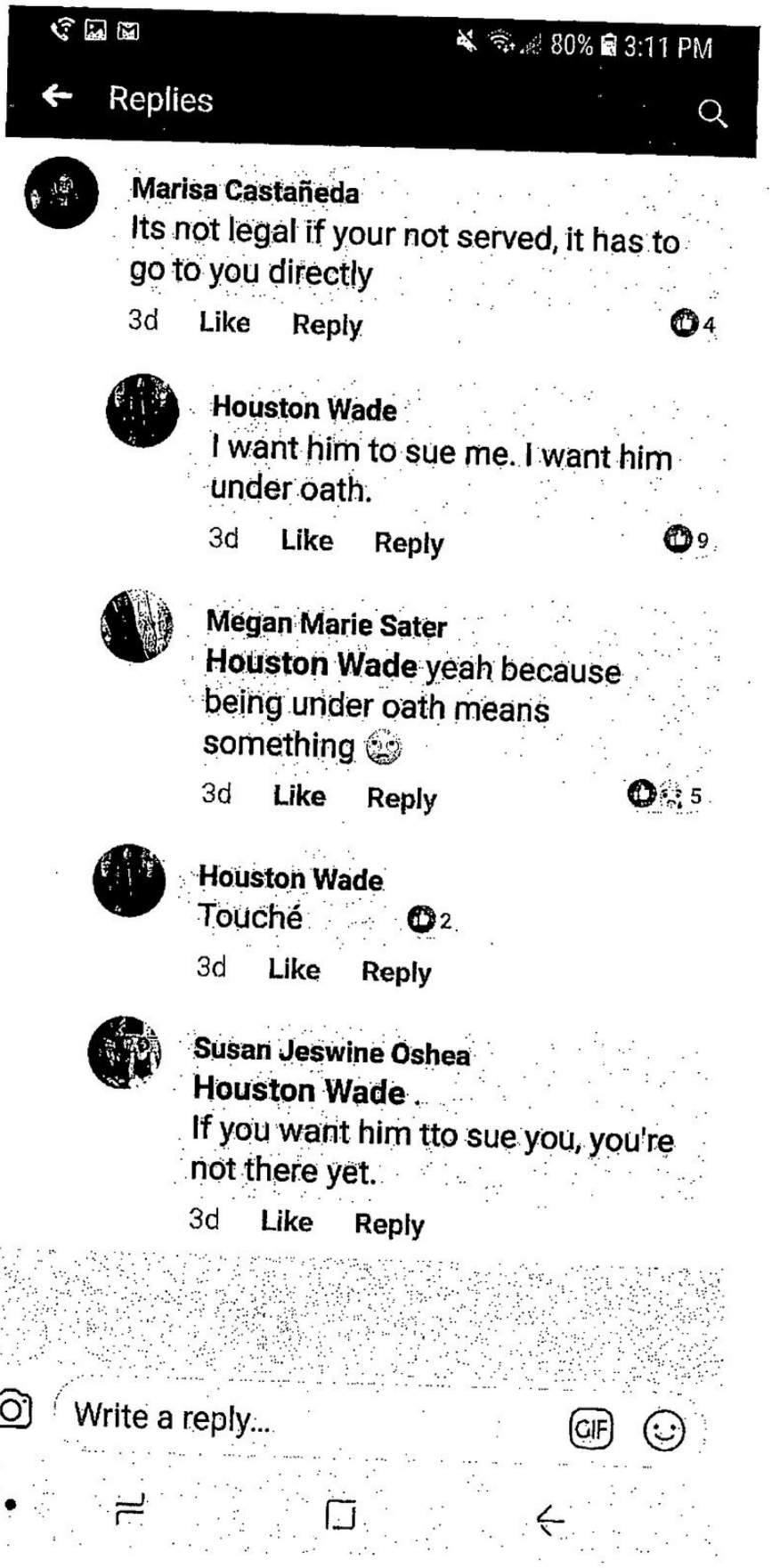
Katie Fisher
I really wish I could share....
3d Like Reply

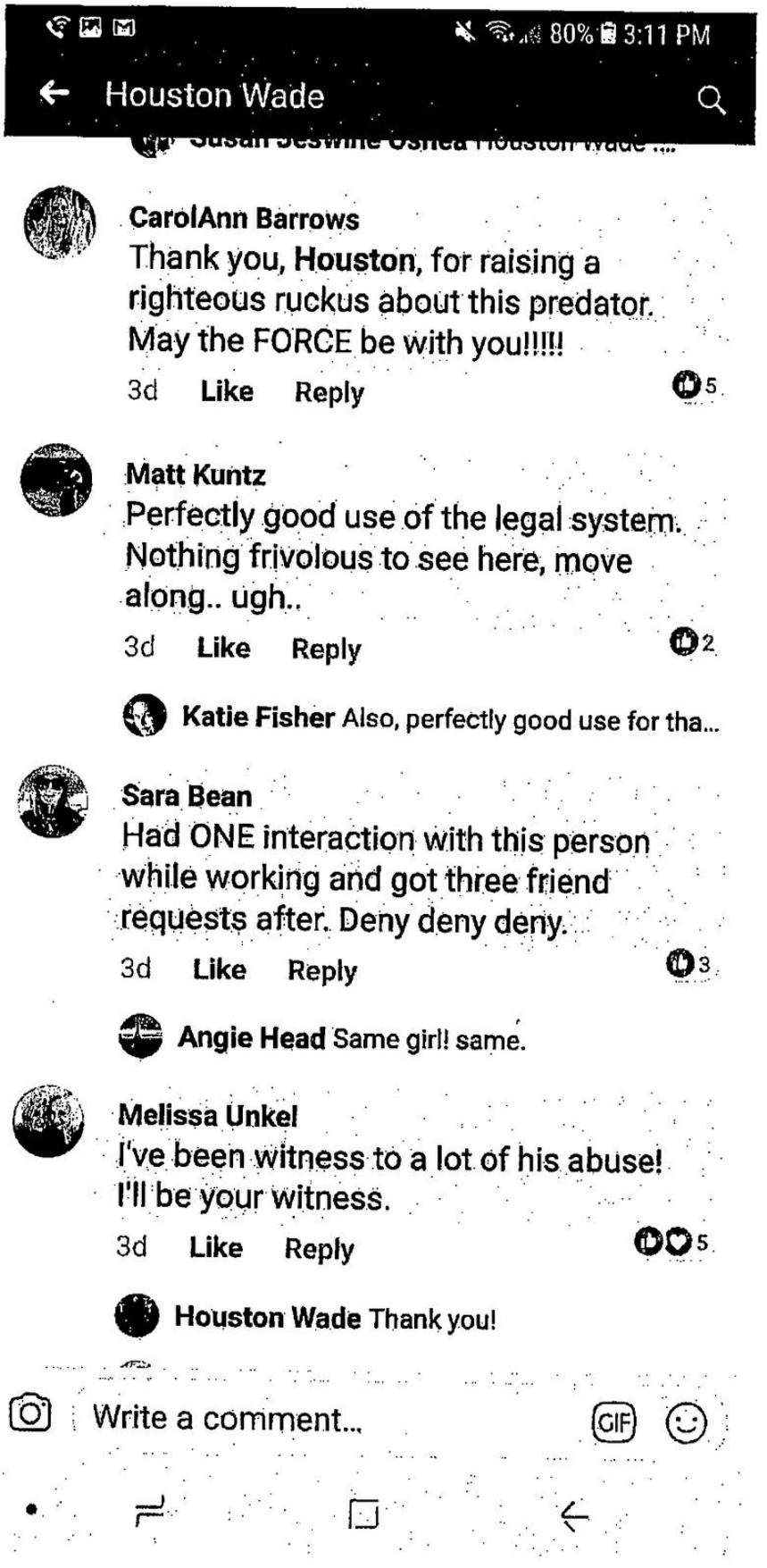
Houston Wade
You can share!
3d Like Reply

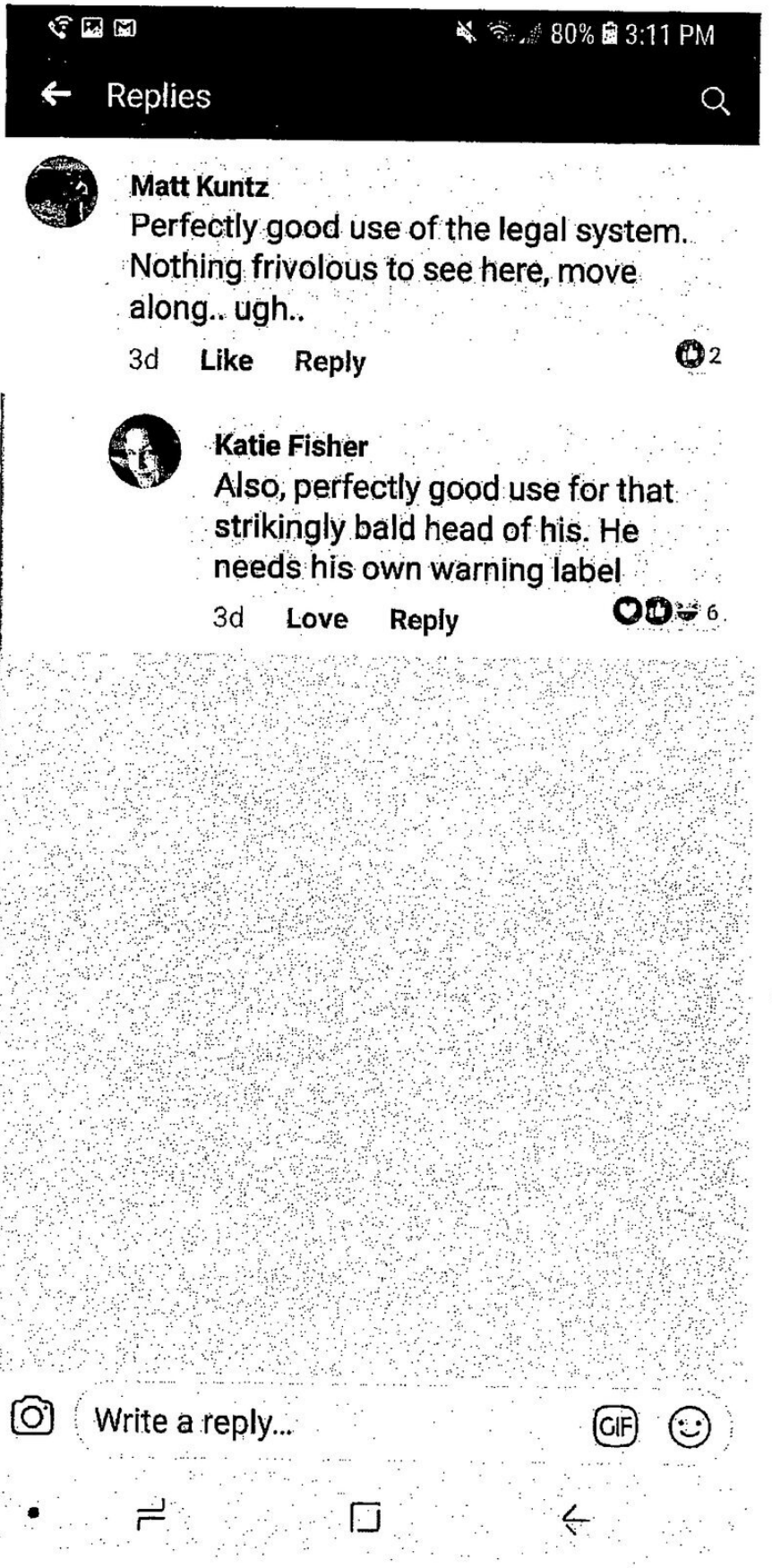
Katie Fisher
Houston Wade oh I'm gonna
3d Like Reply

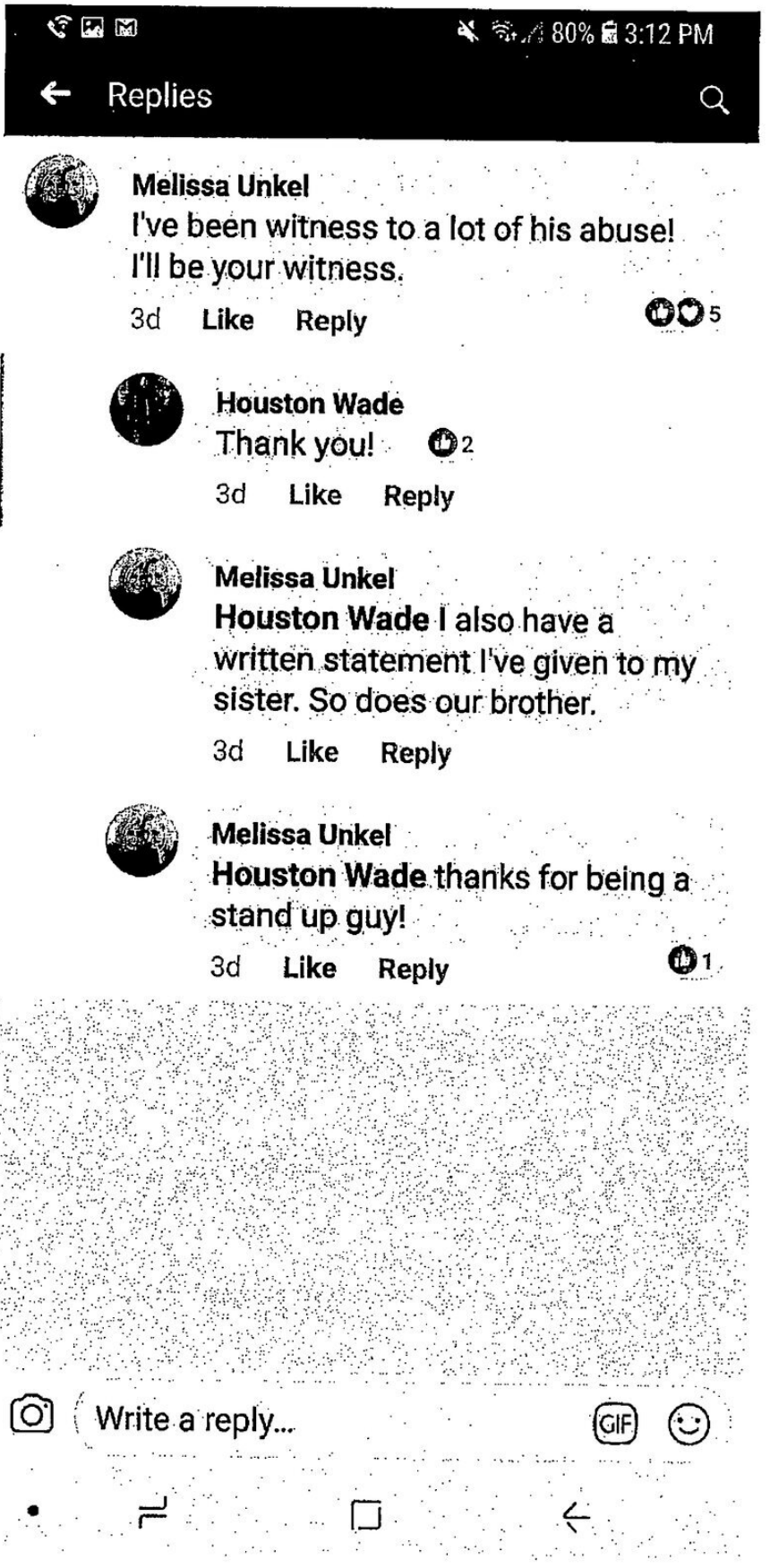


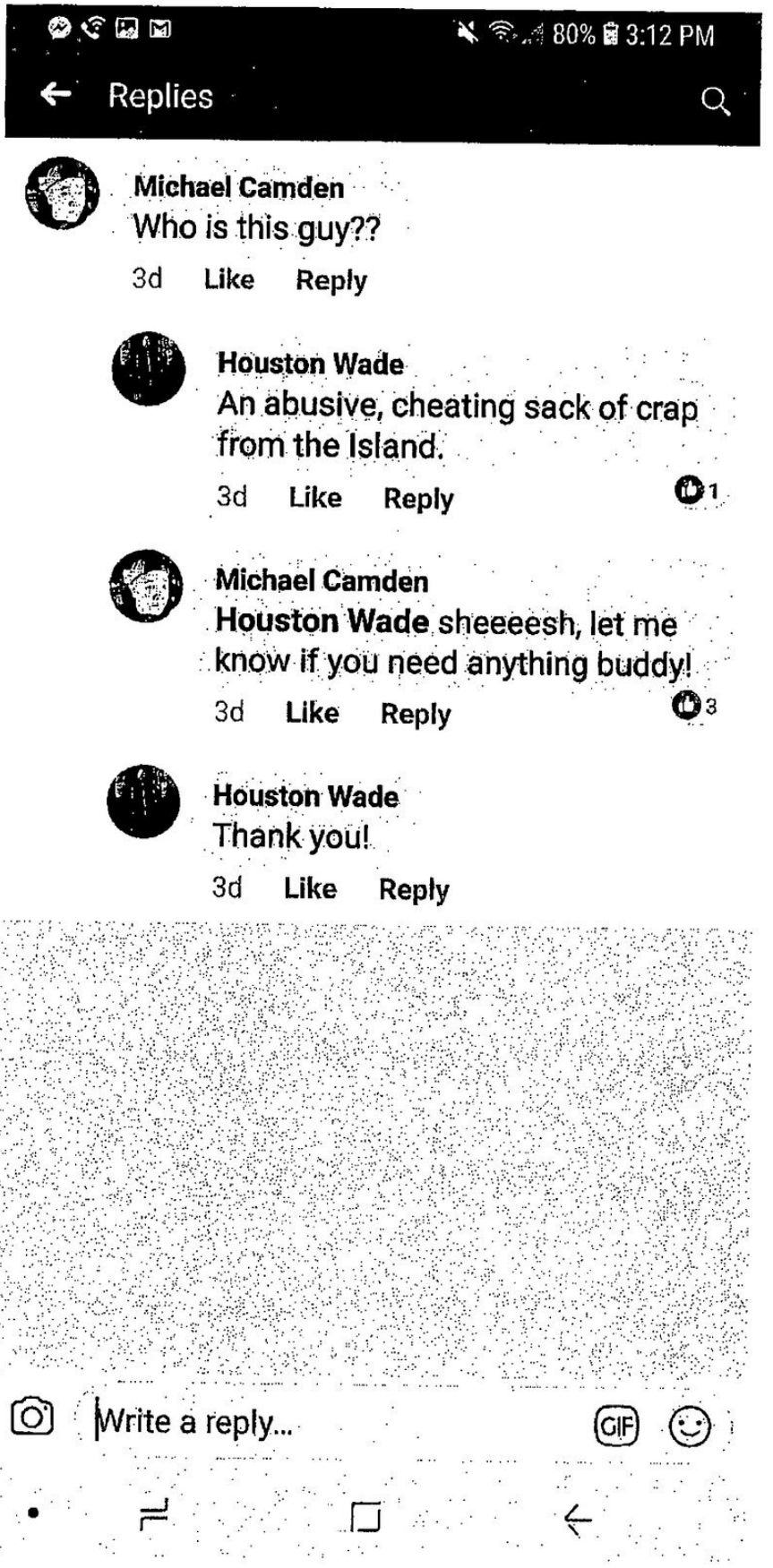
Write a reply... GIF


80% 3:11 PM
Replies
Marisa Castañeda
Its not legal if your not served, it has to go to you directly
3d Like Reply 4
Houston Wade
I want him to sue me. I want him under oath.
3d Like Reply 9
Megan Marie Sater
Houston Wade yeah because being under oath means something
3d Like Reply 5
Houston Wade
Touché 2
3d Like Reply
Susan Jeswine Oshea
Houston Wade .
If you want him tto sue you, you're not there yet.
3d Like Reply
Write a reply...
GIF


80% 3:11 PM
Houston Wade
CarolAnn Barrows
Thank you, Houston, for raising a righteous ruckus about this predator. May the FORCE be with you!!!!!
3d Like Reply 5
Matt Kuntz
Perfectly good use of the legal system. Nothing frivolous to see here, move along.. ugh..
3d Like Reply 2
Katie Fisher Also, perfectly good use for tha...
Sara Bean
Had ONE interaction with this person while working and got three friend requests after. Deny deny deny.
3d Like Reply 3
Angie Head Same girl! same.
Melissa Unkel
I've been witness to a lot of his abuse! I'll be your witness.
3d Like Reply 5
Houston Wade Thank you!
Write a comment...
GIF


80% 3:11 PM
Replies
Matt Kuntz
Perfectly good use of the legal system. Nothing frivolous to see here, move along.. ugh..
3d Like Reply
2
Katie Fisher
Also, perfectly good use for that strikingly bald head of his. He needs his own warning label
3d Love Reply
6
Write a reply...
GIF


80% 3:12 PM
Replies
Melissa Unkel
I've been witness to a lot of his abuse! I'll be your witness.
3d Like Reply
5
Houston Wade
Thank you!
2
3d Like Reply
Melissa Unkel
Houston Wade I also have a written statement I've given to my sister. So does our brother.
3d Like Reply
Melissa Unkel
Houston Wade thanks for being a stand up guy!
3d Like Reply
1
Write a reply...
GIF


80% 3:12 PM
Replies
Michael Camden
Who is this guy??
3d Like Reply
Houston Wade
An abusive, cheating sack of crap from the Island.
3d Like Reply
1
Michael Camden
Houston Wade sheeeesh, let me know if you need anything buddy!
3d Like Reply
3
Houston Wade
Thank you!
3d Like Reply
Write a reply...
GIF

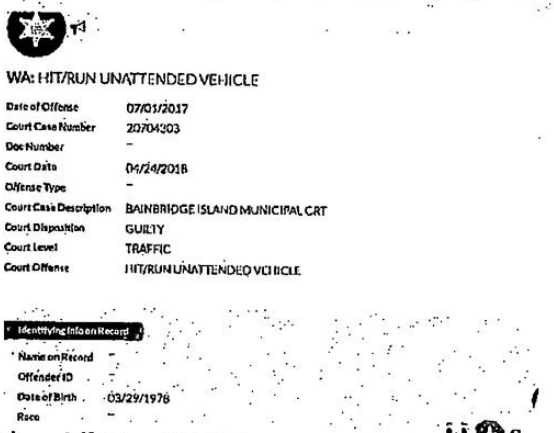
80% 3:12 PM

Houston Wade

Houston Wade Thank you!

Houston Wade

Hey, here he is guilty of domestic violence and hit and run. He's also been arrested multiple times for obstruction.



WA: HIT/RUN UNATTENDED VEHICLE

Date of Offense	07/01/2017
Court Case Number	20704303
Doc Number	–
Court Date	04/24/2018
Offense Type	–
Court Case Description	BAINBRIDGE ISLAND MUNICIPAL CRT
Court Disposition	GUILTY
Court Level	TRAFFIC
Court Offense	HIT/RUN UNATTENDED VEHICLE

Identifying Info on Record

Name on Record	–
Offender ID	–
Date of Birth	03/29/1978
Race	–

3d Like Reply 3

Houston Wade



WA: OBSTRUCT PUBLIC OFFICER

Date of Offense	07/01/2017
Court Case Number	20704303
Doc Number	–
Court Date	04/24/2018
Offense Type	–
Court Case Description	BAINBRIDGE ISLAND MUNICIPAL CRT
Court Disposition	OTHER DEFERRAL
Court Level	TRAFFIC
Court Offense	OBSTRUCT PUBLIC OFFICER

Identifying Info on Record

Name on Record	–
Offender ID	–
Date of Birth	03/29/1978
Race	–

3d Like Reply 1

Houston Wade

Write a comment... GIF

80% 3:12 PM

Houston Wade

Race

3d Like Reply 1

Houston Wade

WA: ASSAULT 4TH DEGREE

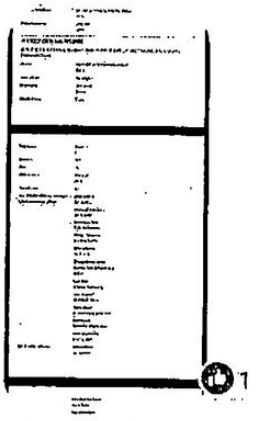
Date of Offense	08/02/2014
Court Case Number	20704302
Doc Number	–
Court Date	08/19/2014
Offense Type	–
Court Case Description	BAINBRIDGE ISLAND MUNICIPAL CRT
Court Disposition	GUILTY DV PLED AND PROVE
Court Level	–
Court Offense	ASSAULT 4TH DEGREE

Identifying Info on Record

Name on Record	–
Offender ID	–
Date of Birth	03/29/1978
Race	–

3d Like Reply 2

Houston Wade



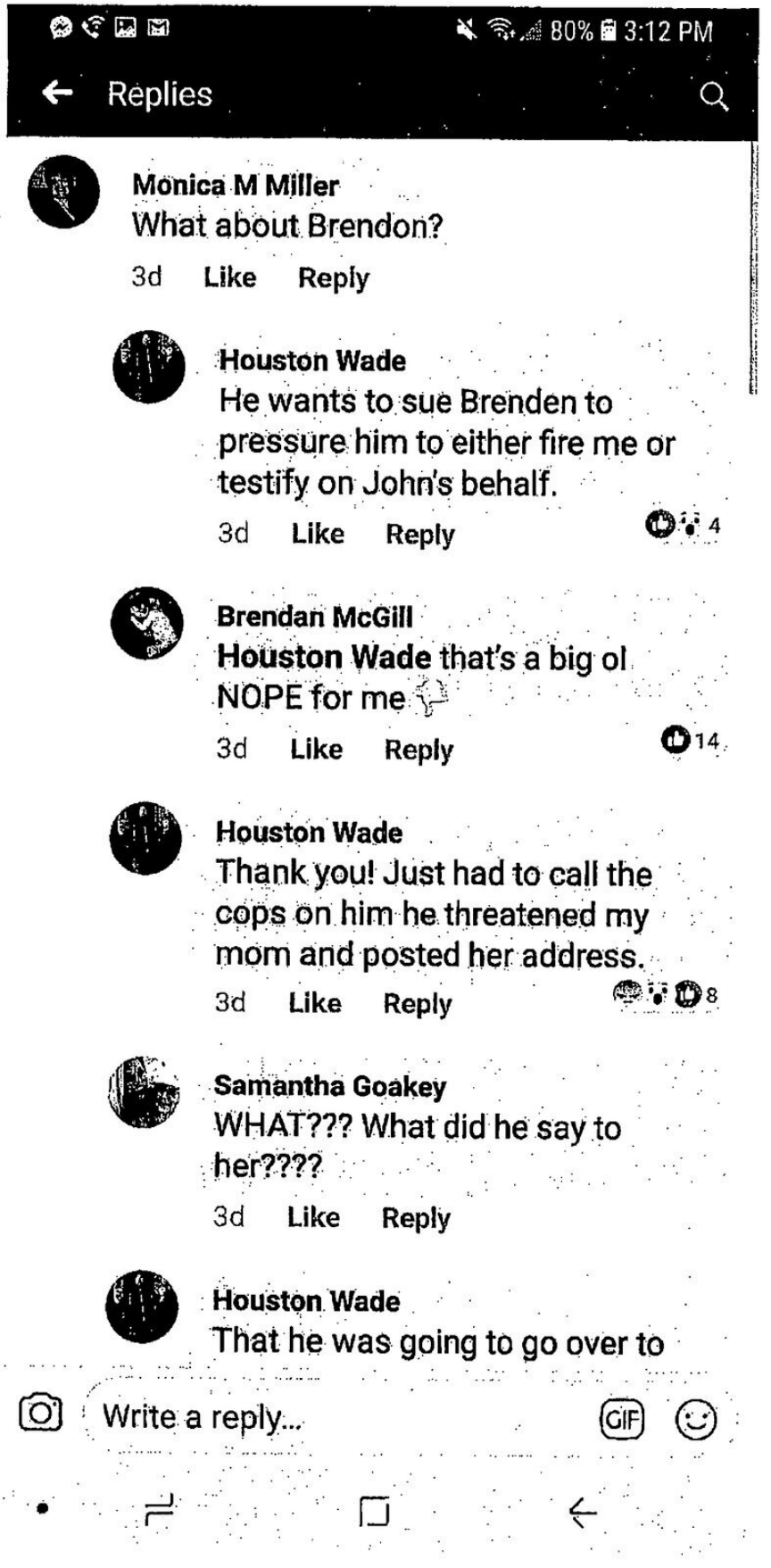
3d Like Reply

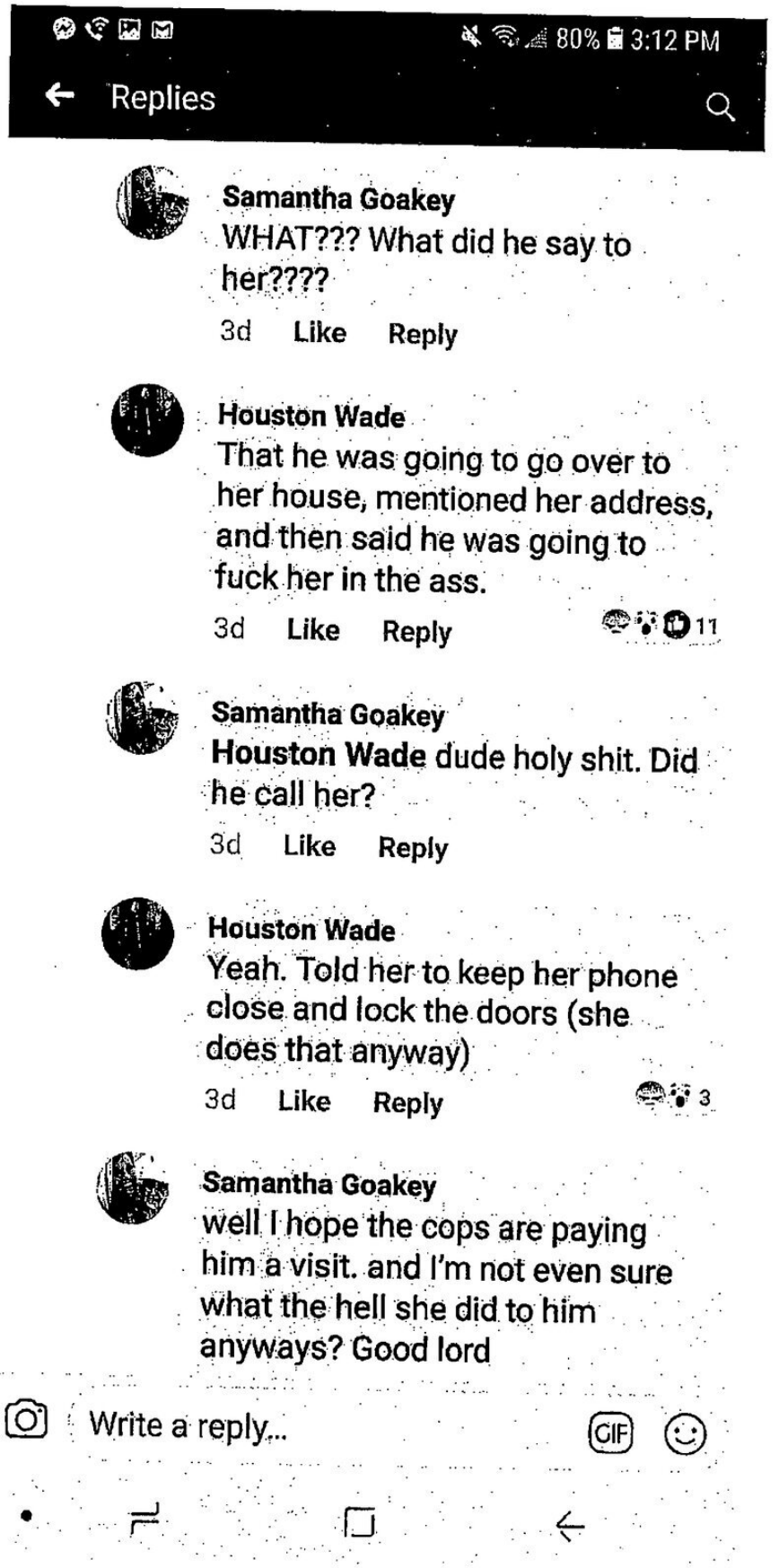
Monica M Miller

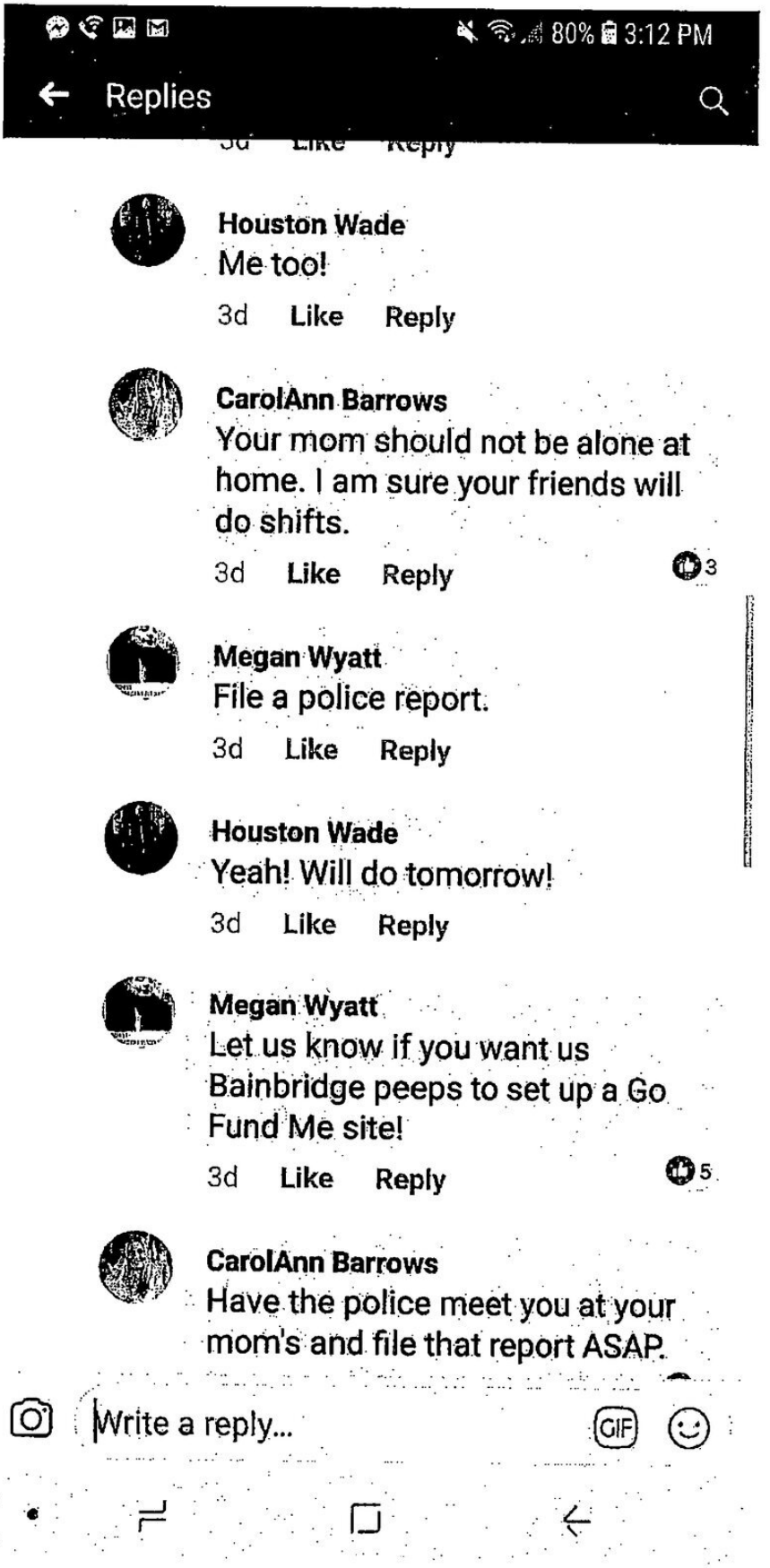
What about Brendon?

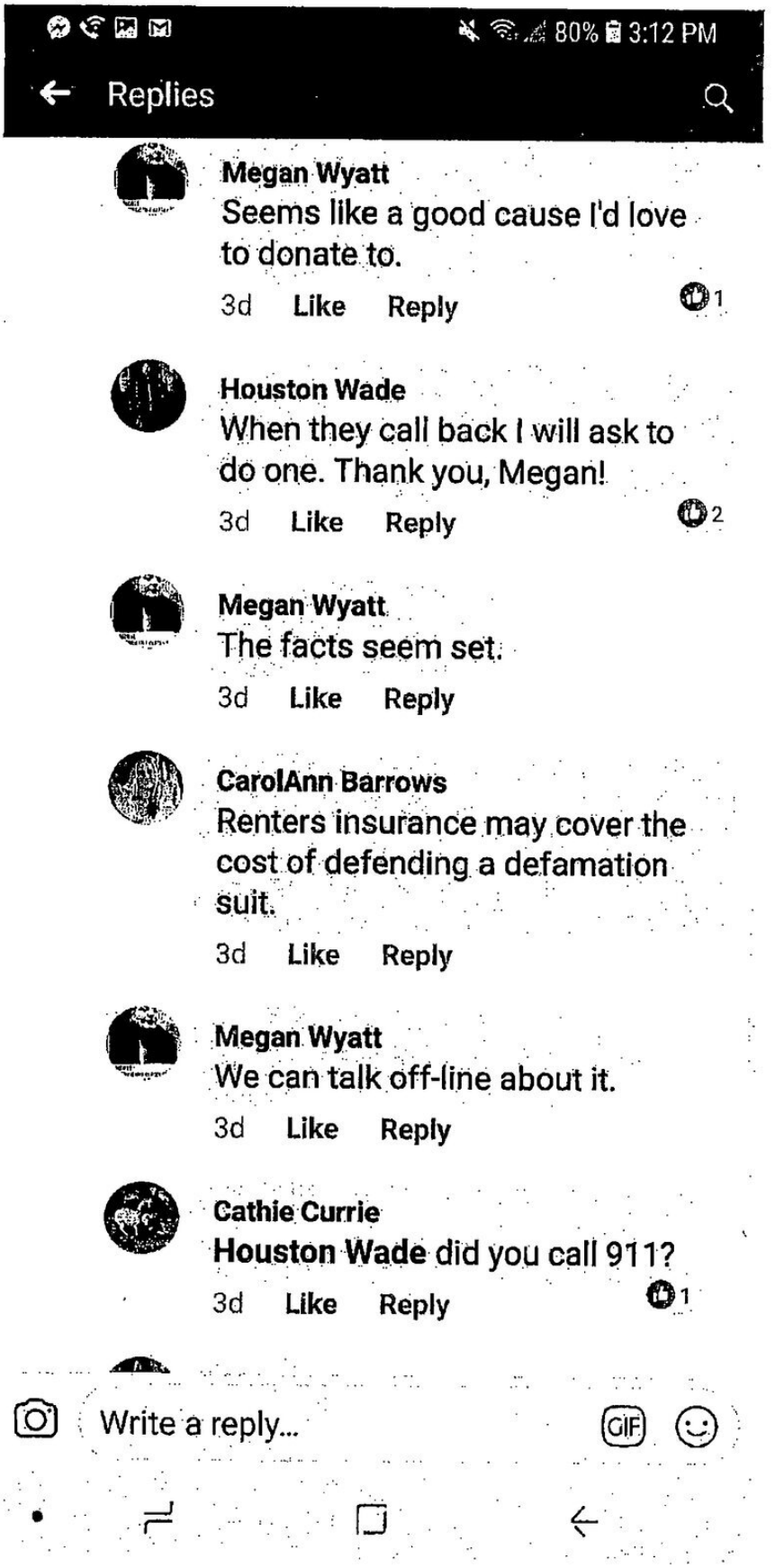
3d Like Reply

Write a comment...


80% 3:12 PM
Replies
Monica M Miller
What about Brendon?
3d Like Reply
Houston Wade
He wants to sue Brenden to pressure him to either fire me or testify on John's behalf.
3d Like Reply
4
Brendan McGill
Houston Wade that's a big ol NOPE for me
3d Like Reply
14
Houston Wade
Thank you! Just had to call the cops on him he threatened my mom and posted her address.
3d Like Reply
8
Samantha Goakey
WHAT??? What did he say to her????
3d Like Reply
Houston Wade
That he was going to go over to
Write a reply...
GIF


80% 3:12 PM
Replies
Samantha Goakey
WHAT??? What did he say to her????
3d Like Reply
Houston Wade
That he was going to go over to her house, mentioned her address, and then said he was going to fuck her in the ass.
3d Like Reply 11
Samantha Goakey
Houston Wade dude holy shit. Did he call her?
3d Like Reply
Houston Wade
Yeah. Told her to keep her phone close and lock the doors (she does that anyway)
3d Like Reply 3
Samantha Goakey
well I hope the cops are paying him a visit. and I'm not even sure what the hell she did to him anyways? Good lord
Write a reply...
GIF


80% 3:12 PM
Replies
Houston Wade
Me too!
3d Like Reply
CarolAnn Barrows
Your mom should not be alone at home. I am sure your friends will do shifts.
3d Like Reply 3
Megan Wyatt
File a police report.
3d Like Reply
Houston Wade
Yeah! Will do tomorrow!
3d Like Reply
Megan Wyatt
Let us know if you want us Bainbridge peeps to set up a Go Fund Me site!
3d Like Reply 5
CarolAnn Barrows
Have the police meet you at your mom's and file that report ASAP.
Write a reply...
GIF


80% 3:12 PM
Replies
Megan Wyatt
Seems like a good cause I'd love to donate to.
3d Like Reply 1
Houston Wade
When they call back I will ask to do one. Thank you, Megan!
3d Like Reply 2
Megan Wyatt
The facts seem set.
3d Like Reply
CarolAnn Barrows
Renters insurance may cover the cost of defending a defamation suit.
3d Like Reply
Megan Wyatt
We can talk off-line about it.
3d Like Reply
Cathie Currie
Houston Wade did you call 911?
3d Like Reply 1
Write a reply...
GIF

Messages 3:13 PM

Jane Adams
Good.

J

CALL MARK AS READ REPLY



Megan Wyatt
We can talk off-line about it.
3d Like Reply



Cathie Currie
Houston Wade did you call 911?
3d Like Reply 1



Houston Wade
Yes! 3
3d Like Reply



Steve Giovanis
Houston Wade You can, and should, ask for the police to keep an extra check on her house. They can also make a note in the 9 1 1 system .
3d Like Reply 5



Houston Wade
Excellent idea! 1
3d Like Reply



Ben Boxingclub
Houston Wade what the fuck

Write a reply... GIF

3d Like Reply



Megan Wyatt
We can talk off-line about it.
3d Like Reply



Cathie Currie
Houston Wade did you call 911?
3d Like Reply 1



Houston Wade
Yes! 3
3d Like Reply



Steve Giovanis
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3d Like Reply 5



Houston Wade
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3d Like Reply



Ben Boxingclub
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Megan Wyatt
We can talk off-line about it.
3d **Like** **Reply**



Cathie Currie
Houston Wade did you call 911?
3d **Like** **Reply** 1



Houston Wade
Yes! 3
3d **Like** **Reply**



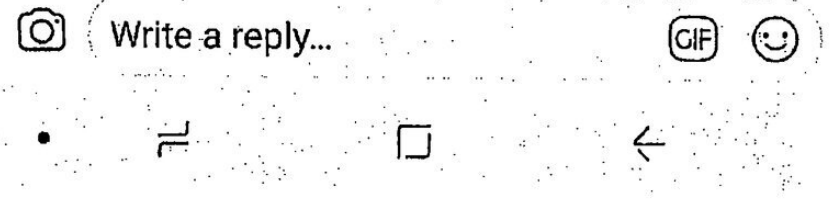
Steve Giovanis
Houston Wade You can, and should, ask for the police to keep an extra check on her house. They can also make a note in the 9 1 1 system .
3d **Like** **Reply** 5

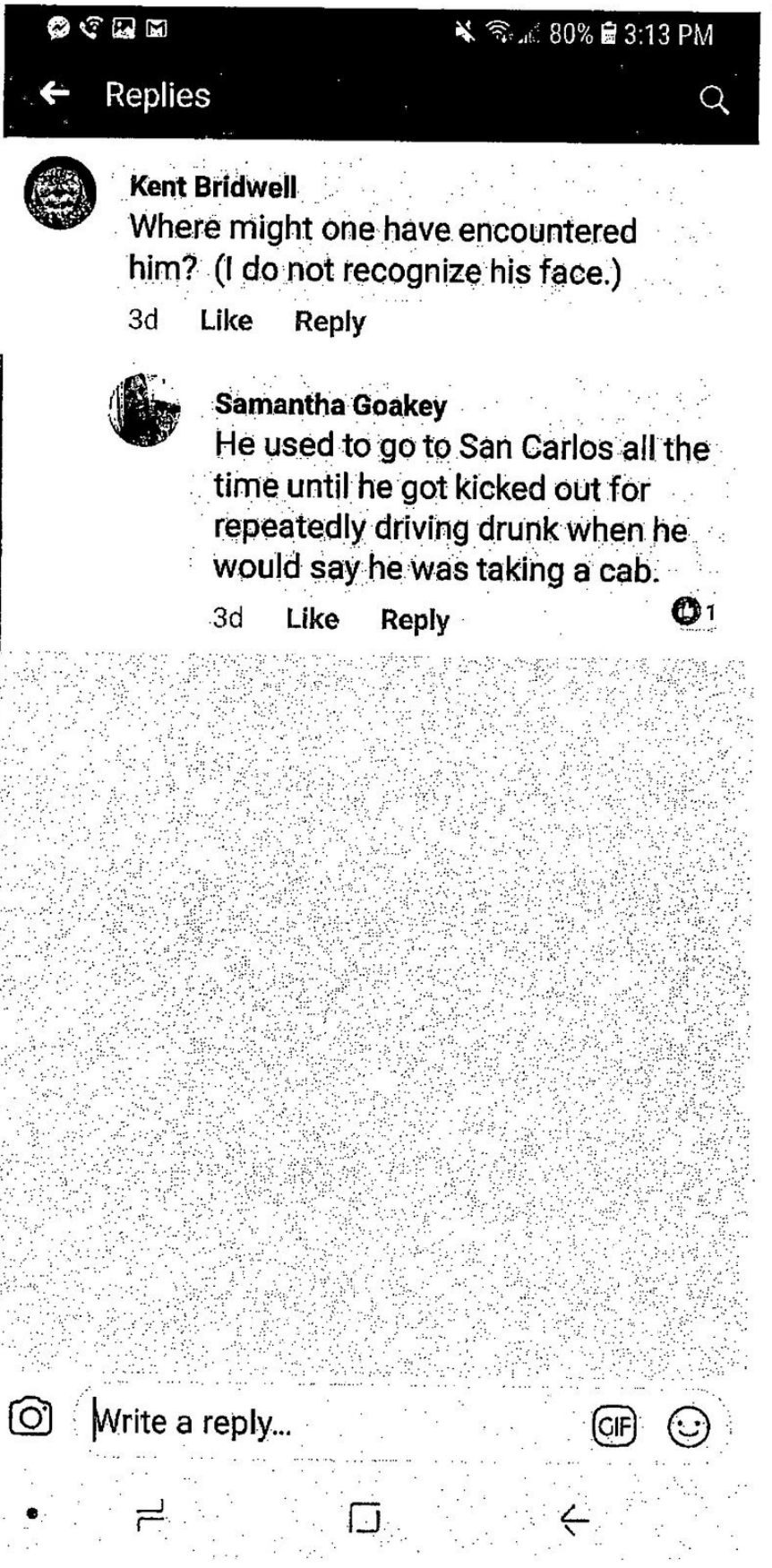


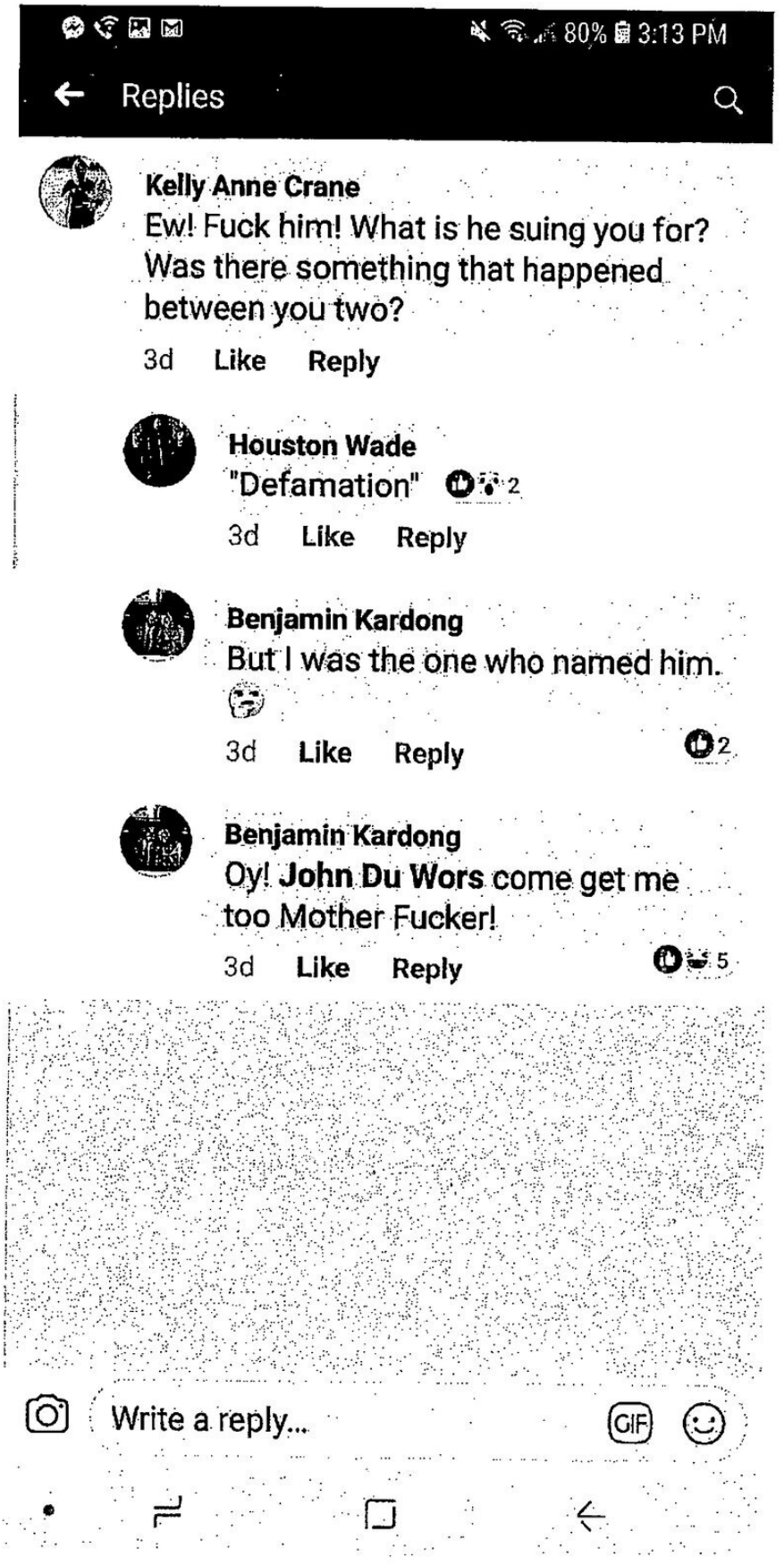
Houston Wade
Excellent idea! 1
3d **Like** **Reply**



Ben Boxingclub
Houston Wade what the fuck
3d **Like** **Reply**




80% 3:13 PM
Replies
Kent Bridwell
Where might one have encountered him? (I do not recognize his face.)
3d Like Reply
Samantha Goakey
He used to go to San Carlos all the time until he got kicked out for repeatedly driving drunk when he would say he was taking a cab.
3d Like Reply
1
Write a reply...
GIF


80% 3:13 PM
Replies
Kelly Anne Crane
Ew! Fuck him! What is he suing you for? Was there something that happened between you two?
3d Like Reply
Houston Wade
"Defamation" 2
3d Like Reply
Benjamin Kardong
But I was the one who named him.
3d Like Reply 2
Benjamin Kardong
Oy! John Du Wors come get me too Mother Fucker!
3d Like Reply 5
Write a reply...
GIF

Benjamin Kardong But I was the one who n...

Benjamin Kardong Oy! John Du Wors come...

Maria Rangel
Wow thanks for the heads
3d Like Reply

Briana Mcdonald
Houston you are the best!!!
3d Like Reply 5

Briana Mcdonald Just looking at his picture...

CarolAnn Barrows
I just looked at the mutual "friends" I have the Du Wors: **Cathie Currie Betsy Lucas Atkinson Greg Atkinson Dhyana Moyer Dave Cinamon Jay Trinidad Hilary Franz Lisa Mandelkorn Johnny Bregar Rebecca Rockefeller Lisa Mandelkorn Stephanie Paxton Jackson**
3d Like Reply 2

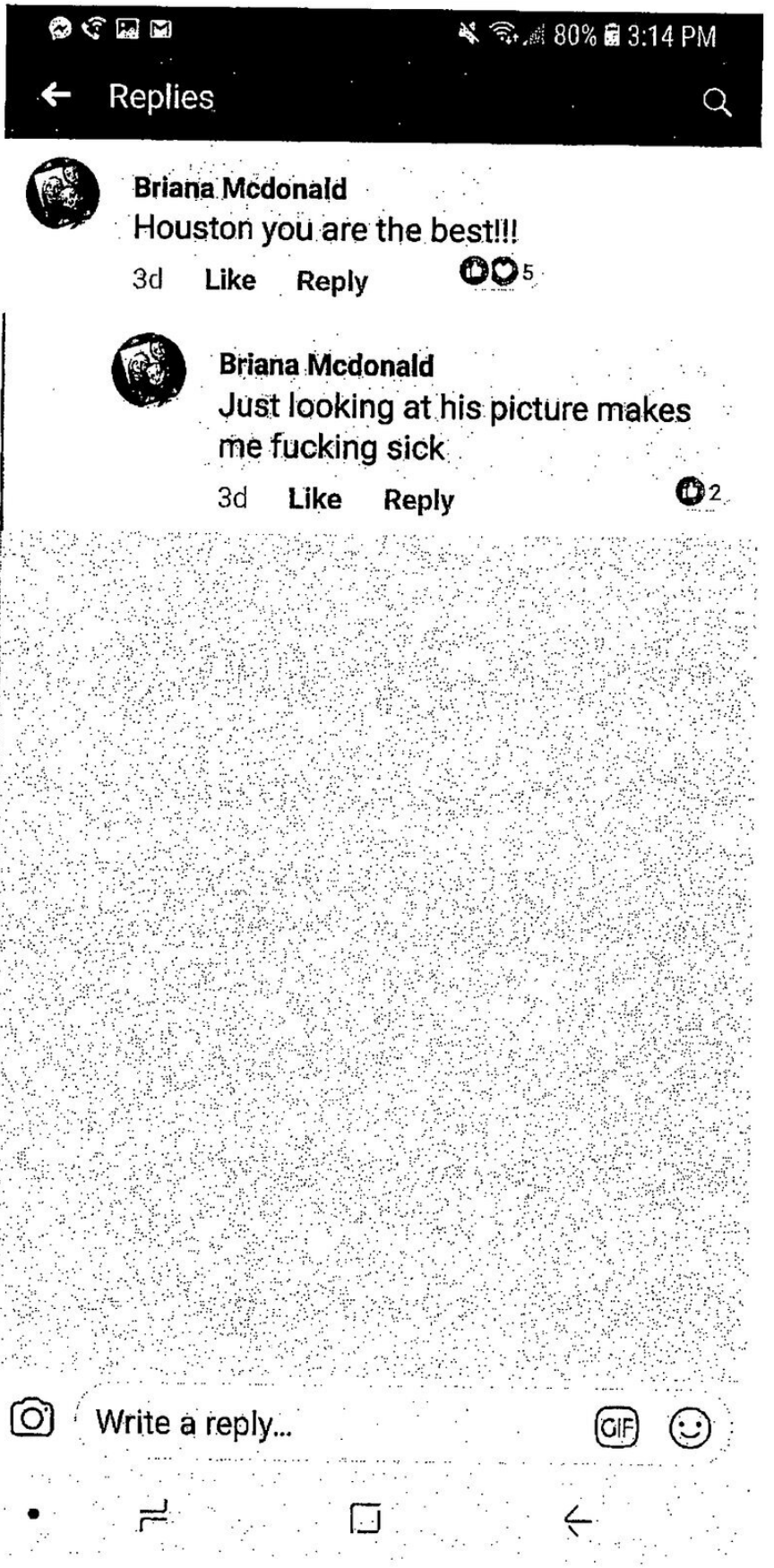
View 3 previous replies

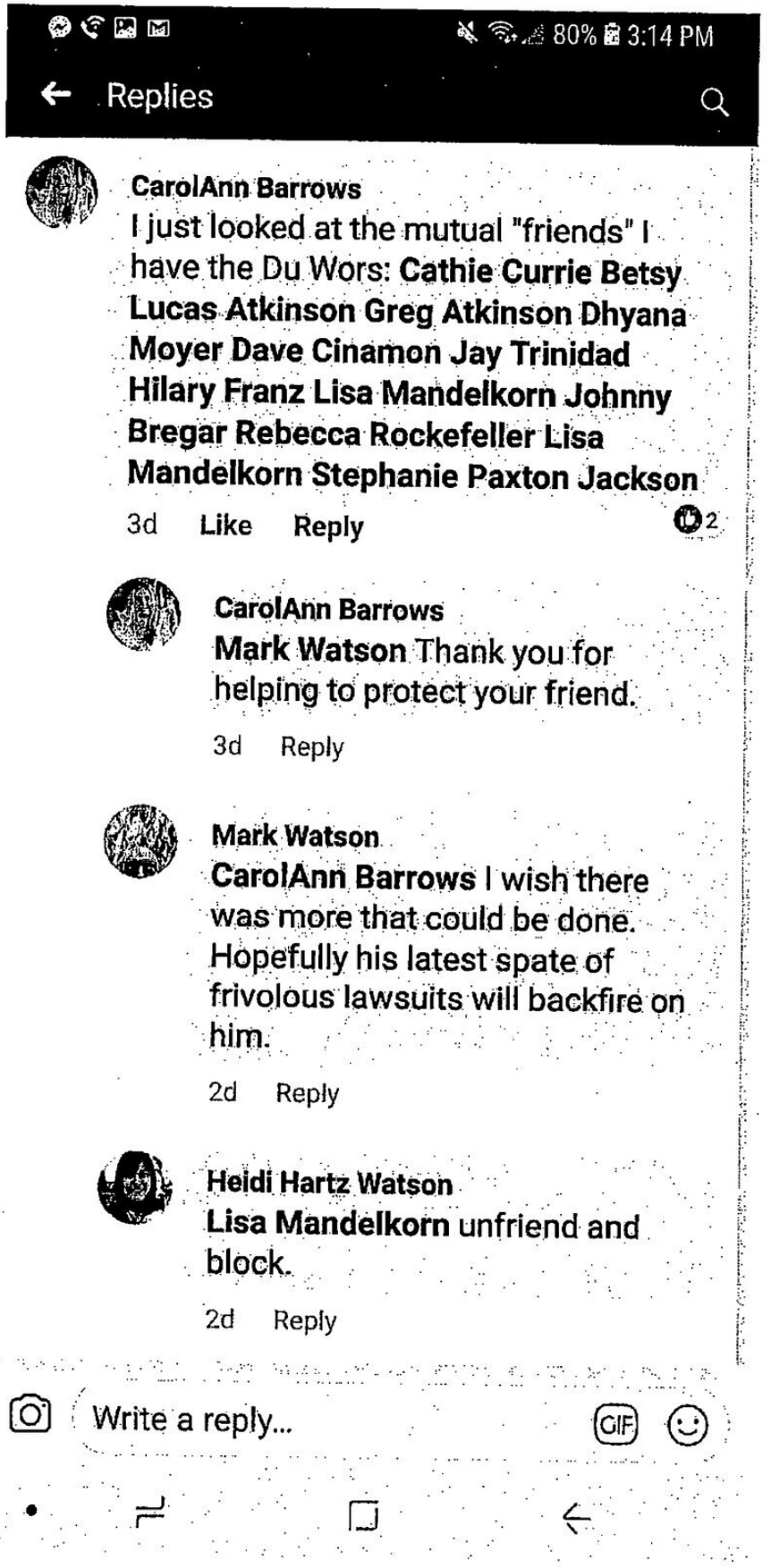
CarolAnn Barrows Mark Watson Thank you...

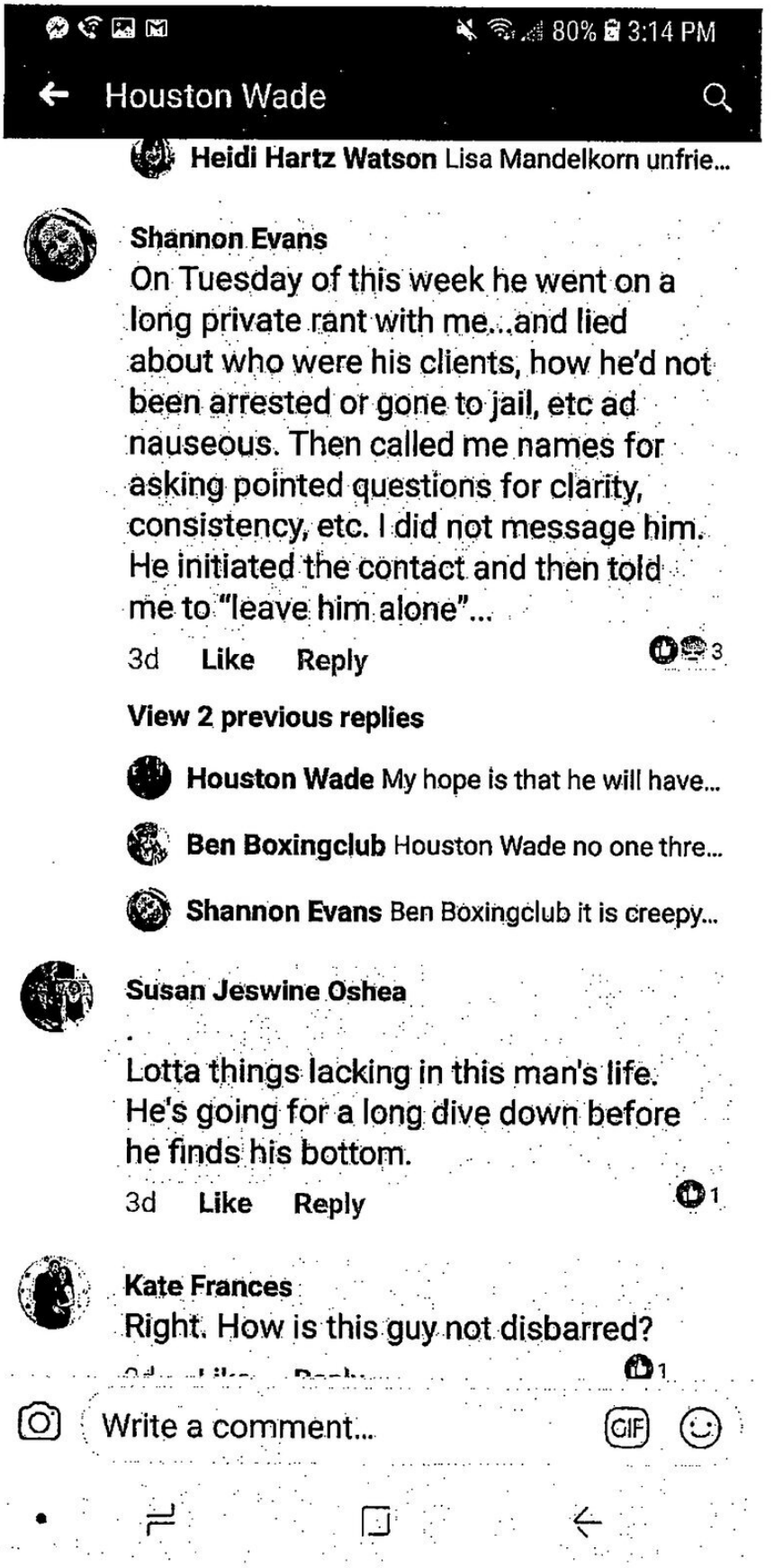
Mark Watson CarolAnn Barrows I wish ther...

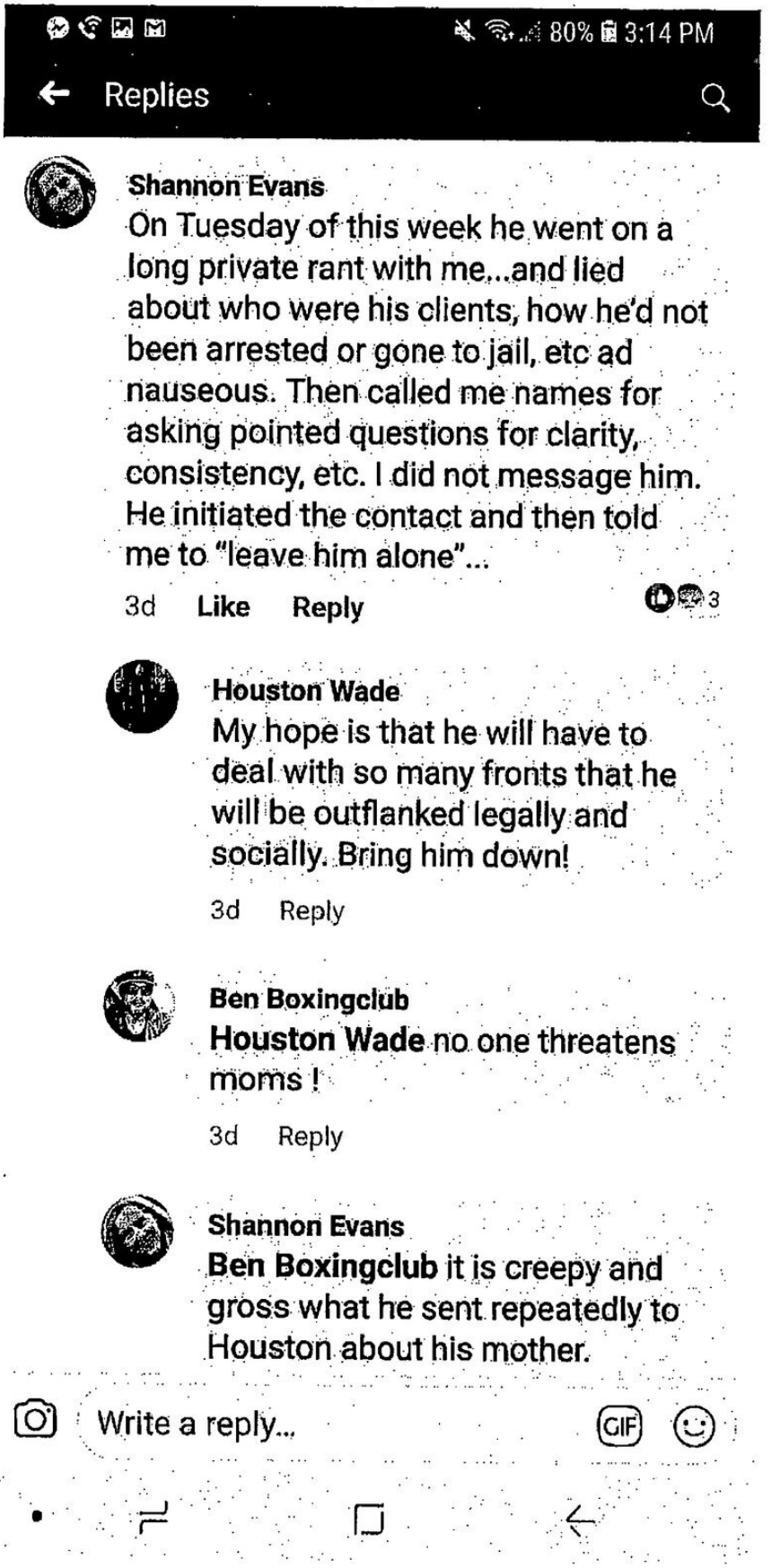
Heidi Hartz Watson Lisa Mandelkorn unfrie...

Write a comment... GIF


80% 3:14 PM
Replies
Briana Mcdonald
Houston you are the best!!!
3d Like Reply 5
Briana Mcdonald
Just looking at his picture makes me fucking sick
3d Like Reply 2
Write a reply...
GIF


80% 3:14 PM
Replies
CarolAnn Barrows
I just looked at the mutual "friends" I have the Du Wors: Cathie Currie Betsy Lucas Atkinson Greg Atkinson Dhyana Moyer Dave Cinamon Jay Trinidad Hilary Franz Lisa Mandelkorn Johnny Bregar Rebecca Rockefeller Lisa Mandelkorn Stephanie Paxton Jackson
3d Like Reply 2
CarolAnn Barrows
Mark Watson Thank you for helping to protect your friend.
3d Reply
Mark Watson
CarolAnn Barrows I wish there was more that could be done. Hopefully his latest spate of frivolous lawsuits will backfire on him.
2d Reply
Heidi Hartz Watson
Lisa Mandelkorn unfriend and block.
2d Reply
Write a reply...
GIF


80% 3:14 PM
Houston Wade
Heidi Hartz Watson Lisa Mandelkorn unfrie...
Shannon Evans
On Tuesday of this week he went on a long private rant with me...and lied about who were his clients, how he'd not been arrested or gone to jail, etc ad nauseous. Then called me names for asking pointed questions for clarity, consistency, etc. I did not message him. He initiated the contact and then told me to "leave him alone"...
3d Like Reply
3
View 2 previous replies
Houston Wade My hope is that he will have...
Ben Boxingclub Houston Wade no one thre...
Shannon Evans Ben Boxingclub it is creepy...
Susan Jeswine Oshea
Lotta things lacking in this man's life. He's going for a long dive down before he finds his bottom.
3d Like Reply
1
Kate Frances
Right. How is this guy not disbarred?
1
Write a comment...
GIF



80% 3:14 PM

Replies

Shannon Evans
On Tuesday of this week he went on a long private rant with me...and lied about who were his clients, how he'd not been arrested or gone to jail, etc ad nauseous. Then called me names for asking pointed questions for clarity, consistency, etc. I did not message him. He initiated the contact and then told me to "leave him alone"...

3d **Like** **Reply** 3

Houston Wade
My hope is that he will have to deal with so many fronts that he will be outflanked legally and socially. Bring him down!

3d Reply

Ben Boxingclub
Houston Wade no one threatens moms !

3d Reply

Shannon Evans
Ben Boxingclub it is creepy and gross what he sent repeatedly to Houston about his mother.

Write a reply... GIF

He is a major gas lighter and angry man who has little or no respect for others, especially women.

3d Like Reply 4



CarolAnn Barrows
Stay safe, **Shannon**. Du Wors is a loose cannon.

3d Like Reply



Houston Wade
My hope is that he will have to deal with so many fronts that he will be outflanked legally and socially. Bring him down!

3d Like Reply 2



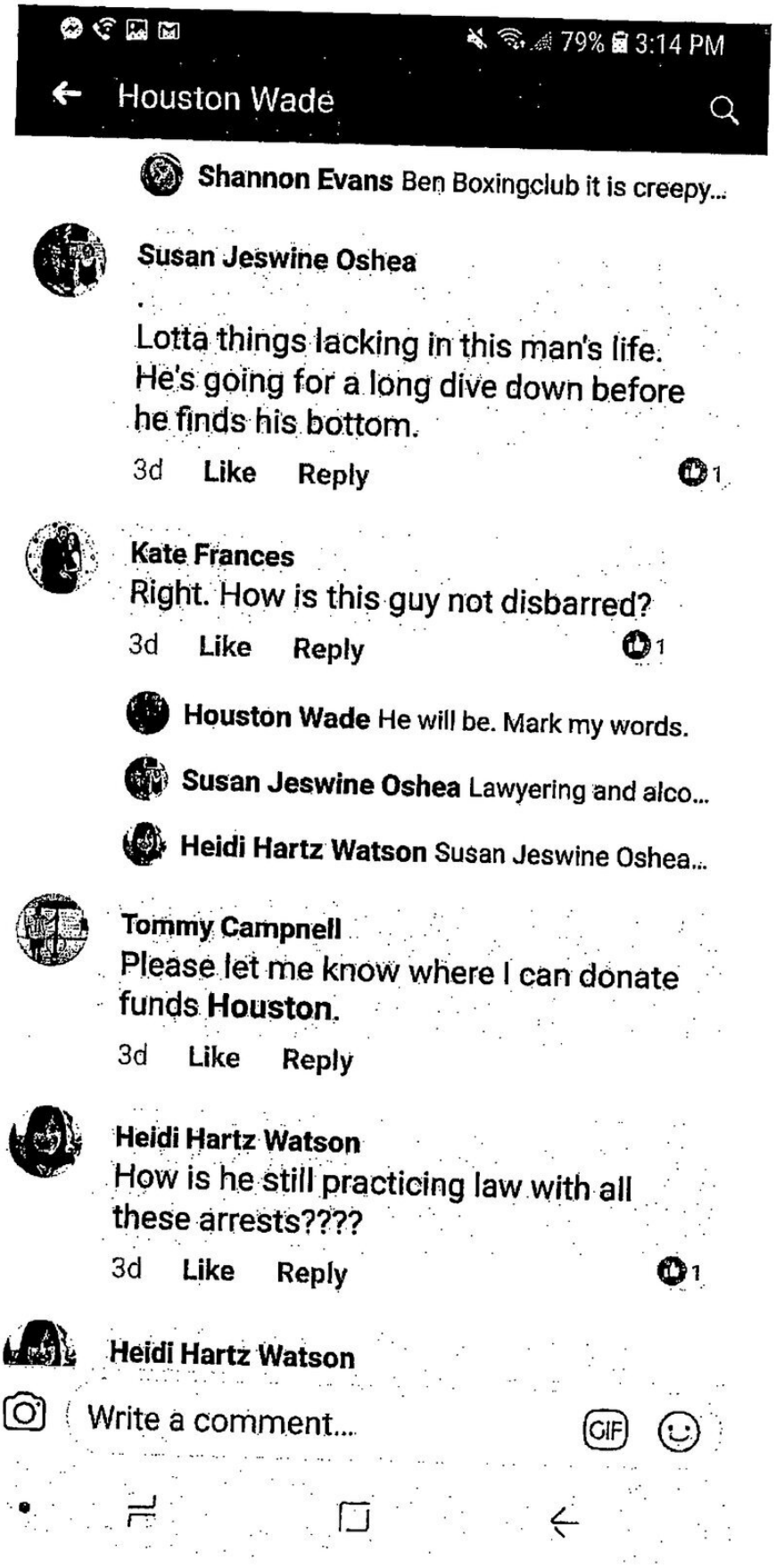
Ben Boxingclub
Houston Wade no one threatens moms !

3d Like Reply 5



Shannon Evans
Ben Boxingclub it is creepy and gross what he sent repeatedly to Houston about his mother.

3d Like Reply



79% 3:14 PM

Houston Wade

Shannon Evans Ben Boxingclub it is creepy...

Susan Jeswine Oshea

Lotta things lacking in this man's life. He's going for a long dive down before he finds his bottom.

3d **Like** **Reply** 1

Kate Frances

Right. How is this guy not disbarred?

3d **Like** **Reply** 1

Houston Wade He will be. Mark my words.

Susan Jeswine Oshea Lawyering and alco...

Heidi Hartz Watson Susan Jeswine Oshea...

Tommy Campnell

Please let me know where I can donate funds **Houston**.

3d **Like** **Reply**

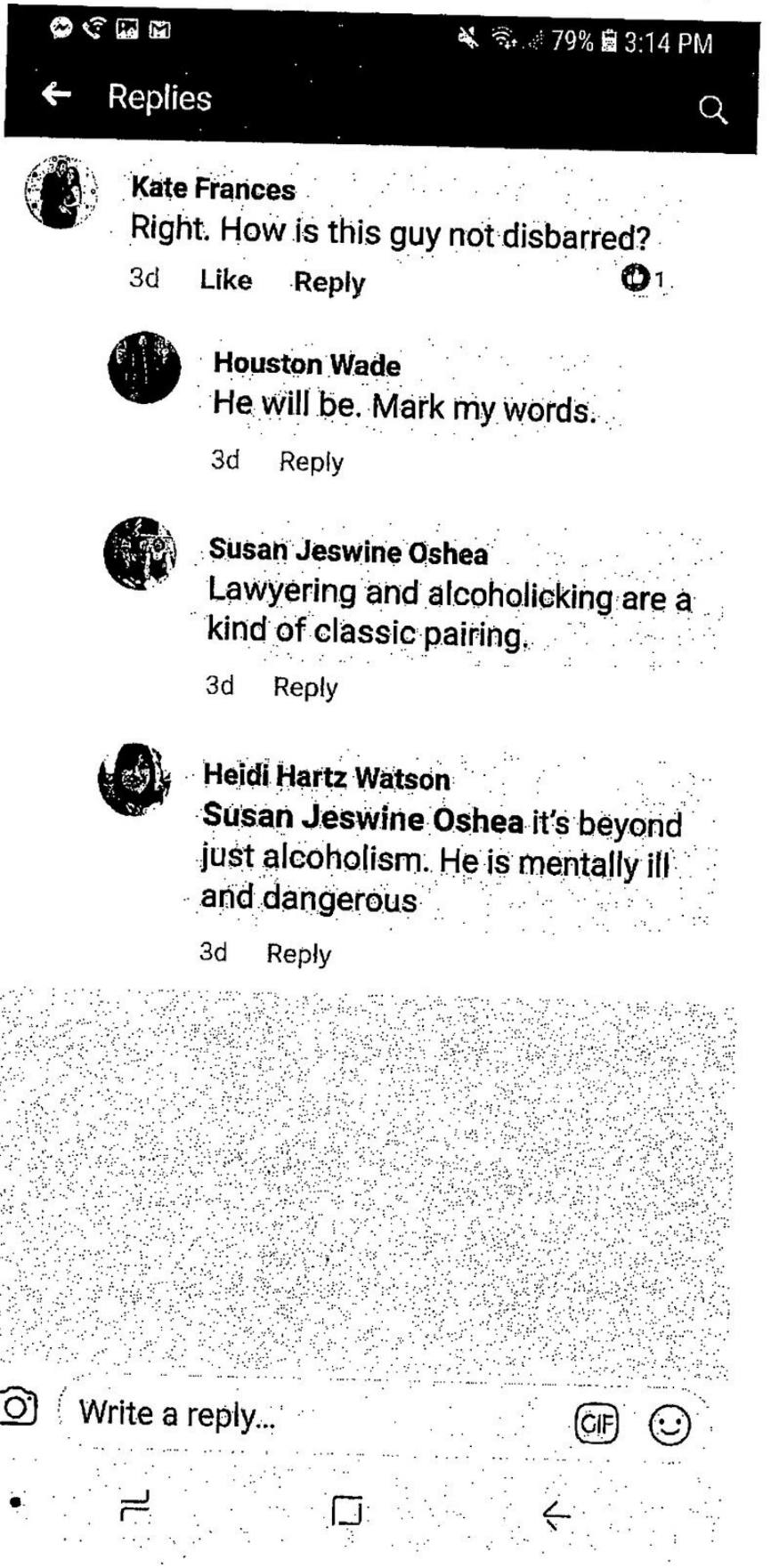
Heidi Hartz Watson

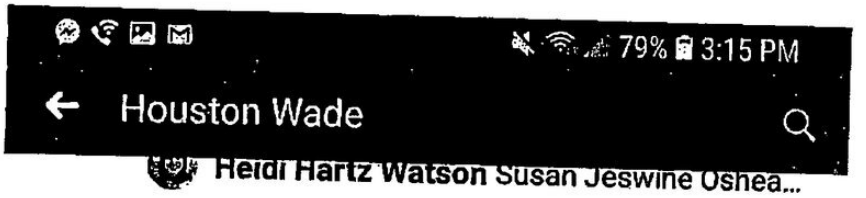
How is he still practicing law with all these arrests????

3d **Like** **Reply** 1

Heidi Hartz Watson

Write a comment... GIF


79% 3:14 PM
Replies
Kate Frances
Right. How is this guy not disbarred?
3d Like Reply 1
Houston Wade
He will be. Mark my words.
3d Reply
Susan Jeswine Oshea
Lawyering and alcoholicking are a kind of classic pairing.
3d Reply
Heidi Hartz Watson
Susan Jeswine Oshea it's beyond just alcoholism. He is mentally ill and dangerous
3d Reply
Write a reply...
GIF



Heidi Hartz Watson Susan Jeswine Oshea...

Tommy Campnell
Please let me know where I can donate funds **Houston.**
3d Like Reply

Heidi Hartz Watson
How is he still practicing law with all these arrests????
3d Like Reply 1

Heidi Hartz Watson
Stephanie Johns Stephens!!!! Omg
3d Like Reply

Stephanie Johns Stephens No kidding.

Heidi Hartz Watson
Voldemort 2
3d Like Reply

Samantha Goakey Lol pure gold and so true

Heidi Hartz Watson replied

Samantha Goakey replied

Houston Wade
Grievance filed.

WASHINGTON STATE

Write a comment... GIF

79% 3:15 PM

Replies

3d Like Reply

Samantha Goakey
Lol pure gold and so true
3d Like Reply 1

Heidi Hartz Watson



3d Like Reply

Samantha Goakey



GIPHY 1
3d Like Reply

Write a reply...

Samantha Goakey Lol pure gold and so true

Heidi Hartz Watson replied

Samantha Goakey replied

Houston Wade
Grievance filed.

WASHINGTON STATE
BAR ASSOCIATION
Office of Disciplinary Counsel

GRIEVANCE AGAINST A LAWYER

Date Received: 10/19/2018 11:41:55 PM
Confirmation Number: 201810190004

INFORMATION ABOUT YOU	INFORMATION ABOUT THE LAWYER
Prefix: Mr.	License Number: 33997
Name: Houston Curry Wade	Name: John David Du Ulora
Address: [redacted] BAINBRIDGE ISLAND, WA 98110 USA	Address: 2101 4th Ave Ste 1500 Seattle, WA 98121-2336 USA
Phone Number: [redacted]	Phone Number: (206) 274-280
Email Address: [redacted]	Email Address: jdu@lanemalaw.com

INFORMATION ABOUT THE GRIEVANCE

7

3d Like Reply

Shannon Evans Curry! I love curry!!!!

Heidi Hartz Watson
Have you informed his law firm?

2d Like Reply

View 1 previous reply

Houston Wade replied

Houston Wade replied

Shannon Evans He is a partner...he may int...

79% 3:15 PM

Replies

Heidi Hartz Watson
Have you informed his law firm?
2d Like Reply

Houston Wade
Yes. 1
2d Like Reply

Houston Wade


Compose

From houstonwade@gmail.com

To

John Du Wore, wife beater.

For your information, your partner John Du Wore is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even touched let alone produced these documents.

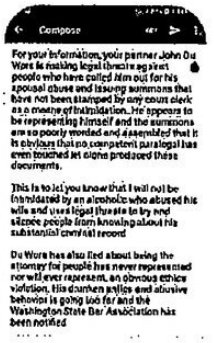
This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.

Du Wore has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the

2

2d Like Reply

Houston Wade


Compose

For your information, your partner John Du Wore is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even touched let alone produced these documents.

This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.

Du Wore has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the Washington State Bar Association has been notified

Write a reply... GIF

79% 3:15 PM

Replies

Houston Wade


Compose

From houstonwade@gmail.com

To [redacted]

John Du Wors, wife beater,

For your information, your partner John Du Wors is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even touched let alone produced these documents.

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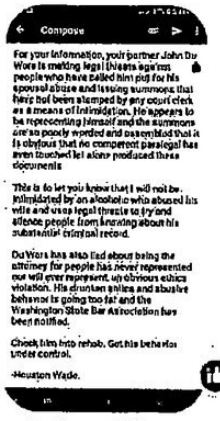
Du Wors has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the

2

2d **Like** **Reply**

Houston Wade


Compose

For your information, your partner John Du Wors is making legal threats against people who have called him out for his spousal abuse and issuing summons that have not been stamped by any court clerk as a means of intimidation. He appears to be representing himself and the summons are so poorly worded and assembled that it is obvious that no competent paralegal has even touched let alone produced these documents

This is to let you know that I will not be intimidated by an alcoholic who abused his wife and uses legal threats to try and silence people from knowing about his substantial criminal record.

Du Wors has also lied about being the attorney for people has never represented nor will ever represent, an obvious ethics violation. His drunken antics and abusive behavior is going too far and the Washington State Bar Association has been notified.

Check him into rehab. Get his behavior under control.

-Houston Wade.

3

2d **Like** **Reply**

Shannon Evans

He is a partner...he may intercept. I think you should send that to each of his partners

2d **Like** **Reply**

1

Write a reply...

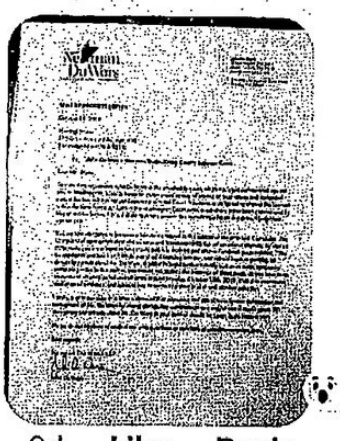
GIF

Houston Wade replied

Shannon Evans He is a partner...he may int...

Elina Halstrum
Creepy.
2d Like Reply

Houston Wade
This is the summons starting with first page. No court clerk has stamped it.



1
2d Like Reply

View 14 previous replies

Houston Wade Are they separate rules for ti...

Marc Lavry I know little about this kind of le...

Houston Wade Good idea!

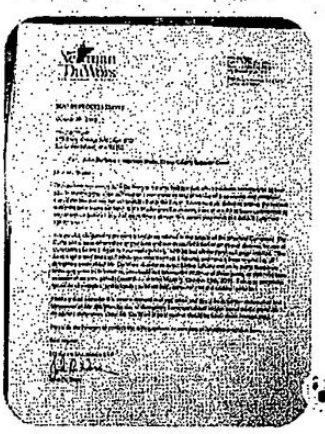
Heidi Hartz Watson
Surely there's an attorney on this thread

79% 3:15 PM

Replies

Houston Wade

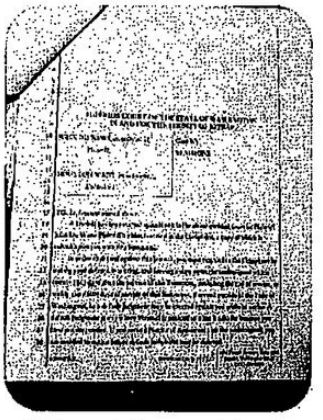
This is the summons starting with first page. No court clerk has stamped it.



1

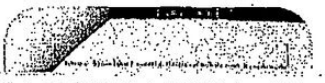
2d **Like** **Reply**

Houston Wade



2d **Like** **Reply**

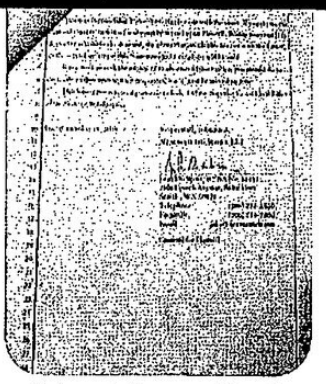
Houston Wade



Write a reply...

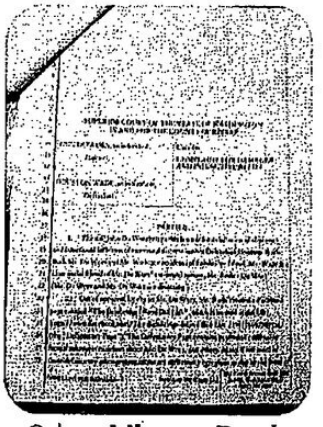
79% 3:15 PM

Replies



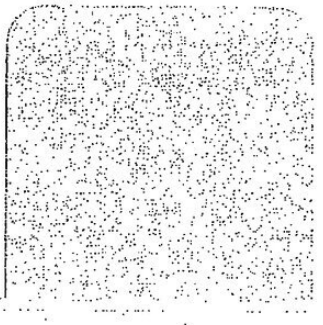
2d Like Reply

Houston Wade



2d Like Reply

Houston Wade

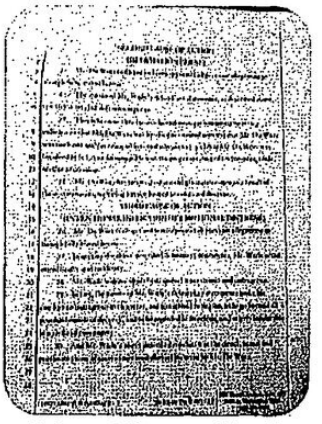


Write a reply...

79% 3:15 PM

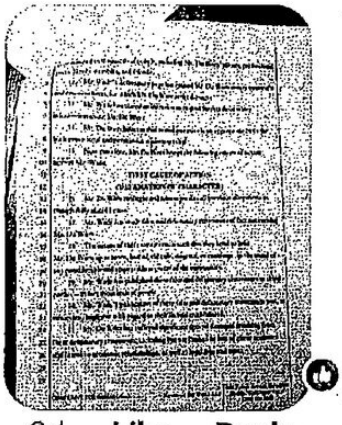
Replies

Houston Wade



2d Like Reply

Houston Wade



1

2d Like Reply

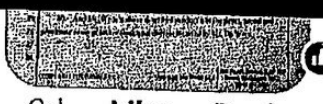
Houston Wade



Write a reply...

79% 3:15 PM

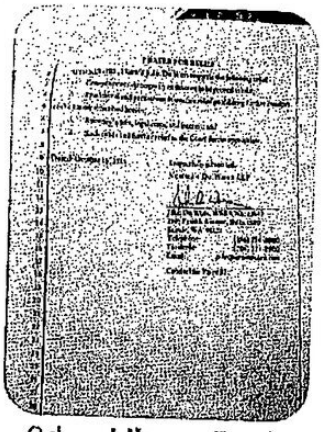
Replies



1

2d Like Reply

Houston Wade



2d Like Reply

Shannon Evans

No case number means he has yet to file it. He might go try and file it Monday...but I'd ask a lawyer friend or paralegal their take

2d Like Reply 1

Houston Wade

This is what the nets say: he has 14 days to file and I have 20 days to respond. https://www.avvo.com/legal-answers/can-i-be-served-without-a-case-been-filed-at

Write a reply... GIF



2d Like Reply



Shannon Evans
And can can order all he wants but with out a clerk of the court or judges seal he is pissing in the wind

2d Like Reply 1



Houston Wade
Can my written response be, "File the suit already, wife beater!"?

2d Like Reply 3



Shannon Evans
Cease and desist letters are useless...except for starting fires in the wood stove or wiping your ass in the outhouse when you run out of TP and seas and Roebuck catalog!

2d Like Reply 2



Houston Wade
Ha!

2d Like Reply



Brian Danzig
Houston - check the Kitsap





Ha!

2d Like Reply



Brian Danzig

Houston - check the Kitsap County rules.

2d Like Reply



Houston Wade

Are they separate rules for time periods between filing suit?

2d Like Reply



Marc Lavry

I know little about this kind of legal fight, but I would suggest that you request a meeting at the district attorney's office to show him the letter. I doubt that they will be very keen to allow an attorney to get away with this. They may agree to make a call to his partners on your behalf.

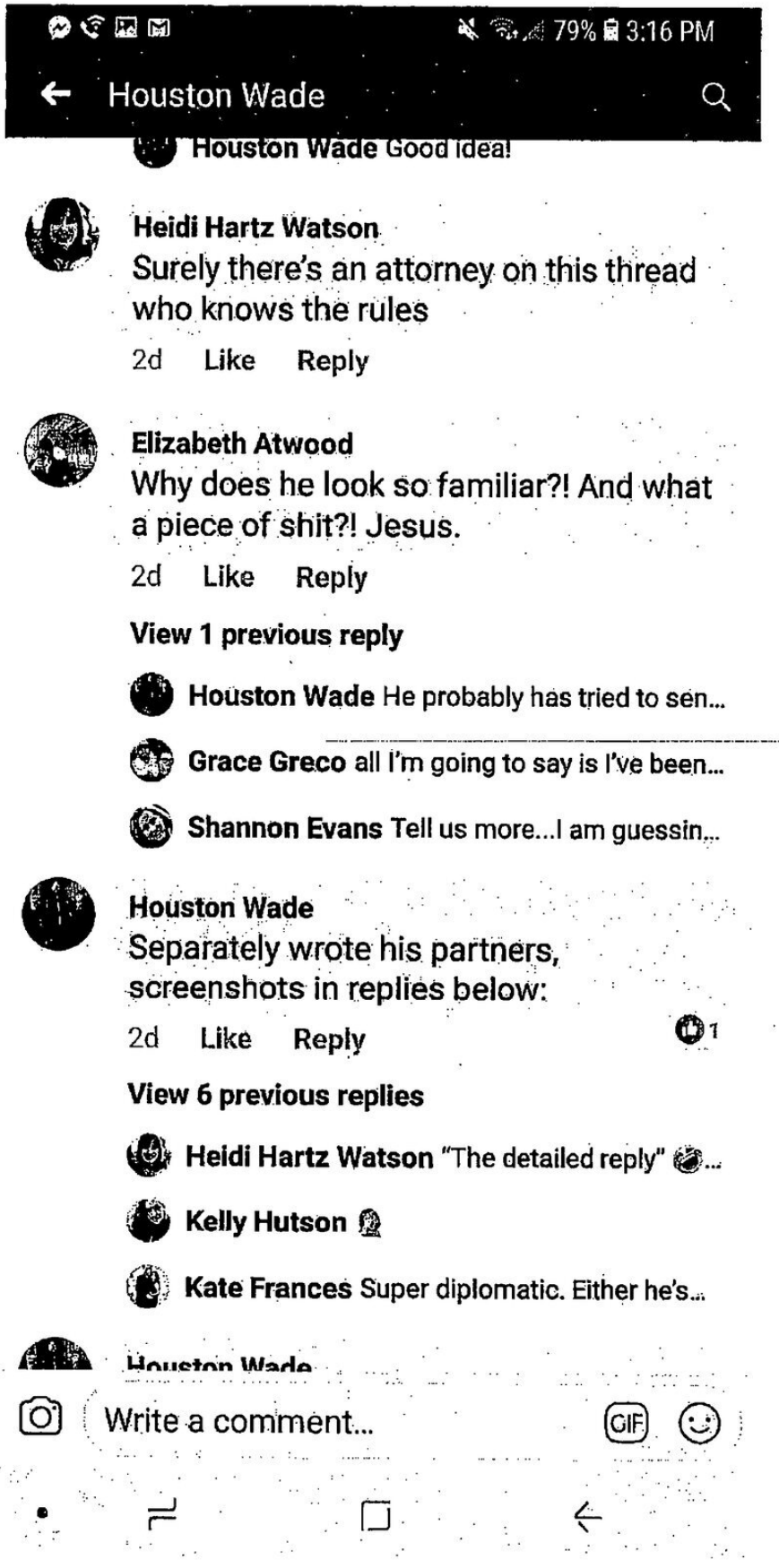
1d Like Reply 1



Houston Wade

Good idea!

1d Like Reply


79% 3:16 PM
Houston Wade
Houston Wade Good idea!
Heidi Hartz Watson
Surely there's an attorney on this thread who knows the rules
2d Like Reply
Elizabeth Atwood
Why does he look so familiar?! And what a piece of shit?! Jesus.
2d Like Reply
View 1 previous reply
Houston Wade He probably has tried to sen...
Grace Greco all I'm going to say is I've been...
Shannon Evans Tell us more...I am guessin...
Houston Wade
Separately wrote his partners, screenshots in replies below:
2d Like Reply
1
View 6 previous replies
Heidi Hartz Watson "The detailed reply" ...
Kelly Hutson
Kate Frances Super diplomatic. Either he's...
Houston Wade
Write a comment...
GIF

79% 3:16 PM

Replies



Elizabeth Atwood
Why does he look so familiar?! And what a piece of shit?! Jesus.
2d Like Reply



Alaina Brooke-Simcoe Seyssel
He looks a little like Stephen Spencer?
2d Like Reply



Houston Wade
He probably has tried to send you lewd messages on the internet. If you have ever used a dating app he has swiped right on you for sure!
1d Like Reply 1



Grace Greco
all I'm going to say is I've been in contact with this man on a website for sugaring.
1d Like Reply



Shannon Evans
Tell us more...I am guessing you are not talking about sugaring from an esthetician's viewpoint?

Write a reply... GIF

79% 3:16 PM

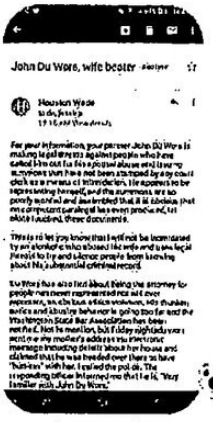
Replies

Houston Wade

Separately wrote his partners, screenshots in replies below:

2d Like Reply 1

Houston Wade



1

2d Like Reply

Houston Wade



1

2d Like Reply

Write a reply...

79% 3:16 PM

Replies

2d Like Reply

Houston Wade



1

2d Like Reply

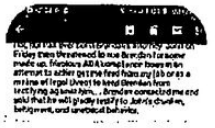
Houston Wade



1

2d Like Reply

Houston Wade



Write a reply...

79% 3:16 PM

Replies

Houston Wade



2

2d Like Reply

Houston Wade



2d Like Reply

Heidi Hartz Watson

"The detailed reply" 🤣😂

2d Like Reply

Write a reply...

2d Like Reply

Houston Wade



2d Like Reply

Heidi Hartz Watson
"The detailed reply"

2d Like Reply

Kelly Hutson



2d Like Reply

Kate Frances
Super diplomatic. Either he's going to blow you off or he is also not surprised.

1d Like Reply 2

Houston Wade
As far as I can tell I am not in the docket for tomorrow. **Brian Danzig**, where else would I look?
https://www.kitsapgov.com/sc/Pages/Daily-Calendar.aspx

2d **Like** **Reply** 2

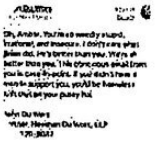
View 3 previous replies

Houston Wade Find yet another calendar. S...

Brian Danzig There is no requirement to file...

Brian Danzig However, in order to actually li...

Houston Wade
Try this one:
https://www.reddit.com/comments/9q897p 3



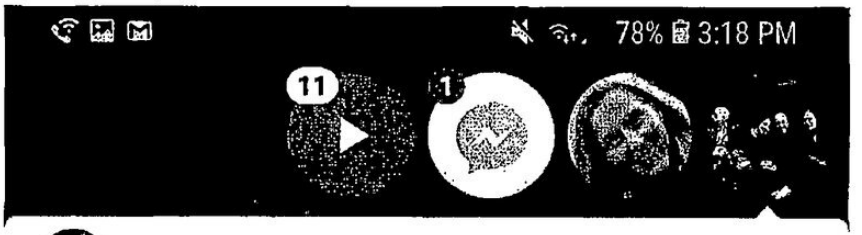
REDDIT.COM

This is what misogyny looks like • r/Feminism

1d **Like** **Reply**

Christopher Grantham
Houston, what's this got to do with Stephen Miller?

1d Haha **Reply** 1



John

Houston. Would you be willing to chat with my friend Brian? Brian's ex-wife has become romantically involved with Bill Nelson. She does not appear to know about Nelson's past. Brian is worried about the safety of his children, who are around Nelson a great deal now. Brian wants to warn his ex about Nelson's character, but needs more information.

2:04 PM

Wade Issued TRO.pdf

2:17 PM

Let me know if you want to discuss settlement with my attorney.

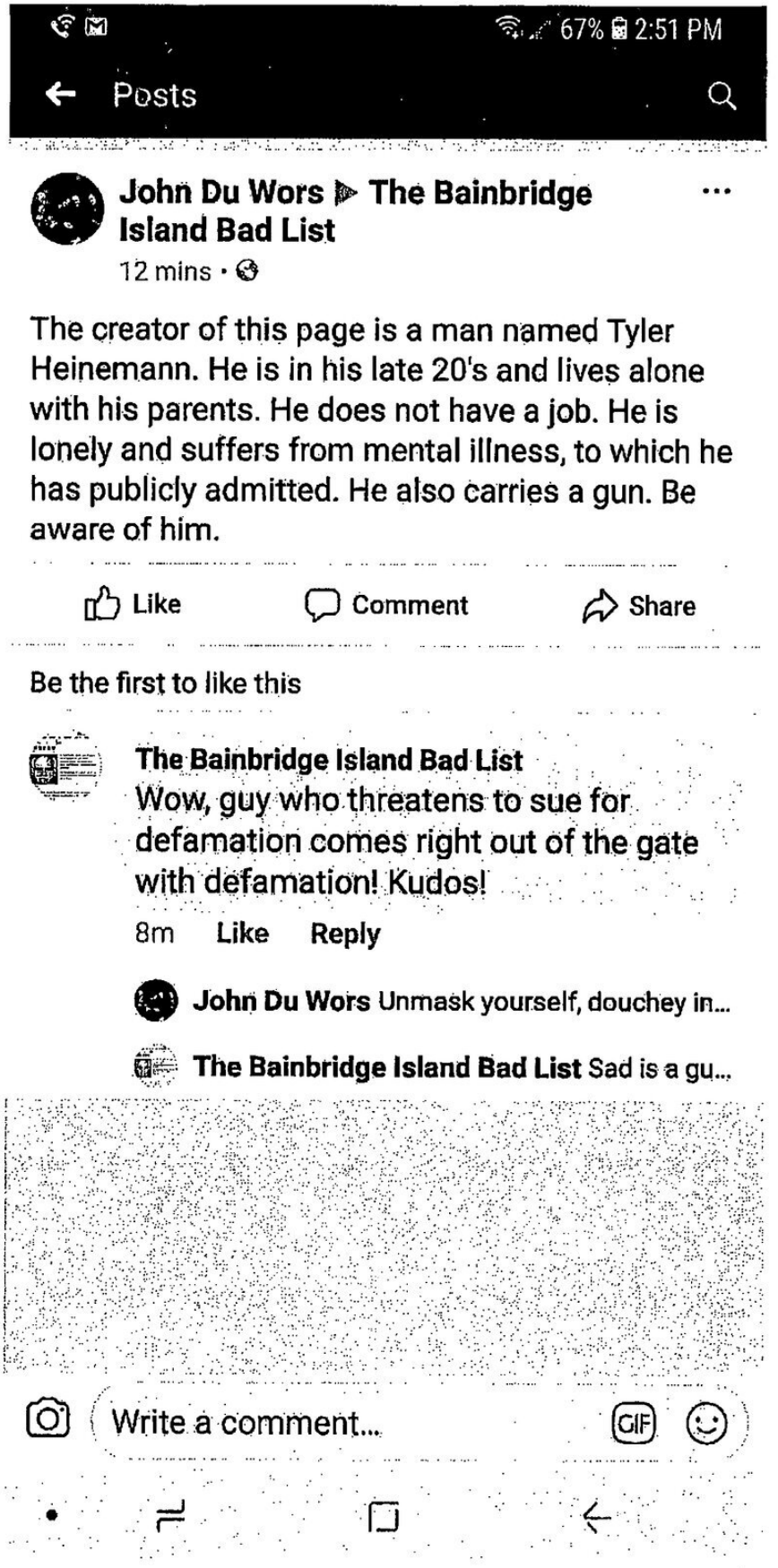
Sent from web

If you reply, John will be able to call you and see information like your Active Status and when you've read messages.

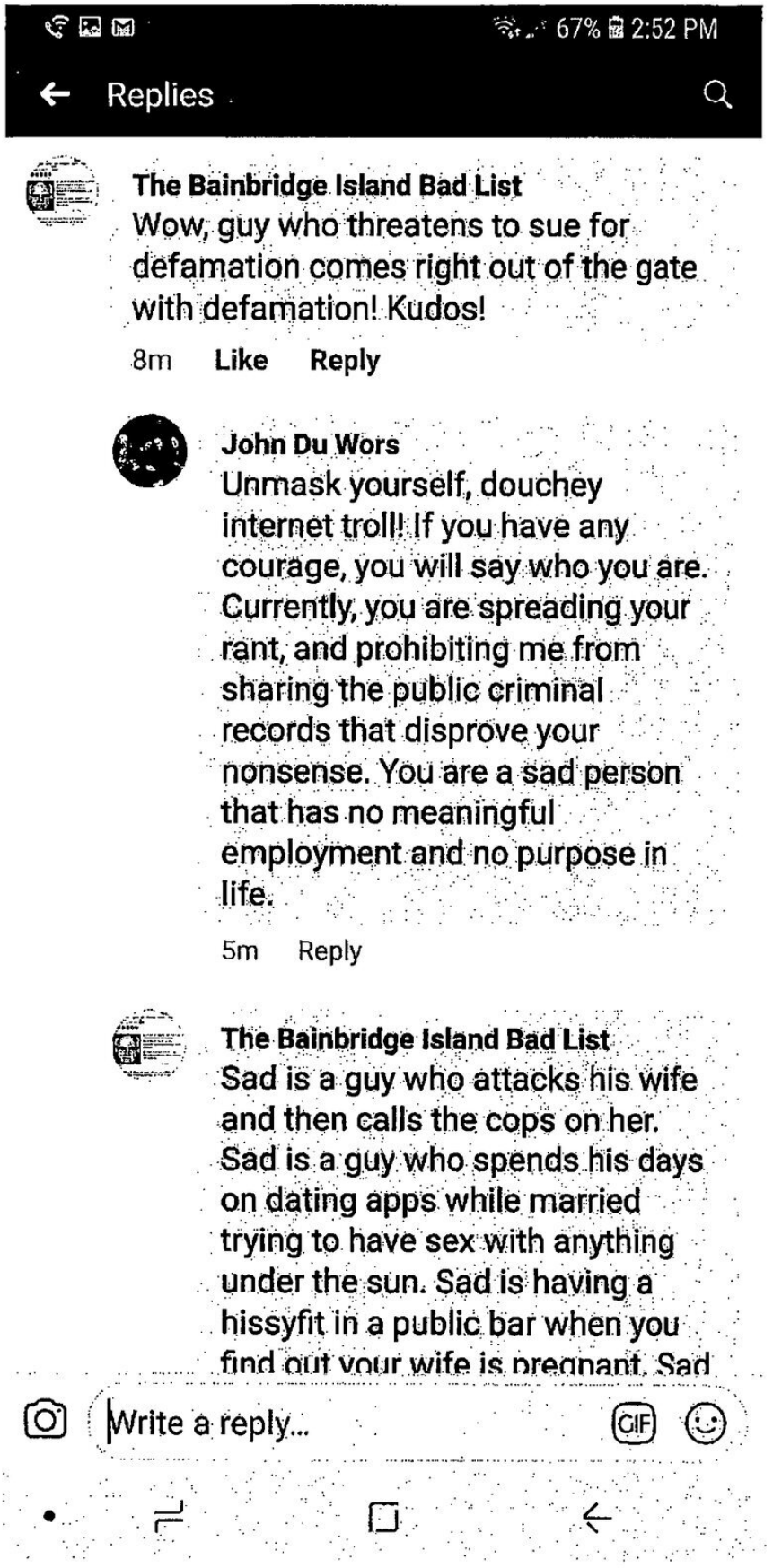
I DON'T WANT TO HEAR FROM JOHN

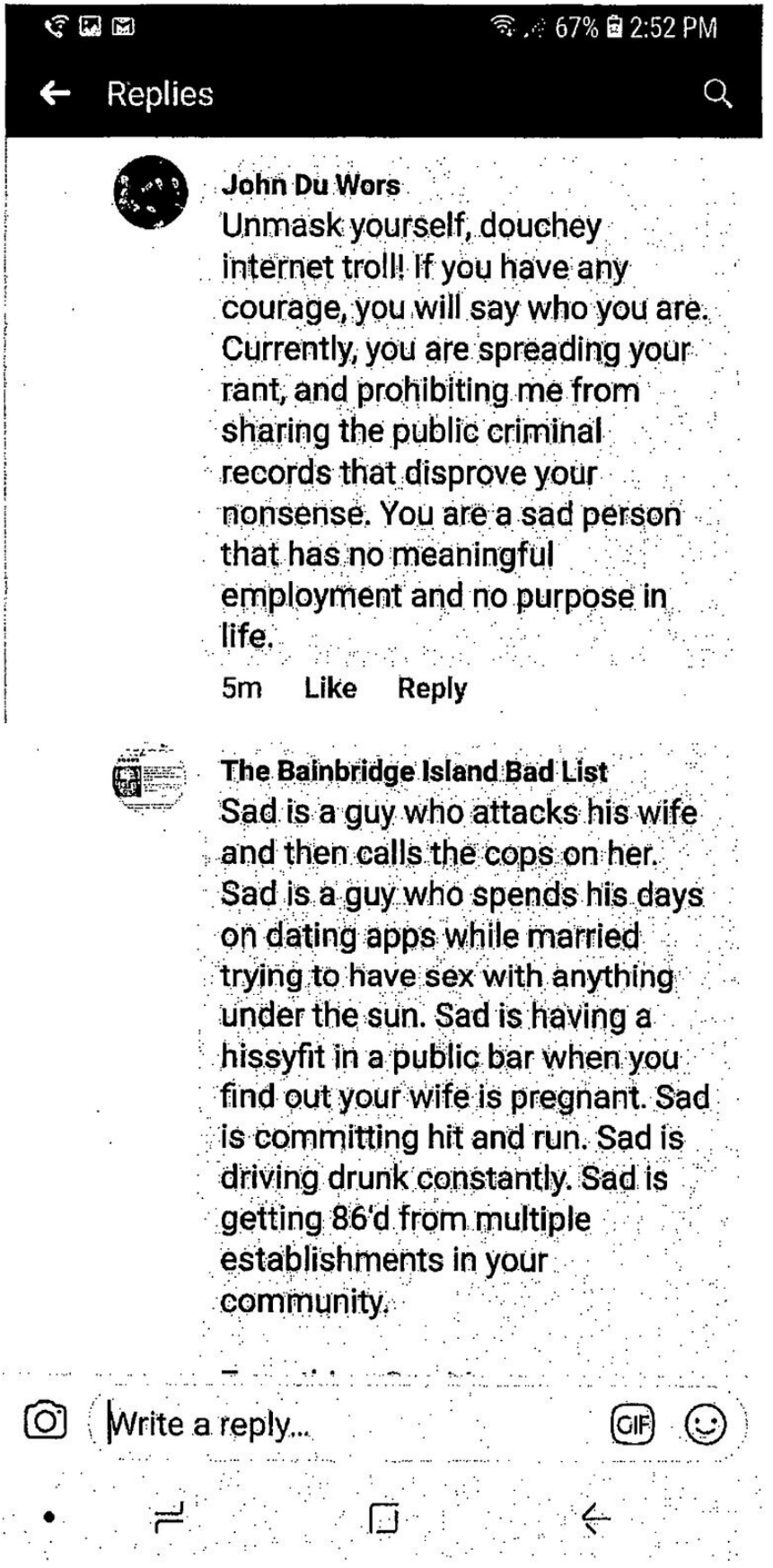
Aa

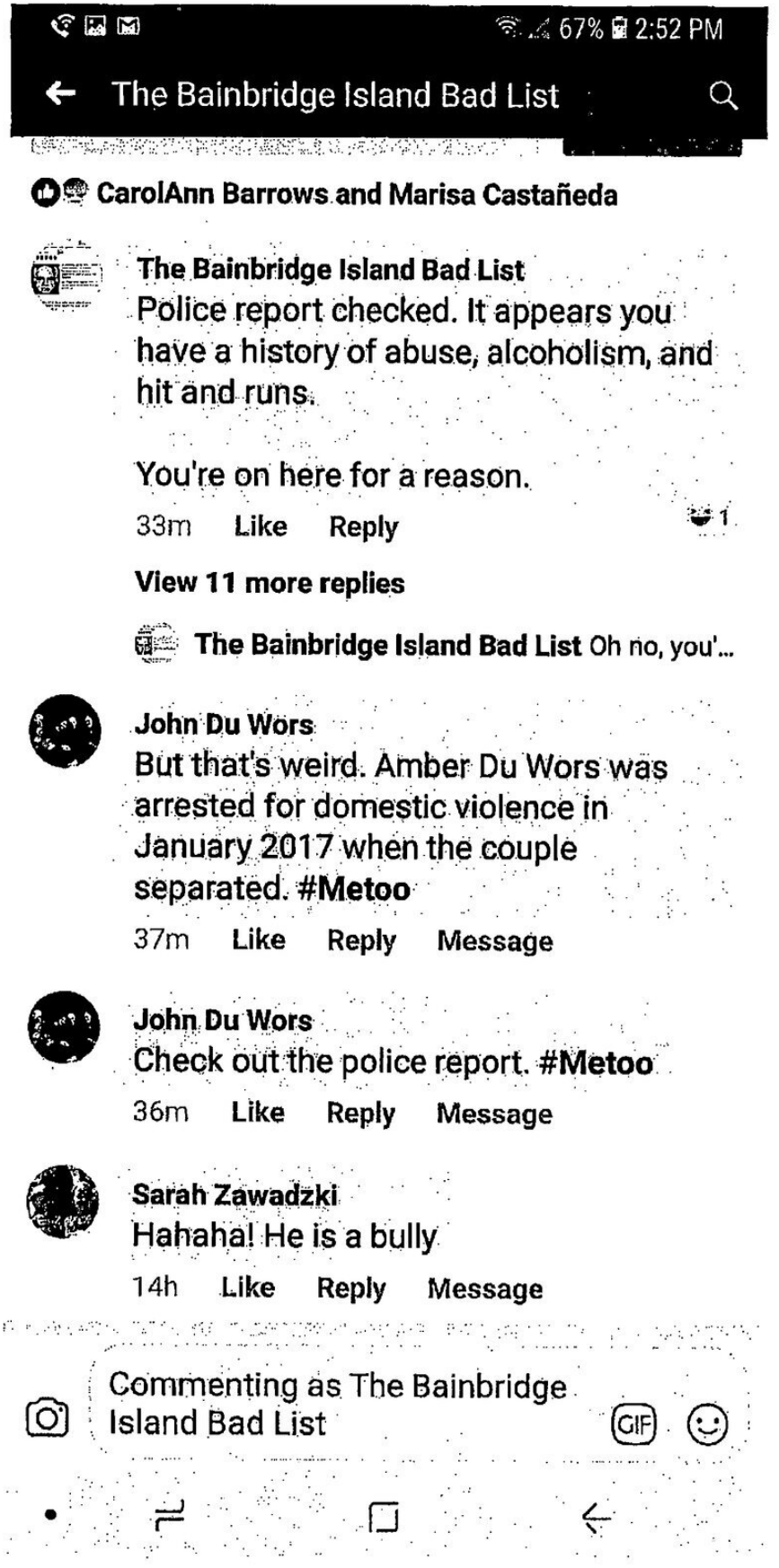
FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

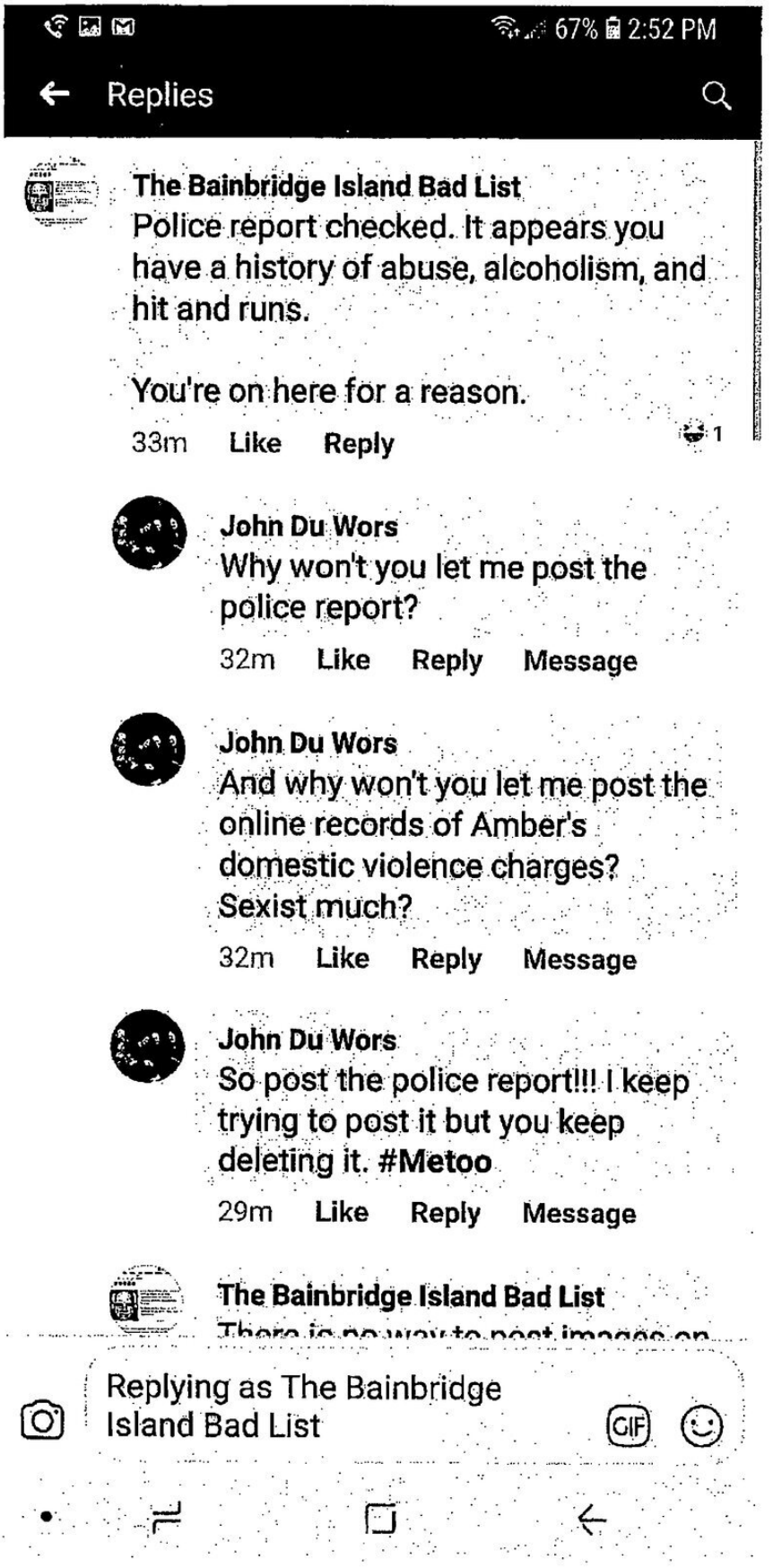


RESPONDENT	Exhibit# R-10
Case: 46-18	Date: 11-6-18
☒ Admitted	☐ Not Admitted


67% 2:52 PM
Replies
The Bainbridge Island Bad List
Wow, guy who threatens to sue for defamation comes right out of the gate with defamation! Kudos!
8m Like Reply
John Du Wors
Unmask yourself, douchey internet troll! If you have any courage, you will say who you are. Currently, you are spreading your rant, and prohibiting me from sharing the public criminal records that disprove your nonsense. You are a sad person that has no meaningful employment and no purpose in life.
5m Reply
The Bainbridge Island Bad List
Sad is a guy who attacks his wife and then calls the cops on her. Sad is a guy who spends his days on dating apps while married trying to have sex with anything under the sun. Sad is having a hissyfit in a public bar when you find out your wife is pregnant. Sad
Write a reply...
GIF


67% 2:52 PM
Replies
John Du Wors
Unmask yourself, douchey internet troll! If you have any courage, you will say who you are. Currently, you are spreading your rant, and prohibiting me from sharing the public criminal records that disprove your nonsense. You are a sad person that has no meaningful employment and no purpose in life.
5m Like Reply
The Bainbridge Island Bad List
Sad is a guy who attacks his wife and then calls the cops on her. Sad is a guy who spends his days on dating apps while married trying to have sex with anything under the sun. Sad is having a hissyfit in a public bar when you find out your wife is pregnant. Sad is committing hit and run. Sad is driving drunk constantly. Sad is getting 86'd from multiple establishments in your community.
Write a reply...
GIF


67% 2:52 PM
The Bainbridge Island Bad List
CarolAnn Barrows and Marisa Castañeda
The Bainbridge Island Bad List
Police report checked. It appears you have a history of abuse, alcoholism, and hit and runs.
You're on here for a reason.
33m Like Reply
1
View 11 more replies
The Bainbridge Island Bad List Oh no, you'...
John Du Wors
But that's weird. Amber Du Wors was arrested for domestic violence in January 2017 when the couple separated. #Metoo
37m Like Reply Message
John Du Wors
Check out the police report. #Metoo
36m Like Reply Message
Sarah Zawadzki
Hahaha! He is a bully
14h Like Reply Message
Commenting as The Bainbridge Island Bad List
GIF


67% 2:52 PM
Replies
The Bainbridge Island Bad List
Police report checked. It appears you have a history of abuse, alcoholism, and hit and runs.
You're on here for a reason.
33m Like Reply
1
John Du Wors
Why won't you let me post the police report?
32m Like Reply Message
John Du Wors
And why won't you let me post the online records of Amber's domestic violence charges? Sexist much?
32m Like Reply Message
John Du Wors
So post the police report!!! I keep trying to post it but you keep deleting it. #Metoo
29m Like Reply Message
The Bainbridge Island Bad List
Replying as The Bainbridge Island Bad List
GIF


67% 2:52 PM
Replies
So post the police report!!! I keep trying to post it but you keep deleting it. #Metoo
29m Like Reply Message
The Bainbridge Island Bad List
There is no way to post images on page like this. Oh well. Welcome to post links all day, and then we will post links to your arrest record. I am sure a man who has an active Tinder profile during his marriage has lots of excuses for his behavior. I am sure there is some sort of excuse for countless belittling and threatening messages he sends his estranged wife repeatedly.
I am sure threatening... See More
27m Like Reply
John Du Wors
So here's what happens to you now. I'm sending a subpoena to Facebook. Even if you used a fake name to create this web page, Facebook will have the IP address from which you created this page.
Replying as The Bainbridge Island Bad List
GIF

name to create this web page, Facebook will have the IP address from which you created this page. The IP address will trace back to your computer or home internet connection. Based on that, you will be sued for defamation. You are either my ex wife or her friend. And this is sad.

22m Like Reply Message



James Worthington
John Du Wors I didn't know private individuals can send subpoenas? Neat! I'm gonna subpoena all my friends for beers later

14m Like Reply



The Bainbridge Island Bad List
Oh no, you're going to sue for defamation?! Doesn't that require something untrue to be said or published first? Good luck with that, wife beater. Bring it on, we look forward to parading dozens of corroborating and character witnesses showing just what a horrible liar and abusive person

The Bainbridge Island Bad List
Oh no, you're going to sue for defamation?! Doesn't that require something untrue to be said or published first? Good luck with that, wife beater. Bring it on, we look forward to parading dozens of corroborating and character witnesses showing just what a horrible liar and abusive person you are. Should be memorable!

11m **Like** **Reply**

John Du Wors
James Worthington You didn't know private individuals can send subpoenas? That's sad for you.

10m **Like** **Reply** **Message**

John Du Wors
The Bainbridge Island Bad List
The lawsuit comes now. And if you were a person of any courage, you would post your identity so that your credibility could be evaluated.

8m **Like** **Reply** **Message**

The Bainbridge Island Bad List
The lawsuit comes now. And if you were a person of any courage, you would post your identity so that your credibility could be evaluated.

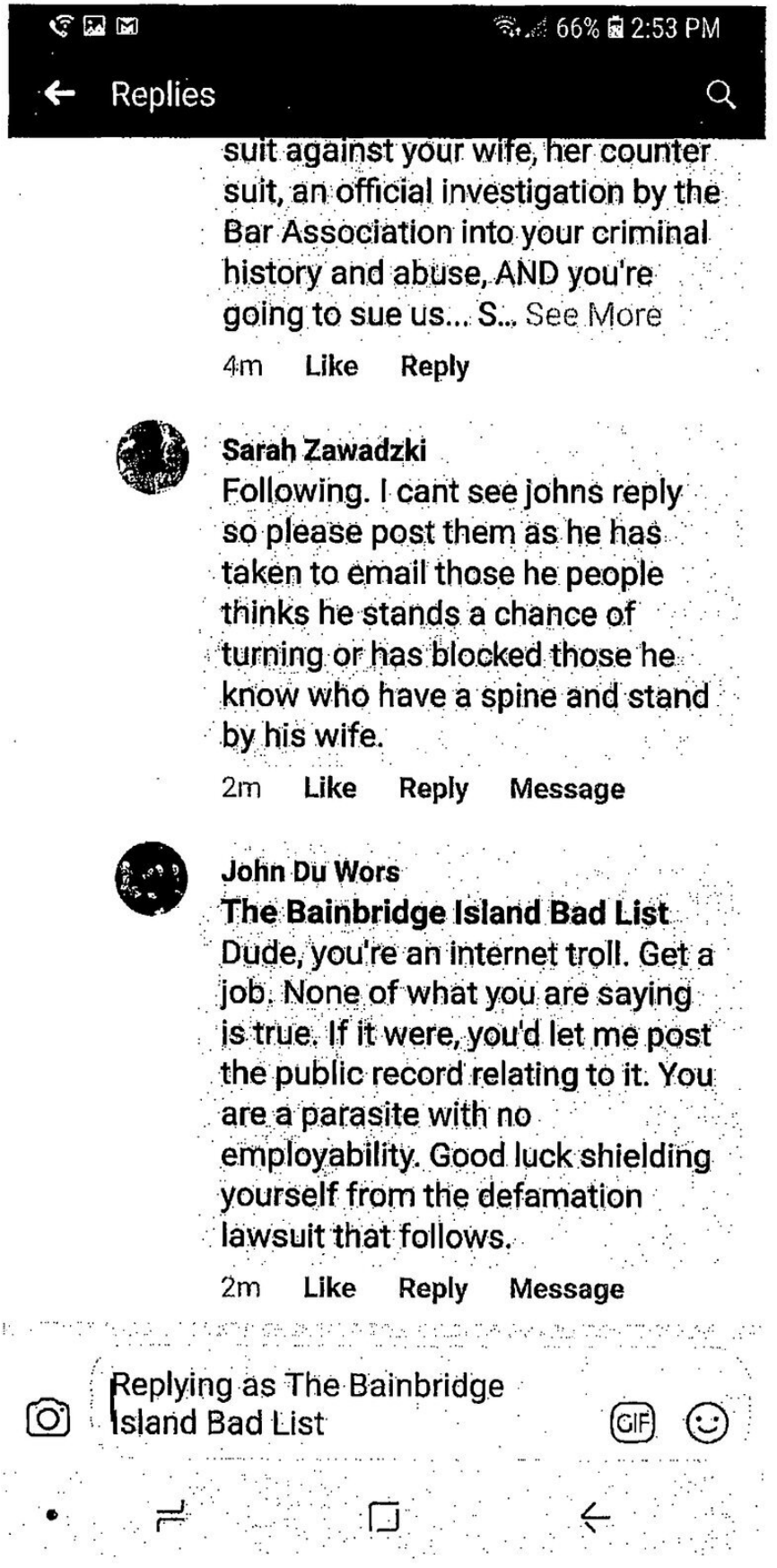
8m **Like** **Reply** **Message**

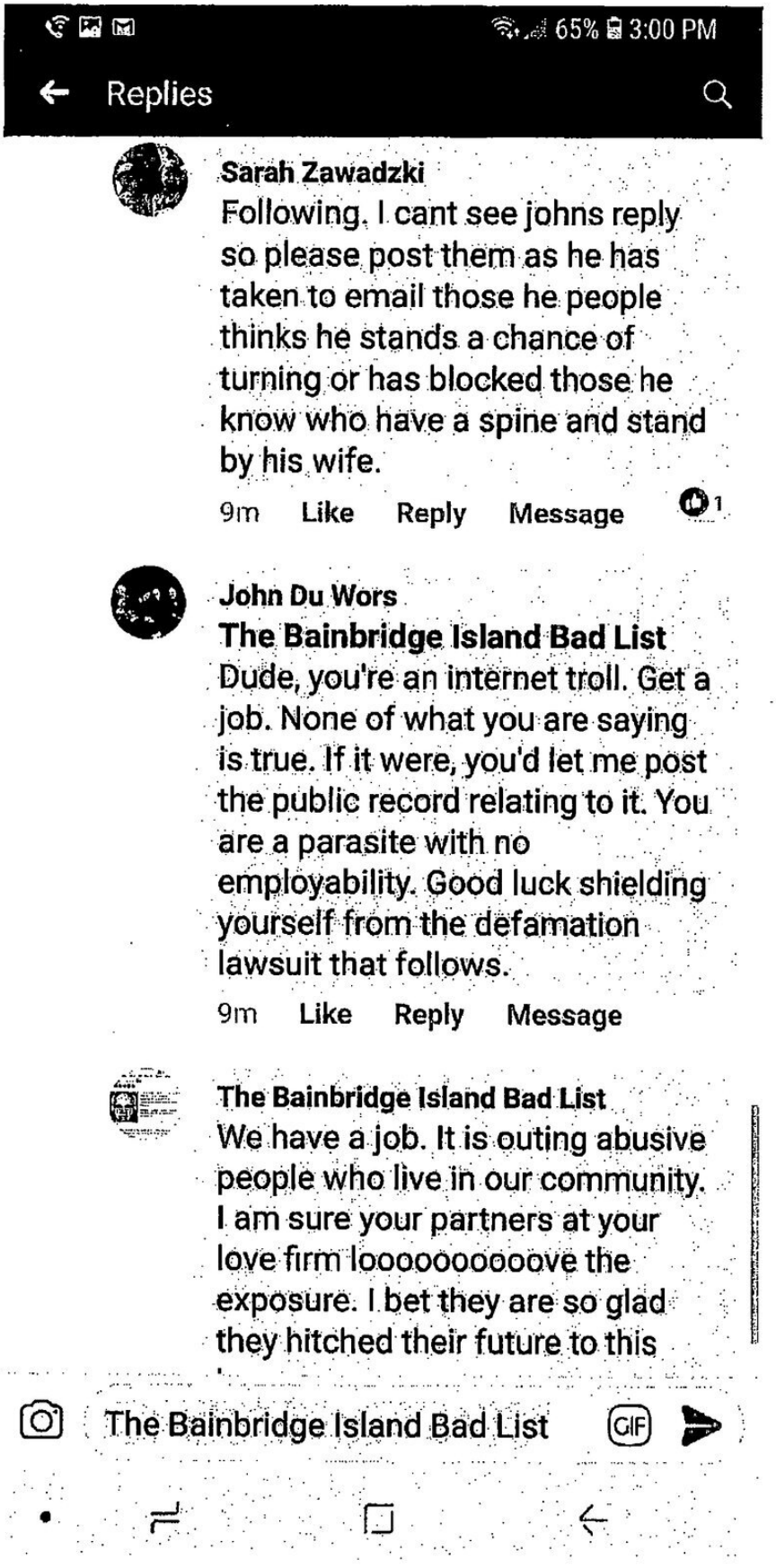
The Bainbridge Island Bad List
No, we like that you have to do it the expensive way. Enjoy. I am sure the Bar Association will love to hear about what a stand up dude you are.

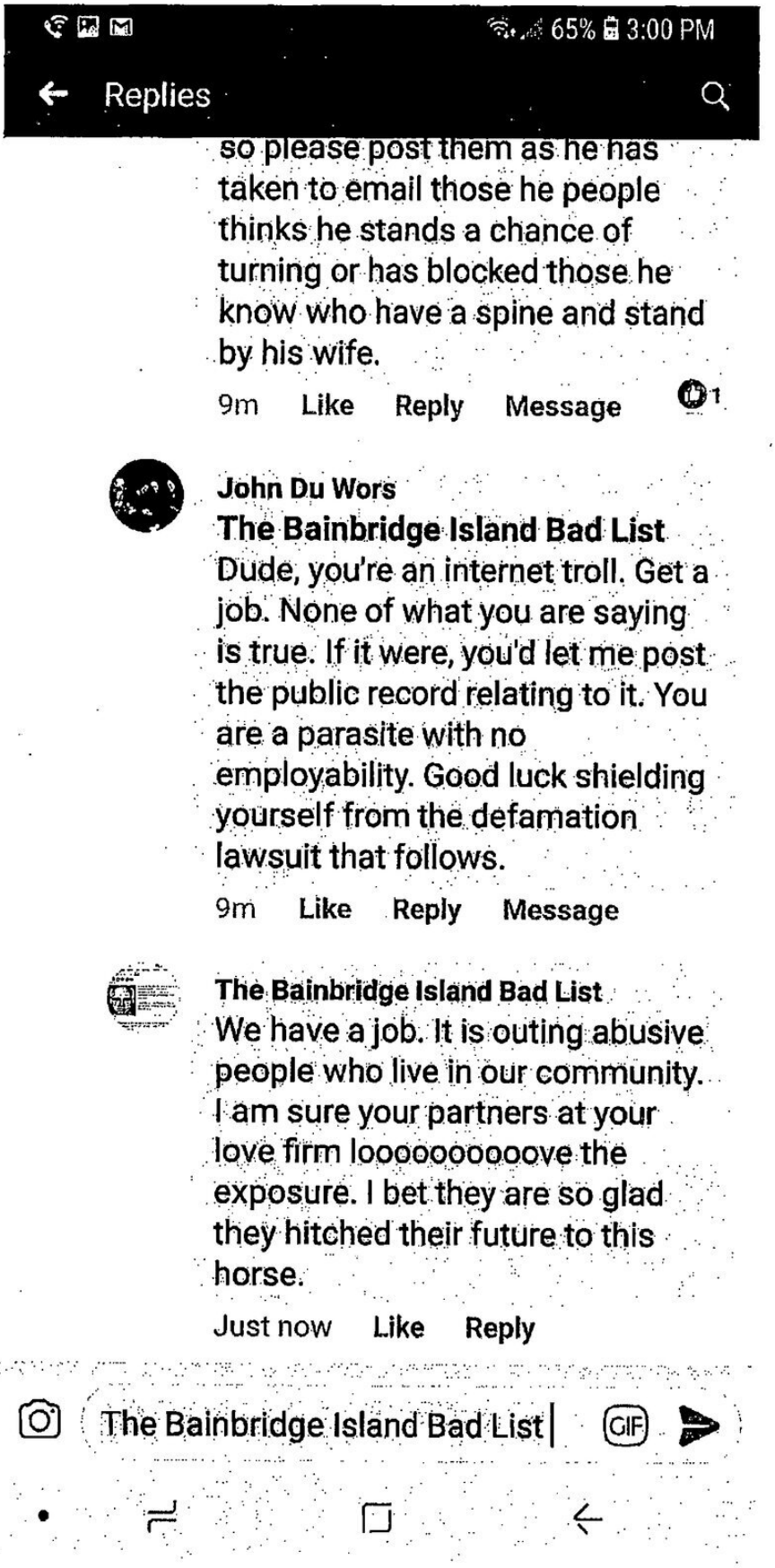
Let's see, all at the same time you're going to have juggle a divorce, a frivolous harassment suit against your wife, her counter suit, an official investigation by the Bar Association into your criminal history and abuse, AND you're going to sue us... S... See More

4m **Like** **Reply**

Sarah Zawadzki
Following. I cant see johns reply so please post them as he has taken to email those he people


66% 2:53 PM
Replies
suit against your wife, her counter suit, an official investigation by the Bar Association into your criminal history and abuse, AND you're going to sue us... S... See More
4m Like Reply
Sarah Zawadzki
Following. I cant see johns reply so please post them as he has taken to email those he people thinks he stands a chance of turning or has blocked those he know who have a spine and stand by his wife.
2m Like Reply Message
John Du Wors
The Bainbridge Island Bad List
Dude, you're an internet troll. Get a job. None of what you are saying is true. If it were, you'd let me post the public record relating to it. You are a parasite with no employability. Good luck shielding yourself from the defamation lawsuit that follows.
2m Like Reply Message
Replying as The Bainbridge Island Bad List
GIF


65% 3:00 PM
Replies
Sarah Zawadzki
Following. I cant see johns reply so please post them as he has taken to email those he people thinks he stands a chance of turning or has blocked those he know who have a spine and stand by his wife.
9m Like Reply Message
1
John Du Wors
The Bainbridge Island Bad List
Dude, you're an internet troll. Get a job. None of what you are saying is true. If it were, you'd let me post the public record relating to it. You are a parasite with no employability. Good luck shielding yourself from the defamation lawsuit that follows.
9m Like Reply Message
The Bainbridge Island Bad List
We have a job. It is outing abusive people who live in our community. I am sure your partners at your love firm looooooooove the exposure. I bet they are so glad they hitched their future to this
The Bainbridge Island Bad List
GIF


65% 3:00 PM
Replies
so please post them as he has taken to email those he people thinks he stands a chance of turning or has blocked those he know who have a spine and stand by his wife.
9m Like Reply Message 1
John Du Wors
The Bainbridge Island Bad List
Dude, you're an internet troll. Get a job. None of what you are saying is true. If it were, you'd let me post the public record relating to it. You are a parasite with no employability. Good luck shielding yourself from the defamation lawsuit that follows.
9m Like Reply Message
The Bainbridge Island Bad List
We have a job. It is outing abusive people who live in our community. I am sure your partners at your love firm looooooooove the exposure. I bet they are so glad they hitched their future to this horse.
Just now Like Reply
The Bainbridge Island Bad List
GIF

65% 3:01 PM

Replies

Everythin... See More

9m **Like** **Reply**

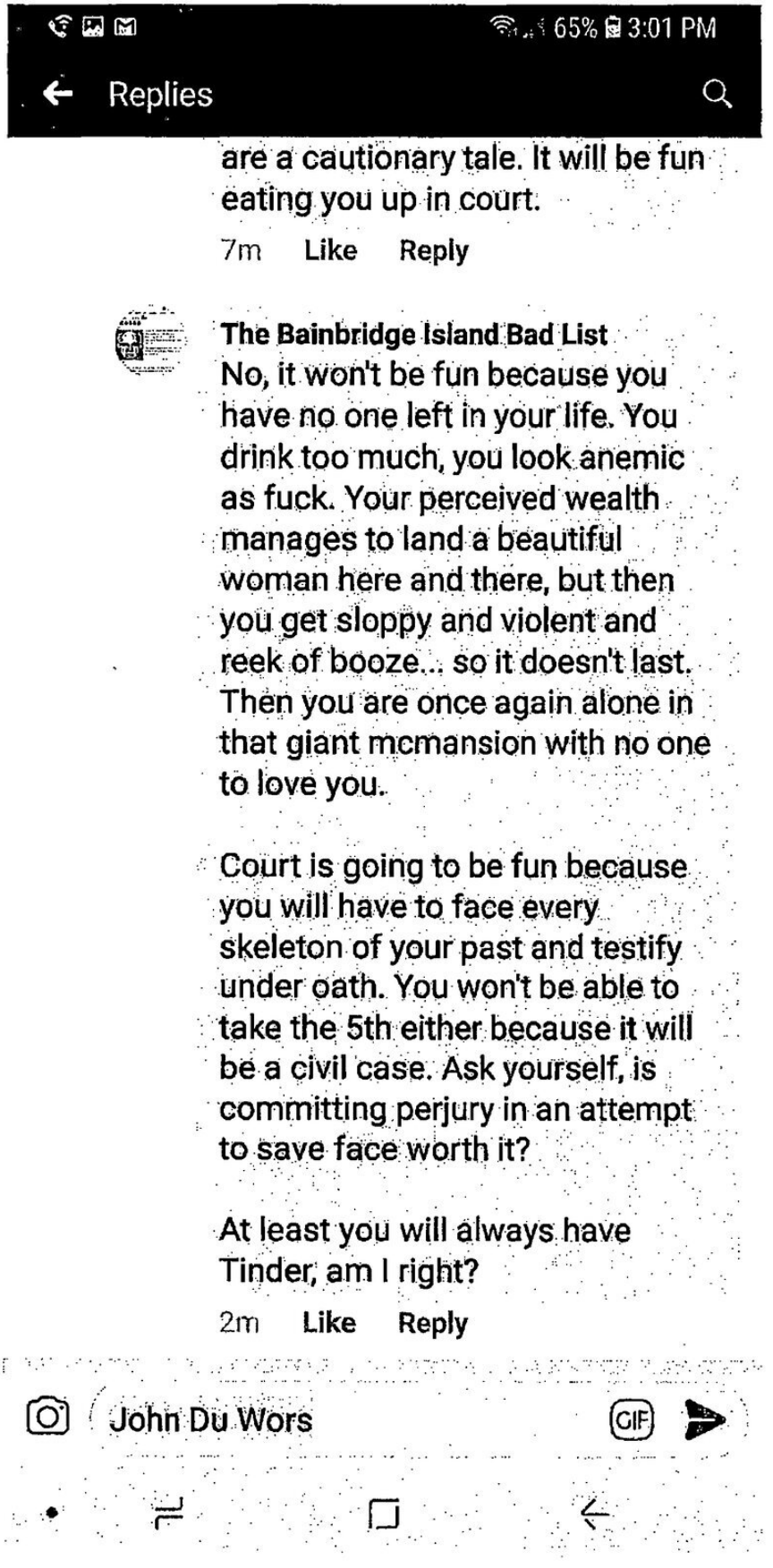
John Du Wors
The Bainbridge Island Bad List
You now lack all credibility. You are a Jerry Springer episode. You are a cautionary tale. It will be fun eating you up in court.

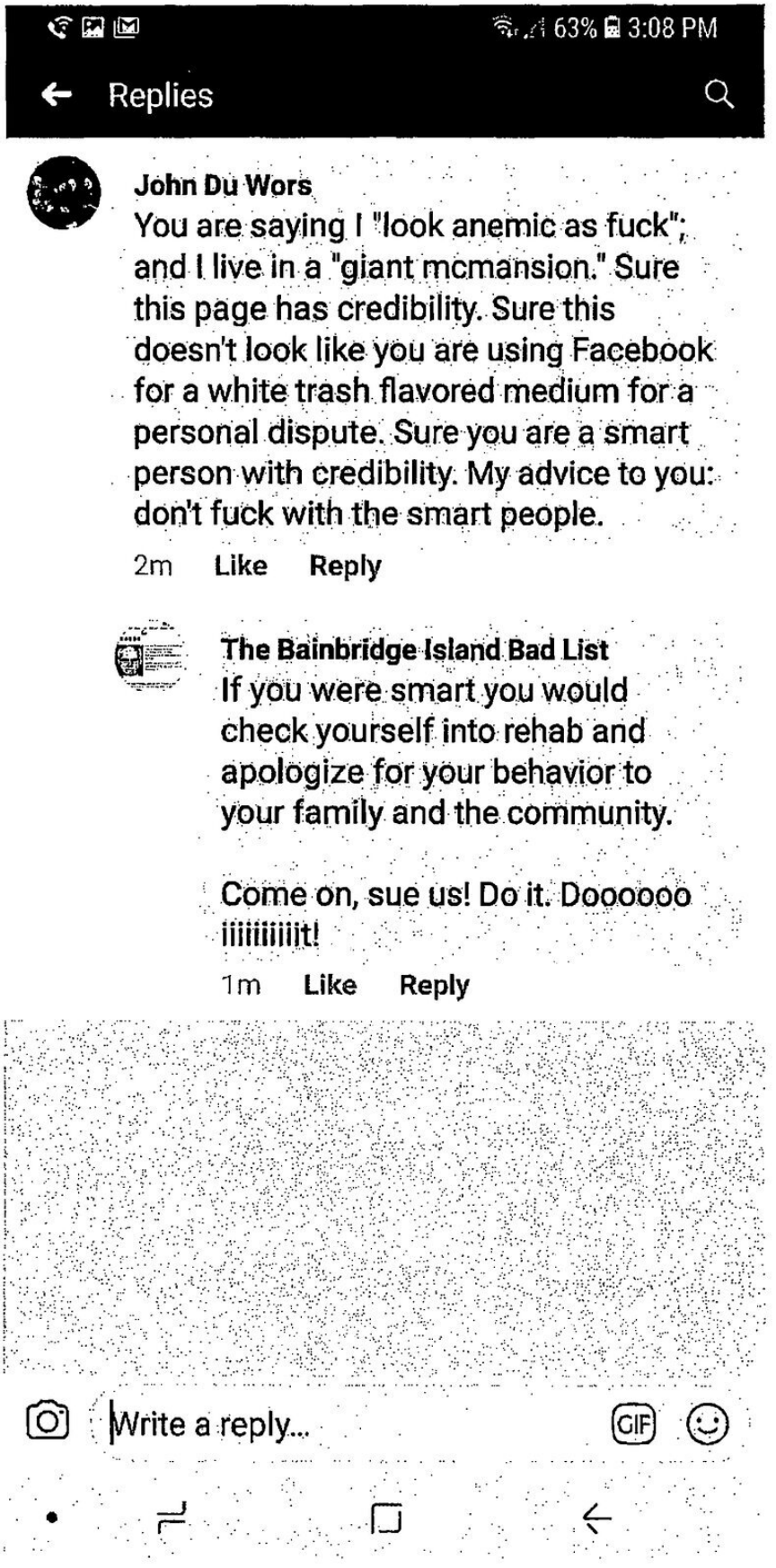
7m **Like** **Reply**

The Bainbridge Island Bad List
No, it won't be fun because you have no one left in your life. You drink too much, you look anemic as fuck. Your perceived wealth manages to land a beautiful woman here and there, but then you get sloppy and violent and reek of booze... so it doesn't last. Then you are once again alone in that giant mcmansion with no one to love you.

Court is going to be fun because you will have to face every skeleton of your past and testify under oath. You won't be able to take the 5th either because it will

John Du Wors


65% 3:01 PM
Replies
are a cautionary tale. It will be fun eating you up in court.
7m Like Reply
The Bainbridge Island Bad List
No, it won't be fun because you have no one left in your life. You drink too much, you look anemic as fuck. Your perceived wealth manages to land a beautiful woman here and there, but then you get sloppy and violent and reek of booze... so it doesn't last. Then you are once again alone in that giant mcmansion with no one to love you.
Court is going to be fun because you will have to face every skeleton of your past and testify under oath. You won't be able to take the 5th either because it will be a civil case. Ask yourself, is committing perjury in an attempt to save face worth it?
At least you will always have Tinder, am I right?
2m Like Reply
John Du Wors
GIF


63% 3:08 PM
Replies
John Du Wors
You are saying I "look anemic as fuck"; and I live in a "giant mcmansion." Sure this page has credibility. Sure this doesn't look like you are using Facebook for a white trash flavored medium for a personal dispute. Sure you are a smart person with credibility. My advice to you: don't fuck with the smart people.
2m Like Reply
The Bainbridge Island Bad List
If you were smart you would check yourself into rehab and apologize for your behavior to your family and the community.
Come on, sue us! Do it. Doooooo iiiiiiiiit!
1m Like Reply
Write a reply...
GIF

3h Like Reply



John Du Wors
The Bainbridge Island Bad List I will. Admit your name. I'll get it anyway. But if you weren't a coward, you would just admit your identity. Or are you too cowardly to stand by your assertions? If you are being truthful, why not say who you are? If you hide your identity, as I assume you will, I will conclude, as should everyone else, that you are unwilling to stand by the truth of your assertions.

3h Like Reply



The Bainbridge Island Bad List
If you were being truthful then why did your case against your wife get thrown out and you get slapped with lying to a cop?

3h Like Reply



John Du Wors
The Bainbridge Island Bad List Ah but that's another example of your ignorance. My wife's case against me failed. Her domestic violence

3h Like Reply

John Du Wors
The Bainbridge Island Bad List Ah but that's another example of your ignorance. My wife's case against me failed. Her domestic violence allegations were rejected. I got everything I wanted from the judge. I'm happy to send you the order. I'd post it here but you won't let me. And that is because truth does not matter to you.

3h Like Reply

The Bainbridge Island Bad List
Weird, when I look at the court records from 8/19/2014 it shows you plead guilty to 4th degree assault... You are also found to be guilty of hit and run on 4/24/18 with your obstruction of a public officer being deferred.

3h Like Reply

John Du Wors
The Bainbridge Island Bad List
Uhm: you still hide your identity. Who are you, masked troll? Are you a person with credibility? Or



John Du Wors
The Bainbridge Island Bad List
Uhm: you still hide your identity. Who are you, masked troll? Are you a person with credibility? Or are you a kid in your underwear typing from your parents' basement. Come forth!

3h Like Reply



The Bainbridge Island Bad List
John, you're not going to win this. You have been a shitty, shitty person for far too long. Check into rehab, apologize for your behavior, and move across the country.

1h Like Reply



John Du Wors
The Bainbridge Island Bad List
This goes badly for you.

1h Like Reply

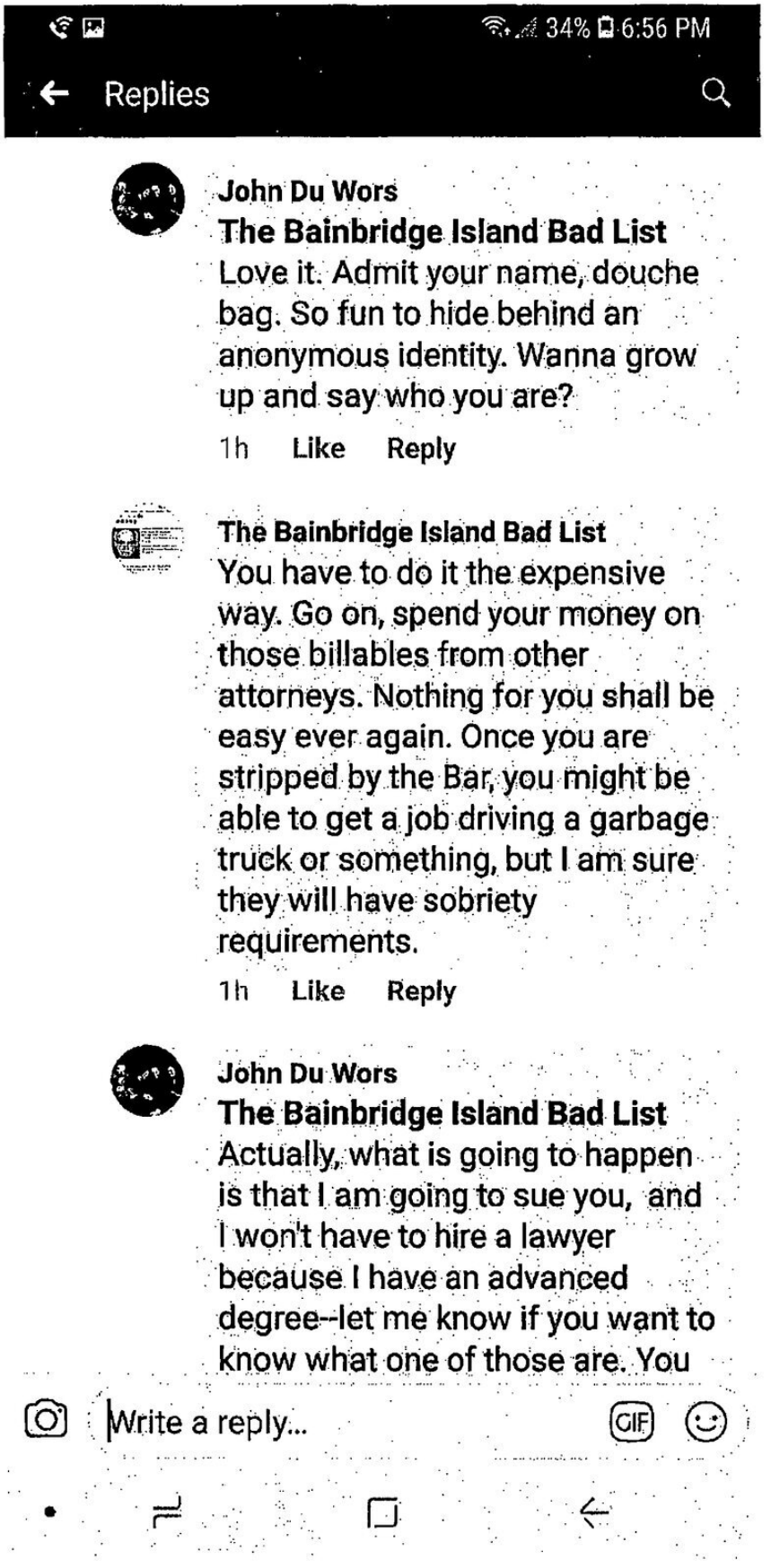


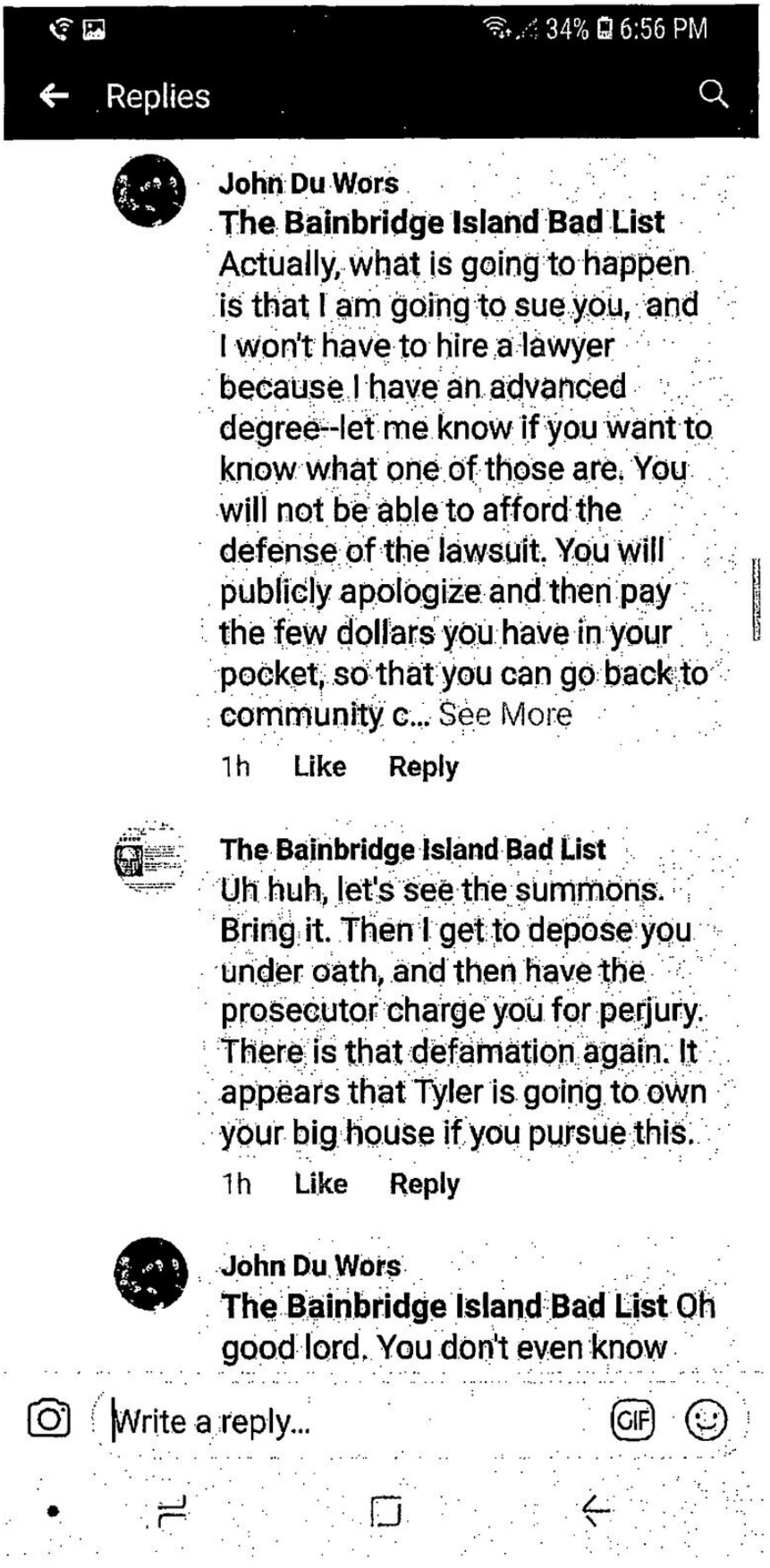
The Bainbridge Island Bad List
I cannot wait to get you under oath.

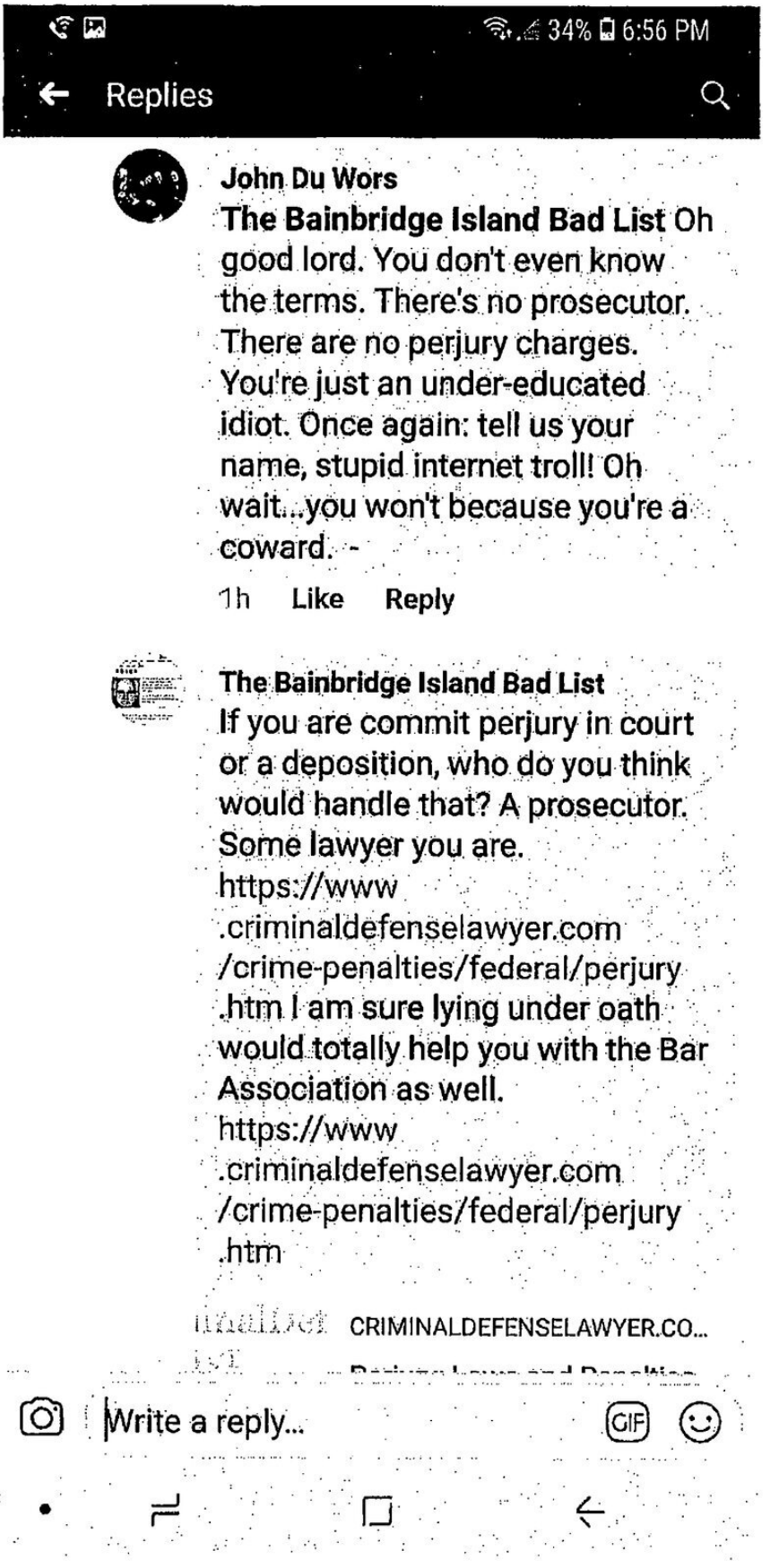
1h Like Reply

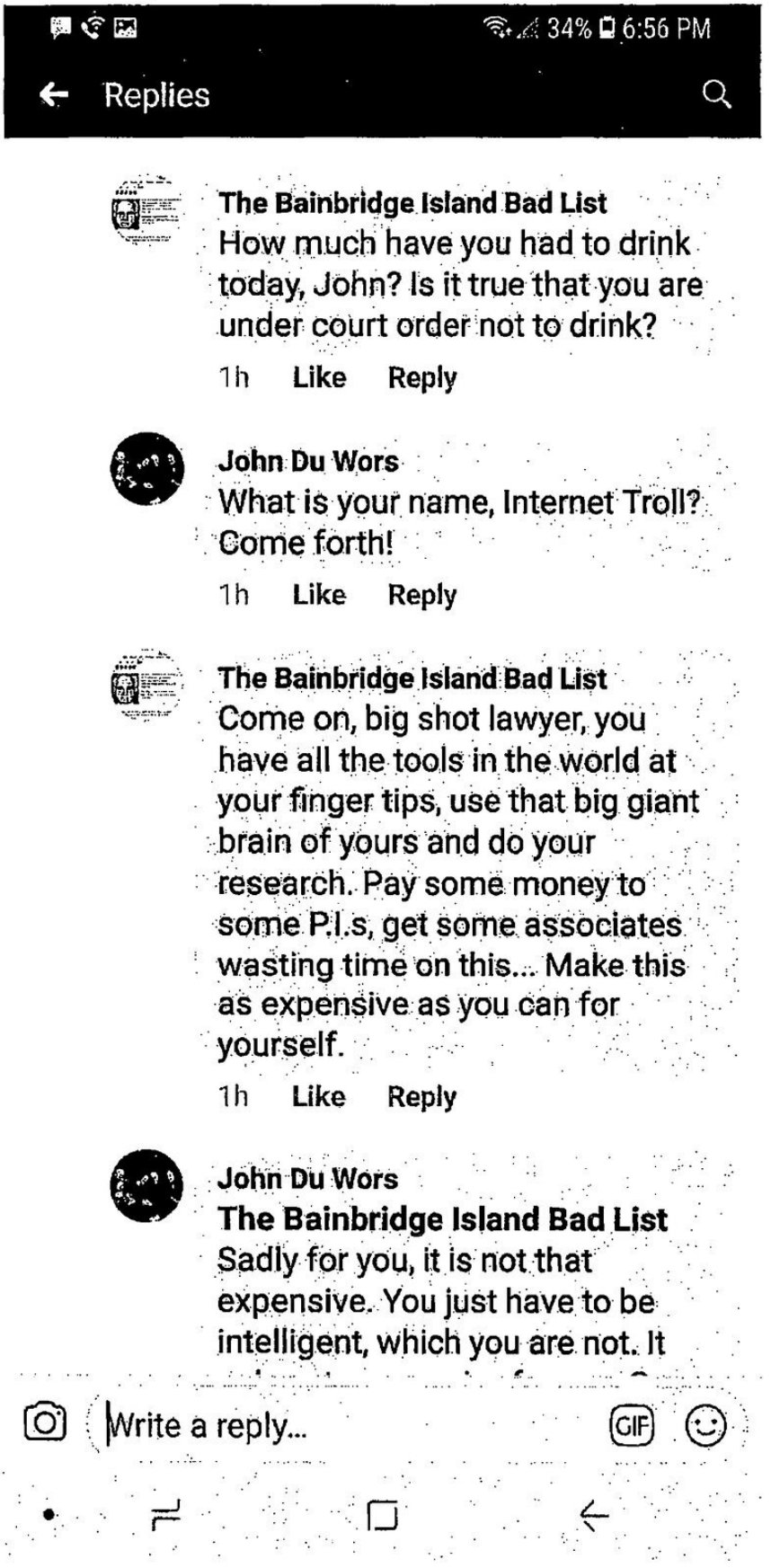


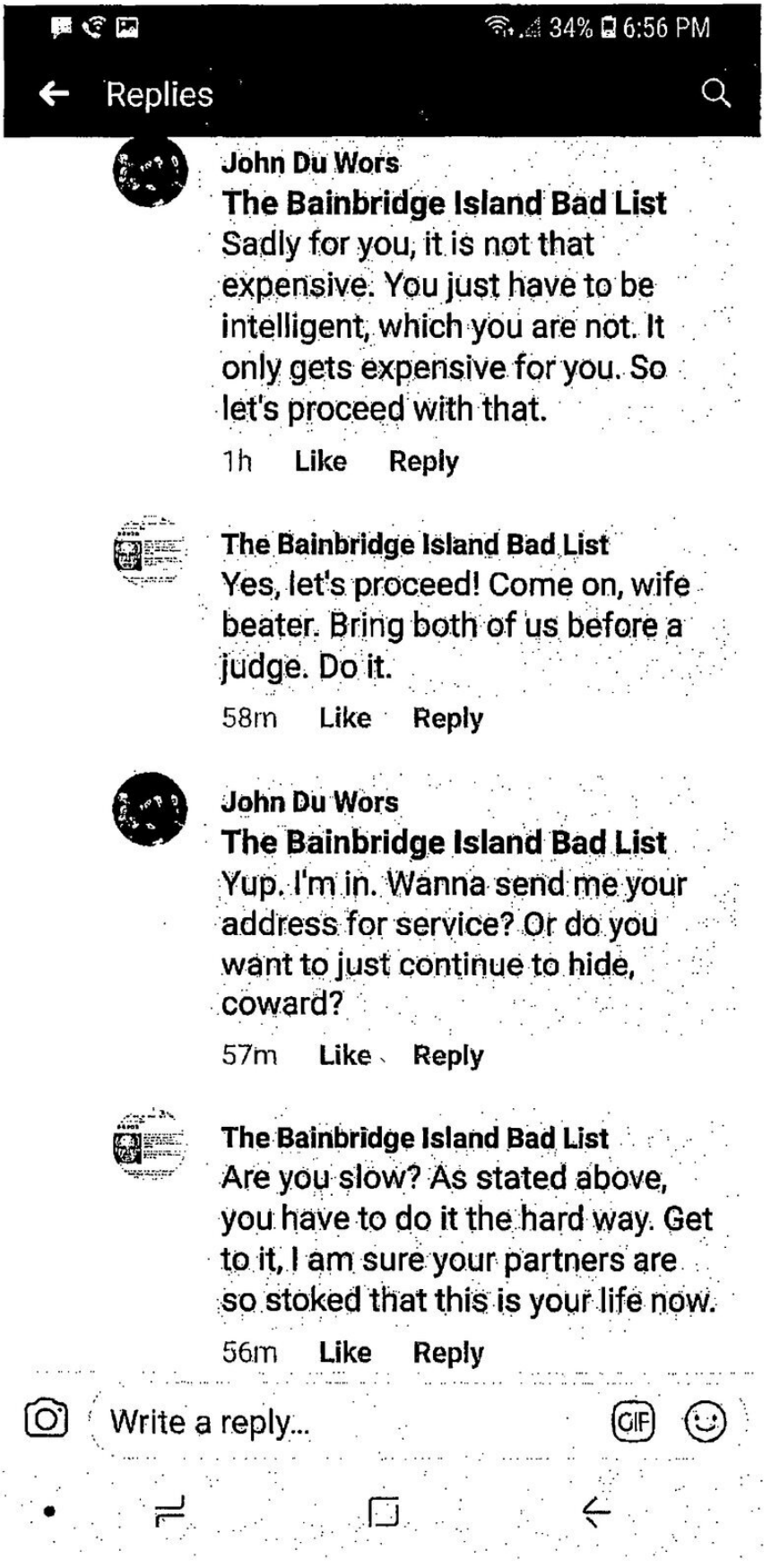
John Du Wors

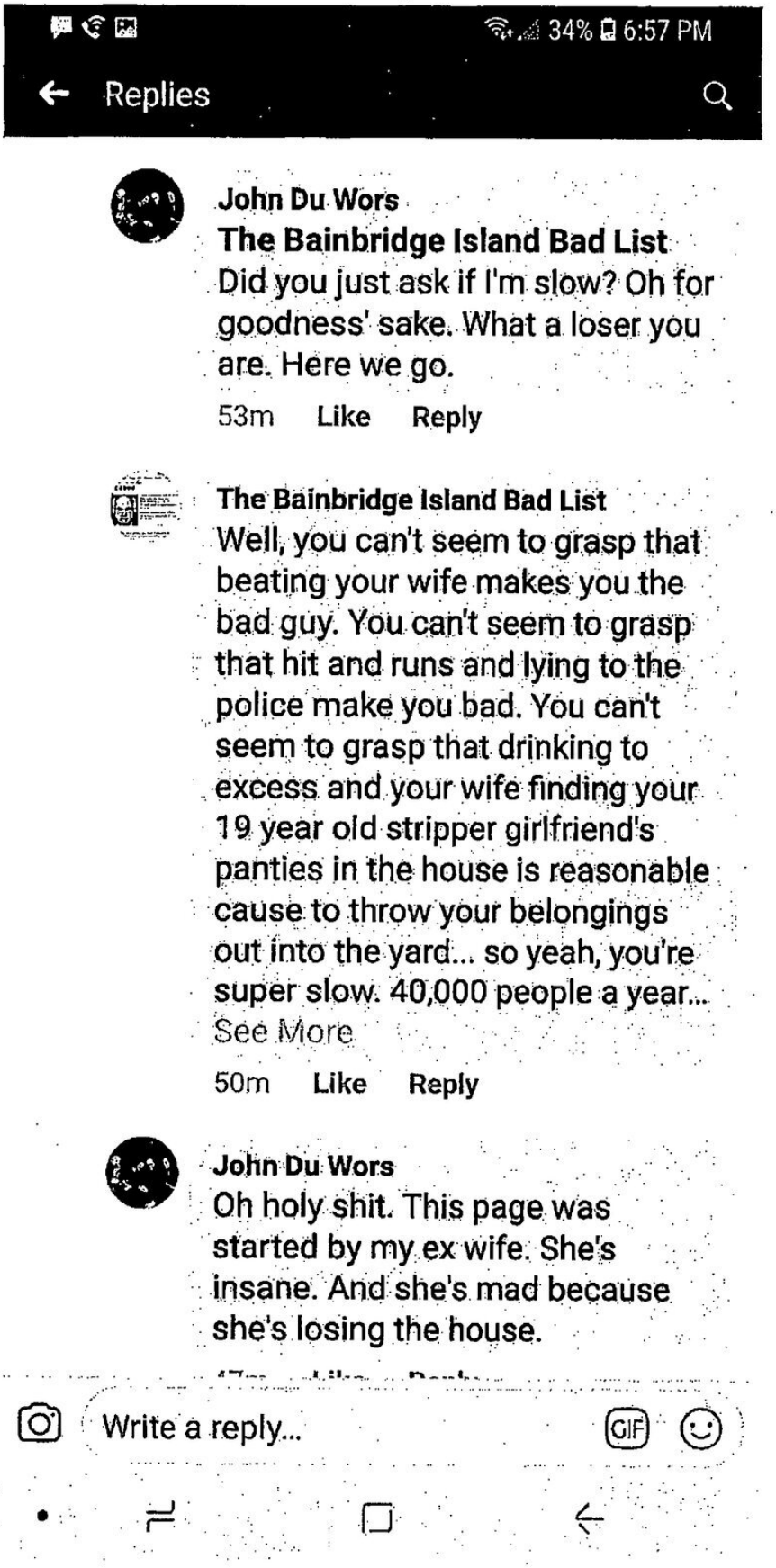

34% 6:56 PM
Replies
John Du Wors
The Bainbridge Island Bad List
Love it. Admit your name, douche bag. So fun to hide behind an anonymous identity. Wanna grow up and say who you are?
1h Like Reply
The Bainbridge Island Bad List
You have to do it the expensive way. Go on, spend your money on those billables from other attorneys. Nothing for you shall be easy ever again. Once you are stripped by the Bar, you might be able to get a job driving a garbage truck or something, but I am sure they will have sobriety requirements.
1h Like Reply
John Du Wors
The Bainbridge Island Bad List
Actually, what is going to happen is that I am going to sue you, and I won't have to hire a lawyer because I have an advanced degree--let me know if you want to know what one of those are. You
Write a reply...
GIF

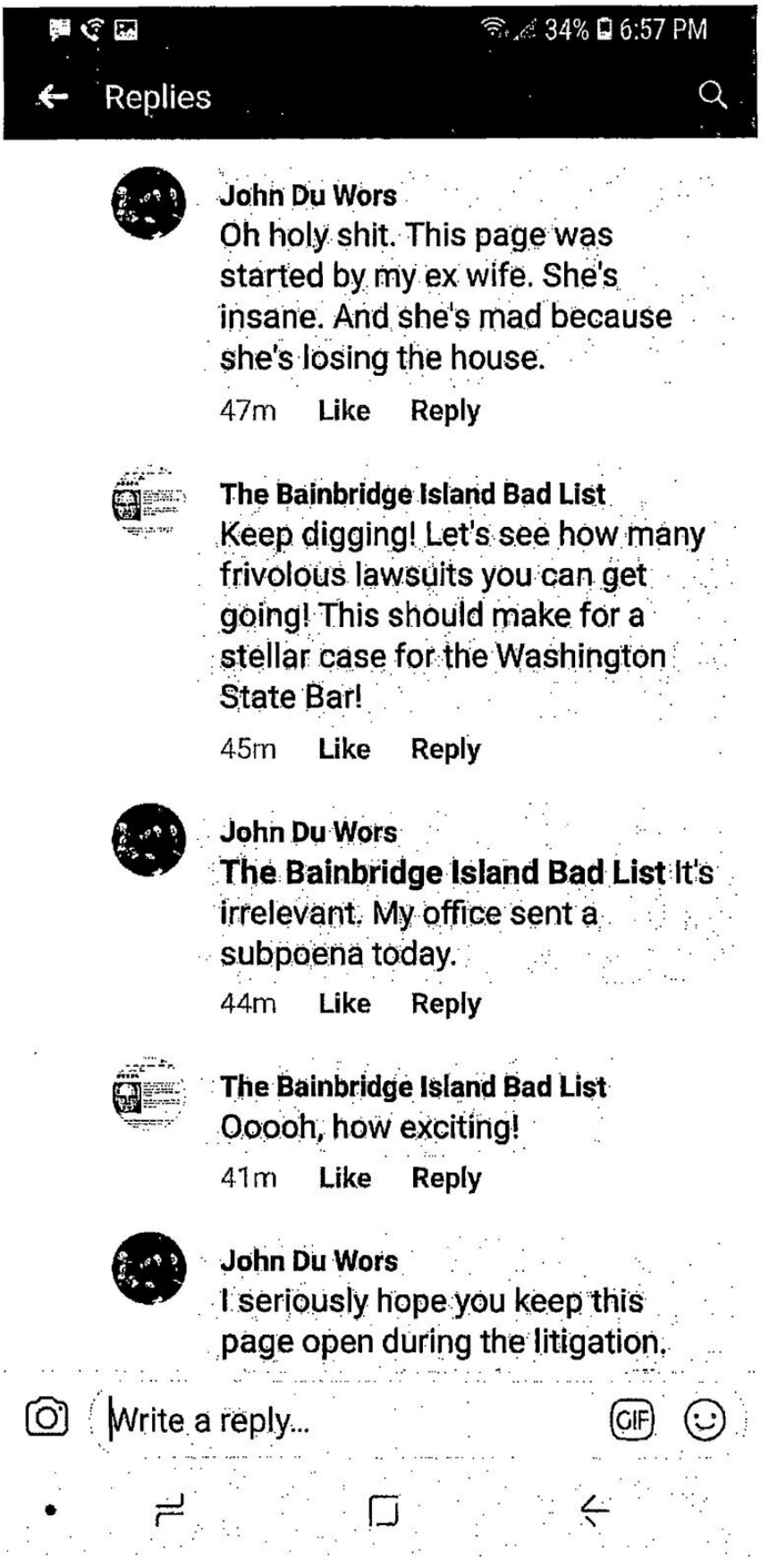

34% 6:56 PM
Replies
John Du Wors
The Bainbridge Island Bad List
Actually, what is going to happen is that I am going to sue you, and I won't have to hire a lawyer because I have an advanced degree--let me know if you want to know what one of those are. You will not be able to afford the defense of the lawsuit. You will publicly apologize and then pay the few dollars you have in your pocket, so that you can go back to community c... See More
1h Like Reply
The Bainbridge Island Bad List
Uh huh, let's see the summons. Bring it. Then I get to depose you under oath, and then have the prosecutor charge you for perjury. There is that defamation again. It appears that Tyler is going to own your big house if you pursue this.
1h Like Reply
John Du Wors
The Bainbridge Island Bad List Oh good lord. You don't even know
Write a reply...
GIF

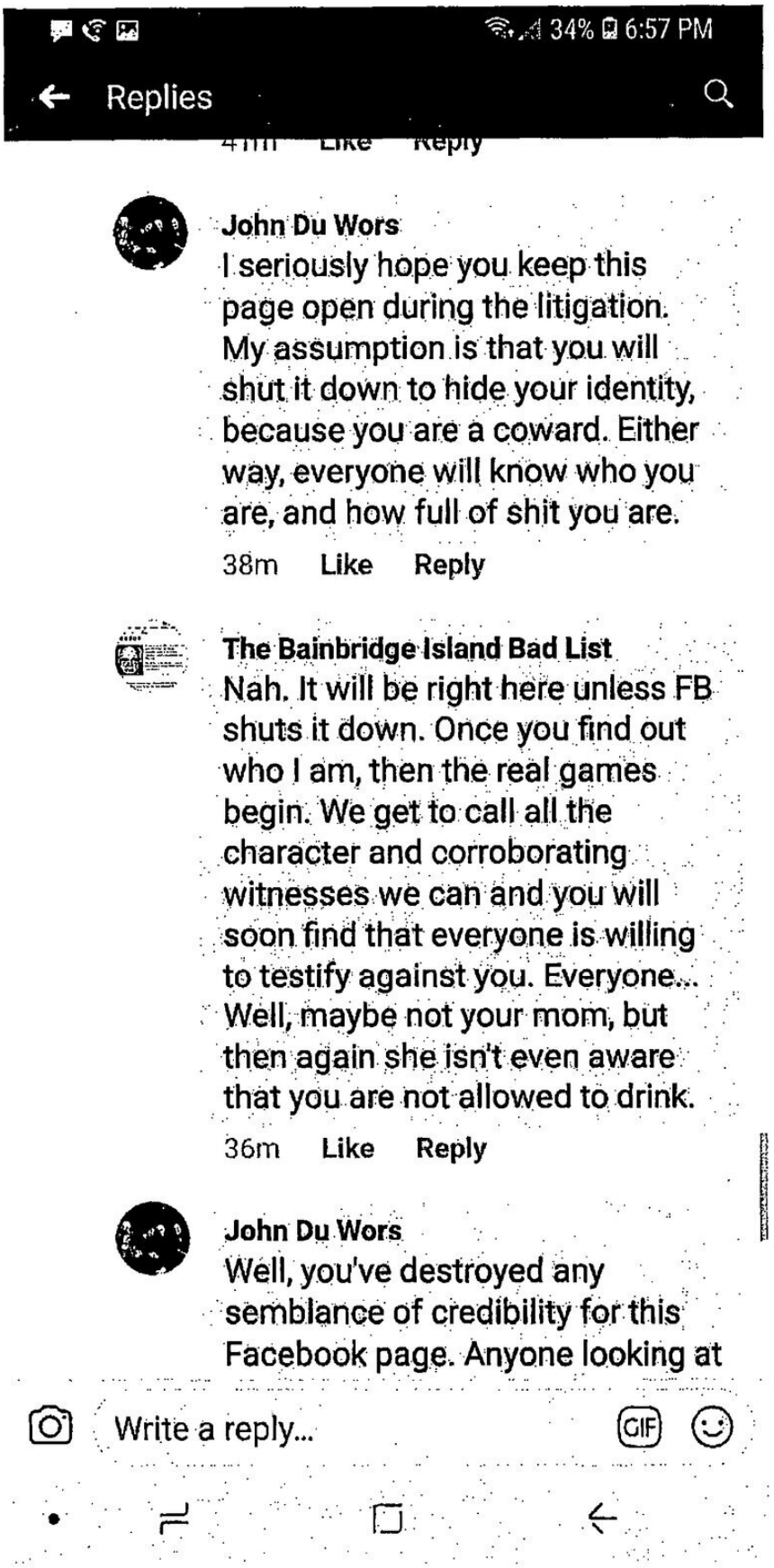

34% 6:56 PM
Replies
John Du Wors
The Bainbridge Island Bad List Oh good lord. You don't even know the terms. There's no prosecutor. There are no perjury charges. You're just an under-educated idiot. Once again: tell us your name, stupid internet troll! Oh wait...you won't because you're a coward. -
1h Like Reply
The Bainbridge Island Bad List
If you are commit perjury in court or a deposition, who do you think would handle that? A prosecutor. Some lawyer you are. https://www .criminaldefenselawyer.com /crime-penalties/federal/perjury .htm I am sure lying under oath would totally help you with the Bar Association as well. https://www .criminaldefenselawyer.com /crime-penalties/federal/perjury .htm
CRIMINALDEFENSELAWYER.CO...
Write a reply...
GIF

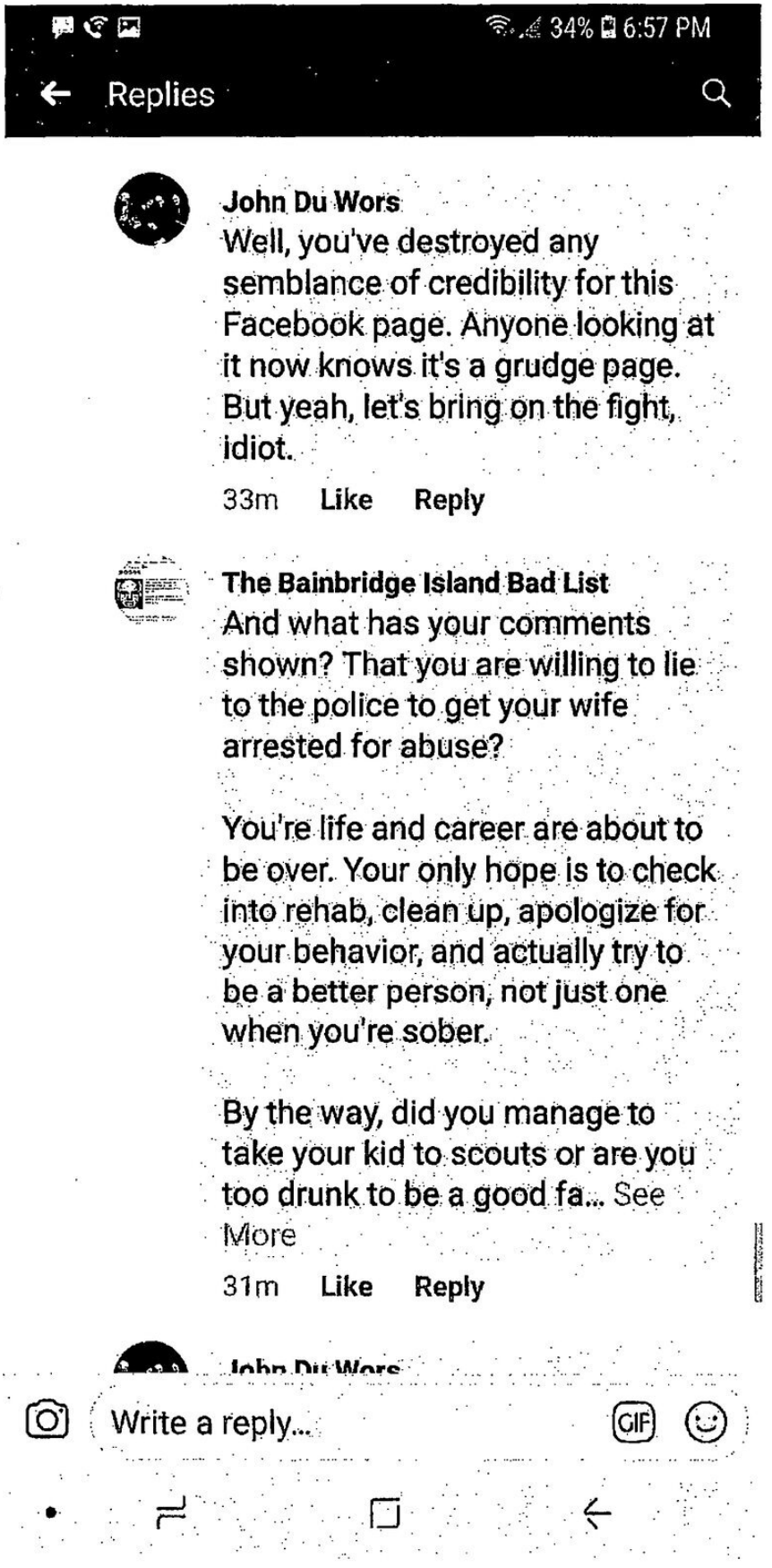

34% 6:56 PM
Replies
The Bainbridge Island Bad List
How much have you had to drink today, John? Is it true that you are under court order not to drink?
1h Like Reply
John Du Wors
What is your name, Internet Troll? Come forth!
1h Like Reply
The Bainbridge Island Bad List
Come on, big shot lawyer, you have all the tools in the world at your finger tips, use that big giant brain of yours and do your research. Pay some money to some P.I.s, get some associates wasting time on this... Make this as expensive as you can for yourself.
1h Like Reply
John Du Wors
The Bainbridge Island Bad List
Sadly for you, it is not that expensive. You just have to be intelligent, which you are not. It
Write a reply...
GIF


34% 6:56 PM
Replies
John Du Wors
The Bainbridge Island Bad List
Sadly for you, it is not that expensive. You just have to be intelligent, which you are not. It only gets expensive for you. So let's proceed with that.
1h Like Reply
The Bainbridge Island Bad List
Yes, let's proceed! Come on, wife beater. Bring both of us before a judge. Do it.
58m Like Reply
John Du Wors
The Bainbridge Island Bad List
Yup. I'm in. Wanna send me your address for service? Or do you want to just continue to hide, coward?
57m Like Reply
The Bainbridge Island Bad List
Are you slow? As stated above, you have to do it the hard way. Get to it, I am sure your partners are so stoked that this is your life now.
56m Like Reply
Write a reply...
GIF


34% 6:57 PM
Replies
John Du Wors
The Bainbridge Island Bad List
Did you just ask if I'm slow? Oh for goodness' sake. What a loser you are. Here we go.
53m Like Reply
The Bainbridge Island Bad List
Well, you can't seem to grasp that beating your wife makes you the bad guy. You can't seem to grasp that hit and runs and lying to the police make you bad. You can't seem to grasp that drinking to excess and your wife finding your 19 year old stripper girlfriend's panties in the house is reasonable cause to throw your belongings out into the yard... so yeah, you're super slow. 40,000 people a year...
See More
50m Like Reply
John Du Wors
Oh holy shit. This page was started by my ex wife. She's insane. And she's mad because she's losing the house.
Write a reply...
GIF


34% 6:57 PM
Replies
John Du Wors
Oh holy shit. This page was started by my ex wife. She's insane. And she's mad because she's losing the house.
47m Like Reply
The Bainbridge Island Bad List
Keep digging! Let's see how many frivolous lawsuits you can get going! This should make for a stellar case for the Washington State Bar!
45m Like Reply
John Du Wors
The Bainbridge Island Bad List It's irrelevant. My office sent a subpoena today.
44m Like Reply
The Bainbridge Island Bad List
Ooooh, how exciting!
41m Like Reply
John Du Wors
I seriously hope you keep this page open during the litigation.
Write a reply...
GIF


34% 6:57 PM
Replies
41m Like Reply
John Du Wors
I seriously hope you keep this page open during the litigation. My assumption is that you will shut it down to hide your identity, because you are a coward. Either way, everyone will know who you are, and how full of shit you are.
38m Like Reply
The Bainbridge Island Bad List
Nah. It will be right here unless FB shuts it down. Once you find out who I am, then the real games begin. We get to call all the character and corroborating witnesses we can and you will soon find that everyone is willing to testify against you. Everyone... Well, maybe not your mom, but then again she isn't even aware that you are not allowed to drink.
36m Like Reply
John Du Wors
Well, you've destroyed any semblance of credibility for this Facebook page. Anyone looking at
Write a reply...
GIF


34% 6:57 PM
Replies
John Du Wors
Well, you've destroyed any semblance of credibility for this Facebook page. Anyone looking at it now knows it's a grudge page. But yeah, let's bring on the fight, idiot.
33m Like Reply
The Bainbridge Island Bad List
And what has your comments shown? That you are willing to lie to the police to get your wife arrested for abuse?
You're life and career are about to be over. Your only hope is to check into rehab, clean up, apologize for your behavior, and actually try to be a better person, not just one when you're sober.
By the way, did you manage to take your kid to scouts or are you too drunk to be a good fa... See More
31m Like Reply
Write a reply...
GIF



You're life and career are about to be over. Your only hope is to check into rehab, clean up, apologize for your behavior, and actually try to be a better person, not just one when you're sober.

By the way, did you manage to take your kid to scouts or are you too drunk to be a good fa... See More

31m **Like** **Reply**



John Du Wors

Amber, you are losing the house. It is substantially likely that you are also losing Brian. He doesn't have tolerance for this kind of drama. And he and I maintain pretty good relations. I am sad that you suffer from this degree of mental illness.

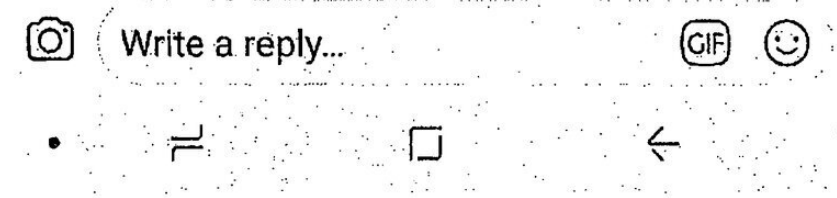
28m **Like** **Reply**



The Bainbridge Island Bad List

So, I take that as a "No I didn't do my job as a father because I'm too drunk."

24m **Like** **Reply**




34% 6:57 PM
Replies
John Du Wors
This conversation is over. The lawyers will take it over from here.
27m Like Reply
The Bainbridge Island Bad List
Cool! I bet you still post again, because you're drinking!
25m Like Reply
Write a reply...
GIF
1 2 3 4 5 6 7 8 9 0
Q W E R T Y U I O P
A S D F G H J K L
Z X C V B N M
!#1
English (US)

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

Neighbor's Address:	601 Belmont Ave, Seattle, WA 98102-4875
Phone Numbers:	(206) 860-6958

LIKELY CRIMINAL RECORDS

JUN. 3, 2003 - CRIMINAL RECORD - ADMIN OFFICE OF DISTRICT/MUNICIPAL COURTS (WASHINGTON)

Source:	Admin Office Of District/Municipal Courts
Source State:	Washington
First Name:	John David Duwors
Middle Name:	David
Last Name:	Duwor s
Gender:	Male
Age:	40
Date of Birth:	March 29, 1978
Sex Offender:	No

Jun. 3, 2003 - Offense - Obstruct Law Enforcement Officer:

Offense Date:
Jun. 3, 2003

Charges Filed Date:
Jun. 5, 2003

Crime Location:
King, Washington

Charge Category:
Criminal/Traffic

Offense Code:
9A.76.020

Offense Description:
Obstruct Law Enforcement Officer

Case Type:
Criminal Non-traffic

Case Number:
15500KIRCNKIR

Court Name:
Kirkland Municipal Court

Disposition:
Dismissed W/prejudice

Disposition Date:
Nov. 13, 2003

Jun. 3, 2003 - Offense:

Offense Date:
Jun. 3, 2003

Charges Filed Date:
Jun. 5, 2003

Crime Location:

RESPONDENT Exhibit# R-9
Case: 46-18 Date: 11-6-18
☒ Admitted ☐ Not Admitted

over my head, that got her arrested.

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

Pictures atta...lice report.pdf

Here is a picture of all my personal belongings. She threw them into the street a month after we separated.

So this is why you got drunk and got tossed from Bruciato's?



FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

AT&T 4:41 PM

Home (3) John Du Wors > Messenger

and got tossed from Bruciato's?



I didn't get tossed from Bruciato!!!!

That's all Amber's story!!!

I am Brendan McGill's Lawyer!!!

Ok, escorted out. I saw them refuse to serve you.

...

Aa

RESPONDENT Exhibit# R-7
Case: 4618 Date: 11-6-18
☒ Admitted ☐ Not Admitted

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

Grace Greco
2 mutual friends: Kaye Fisher and Benny Mamani
Study in Management, Massachusetts

Sent #24

Hey, about that guy. I met him on Seekingarrangements in 2016. We planned to meet but I got a bad feeling thank god and never showed. I wish I had copies of the messages still but I don't.

Thank you! May I use this message as evidence?

Yeah, cringey and all. I was just broke and trying to make money. And sure, I really don't care.

Kind of creepy now. He said he was divorced.

Grace Greco accepted your request.

Thank you so much for reaching out to me! (He wasn't divorced then, very much married)

Technically still married now

Yeah of course. My partners mom shared that photo of him and I saw it and was like.. wait, I know this guy.

You are a blessing and I commend your instincts about him

of course. I could try to do some digging, it's just been a while and 3 new phones since we spoke but I might be able to pull something up via email

Please do. I will be so g

Omg

You're lluck

I can't get the messages

But here's proof

You Received a New Message
February 22, 2017 at 8:16 AM
Found in Inbox

SeekingArrangement

Nice Guy sent you a message

RESPONDENT Exhibit# R-10
Case: 416-18 Date: 11-6-18
☒ Admitted ☐ Not Admitted

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

Thanks for the update. I guess he's just gonna have to do him. He was never my lawyer, I've catered for him a couple times though. Professional acquaintance tops. He contacted me to try to gaslight me about an incident at Bruciato, then all accounts concluded he was drunk and acting the ass. Last I saw him, at the airport, he was hammered. He sure did tell that lady straight-up that he's my lawyer. He's full of it.

Thanks, Brendan!

You're welcome! Good luck. I admire the fight in you to stick up for someone. I admit, all the lawyering makes me anxious.

Me too. So sorry that he dragged you into this!

No sweat! That's all him, you didn't bring me into it. It's weak sauce and not about to let that guy bully me.

He's going to file as many frivolous suits as he can, but that won't keep anyone from knowing who he really is.

He was just camping on his little ADA complaint, waited to see how I'd react to all this, then trotted it out. It's so petty. And, of course, my spots are compliant. And even if they weren't I'm sure someone could file a complaint without john's help.

RESPONDENT	Exhibit# R-5
Case: 46-18	Date: 11-16-18

Bingo. He's grasping at straws.

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

From: John Du Wors <John@newmanlaw.com>
Date: October 14, 2018 at 8:45:49 PM PDT
To: Amber Petrich <ahadenfeldt@gmail.com>
Subject: Re: Motion for Sanctions

And you and you're lawyer are going to address the motion for sanctions I have prepared.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082

On Oct 14, 2018, at 7:41 PM, Amber Petrich <ahadenfeldt@gmail.com> wrote:

Are you forgetting you were actually CONVICTED for dv assault??? It seems like you have forgotten. Obviously you aren't remorseful and don't care. But that's the truth. Stop threatening me.

Sent from my iPhone

On Oct 14, 2018, at 5:45 PM, John Du Wors <John@newmanlaw.com> wrote:

Please stop contacting me. It is time for me to pursue judicial action. I don't care to engage with you further.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082

On Oct 14, 2018, at 5:42 PM, Amber Petrich <ahadenfeldt@gmail.com> wrote:

Your truth is a lie. It always has been. The more you do, the worse you look. All you are doing is proving you are an abusive person who has zero conscious and remorse.

Sent from my iPhone

On Oct 14, 2018, at 5:27 PM, John Du Wors <John@newmanlaw.com> wrote:

You are now engaging in blackmail that is both criminal and civilly actionable. It is illegal to attempt to advance a position in a civil action, such as a divorce, by threatening an administrative action, such as bar discipline. You just subjected yourself to a lawsuit, which I will file this week, but will be separate from the divorce procedures.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082

On Oct 14, 2018, at 5:21 PM, Amber Petrich <ahadenfeldt@gmail.com> wrote:

RESPONDENT	**Exhibit# R-4**
Case: 46-18	Date: 11-6-18
☒ Admitted	☐ Not Admitted

You attacked me. I have the email you sent the prosecutor which is in direct conflict with your signed legal testimony against me in our divorce paperwork. Done mess with me. I will have you disbarred in a heartbeat.

Sent from my iPhone

On Oct 14, 2018, at 5:00 PM, John Du Wors <John@newmanlaw.com> wrote:

Did you know that I obtained your mugshots through a public records request. Under your view of the world, it is fair game to show those to everyone you know. It will be interesting to see how you feel about that.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082

On Oct 14, 2018, at 4:09 PM, Amber Petrich <ahadenfeldt@gmail.com> wrote:

No John, you will. You can't continue to be this evil forever without consequences.

Sent from my iPhone

On Oct 14, 2018, at 4:07 PM, Amber Petrich <ahadenfeldt@gmail.com> wrote:

Yeah.... I'm serious. I am sober 100% of the time I have the kids. I do everything for them. Everything. I never put them at risk, anything. I WILL call in a UA for this weekend if you keep up your abusive tendencies. I've done nothing wrong.
I will also subpoena your wing point bar bills, etc. don't mess with me.
Sent from my iPhone

On Oct 14, 2018, at 3:40 PM, John Du Wors <John@newmanlaw.com> wrote:

You will see how this plays out legally. This is strength.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082

On Oct 14, 2018, at 2:50 PM, Amber Petrich <ahadenfeldt@gmail.com> wrote:

By the way... you contacting my boyfriend and telling him I'm psycho is actually doing what you are accusing me of. And no. I'm not. I'm fed up with your controlling behavior. I'm not keeping it locked inside of me because you think you can continue to threaten me. And guess what? It's been since January. He doesn't think I'm psycho. You have shown that yourself. He sees me after nine months as a caring, loving, wonderful mother, best friend, goddess type who he loves. That's what I am. My "psycho behaviors" stem from your physical, emotional, and verbal abuse

Sent from my iPhone

On Oct 14, 2018, at 10:57 AM, John Du Wors <John@newmanlaw.com> wrote:

I am receiving emails from friends, family and co-workers. You are publicly calling me names to my professional contacts. I am preparing the sanctions motion and contacting CPS now.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082

On Oct 14, 2018, at 10:33 AM, Amber Petrich <ahadenfeldt@gmail.com> wrote:

This is not a public page. It's my own. It's the truth, and these are your words you gave me.

Sent from my iPhone

On Oct 13, 2018, at 6:05 PM, John Du Wors <John@newmanlaw.com> wrote:

Kathy,

We are bringing a motion for sanctions Monday based on Amber's harassing conduct. Please see the attached.

-John
<Image-1.jpg>

Sent from my iPhone

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

Dear Mr. Wade: As you know, I have commenced a lawsuit against you for defamation of character. At 9 am on Monday, October 22nd, we have a scheduled temporary restraining order hearing at Kitsap Counter Superior Court. Please let me know if you have any questions or concerns.
"Kitsap County" , rather
The Bainbridge Island Bad List

Cool! I am so excited. I have upwards of 50 witnesses I can depose, and countless court and arrest records. You will lose your law license in the coming year. Heck, claiming that you are Brenden McGill's lawyer is crime, you drunk moron. I am going to ruin you and it is going to be so much fun, you wife abusing monster. John, not only are you not going to be able to demonstrate "defamation" you will have to perjure yourself to the court to get anywhere with this case. Do yourself a favor and just check into rehab and start apologizing to people and accept responsibility for your behavior.

I'll see you Monday!



Additionally, we will proceed against Amber for violation of the January 18th, 2018 order, based on your conduct.
So you are punishing her as well as our children.
Want to see the pictures of the children you are punishing? There are four of them. All of us just want to be allowed to live our lives, and recover from divorce.
But you...are a useless single waiter, apparently seeking importance through social media.
So the way this plays out is that I sue you, and you can defend.
And also I pursue sanctions claims against Amber.
And you caused it.
Good job.
The Bainbridge Island Bad List

I am an also an astrophysics professor, dummy. I have a decade more college than you and several more degrees. Which child is it you got convicted of imprisoning? What about the child whose arm you broke? Didn't your own father call CPS on you over that? John, you can't intimidate me and you can't win and you know it. You're a shitty person and an abusive alcoholic. You're done, son.



Also, just so you know, your posts are making Amber's current boyfriend think he doesn't want to date her. Because he, like me, is a mature guy, and doesn't have tolerance for this kind of drama.
The Bainbridge Island Bad List

The kind of drama where you beat your wife?



Okay. This conversation is over. I will proceed against Amber and you.
The Bainbridge Island Bad List

Why do you think I want you to sue me? I want you under oath so bad!
The Bar Association is going to take your license.
You will no longer have a livelihood.

RESPONDENT	Exhibit# R-3
Case: 46-18	Date: 11-6-18
☒ Admitted	☐ Not Admitted



You will have it soon. And I will have your deposition testimony. I will also have your communications with Amber. And those communications will most likely violate our divorce orders.

The Bainbridge Island Bad List

You fucked up.



Why would you not want me to have a livelihood? That's how I support Amber and the children.

The Bainbridge Island Bad List

And violating an NCO by sending your wife threatening messages doesn't violate the divorce proceedings? How fucking dumb are you. It is a two way street.



Do you not want Amber to have living expenses, or for our children to eat?

The Bainbridge Island Bad List

She wants you sad and alone in a one bedroom apartment in Auburn.
She will be fine



My friend, that kind of message will serve Amber poorly in the divorce.
But I think we've said enough. I think I have enough to proceed.
Good luck.

The Bainbridge Island Bad List

Your felony domestic violence convictions will serve you poorly.



Based on what you've said, Amber will suffer significantly for violation of the divorce order.

The Bainbridge Island Bad List

Rolls eyes



You just responded to a debate with an emoji? Okay. here it comes.

The Bainbridge Island Bad List

What comes? You lying under oath in a court of law?



Can you be serious? You are an idiot

The Bainbridge Island Bad List

Didn't you say you were done with this conversation a dozen replies ago?



I just let Amber know that you are causing her thousands of dollars of harm.

The Bainbridge Island Bad List

What kind of harm have you caused by beating her?



She and our children are suffering because you are a useless 37 year old waiter, with a fucked up desire to gain attention.
Oh yeah? Why do you lend no credibility to the January 10th, 2017 police report that says she attacked me, resulting in her arrest for domestic violence?
The Bainbridge Island Bad List
I don't give two shits about the attention. What I care about is ruin the future of a wife beating child abuser. By the way, how much have you had to drink today, Drunky? The police report where you said in court that she didn't attack you?
And then she got an NCO against you?
[redacted]
No she didn't.
She tried.
It was denied.
because she lied.
The Bainbridge Island Bad List
Cool, can't wait to hear you try to claim that under oath.
[redacted]
Great. Hire a lawyer. You'll be served shortly. We're going to subpoena everyone in your life.
The Bainbridge Island Bad List
Tow domestic violence felonies on a lawyer.. Hit and run, charges for obstructing law enforcement... You're losing your law license
[redacted]
Even Brendan is ready for the subpoena. He and I spoke a few minutes ago.
Sadly, this will result in harsher sanctions against Amber.
But here we go.
The Bainbridge Island Bad List
This should be beautiful. Yes, try and subpoena Brendan! You are so oblivious, aren't you? Nobody likes you. Everyone is going have the worst things to say about you under oath. How many bars have you been 86'd from in your life?
[redacted]
That's great. Let's see how this goes.
The Bainbridge Island Bad List
how it goes: your case against me gets dismissed. You look like an idiot, and then you lose your law license.
[redacted]
Houston, you're lonely. Amber and I should be allowed to have our divorce without your influence. But because of you, she will have a lot to deal with and so will I.
Oh for goodness sake: Houston, you are an idiot. I'm done negotiating with you. You are getting sued.
The Bainbridge Island Bad List
She already has a lot to deal with, she has a violent sociopath constantly threatening her. Negotiating? You're likely drunk right now.

[redacted]

You will see how this plays out.

The Bainbridge Island Bad List

[redacted]

[redacted]

Well, I guess let's see. I'll give you notice of Monday's hearing, to the extent required under Washington law.

The Bainbridge Island Bad List

[redacted]

[redacted]

Amber sure is freaking out right now. It appears you are making your friend super stressed out about the consequences she will face because of your conduct. Nice work, 37 year old waiter.

The Bainbridge Island Bad List

[redacted]

[redacted]

I just told Amber our negotiations are off. We're proceeding with discovery and a sanctions motion. Nice work.

The Bainbridge Island Bad List

[redacted]

[redacted]

Actually, I'm feeling pretty done with the conversation. I'll wait to hear from your lawyer.

The Bainbridge Island Bad List

[redacted]

[redacted]

I'm proceeding legally.

The Bainbridge Island Bad List

[redacted]

[redacted]

Here we go.

The Bainbridge Island Bad List

[redacted]

[redacted]

Amber is feverishly emailing her lawyer and me, and my lawyer, expressing concern about what you are posting.

Whatever you think you are doing on her behalf, you are actually harming her. You are also harming our children.

The Bainbridge Island Bad List

Sure. Totally. I completely believe you. You totally have her best interest in mind, guy who beats his wife.



Okay. Let's proceed.

The Bainbridge Island Bad List

You can see the end of your career, can't you? It's so tangible. You can almost grasp it from here.



Thank you for admitting an intent that satisfies a proof element for you and Amber to be held liable. I welcome any other admissions you are comfortable making.

The Bainbridge Island Bad List

Admissions? Are you dense? You beat your wife and have two felony DV convictions. Nothing else matters.



Let's proceed.

The Bainbridge Island Bad List

I thought you were done? How many times are you going to announce that?



You'll see how this plays out.

The Bainbridge Island Bad List

I already know how this plays out. It's so obvious you didn't even have a paralegal write that summons. I bet not a single person at your firm knows about this, do they?



I own my law firm. The professionals at my firm are all supportive of me. They will all be participating in my lawsuit against you. My claim is meritorious. We will not stop until we have obtained a substantial damages award and injunction against you, and Amber. For a related client, we are filing an Americans with Disabilities Act against Brendan. So those two actions will be related.

The Bainbridge Island Bad List

Uh huh. Is that why the summons was stapled in the middle and not at the corner by a knowledgeable paralegal?



Thank you for acknowledging service of process. This makes me feel confident representing to the Court that you have received service, so that we can proceed with our motion for default judgment.

The Bainbridge Island Bad List

You're going to sue Brenden... after you claimed to be his attorney? Wouldn't that be a conflict of interest?



I do not have time to educate you on legal principles. You have elected to proceed. So now we are proceeding with legal remedies against you, Amber Du Wors, and Brendan McGill.

The Bainbridge Island Bad List

Legal principals? Like how it is unethical to claim that you are someone's attorney when you clearly are not?



Mr. Wade: please just go hire an attorney. You have spent all your leverage against me and my firm. You are now only exposed to liability. And you have exposed your friends to liability. I do not wish to discuss this matter with you further. Please just answer the complaint, and plan to attend Monday's ex-party hearing. I will send you details of the timing of that hearing as soon as I have them.

The Bainbridge Island Bad List

So, you're admitting that you wrongly claimed you were Brendan's attorney?



I am admitting that you are a reckless and unintelligent individual. I am also admitting that I will not cease my litigation efforts until your illegal conduct has been stopped. I am further admitting that I will not cease my litigation efforts until you and Amber have appropriately compensated me for your misconduct.



Houston: I am a very competent attorney. You are a waiter with a personality disorder. You don't win this.

Additionally, every act you take makes Amber's boyfriend, Brian, feel distanced from her, because of the immature drama.

Ironically, Amber's boyfriend, Brian, is the man I wrote to you about when I first tried to friend you on Facebook.

Brian is an old friend of mine, and even though he is dating my ex, I care for his interests and welfare, because I think he's a good guy.

But you did...well you did what you do.

Anyway, I need to care for my kids now. Those are the kids you are actively trying to harm with your idiotic posts.

I am going to go attend to my parenting responsibilities now, while you wait tables. When the kids go to bed, I'll write the TRO materials. Please note that if such a TRO is granted, and you violate it, you'll be put in jail.

I hope you make good tips tonight.

Glad that geology degree is working out for you.

The Bainbridge Island Bad List

Everything you write is I. the classic elanguage of an abuser: "Look at what you're making me do to my wife and children..." you might be a competent corporate attorney, but you're a shit human being whose luck as run out and none of your gaslighting and lies will work on me.



Then let's proceed.

And let's stop discussing the matter.

The lawyers and/or the Court will figure it out.

The Bainbridge Island Bad List

You keep saying you're going to stop discussing, and then you go right on discussing. It's almost as if you have zero self control and lie a lot.



Cool.

The Bainbridge Island Bad List

I knew you couldn't help yourself! Abusive wife beaters never can. They like to blame everyone else for their actions and never accept responsibility for what they do. Their egos are too fragile. You're going to crack like an egg in front of a judge when this is all over. I wonder of you will summon fake tears?



You sure keep talking.

I'm cool with the status quo. You should probably just answer the complaint, and then negotiate with Brendan and Amber.

The Bainbridge Island Bad List

Yeah, man. You sure are going to win this one... I just dont know how I am going to compete with a guy who has a wrap sheet... this is going to be rough.



I will wait for your attorney to contact me.

The Bainbridge Island Bad List

My attorney sends a message: you're a wife beater.



Sounds like a high priced lawyer.

The Bainbridge Island Bad List

He really is. About as expensive as yours, guy who is obviously representing himself and who beats his wife.



Why are you still contacting me? Our conversation is over. I am suing you. Please just answer the complaint and prepare for Monday's TRO hearing.

You should be focusing on earning tips.

The Bainbridge Island Bad List

For the same reason you keep contacting me. Except for one difference you're the wife beater with felony domestic violence convictions.



Oh Houston, please look up the definition of a felony. Also, please talk to your college's career counselor about whether they should be advising people to get geology degrees. You've spend your leverage. Entirely. Now you're on my territory. This goes really, really badly for you.

The Bainbridge Island Bad List

What leverage? I have the truth, you have documented wife beating.



See you Monday.

The Bainbridge Island Bad List

Yes, Monday, where I get to show a judge that you are a documented wife beater, and an abusive alcoholic who has been 86'd from multiple locations due to drunken and belligerent behavior. You will respond with what, "Nuh uh!"?



You sure do seem to want to keep chatting.
Lonely night?
Not enough waters to fill?

The Bainbridge Island Bad List

As do you! This is fun, isn't it? Yoi get told what a miserable piece of shit you are, and you don't even bother denying it.



I'm happy to deny it. But you are an unintelligent, lonely, immature, waiter, that gets his self esteem from being an internet troll. The rest of us have to take our pride from being productive human beings.
It's so weird, a portion of your insults were even directed at my physical appearance.
And the size of my house.
But where do you live?

The Bainbridge Island Bad List

So beating your wife and sending nonstop threatening messages is "being productive"?



370 Grow Avenue, suite B10?
It's a weird, gross, basement apartment.
You're 37.
How do you cope with where you are in life?

The Bainbridge Island Bad List

Technically the summons was never served to me. You served my mother at her house. I dont mind. I want to see you in court.



In any event, I don't care to debate with you further.

The Bainbridge Island Bad List

There you go, announcing your departure like you're a plane at the airport!



That's your mom's place? Man, that's shitty. I would never let my mom live in a place like that. That ugly wreath on the front door looks like a badge of depression. But, I guess that's what a waiter like you can do for his mom. Wait to go, man.

The Bainbridge Island Bad List

Why shouldn't my mother live in a middle class home she owns outright? Then again, you're the type of guy who threatens to sue his own father for calling CPS when you broke your daughter's arm, right?



I love all of these comments. They fuel the most awful litigation against Amber.

Please keep it coming.
I am so glad to know that Amber has grotesquely violated the Court's orders in our divorce, as well as general defamation laws.
This justifies my discovery requests to her, asking for all her communications about me.

The Bainbridge Island Bad List

How is you being a shitty human being fuel for litigation? You have zero conscience, this is who you are; a lying, cheating, wife abuser.



You, my friend, are about to ruin Amber because of your immaturity. Nice work. Keep it coming.

The Bainbridge Island Bad List

No, you are about to ruin your career for being an alcoholic abuser.



Looking forward to serving your mom more. And thank you so much for acknowledging service!
How do you even know what a career is?
Have you ever had one?

The Bainbridge Island Bad List

Thank you so much for not having case against me!



Heh. I'm sure I'll hear from your lawyer. Or else I'll get a default judgment and garnish your wages.

The Bainbridge Island Bad List

Uh huh.



I'll chew on that brilliant response.

The Bainbridge Island Bad List

Yoi should probably chew on something other than clear alcohol. You still look anemic.



So funny. So sad.

The Bainbridge Island Bad List

Yes, your alcoholism is sad.



wha wha
goodnight, sad waiter in his late 30's with a mom in a shitty basement apartment.
I hope you get a total of 20% gratuity over all.

The Bainbridge Island Bad List

Is that the sound you make when you drink yourself to sleep all alone every night? You have an giant 8,000sf home and are all alone... weird. I have friends and family who love me. You have a giant home that smells like vodka sweats.



So sad.

You've been in my home to smell it?
I've generally had more important things to do than sniff your trailer.
And no I'm not all alone. I have children I care for. Children whose welfare you are threatening--because you are a reckless child.
And they are children whose welfare is important enough to me to pursue you to every legal extent, to stop you from harming them.
But you don't care if you harm my children.

The Bainbridge Island Bad List

Yes, my "trailer". I just know how much you drink and what you drink. I'm a math guy and put 2&2 together. You threatened your own children's welfare with your behavior. You can't pass any of that onto me. This is all your doing. You have already harmed your children.
That "legal extent" will be a dismissal of the suit.

[redacted]

Good night, Houston. I will see you Monday.

The Bainbridge Island Bad List

Hey, announcing your departure again!? So soon? Weird, I thought you quit this conversation at like 4pm?

[redacted]

Well, I hate to leave you. But a lovely old lady at 370 Grow Avenue, Suite B-10, just asked me for a massage. And butt-sex.

The Bainbridge Island Bad List

Did she now? That's fantastic! She's still got it, can attract rich lawyers even while she is pushing 70. Way to go, mom!

The Bainbridge Island Bad List

By the way, tha is for essentially threatening my mom by posting and reposting her address again and again. Now we can be done.

[redacted]

I think you're going to want to check the grammar and spelling on that message. Also, you're drunk.

OCT 19TH, 10:31PM

[redacted]

Seeing all your posts. These are what we, in the litigation business, call a "death rattle". Every post you make harms your position in the lawsuit. You just keep making it worse for yourself.
And you sure do seem desperate. That's an appropriate feeling for you to have. You have incurred significant legal liability.

[redacted]

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

---------- Forwarded message ----------
From: **John Du Wors** <johndavidduwors@gmail.com>
Date: Tue, Jan 10, 2017 at 3:27 PM
Subject: Tomorrow's arraignment of Amber Du Wors
To: Tsalpaugh@aol.com

Hi Tom,

My name is John Du Wors. I am the named victim in a domestic violence case; the accused is my wife, Amber. Amber is being arraigned tomorrow at the Bainbridge Island Municipal Court. Would you please call my cell at 206-229-9082?

I do not support this prosecution, nor do I support the issuance of a no-contact order against Amber. I will be attending the arraignment and I would like to share some thoughts with you ahead of time.

Thanks,

John Du Wors

From: Amber Du Wors <ahadenfeldt@gmail.com>
Date: October 26, 2017 at 12:49:29 AM PDT
To: Rob Huber <rob@rhuberlaw.com>, Legal Assistant <admin@rhuberlaw.com>
Subject: Re: Tomorrow's hearing

regarding arrest in Jan

On Tue, Jan 10, 2017 at 2:05 PM, John Du Wors <johndavidduwors@gmail.com> wrote:
Amber,

I realize that you can't respond to this, but I'm going to show up at the hearing tomorrow and tell the court and the prosecutor that under no circumstances should a no-contact order issue against you; that your absence from the home would be unfair and extremely harmful to the children; that I will only testify favorably to the defense; that I believe this entire thing is a misunderstanding; and that I absolutely want all charges dropped. I will make it clear that they will have no cooperation from me and that I do not believe you did anything wrong. I am sorry you are having to experience this, and I will do everything in my power to end it.

-John

RESPONDENT	Exhibit# R-2
Case: 416-18	Date: 11-16-18
☑ Admitted	☐ Not Admitted

From: **John Du Wors** <John@newmanlaw.c
Date: Wed, Aug 20, 2014 at 9:35 PM
Subject: My alcohol group tonight
To: "ahadenfeldt@gmail.com" <ahadenfeldt ail.com>

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

Hi babe,

I shut off Lindsey's access to my email so I a iting from my work account, and you are welcome to respond to this account if yo inclined.

I went to my first of 8 bi-weekly alcohol grou ight. I'm at commuter comforts having tea and waiting for the 10:05. The group was ly incredible—much different than the Saturday class I took, which was mainly full c nagers with first-time DUI's. The leader/therapist of the group is an academic ery smart. I learned a tremendous amount, and I look forward to the upcoming lasses.

The main thing I learned so much about toni s the role that alcohol, and more specifically my own alcoholism, has played i busive treatment of you. Alcohol use introduces dopamine to your brain. Dopamin you pronounced feels, both good and bad. It makes you feel euphor , and als s you to experience emotions like desire, love, rage and anger in a m exag ashion. Long term, habitual, excessive alcohol use like my mine makes t n unable to produce its own dopamine, such that alcohol becom s a crut eling even a baseline of happiness. It takes the human brain about 90 to h eadjust brain chemistry so that it starts producing its own dopamine , wh e of the reasons I feel so depressed and disinterested in life now

When present, alcohol also has the ressi ct of shutting down the brain's frontal lobe, which controls judgment, rea and t e. And it leaves the brain to be controlled by the mammalian brain imbic , which controls the survival instincts: food, fighting, sex and fi hat's e had both the worst fights and the best sex when we've been dr heavi rapist said the statistics indicate that over 90% of domestic violenc ents occur without alcohol

And it affects me more because o rolon al abuse.

You said yesterday I'm a mean p I dese ng that to me, and I'm not trying to defend myself. But in tru nk wh is a mean drunk; and a mean hung-over. That's no excu l awf v. I have treated you. You are the most wonderful person I've even , and y serve infinitely better.

The therapist told me tonight that f the w de effects when you stop drinking is the feeling of isolation. That makes the m ainful for me to be away from my beloved wife and family right now. n, you' t to feel what you're feeling toward me right now. I'm just sharing my t ht proc y email because I know you're not ready to discuss it with me right no

ESPONDENT Exhibit# R-1
se: 4/18 Date: 11-6-18
Admitted ☐ Not Admitted

I hope you will consider observing me when I'm sober. I want you to see the changes I'm going through as I detox and my brain chemistry changes. The changes are already starting to occur. I am craving alternate forms of dopamine, like exercising with you, being creative with you, working on the home with you, gardening with you, reading with you, and parenting with you. And naturally, I'm dreaming about holding you and being physically intimate.

I love you with all my heart, and I'm sorry for what you are going through right now—what I have caused. You are the love of my life and I hope I have not lost you. I'm a different guy without alcohol. I can give you the love and treatment you deserve, and I hope I have the chance at some point.

I hope you had a good day despite everything. And I hope you are relaxing and feeling safe and positive. I love you desperately. Please take care and kiss the kids for me.

Your husband,

John

From: John Du Wors <John@newmanlaw.com>
Date: August 21, 2014 at 3:09:41 PM PDT
To: "ahadenfeldt@gmail.com" <ahadenfeldt@gmail.com>
Subject: Today's session

Hi Babe,

Had a good 1 on 1 DV counseling session today, and I just wanted to share my thoughts with you rather than take up other time telling you about it. The counselor was amazing, and frankly would be a perfect counselor for us except that she only functions as a program administrator anymore. We talked a lot about Micah, and then a lot about the stress you have been experiencing for the last two years as a result of your grief with respect to Micah, your understandable and fair resentment toward me, the mistreatment I've subjected you to separate of that, and the stress of being a full time mom and keeper of the house (plus all the other things, weight, my drinking, finances, multiple moves, buying a house). I don't think I realized how much stress we've both been under, and especially you. And the way I've been coping with it (and really I think both of us) is through drinking.

In truth, I think we waited too long to go to counseling. We should probably have been going a lot earlier, and making time to address problems and stressors before they became a fight where alcohol was involved, resulting in verbal and physical abuse—at least from my direction. If we are going to try again, the counseling I think is a must. But just as important, I think you need more support from me in de-stressing. We should talk through some things I can do to give you more breaks from the kids and give you more help at home. Maybe a schedule of chores I take over from you other than general

tidying and dishes. And maybe we should find a one day p[illegible] day camp in the city when I take Jack so that you can have time at the house w[illegible]ither kid seeing you, and tugging on your skirt; or perhaps I teleco[illegible]mute one a[illegible]y per week when I take responsibility for the kids, and working at the same tim[illegible]oretically we could also make that a Sunday deal, just thoughts.

Finally, I think we should have spent more tim[illegible] talking sob[illegible] ems like we never communicated about our relationship or hous[illegible]hold needs e[illegible] when we were drinking, which sometimes resulted in good c[illegible]nversation, b[illegible]lly resulted in fights. I think couples have to set aside time for regula[illegible] sober, gooc[illegible]unication to make it work. On your end, I think you had too much stress to feel l[illegible] had time for that, which was probably in large part my fault because I should [illegible]een working to decrease your stress.

Anyway, I love you so much, and hope you a[illegible] feeling well. [illegible]amazing and I miss you like crazy.

Yours husband,

John

FILED
NOV 06 2018
BAINBRIDGE ISLAND
MUNICIPAL COURT

[redacted]

The Bainbridge Island Bad List Oh no, you're going to sue for defamation?! Doesn't that require something untrue to be said or published first? Good luck with that, wife beater. Bring it on, we look forward to parading dozens of corroborating and character witnesses showing just what a horrible liar and abusive person you are. Should be memorable!

Like · Reply · 7h

John Du Wors James Worthington You didn't know private individuals can send subpoenas? That's sad for you.

Like · Reply · 7h

John Du Wors The Bainbridge Island Bad List The lawsuit comes now. And if you were a person of any courage, you would post your identity so that your credibility could be evaluated.

Like · Reply · 7h

The Bainbridge Island Bad List No, we like that you have to do it the expensive way. Enjoy. I am sure the Bar Association will love to hear about what a stand up dude you are.

Let's see, all at the same time you're going to have juggle a divorce, a frivolous harassment suit against your wife, her counter suit, an official investigation by the Bar Association into your criminal history and abuse, AND you're going to sue us... Sounds like your docket is full there, chief. Good luck!

Like · Reply · 7h

1

[redacted]

PETITIONER E # P-1
Case: 46-18 D: 6-18
☒ Admitted ☐ Not Admitted

SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP

JOHN DUWORS
Petitioner/Plaintiff

HOUSTON WADE
Respondent/Defendant

Hon. **SALLY OLSEN**
Court Reporter **MARYSOL RYDER**
Court Clerk **JENNIFER KNAPP**
Date **SEPTEMBER 11, 2020**
No. 20-2-01225-18

Pet/Pla appeared yes By Zoom/through/with Counsel pro se By Zoom
Pet/Pla appeared _____ By Zoom/through/with Counsel _____ By Zoom
Resp/Def appeared yes By Zoom/through/with Counsel pro se By Zoom
Resp/Def appeared _____ By Zoom/through/with Counsel _____ By Zoom
Guardian Ad Litem appeared _____ By Zoom State / Other appeared _____ By Zoom

THE MATTER BEFORE THE COURT **[ ] Show Cause re:** _____
[X] Motion for default / ~~to compel~~ / _____
[ ] Unlawful Detainer **[ ] Minor Settlement** **[ ] Summary Judgment** **[ ] Supplemental Exam**
[ ] Entry of Order **[ ] Status/Review** **[ ] Settlement on the Record**

Testimony taken:
* Mr. Houston filed a response
* Mr. Duwors confirms the same
* Court strikes hearing

[ ] Courtroom polled for _____ **[ ] No response** **Time** _____
[ ] Default Granted [ ] Writ Granted [ ] Judgment Approved
[ ] The Court grants/denies motion. [ ] The Court takes the matter under advisement.
[ ] Order signed as presented. [ ] Order to be presented.
[X] This matter stricken/~~continued~~. [ ] Court Scheduler advised

[ ] Court sets _____ hearing at _____ am/pm on _____

[ ] Pleadings/File taken from this hearing by _____

20-2-01225-18
HSTKIC 9
Hearing Stricken In Court Other Reason
8862542

FILED
KITSAP COUNTY CLERK
2020 SEP 16 AM 8:17
ALISON H. SONNTAG

20-2-01225-18
OB 10
Objection Opposition
8900644

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

PLAINTIFF'S OPPOSITION TO MOTION FOR DISMISSAL WITH PREJUDICE PURSUANT TO CR 5(A), CR 5(B)(1), CR 5(B)(2), CR 8(C), AND RCW 7.70.160

RELIEF REQUESTED

The Court should deny Defendant Houston Wade's Motion to Dismiss. First, *res judicata* has no application to this case. The previous legal proceeding upon which Houston Wade basis his *res judicata* arguments was a municipal court petition for an anti-stalking protection order, whereas this is a civil action for damages asserting eight causes of action based on substantially different and/or additional facts. The differences between the factual and legal contentions in this case versus the prior proceeding eliminate the applicability of any issue preclusion doctrine. Moreover, the municipal court did not—as Houston Wade claims—make any findings or rulings that are determinative of any of the issues in this case, nor does Houston Wade provide any transcripts showing the court did so.

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

And Houston Wade was properly served in this matter. The Bainbridge Island police served Mr. Wade personally at his home on July 31, 2020 with an unfiled summons and complaint, and filed a proof of that service with this Court. Thereafter, Mr. Wade transmitted correspondence demanding John Du Wors file the summons and complaint, and John Du Wors did so. Although further service of the filed summons and complaint is not required under the Washington Court Rules, John Du Wors did email Houston Wade the filed summons and complaint, and also requested multiple times that Houston Wade provide John Du Wors with a proper physical address at which John Du Wors could provide him with paper service of the filed copies.

But Houston Wade refused to respond to John Du Wors' multiple requests for a service address—and from the notice of this motion, its appears Houston Wade has elected to use a pizza restaurant on Bainbridge Island as his service address, which John Du Wors could have never known he would choose to do.

STATEMENT OF FACTS

A. This action is based on previously unlitigated facts and legal theories.

John Du Wors brings this cause of action for civil damages and other relief against Houston Wade for 1) defamation of character; 2) defamation per se; 3) false light; 4) civil extortion; 5) tortious interference; 6) civil harassment; 7) intentional infliction of emotional distress; and 8) cyberstalking. (*See* Complaint.) It is based on online statements Houston Wade has made about John Du Wors, as well as communications Houston Wade has made to third parties, as described more fully in John Du Wors' Complaint. And while it is true that John Du Wors previously brought an anti-stalking petition against Houston Wade in Bainbridge Island Municipal Court (the "Prior Action"), the factual allegations in this action are substantially greater and different than those of the Prior Action, with very little overlap. (Declaration of John Du Wors ("Decl. Du Wors") at ¶ 2).

For example, the following allegations in John Du Wors Complaint had not

even *occurred* as of the time of the Prior Action: 17(a), 17(b), 17(c), 17(d), 17(g), 17(h), 17(i), 17(j), 17(k), 17(l), 18, 18(a), 18(b), 19, 19(a), 19(b), 19(c), 19(d), 19(f), 21, 22, 22(a), 22(b), 23, 24, 25, 26, 28, 29, 30, and 31. (Decl. Du Wors at ¶ 3.) In fact, the only factual allegations made by John Du Wors' Complaint in *this* action that were included in John Du Wors' anti-stalking petition in the Prior Action are 17(e), 17(f), and 20(a)-(c). (Decl. Du Wors at ¶ 4.) But those few overlapping allegations are offered for completely different legal theories that could never have been raised in the Prior Action, specifically including causes of action 1 through 7. (Decl. Du Wors at ¶ 5.)

And the Court in the Prior Action did not—as Houston Wade claims—make any findings or rulings that are determinative of any of the issues in this action. (Decl. Du Wors at ¶ 6.) The court in the Prior Action merely decided not to maintain the requested anti-stalking order, based on First Amendment concerns. (Decl. Du Wors at ¶ 7.) In fact, the court in the Prior Action said it appeared John Du Wors may have had a basis for claiming defamation against Houston Wade, and suggested that John Du Wors pursue that cause of action in Kitsap County Superior Court. (Decl. Du Wors at ¶ 8.) That is precisely what John Du Wors has done here.

B. Houston Wade was properly served.

The Bainbridge Island Police Department ("BIPD") served Houston Wade with the unfiled summons and complaint in this action at his home on July 31, 2020. (Decl. Du Wors at ¶ 9, Ex. 1.) The BIPD then filed a proof of that service with this Court. (Decl. Du Wors at ¶ 10.) John Du Wors filed another proof of that service. (Decl. Du Wors at ¶ 11.) Subsequently, Houston Wade sent John Du Wors letter correspondence demanding that John Du Wors file the summons and complaint in this matter, which Houston Wade was permitted to do under CR 3. (Decl. Du Wors at ¶ 12.)

So, John Du Wors filed the summons and complaint, and emailed a copy along

with the case number to Houston Wade's last known email address, which John Du Wors had previously used to communicate with Houston Wade. (Decl. Du Wors at ¶ 13.) But Houston Wade's demand correspondence did not contain an address where he could be physically served with the filed summons and complaint, so John Du Wors emailed Houston Wade three times requesting a service address or other service instructions, such as email. (Decl. Du Wors at ¶ 14, Ex. 2.) Houston Wade refused to respond to those requests. (Decl. Du Wors at ¶ 15.) And John Du Wors could not be sure that Houston Wade would accept service of litigation pleadings at his home address, because in two other lawsuits in which Houston Wade is a defendant before this court, Houston Wade has elected to use the pizza restaurant where he works as his address for accepting pleadings. (Decl. Du Wors at ¶ 15.)

C. This Court has found that Houston Wade is not truthful.

One of the cases in which Houston Wade is a defendant before this Court is a defamation lawsuit, very similar to this one, filed by a plaintiff named Bill Nelson. (Decl. Du Wors at ¶ 16.) Judge Houser presides over that lawsuit. (Decl. Du Wors at ¶ 17.) After issuing multiple discovery orders against Houston Wade, including sanctions orders, Judge Houser entered a default order against Houston Wade as a sanction for discovery abuses. (Decl. Du Wors at ¶ 18.) Judge Houser wrote:

> In as much as prior contempt sanctions, allowing for additional time to comply, as well as providing a monetary incentive to comply, have not motivated Defendant to comply with the Defendant's discovery obligations, or demonstrated a willingness to comply with court orders. Furthermore, Defendant's willingness to knowingly lie under oath at deposition demonstrates a complete disregard to the legal process and the administration of justice. There is no other alternative for this Court than to Grant Plaintiffs motion for default and strike Defendant's responsive pleadings.

(Decl. Du Wors at ¶ 19, Ex. 3.) Based on that finding, this Court should not be inclined to accept the truthfulness of Houston Wade's unsubstantiated

characterizations of the findings, rulings and comments of the court in the Prior Action.

STATEMENT OF THE ISSUES

1. The doctrine of issue preclusion (which includes *res judicata and collateral estoppel*) only bars re-litigation of issues decided in a previous case, where the facts and legal theories in the prior action were identical. But in this case, seven of the eight legal theories asserted were not raised in the Prior Action (nor could they have been), and the minimal over-lapping facts are asserted here for completely different legal theories than they were in the Prior Action. Should the Court deny Houston Wade's Motion to dismiss?

2. Under Washington Court Rule 3, a plaintiff may commence a case by serving an unfiled summons and complaint on the defendant, and thereafter no further personal service of the summons and complaint is required, even if they are eventually filed. Here, Houston Wade received proper personal service of the summons and complaint by the BIPD at his home on July 31, 2020, as well as an emailed copy of the filed summons and complaint. Should the Court reject Houston Wade's objection to service in this matter?

EVIDENCE RELIED UPON

This Motion relies on the pleadings and papers in the Court's file, the Declaration of John Du Wors, and the Exhibits thereto.

LEGAL AUTHORITY

A. Res Judicata and Collateral Estoppel have no application here.

The outcome of the Prior Action has no preclusive effect on this action because the facts and theories asserted here were not litigated in the Prior Action. As Houston Wade admits, for *res judicata* or *collateral estoppel* to apply, the issues and/or causes of action and subject matter must be *identical* to those adjudicated in a prior action. *Lynn v. Dept. of Labor & Indus.*, 130 Wn.App. 829, 836 (2005); *Christensen v. Grant County Hosp. Dist. No 1*, 152 Wn.2d 299, 306 (2004);

McDaniels v Carlson, 108 Wn. 2d 299, 305 (1987); (*see also* Def. Mot. Dismiss at pg. 5, lines 9–20). Seven of the eight causes of action in this case were not even remotely included in the subject matter of the Prior Action, nor could they have been asserted in a municipal court. And the factual allegations in this action only overlap minimally with the factual allegations in the Prior Action.

And as Houston Wade admits at page 5, lines 17–20 of his Motion, the issue preclusion doctrine "precludes only those issues that have actually been litigated and determined; it does not operate as a bar to matters which could have...been raised [in prior litigation] but were not." *McDaniels*, 108 Wn. 2d at 305. So the factual allegations in this matter could have substantially greater overlap with those of the Prior Action—in fact they could be identical—and issue preclusion would still not apply because virtually all the causes of action in this case are new. Houston Wade's *res judicata* and *collateral estoppel* arguments are without merit and should be rejected.

B. Houston Wade was Properly Served.

Washington Court Rule 3(a) provides that a plaintiff may commence a lawsuit by personally serving the defendant with an unfiled summons and complaint. If the defendant demands that the plaintiff file the summons and complaint and pay the filing fee, the plaintiff must do so within 14 days of the demand, or the original service is deemed void. Washington Court Rule 3 does not require any further personal service of the summons and complaint, even if the unfiled summons and complaint originally served is later filed. In fact, CR 5(a) specifically provides:

> Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties.

> No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in rule 4.

(Emphasis added.) So once a defendant is served personally with an unfiled summons and complaint, they must appear in order to be entitled to subsequent service, and that service need not be personal in nature.

Here, there is no dispute that Houston Wade was properly served with the unfiled summons and complaint on July 31, 2020. And John Du Wors' obligation to file the summons and complaint was timely met. Although John Du Wors made efforts to obtain a physical address to serve Houston Wade a courtesy copy of the filed summons and complaint, he was not obligated to do so unless Houston Wade had appeared in the action, which he had not. Accordingly, Houston Wade's objection to service is not valid.

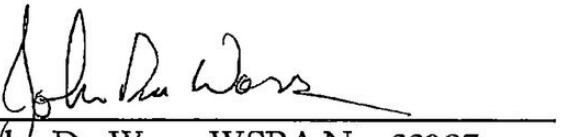
CONCLUSION

Houston Wade's Motion to Dismiss should be denied.

Dated: September 15, 2020

Respectfully submitted,

NEWMAN DU WORS LLP



John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on September 15, 2020, I caused true and correct copies of the foregoing documents to be served by the method(s) listed below on the following interested parties:

Via US Mail and Electronic Transmittal:

Defendant Houston Wade
c/o Bruciatio
236 Winslow Way E
Bainbridge Island, WA 98110
houstonwade@gmail.com

I hereby certify under the penalty of perjury that the foregoing is true and correct.

Executed on September 15, 2020 at Knoxville, Tennessee.

s/ Chy Eaton
Chy Eaton, Paralegal

FILED
KITSAP COUNTY CLERK
2020 SEP 16 AM 8:17
ALISON H. SONNTAG

20-2-01225-18
DCLR 11
Declaration Affidavit
8900667

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

DECLARATION OF JOHN DU WORS IN SUPPORT OF PLAINTIFF'S OPPOSITION TO MOTION FOR DISMISSAL WITH PREJUDICE PURSUANT TO CR 5(A), CR 5(B)(1), CR 5(B)(2), CR 8(C), AND RCW 7.70.160

I, John Du Wors, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matter. I make this declaration in support of Plaintiff's Opposition to Motion for Dismissal with Prejudice Pursuant to CR 5(A), CR 5(B)(1), CR 5(B)(2), CR 8(C), and RCW 7.70.160.

2. While it is true that I previously brought an anti-stalking petition against Houston Wade in Bainbridge Island Municipal Court (the "Prior Action"), the factual allegations in this action are substantially greater and different than those of the Prior Action, with Very little overlap.

3. For example, the following allegations in my Complaint had not even *occurred* as of the time of the Prior Action: 17(a), 17(b), 17(c), 17(d), 17(g), 17(h),

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(206) 274-2800

17(i), 17(j), 17(k), 17(l), 18, 18(a), 18(b), 19, 19(a), 19(b), 19(c), 19(d), 19(f), 21, 22, 22(a), 22(b), 23, 24, 25, 26, 28, 29, 30, and 31.

4. In fact, the only factual allegations made by my Complaint in *this* action that were included in my anti-stalking petition in the Prior Action are 17(e), 17(f), and 20(a)–(c).

5. But those few overlapping allegations are offered for completely different legal theories that could never have been raised in the Prior Action, specifically including causes of action 1 through 7.

6. And the Court in the Prior Action did not—as Houston Wade claims—make any findings or rulings that are determinative of any of the issues in this action.

7. The court in the Prior Action merely decided not to maintain the requested anti-stalking order, based on First Amendment concerns.

8. In fact, the court in the Prior Action said it appeared John Du Wors may have had a basis for claiming defamation against Houston Wade, and suggested that John Du Wors pursue that cause of action in Kitsap County Superior Court.

9. The Bainbridge Island Police Department ("BIPD") served Houston Wade with the unfiled summons and complaint in this action at his home on July 31, 2020. Attached hereto as Exhibit 1 is a true and correct copy of that proof of service.

10. The BIPD then filed a proof of that service with this Court.

11. I filed another proof of that service.

12. Subsequently, Houston Wade sent me letter correspondence demanding that I file the summons and complaint in this matter, which Houston Wade was permitted to do under CR 3.

13. So, I filed the summons and complaint, and emailed a copy along with the case number to Houston Wade's last known email address, which I had previously used to communicate with Houston Wade.

14. But Houston Wade's demand correspondence did not contain an address where he could be physically served with the filed summons and complaint, so I emailed Houston Wade three times requesting a service address or other service instructions, such as email. Attached hereto as Exhibit 2 is a true and correct copy of my email correspondence to Houston Wade.

15. Houston Wade refused to respond to those requests. And I could not be sure that Houston Wade would accept service of litigation pleadings at his home address, because in two other lawsuits in which Houston Wade is a defendant before this court, Houston Wade has elected to use the pizza restaurant where he works as his address for accepting pleadings.

16. One of the cases in which Houston Wade is a defendant before this Court is a defamation lawsuit, very similar to this one, filed by a plaintiff named Bill Nelson.

17. Judge Houser presides over that lawsuit.

18. After issuing multiple discovery orders against Houston Wade, including sanctions orders, Judge Houser entered a default order against Houston Wade as a sanction for discovery abuses. Attached hereto as Exhibit 3 is a true and correct copy of that order.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of September, 2020 at Bainbridge Island, Washington.

John Du Wors

Exhibit 1

SUPERIOR COURT OF WASHINGTON FOR KITSAP COUNTY

John Du Wors, Petitioner,
vs.
Houston Wade, Respondent.

NO.

RETURN OF SERVICE (RTS)

1. My name is Bobbie E. Noel. I am ☑ a peace officer ☒ 18 years of age or older and not the petitioner.
2. ☐ I was unable to make personal service on the respondent. ☐ I have notified the petitioner that respondent was not served.
   ☐ Personal service was attempted on the following date(s) _____
   ☐ No service was attempted because _____
3. ☒ I served Houston Wade (name of person served) with the following documents:

☐ Temporary Order for Protection and Notice of Hearing	☐ Motion to Modify/Terminate Order for Protection
☐ Petition for Order for Protection	☐ Order Modifying/Terminating Order for Protection
☐ Reissuance of Temporary Order for Protection and Notice of Hearing	☐ Order Transferring Domestic Violence Case and Setting Hearing
☐ Order for Protection	☒ Other: Summons (20 days) - Case Info Cover Sheet - Complaint for Damages & Injunctive Relief - Exhibits 1 thru 6.
☐ Order Realigning Parties and Notice of Hearing	

4. I served these documents on 07/31/2020 (date) at 1500 hrs (time) at this address: 625 Winslow Way E B1
5. Other: _____

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED 07/31/2020 at Bainbridge Island, Washington.

Fees: Service _____
Mileage _____
Total _____

Bobbie E. Noel
Signature of Server
Bainbridge Island Police Dept.
Law Enforcement Agency

Exhibit 2

From: John Du Wors
To: houstonwade@gmail.com
Cc: Chy Eaton
Subject: RE: Service of filed complaint
Date: Wednesday, August 12, 2020 2:44:00 PM
Attachments: 20-2-01225-18-conformed.pdf

Houston,

Attached is the filed complaint. What is your address for service so that I can serve it on you in hard copy? Alternatively, do you want to agree on service by email in this matter? If so, I will put together a formal email service agreement.

Regards,

John Du Wors

From: John Du Wors
Sent: Tuesday, August 11, 2020 6:47 PM
To: houstonwade@gmail.com
Subject: RE: Service of filed complaint

Houston,

If you are not going to agree on email service, you will need to serve me at my Seattle office. At what address can I serve you for purposes of this lawsuit?

-John

From: John Du Wors
Sent: Tuesday, August 11, 2020 4:00 PM
To: houstonwade@gmail.com
Subject: Service of filed complaint

Dear Houston,

Today, I received your correspondence demanding the filing of my complaint against you. We are filing now, and I will send you a copy of the filed complaint. Will you agree that we can serve each other by email in order to facilitate litigation documents reaching each other faster?

Regards,

John Du Wors

Exhibit 3

FILED
KITSAP COUNTY CLERK
2020 APR -6 PM 3:00
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KITSAP COUNTY

WILLIAM NELSON,

Plaintiff,

vs.

HOUSTON WADE,

Defendant.

No. 18-2-03205-18

RULING ON PLAINTIFF'S MOTION FOR: ORDER OF DEFAULT AND/OR FINDING OF CONTEMPT, AND AWARD OF ATTORNEY FEES AND COSTS UNDER CR 37

THIS MATTER comes before the Court on the Plaintiff's Motion for Order of Default and/or Finding of Contempt, and Award Attorney Fees and Costs Under CR 37. A hearing on the motion was held on January 17, 2020 with Plaintiff William Nelson appearing by and through is attorney Alexander Savojni; and Defendant Houston Wade appearing as an unrepresented litigant.

The Court; having the benefit of briefing by the parties and oral argument on the motion; makes the following findings and conclusions:

1. On March 20, 2019, Plaintiff, though his attorney, propounded interrogatories and requests for production upon Defendant Wade.

2. Defendant Wade provided his response to the interrogatories and requests for production on May 7, 2019. Plaintiff did not consider the responses complete. They were

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Courts Decision
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non-responsive, combative and, in some instances, insulting to Plaintiff and Plaintiff's counsel.

3. A CR 26(i) conference was held on May 16, 2019. During the telephone call, Defendant agreed to provide the requested documents and told Plaintiff's counsel he would need until May 23, 2019 to comply.

4. Defendant did not make further responses to the requests for production or interrogatories by May 23, 2019.

5. A motion to compel was noted on June 14, 2019. On the day of the hearing Defendant provided to Plaintiff's attorney additional documents. The matter was continued until June 28, 2019 for Plaintiff to review the newly submitted documents.

6. Plaintiff, through his counsel, reviewed the materials, and determined they were insufficient responses to the requests for production and interrogatories propounded on March 20, 2019.

7. On June 28, 2019, the Court ordered Defendant to provide full and complete responses to Plaintiff's First interrogatories and produce all documents responsive to the Plaintiff's Request for Production by July 12, 2019. The Court also required Defendant to pay $3,000.00 to Plaintiff for attorney fees by July 5, 2019.

8. Defendant has not paid any of the Court ordered attorney fees to date.

9. Defendant attempted to comply with his discovery obligation on July 17, 2019. This attempt did not meet the requirements of the discovery requests.

10. A second CR 26(i) conference was scheduled for August 9, 2019. A letter from Plaintiff's attorney instructed Defendant on the deficiencies of his attempts to provide adequate responses to Plaintiff's discovery requests.

11. Defendant then provided his fourth attempt to provide adequate responses to the discovery requests. This fourth attempt did not comply with the requests for production and interrogatories propounded to Defendant on March 20, 2019.

12. During the time attempts to obtain adequate responses to the Plaintiff's discovery requests occurred, Defendant continued to post about Plaintiff on the internet on Facebook.

JUDGE WILLIAM C. HOUSER
Kitsap County Superior Court
614 Division Street, MS-24
Port Orchard, WA 98366
(360) 337-7140

Posts occurred on July 27, August 6, September 1, October 12 and October 19. These posts were concerning Plaintiff and the present litigation.

13. Defendant submitted to a deposition on October 2, 2019. During this deposition, Defendant acknowledged failing to attempt to obtain the contact information of his witnesses. The June 28, 2019 court order required Defendant to obtain and provide his witnesses' contact information to Plaintiff.

14. During the deposition, Defendant provided the names of previously undisclosed witnesses. He did not provide, nor did he appear to have any other contact information for these previously undisclosed witnesses.

15. Defendant has provided the address of one witness and has provided no phone numbers of any witness.

16. As of January 17, 2020, Defendant has failed to adequately answer the Plaintiff's propounded interrogatories and requests for production. Defendant has failed to make a reasonable attempt to provide adequate responses to those requests. Plaintiff extended time limits for Defendant to allow full disclosure and those time limits have been ignored. Defendant has been held in contempt, and continues to be in contempt, of the court order of June 28, 2019.

17. During Defendant's October 2, 2019 deposition, Defendant stated that he had contact with Deputy Prosecuting Attorney Stokes, and indicated that she was inclined to charge Plaintiff with a felony if the case against Defendant was not dismissed by Plaintiff.

18. In a subsequent declaration dated December 18, 2019[1] DPA Stokes: denied having any contact with Defendant since a brief email exchange on November 8, 2018, denied having any contact with Defendant between November 8, 2018 and October 2, 2019, denied having any discussions with Defendant regarding Plaintiff at any time prior to the October 2, 2019 deposition, and denied telling Defendant she had any inclination to prosecute a number of individuals, including Plaintiff, of a felony. DPA Stokes stated that Defendant emailed her October 3, 2019, the day after his deposition, about Plaintiff and witness

[1] See Dec. of Savojni, Exhibit 9.

tampering charges. This conduct supports the conclusion that Defendant purposefully and knowing lied under oath at his deposition.

19. During Defendant's deposition, Defendant admitted he had not tried to obtain contact information of at least 17 of his 41 witnesses. He has not done the bare minimum of providing contact information for his own witnesses.

DISCUSSION

Plaintiff requests the Court strike Defendant's responsive pleadings in this matter and issue an order of default against Defendant pursuant to the authority of CR 37. In the alternative, Plaintiff is requesting Defendant be held in contempt and sanctions be imposed for that contempt in some way that less than striking Defendant's pleadings.

The striking of pleadings is an extreme remedy under the rules of civil procedure. The Court has authority to enter a default judgment when a party fails to make discovery. CR 37(d) authorizes a court to impose sanctions for failure to meet their obligations regarding discovery in litigation. The sanctions may range from a finding of contempt, to exclusion of evidence, to granting a default judgment.[2] Furthermore,

> When the trial court "chooses one of the harsher remedies allowable under CR 37(b), ... it must be apparent from the record that the trial court explicitly considered whether a lesser sanction would probably have sufficed," and whether it found that the disobedient party's refusal to obey a discovery order was willful or deliberate and substantially prejudiced the opponent's ability to prepare for trial.[3]

Defendant has done next to nothing to respond to the discovery requests propounded upon him by Plaintiff. While Defendant has listed up to 60 witnesses he may call, he does not appear to have, or he is intentionally hiding, contact information for these witnesses. His sworn deposition answers are admissions of a failure to perform even the most rudimentary actions required under the civil rules. His conduct is a direct disregard for the rules, and for this Court's order. "A party's disregard of a court order without reasonable excuse or

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[2]See *Smith v. Behr Process Corp.* 113 Wn. App. 306, 324 54 P.3d 665 (2002).

[3] *Burnet v. Spokane Ambulance*, 131 Wn.2d 484, 494, 933 P.2d 1036, 1040 (1997), as amended on denial of reconsideration (June 5, 1997) citing *Snedigar v. Hodderson*, 53 Wash.App. 476, 487, 768 P.2d 1 (1989).

justification is deemed willful."[4] This willful disregard of a court order and the administration of justice is further demonstrated by Defendant's brazen unwillingness to answer truthfully at his deposition regarding his communications with DPA Stokes.

Defendant has no reasonable excuse for the complete lack of effort in complying with the court rules and this Court's order.

Plaintiff is unable to adequately prepare for trial without the responses from Defendant on the basic information about witnesses, as well as other requests for production and interrogatories. Plaintiff is confronted by the pleadings with a defense by Defendant. The responses by Defendant to the discovery requests on that defense place Plaintiff in limbo as to the quality of the defense, and the quality of the witnesses for Defendant. It deprives Plaintiff the opportunity to gain information required by our discovery rules to rebut defenses and plan his case in chief. Plaintiff has established substantial prejudice in his ability to prepare for trial based upon Defendant's inaction to Plaintiff's discovery requests.

This court issued a contempt ruling on Defendant's failure to adequately respond to Plaintiff's discovery requests. Multiple extensions for Defendant to produce the requested material and answers to interrogatories were granted by the Court. Deadlines for that compliance were set. Attorney's fees were granted as part of that sanction. In light of the Court's ruling, Defendant has not complied satisfactorily with any of the Court's orders. Discovery was not provided by the deadline. Court ordered attorney's fees were not paid by the deadline.

Now, Plaintiff requests further court enforcement of the court rules. It is clear that another order of contempt will be fruitless. Defendant has not demonstrated a willingness to accept the responsibility of cooperating with the Court in this litigation. This Court could restrict Defendant's witnesses as a potential sanction. This option is directly tied to the lack of information from Defendant. To evaluate this option for sanction, the Court understands that Defendant does not have contact information for most, if not all, of his potential witnesses, only because he has not demonstrated any reasonable effort to get that

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[4] *Rivers v. Washington State Conference of Mason Contractors*, 145 Wn.2d 674, 686–87, 41 P.3d 1175, 1181 (2002).

contact information. To restrict Defendant's pool of potential witnesses, denies Defendant the evidence he needs to put on his defense; unless additional names of potential witnesses are provided prior to the trial in the matter. As such, the restriction of witnesses is an inappropriate remedy.

In as much as prior contempt sanctions, allowing for additional time to comply, as well as providing a monetary incentive to comply, have not motivated Defendant to comply with the Defendant's discovery obligations, or demonstrated a willingness to comply with court orders. Furthermore, Defendant's willingness to knowingly lie under oath at deposition demonstrates a complete disregard to the legal process and the administration of justice. There is no other alternative for this Court than to Grant Plaintiff's motion for default and strike Defendant's responsive pleadings.

The Court also awards reasonable attorney's fees and costs to Plaintiff pursuant to CR 37. Plaintiffs' attorney shall submit the appropriate declarations clearly setting out the time and costs allocated in preparing and arguing this motion.

Plaintiff's counsel is further directed to prepare orders in accordance with this ruling for presentation to the Court.

Dated this 6th Day of March 2020.

William C. Houser
Superior Court Judge

CERTIFICATE OF SERVICE

I, Kyle Gallagher, certify under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above entitled action, and competent to be a witness herein.

Today I caused a copy of the foregoing document to be served in the manner noted on the following:

Alexander Savojni 918 S Horton St Ste 901 Seattle, WA 98134-1953	☒ Via U.S. Mail
Houston Wade c/o Bruciato 236 Winslow Way E. Bainbridge Island, WA 98110	☒ Via U.S. Mail

DATED ~~March~~ April 6, 2020, at Port Orchard, Washington.

Kyle Gallagher #47769
Staff Attorney

FILED
KITSAP COUNTY CLERK
2020 SEP 16 PM 4:24
ALISON H. SONNTAG

20-2-01225-18
AFSR 12
Affidavit Declaration Certificate Confirmation of
8900698

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

SUPPLEMENTAL DECLARATION OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on September 16, 2020, I caused a true and correct copy of PLAINTIFF'S OPPOSITION TO MOTION FOR DISMISSAL WITH PREJUDICE PURSUANT TO CR 5(A), CR 5(B)(1), CR 5(B)(2), CR 8(C), AND RCW 7.70.160 to be served by the method(s) listed below on the following party:

Via Hand-Delivery to:

Defendant Houston Wade
c/o Bruciatio
236 Winslow Way E
Bainbridge Island, WA 98110

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

I hereby certify under the penalty of perjury that the foregoing is true and correct.

Executed on September 16, 2020 at Bainbridge Island, Washington.

John Du Wors, WSBA No. 33987

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

20-2-01225-18
CRRSP 13
Correspondence
8901410

FILED
KITSAP COUNTY CLERK
2020 SEP 17 PM 3:29
ALISON H. SONNTAG

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS,

Plaintiff,

vs.

HOUSTON WADE,

Defendant

Case No.: 20-2-01225-18

SUPPLEMENT TO MOTION TO DISMISS WITH PREJUDICE

SUPPLEMENT TO MOTION TO DISMISS WITH PREJUDICE

The Defendant Houston Wade would like to include further evidence to his Motion to Dismiss with Prejudice. The newly included evidence is the transcript of Du Wors v Wade from November 6th, 2018 (Bainbridge Island Municipal Court case no. 46-000018, attached as Exhibit 2).

Mr. Du Wors clearly acknowledges on page 15 of the transcript that in lieu of filing a defamation suit he served on Mr. Wade that he "...elected to proceed with this course of remedy..." in pursuing the restraining order in the Bainbridge Island Municipal Court. Further, Mr. Du Wors based his entire argument for the restraining order on the precept that Mr. Wade "defamed" Mr. Du Wors with, "... comments by Mr. Wade, that are offensive and defamatory..." (page 16 of Exhibit 2). On page 17 of the same transcript, Mr. Du Wors lists the comments made by Mr. Wade he deems defamatory, which include Mr. Wade's conclusions that that Mr. Du Wors is "...an abusive alcoholic..." "commits domestic violence..." "...been charged multiple times for obstructing law enforcement..." "...been banned from several local restaurants..." "exhibits drunk and belligerent behavior..." "he spent his marriage trying to have sex with women using internet dating sites like Tinder and Seeking Arrangements..." The Court then reads a Google review of Mr. Du Wors's firm by Mr. Wade submitted as evidence by Mr. Du Wors (page 21 of Exhibit 2): "Partner John Du Wors has a lengthy criminal record, including: Imprisonment of a minor, domestic violence against his wife, hit and run, and multiple charges for obstructing a public officer [...] He will threaten suit against anyone who lets it be known that he is an abusive alcoholic. How he still has a license to practice law is beyond me." The Court then asks Mr. Du Wors, "So, tell me what about this that is not true." Mr. Du

Wors asserts that all of it is not true. The Court responds, "...but it is true that you have a conviction for imprisonment of a minor and domestic violence?" The Court further presses Mr. Du Wors on page 22 and he is forced to affirm that he has been convicted for both crimes, which are violations of RCW 2.48.220(1) and court rules APR 21(a)(13) which are both grounds for disbarment. The Court goes on to force Mr. Du Wors on the next page to admit that he has a conviction for hit and run. The Court asks Mr. Du Wors if he has ever been charged for obstruction of a public officer, and Mr. Du Wors offers "I don't think so" as a response. Mr. Du Wors has been charged at least twice with obstruction of a public officer (Exhibit 1).

Once Mr. Du Wors realized his argument for defamation had no merit (Exhibit 2, page 24), he pivots to a different argument, and in the transcript states that "...caselaw says that defamation is completely separate from question from harassment and cyberstalking..." and The Court notes that the statute Mr. Du Wors cites "...does not include constitutionally protected free speech..." and then The Court asks Mr. Du Wors if true statements can be considered defamatory free speech. Mr. Du Wors replies, "Is not."

Later during Mr. Wade's testimony, evidence was submitted that established Mr. Du Wors's admission to alcoholism and chemical abuse, convictions for domestic violence and imprisonment of a minor, a conviction for hit and run, and two charges for obstruction related to other crimes. It was also revealed that the time Mr. Du Wors had his wife arrested for domestic violence he had concocted it as a ruse to get her mug shots so he could blackmail her (Exhibit 1), which is a violation of court rule APR 21(a)(5). Also submitted into evidence in that case were multiple incidents where Mr. Du Wors had been in other hit and run collisions; abused his wife; threatened to murder family pets; been trespassed from both Bruciato and San Carlos restaurants for belligerence and drunk driving; lied to someone when he claimed to be the attorney for Brenden McGill, and, within minutes of when he was caught in that lie, invented a fictitious client out of thin air and then threatened to sue Mr. McGill, which are both grounds for disbarment according to RCW 2.48.220(11); that Mr. Du Wors used sites like Seeking Arrangements to seek prostitutes; and where Mr. Du Wors sent Mr. Wade detailed description of his mother's home and threatened Mr. Wade's mother with sodomy.

After the lengthy submission of evidence, The Court, on page 73 of Exhibit 2, asks of Mr. Wade, "So, do I understand it correctly that the reason these exhibits are being offered, is that you are attempting to say that this is not defamatory information that you posted?"

Mr. Wade replied, "Correct."

When giving her ruling on page 110 of the transcript (Exhibit 2), The Court reiterates that the harassment and stalking with which Mr. Du Wors charged Mr. Wade in his TRO cannot include constitutionally protected speech and that Mr. Du Wors made claims that what Mr. Wade wrote about Mr. Du Wors constituted defamation and that defamation is not constitutionally protected free speech. The Court Concludes that Mr. Du Wors was not able to prove defamation and thus Mr. Wade's speech was protected. The Court goes on to affirm Mr. Wade's reasons for the articles about Mr. Du Wors as a matter of "public concern" (page 116 of Exhibit 2). On page 117, The Court notes that Mr. Du Wors's examples in caselaw all involve an element of defamation that Mr. Du Wors could not establish that defamation had taken place.

Dated this 16th day of September 2020.

Houston Wade

Exhibit 2

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 DECLARATION OF HOUSTON WADE IN SUPPORT OF DEFENDANT'S MOTION FOR DISMISSAL WITH PREJUDICE

I, Houston Wade, declare as follows:

1. I am over 18 years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. John Du Wors served me his response and declaration to my motion to dismiss on Wednesday, September 16th. To this date I still have not received any other documents pertaining to this case. I do not have conformed copies of either the summons or complaint, or any other documents served upon me that Mr. Du Wors has filed with the court. Mr. Du Wors is still in violation of CR 5 in this regard.

3. Mr. Du Wors states that The Court in our Prior Action "*did not – as Houston Wade claims – make any findings or rulings that are determinative of any of the issues in this action.*" This is not true. The Court specifically made note that Mr. Du Wors's entire central argument was based upon his claim that I defamed him and that I was not engaging in constitutionally protected free speech, and that Mr. Du Wors "did claim in his petition that the information presented is almost entirely false. [...] Although when pressed, [Mr. Du Wors] does admit that he has convictions for domestic violence, hit and run, imprisonment of a minor. He denies being charged with obstructing, but Mr. Wade did present evidence that suggests that he has been at least charged with those offenses in other courts." Page 114 of Exhibit 2. The court also says that, "the proof really would lie in Mr. Du Wors in trying to prove that this falls within the defamation category." Page 110, Exhibit 2. The Court further states that they could not "find that [defamation] has been proven. Page 113, Exhibit 2.

2. I did reply to Mr. Du Wors's unfiled complaint which he had served upon me on July 31st, and that according to CR 3 he had 14 days to file and after he filed to process service upon me. Mr. Du Wors failed to process service upon me as required in CR 5(a). Mr. Du Wors claims he sent service by email but did so without my consent as such consent from both parties is required and without it does not constitute legal service in the State of Washington (ELC 4.1). Mr. Du Wors noted this in his own submitted evidence (Plaintiff's Exhibit B). Mr. Du Wors sent emails to an email address to which he was told specifically not to send correspondence due to his continued harassment and that he has been blocked from contacting that email address since March 2020 (Defendant's Exhibit A).

3. The Court in our Prior Action did say that Mr. Du Wors could pursue a defamation suit in Superior Court, but also suggested that Mr. Du Wors can "certainly appeal the Court's order here today within 30 days." Page 118 of Exhibit 1. Mr. Du Wors chose to not file in Superior Court in 2018 and opted to instead pursue action in Municipal Court. Mr. Du Wors's arguments failed in Municipal Court and now he is trying to bring the same arguments of defamation over the same website to this new action. Mr. Du Wors admits that his previous action failed due to First Amendment concerns, and those same concerns apply in this case as well. The Prior Action demonstrated that I did not defame Mr. Du Wors due to Mr. Du Wors not only not providing any evidence that what was written about him was untrue (his only arguments were denials of such documented behavior which ultimately constituted perjury on Mr. Du Wors's part), but that the Court then forced Mr. Du Wors to admit to the truth of the content written by me.

4. Again, Mr. Du Wors insists in his latest declaration that I was served the unfiled complaint by the BIPD at my home. The documents clearly states that I was served at 625 Winslow Way E, on Bainbridge Island. That is the address of the police station (Plaintiff's Exhibit A). Mr. Du Wors complains that he did not have "an address where [I] could be physically served with the filed summons and complaint." Mr. Du Wors managed to serve me with the unfiled summons and complaint just fine with out knowing my address (Plaintiff's Exhibit A). Also, in the future Mr. Du Wors might wasn't to check envelopes for return address before throwing them away.

5. In Mr. Du Wors's opposition to my motion, he claims that The Court in our Prior Action that he "*may have had a basis for claiming defamation against Houston Wade.*" This is not true. The Court specifically said that Mr. Du Wors had failed to prove defamation, but that "*If* there are particular statements that are incorrect, certainly,

Mr. Du Wors has the remedy of seeking a defamation suit, as he has eluded to." Emphasis added, Page 118, Exhibit 1. Mr. Du Wors has yet to show incorrect statements, then or now, and failed to appeal the verdict in our Prior Action as suggested by The Court which would have opened up a window to filing a lawsuit had he prevailed. Without filing an appeal, Mr. Du Wors shows that all he is doing is shopping for courts to relitigate a previously rendered verdict.

6. Mr. Du Wors cites in his opposition to my motion CR 5(a) and claims that he is not required to serve me any further subsequent documents since he served me with an unfiled complaint. Mr. Du Wors in his opposition to my motion emphasizes that there is "No need service be made on parties in default for failure to appear" while ignoring that he still has not served me any other documents filed in this case when CR 5(a) specifically notes that every submitted document to the court must be served upon the other party, except for a motion of default due to a failure to appear. How am I to know that what is in the unfiled draft with which I was served matches what Mr. Du Wors filed with the Court? Especially considering all the lying and obfuscation Mr. Du Wors has already engaged in during this case in an underhanded attempt to pursue a default motion without my ever knowing he filed. He is legally obligated to serve me with those documents once filed. That is the entire point of CR 3 and CR 5. Plus, Mr. Du Wors claims I failed to appear, when he clearly acknowledges that I sent him a letter demanding he file, and thus "appeared" in this case.

7. Mr. Du Wors had his paralegal, Chy Eaton, send me an email on September 14th (Exhibit 3) containing a letter from Mr. Du Wors in which he claims, "We have no record that you served my Seattle Office on September 10th, 2020—or any record that you served my Seattle office at all." He notes that Kitsap County Local Civil Rule 7(b)(1)(A) that any motion requires five days' notice to the opposing party for the motion to be considered. As you can see from Exhibit 4, Mr, Du Wors's law firm signed receipt of certified mail and took delivery of the documents and notice of motion at 10:22am on September 10th, 2020, on the very day he claims he had not been served. Mr. Du Wors has lied in this action yet again, and this is another cause for malpractice on Mr. Du Wors's part and further evidence that this case should be dismissed and his license to practice law in Washington be suspended.

Dated this 17th of September 2020.

Houston Wade

Exhibit 2

IN THE BAINBRIDGE ISLAND MUNICIPAL COURT

IN AND FOR THE STATE OF WASHINGTON

JOHN DU WORS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 46-18
	)	
HOUSTON WADE,	)	
Respondent.	)	

TRANSCRIPT OF PROCEEDINGS
Protection Order Hearing
(Stenographically Transcribed via Digital Recording)

6 November 2018

Before the Honorable Sara McCulloch,
a Bainbridge Municipal Court Judge.

APPEARANCES

FOR THE PLAINTIFF: JOHN DU WORS
Self-represented Litigant

FOR THE DEFENDANT: Houston Wade
Self-represented Litigant

TRANSCRIBED BY:

GLORIA C. BELL, CCR, 3261
Official Court Reporter
360.337.7177

I N D E X

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* * *

EXHIBIT NO. ADMITTED PUBLISHED

Petitioner's Exhibit No. 1.....28

Respondent's Exhibit No. 1.....63

Respondent's Exhibit No. 2.....63

Respondent's Exhibit No. 3.....78

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Respondent's Exhibit No. 9.....78

Respondent's Exhibit No. 10.....78

Respondent's Exhibit No. 11.....78

Respondent's Exhibit No. 12.....78

EXHIBIT NO.	ADMITTED	PUBLISHED
Respondent's Exhibit No. 13	78	
Respondent's Exhibit No. 14	78	
Respondent's Exhibit No. 15	78	
Respondent's Exhibit No. 16	78	
Respondent's Exhibit No. 17	78	
Respondent's Exhibit No. 18	78	

Honorable Sara McCulloch
John Du Wors vs. Houston Wade
Cause No. 46-18

---ooOoo---

THE CLERK: All rise.

Bainbridge Island Municipal Court is now in session. The Honorable Sara McCulloch presiding.

THE COURT: All right. Good morning. Please be seated.

All right. This is the matter of John Du Wors versus Houston Wade, Cause Number 46-18.

We have Mr. Wade present --

MR. WADE: Yes.

THE COURT: -- correct? And Mr. Du Wors is also present.

MR. DU WORS: Yes, Your Honor.

THE COURT: All right. So we're here for a full order hearing related to a temporary order that was issued a couple weeks ago.

Counsel, do we have any preliminary issues to discuss?

MR. DU WORS: I don't know if testimony will be taken today. If it is, Mr. Moriwaki is a witness. I would ask that he not remain in the courtroom during presentation before his testimony takes place.

THE COURT: Okay. So you're asking for

exclusion of witnesses?

MR. DU WORS: Yeah.

THE COURT: Okay.

MR. DU WORS: Additionally, Mr. Nelson, my copetitioner, who also obtained the same -- virtually the same TRO on October 23rd, is here to offer testimony, and is supposed to be subject to that as well.

THE COURT: All right.

MR. DU WORS: If the Court grants it.

THE COURT: Okay. And any objection to the exclusion of witnesses?

MR. WADE: No.

THE COURT: All right. Well, that motion will be granted.

MR. DU WORS: Okay.

THE COURT: Are the parties -- this is a full order hearing, and so the parties -- you know, at this point, the Court will be hearing testimony, considering evidence that's in the petition, and making a decision about whether or not a full order can issue.

Are the parties ready to go forward with that today?

MR. DU WORS: Yes, Your Honor.

MR. WADE: Yes.

THE COURT: Okay. And so I did receive some briefing in this matter. I received a brief that was filed today by Mr. Du Wors. But this said that it was requesting a TRO extension hearing.

MR. DU WORS: Oh, I think that's just probably imprecise nomenclature. I have -- what I mean to offer that brief in support of is the --

THE COURT: Full order?

MR. DU WORS: -- entry of the full order.

THE COURT: Okay. And did you receive a copy of this brief?

MR. WADE: I -- yes.

THE COURT: Okay. But just before the hearing?

MR. WADE: Yeah.

THE COURT: All right. And so -- and then there was some other paperwork that was also filed. I'm not sure who filed it. But it was basically the matter involving Clarence Moriwaki and Richard Rynearson, 17-2-01463-1, decision on RALJ appeal as well as a federal case, Defendant's Motion to Dismiss in Opposition to Plaintiff's Renewed Motion for Preliminary Injunction. This is Cause Number 3:17-cv-05531-RBL. And so these were filed in this

matter by somebody. Does -- did either of you file these.

MR. WADE: No.

MR. DU WORS: Your Honor, what I sent you in addition to the supplemental legal memorandum today was a copy of Kitsap County Superior Court's appeal decision vacating the injunction in favor of Mr. Moriwaki.

THE COURT: Um-hmm.

MR. DU WORS: As well as the -- the brief of Attorney General's Office.

THE COURT: Okay.

MR. DU WORS: Offered in opposition to Mr. Rynearson's renewed motion for a preliminary injunction against nominal Defendant Ferguson in his federal court action before Judge Layton to invalidate the Washington cyberstalking statute based on being facially unconstitutional.

THE COURT: All right. Thank you.

Well, I have not read this motion before, but I have read the decision on RALJ appeal and I'm familiar with the -- the caselaw and the -- the decision itself.

And was there any other information that was going to be filed by any party today?

MR. WADE: Probably all of this.

THE COURT: Okay.

MR. WADE: Yeah.

THE COURT: All right. So you're going to be offering some testimony?

MR. WADE: Yes.

THE COURT: Okay.

MR. WADE: Lots of it.

THE COURT: And before we move forward with that, we did -- the Court did grant an exclusion witnesses. So Mr. Nelson can wait in the hall until he's called.

MR. NELSON: Okay. How long do you expect this to -- an hour or two?

THE COURT: Don't know.

MR. NELSON: Okay. Thank you.

THE COURT: Um-hmm.

(Witness leaves the courtroom.)

THE COURT: All right. So in a protection order hearing, the rules of evidence don't apply. So it's not the same as a -- a full trial, where we have to apply the evidence rules. Typically people represents themselves, as is it the case here, and the Court will allow testimony in a more narrative fashion, and the rules are relaxed in terms of, you

know, establishing some of the foundational requirements for admitting evidence. I tend to -- as far as time goes, I tend to admit things and then to review them and exclude them if they -- you know, and disregard them if they really aren't relevant. But I certainly can hear argument on objections to pieces of evidence as -- as they come up as well.

Now, it looks like you have a number of documents that are laid all over your desk.

MR. WADE: Yes.

THE COURT: Did you provide copies of those to Mr. Du Wors?

MR. WADE: He -- he has access, I believe, to all of these things. I can make copies for him if he needs them.

THE COURT: What do you mean he has access to them?

MR. WADE: Most of them is his words and screenshots that he has already provided.

THE COURT: Okay.

MR. WADE: Yeah.

THE COURT: Okay.

MR. WADE: Or at least some in -- in limited context.

THE COURT: Okay.

MR. WADE: Yeah.

THE COURT: And -- and so the Court does have the original petition that has been filed and any documents that have been attached to that, as well as the briefing that I -- that I mentioned here. So we don't need -- well, I certainly am willing to hear context around that and additional testimony if --

MR. WADE: Yes.

THE COURT: -- if you think that that's helpful to the Court. But I also don't -- we don't have to readmit the same things that are --

MR. WADE: Yeah.

THE COURT: -- admitted here, if that makes sense.

So in a proceeding like this, the petitioner bears the burden of proof. And so Mr. Du Wors is the petitioner here, and so he will be the person who goes first --

MR. WADE: Sure.

THE COURT: -- and he can provide his own testimony if he would like, he can call witnesses, he can offer documents, and I will do that first. And then once he has concluded his case, if you would like to testify and present evidence --

MR. WADE: Perfect.

THE COURT: -- and call witnesses you may do so.

And, you know, I would hope that we can conclude this matter this afternoon. I guess I'll have to just see what it is you all would like the Court to know.

MR. WADE: Okay.

THE COURT: And then once you are done with your side, you'll certainly have an opportunity for rebuttal, and you will have an opportunity to rebut any new information there. And I will hear some brief closing arguments, if you wish to make them, but you're not required to make them.

So any questions about how we are proceeding today?

MR. WADE: My only question would be, is it the case that the person who has just entered the courtroom is Ms. Cassie Stokes from the Prosecutor's Office?

THE COURT: I believe so, yes.

MR. DU WORS: Yes.

MR. WADE: Okay. Okay.

THE COURT: And nobody's planning on calling her as witness?

MR. DU WORS: (Indiscernible).

MR. WADE: No? Then I will not.

THE COURT: Okay. All right.

So Ms. Stokes then is not going to be excluded from the courtroom and we will begin.

So, Mr. Du Wors, do you plan to present testimony here today?

MR. DU WORS: Just my own and Mr. Nelson's.

THE COURT: All right.

So please raise your right hand.

Do you swear or affirm that the testimony you're about to provide is the truth, the whole truth, and nothing but the truth?

MR. DU WORS: I do.

JOHN DU WORS, witness herein, being first duly sworn on oath, testified as follows:

THE COURT: All right. So please state your full name for the record.

MR. DU WORS: John David Du Wors.

THE COURT: All right. And, Mr. Du Wors, what is it that you want the Court to know about your petition for a protection order for both harassment and stalking?

MR. DU WORS: I don't want to reiterate too much of what is already in the original petition. Obviously, our earlier hearing with Judge Carruthers

afforded more time to dig into that.

If, Your Honor, has questions about the factual foundations I'll address -- well, I'll take the lead from Your Honor on whatever questions you have.

THE COURT: Well, it's your case. So if you have further testimony about these -- the context of these or information that you want me to consider, then now is the time to provide that.

MR. DU WORS: Yep. For sure.

But by way of context, I don't recall having ever met Mr. Wade. I'm going through a very contentious divorce. My wife and I separated in January of 2017, when she was arrested for domestic violence, not me.

She sought, after her release from jail -- I'm sorry January 2017 not January 17th. She sought, after her release from jail, a domestic violence restraining order, which she voluntarily abandoned. She brought another one in the middle of the year, which she voluntarily abandoned. And she brought another one in late 2017, which was ruled on January 10th, 2018.

The Court denied her application, found there was no basis for domestic violence of any kind, and

set preliminary custody orders and spousal maintenance orders and child support orders. And that afforded 50/50 percent custody of the children.

Since then, things have been going along pretty calmly for the most part.

But I believe that my wife's relationship with a few friends has provoked -- and in particular Mr. Wade -- to feel as though he should champion her interest now, almost two years later, by -- to use his own words, "destroy my life, take away my livelihood." Which is something that he's done on his own Twitter page, his own Facebook page, and a Facebook page he created called the Bainbridge Island Bad List where I and Mr. Nelson was -- were listed.

Mr. Nelson was accused for committing rape, which I understand there's no record of.

THE COURT: How do you know that Mr. Wade is the creator of the Bainbridge Island Bad List?

MR. DU WORS: So he will testify that today. Officer Weiss from the Bainbridge Island Police Department interviewed Mr. Wade to ask him about the bad list, and then Mr. Wade told him, it is in the police report, that he was the sole creator of the Bainbridge Island Bad List.

Additionally, I have exhibits demonstrating

that Mr. Wade refers to himself in Twitter posts as the Bainbridge Island Bad List, and Facebook posts as the Bainbridge Island Bad List. And that I am suing both the Bad List and him for defamation.

THE COURT: Now, is there a defamation suit that's been filed?

MR. DU WORS: Not that I've commenced.

THE COURT: Okay. And --

MR. WADE: He has until Saturday.

THE COURT: Well -- well, I'm going to hear from you, but -- so tell me about that. I did see some information in here that was about the possible defamation suit to be heard at ex parte in Superior Court. But that -- did that not occur?

MR. DU WORS: We elected to proceed with this course of remedy for now.

THE COURT: Okay.

MR. DU WORS: And not proceed with the defamation suit.

THE COURT: Okay.

MR. DU WORS: The -- Mr. Wade sent messages to my coworkers, to my employees, to my law partners. The exhibits are here. He states that his desire over and over again --

THE COURT: Is this -- are you referencing the

original petition?

MR. DU WORS: Yeah. It's on the original petition. So I -- I only want to gloss over it.

THE COURT: Well, let's talk specifically, though, about what -- what it is. Because I -- think that I have a message that was sent to, I believe, your law partner; is that correct?

MR. DU WORS: Sure. Just walking through on page 5 of the original petition is one of the posts from the Bainbridge Island Bad List. What it doesn't contain is --

THE COURT: We're referencing Exhibit A?

MR. DU WORS: Yeah. Hundreds of comments, including comments by Mr. Wade, that are offensive and defamatory. It's been causing tremendous professional and social problems in my life as well as severe emotional distress.

THE COURT: Okay. And then is Exhibit A, it looks like on top it says the Bainbridge Island Bad List. This is the post that's on the Bainbridge Island Bad List?

MR. DU WORS: It's one of the couple of posts that I think were updated by Mr. Wade throughout this period. There's several other people identified on the so-called Bad List, including there was

Mr. Nelson until October 23rd.

THE COURT: And so tell me what it is that you see as the issue with this post?

MR. DU WORS: "He's an abusive alcoholic." No, I'm not.

"He commits domestic violence." No, I haven't.

"He's been charged multiple times for obstructing law enforcement." No, I haven't.

"He claims to represent clients he has not." No, I haven't.

"He's banned from several local restaurants." No, I'm not.

He has "exhibits drunk and belligerent behavior." No, I haven't and I don't.

"He spent his marriage trying to have sex with women using internet dating sites like Tinder and Seeking Arrangements." No, I didn't.

"John is currently going through a contested divorce, where despite a no-contact order" -- there's no no-contact order, until I just obtained one after this post was made, myself.

I was bringing a motion for sanctions in the context of my divorce and my wife for her contact with Mr. Wade and others, and the Court, on her

stipulation, issued an order saying we wouldn't disparage each other or otherwise undertake efforts to disrupt each other's peaceable existence.

THE COURT: Was there ever a no-contact order against you?

MR. DU WORS: Never one. Other than the temporary no-contact order that this court issued in January 2017, that was voluntarily abandoned by Ms. (Indiscernible).

THE COURT: Was there any portion of this post that's true?

MR. DU WORS: I pled guilty to hit and run.

THE COURT: That's the only portion of it that's true?

MR. DU WORS: Yes.

THE COURT: All right.

MR. DU WORS: Going through the other post on his own Facebook page, on page 8, he's surveilling me. Asking me for information -- and this is disseminated to thousands of clients and friends of mine.

THE COURT: How?

MR. DU WORS: Mr. Wade's distribution list, both on the Bainbridge Island Bad List and on his own web page includes thousands of people and hundreds of

locals that are social friends and clients of my law firm. And professional colleagues of my law firm as well, they see Houston's own posts, and then they see --

THE COURT: Because they are friends with him --

MR. DU WORS: Yeah.

THE COURT: -- on Facebook?

MR. DU WORS: And then they come up on my post if my name is tagged in any of those posts.

THE COURT: Um-hmm.

MR. DU WORS: And so I've been getting contact from people internationally about this.

THE COURT: Okay. But tell -- tell me about this Facebook page. What -- what is required for someone to -- to receive information about it?

MR. DU WORS: Well, it appears on my own Facebook feed if anybody mentions me on it. And then it is advertised and discussed throughout the various Bainbridge Island community groups, including Bainbridge Islanders and is discussed on Houston Wade's Facebook page and his Twitter pages. So links are directed to the Bad List page.

THE COURT: All right. Well, let me ask you this. Is -- don't you control the settings on

whether or not someone is allowed to tag you using your name on a Facebook page?

MR. DU WORS: I may be able to. But what is the primary issue is the local community that Mr. Wade is attracting to the Facebook page then the information that he's reposting on his own Facebook page, with links going back to it and replicated identical information as well as on his own Twitter pages.

THE COURT: Um-hmm. Okay. Go ahead.

MR. DU WORS: The primary take away -- you know, so he's -- he's emailing my law partner Derek Newman, my law partner Jessica Newman. He's emailing Arlyne Sorrells, one of our paralegals.

THE COURT: Well, now I just have -- let's -- let's reference them specifically. So there's Exhibit C -- excuse me, Exhibit C. That's an email that went to info@Newmanlaw.com. Is that what you're talking about?

MR. DU WORS: Yes. That is part of it.

THE COURT: And then --

MR. DU WORS: That distributes to our paralegals.

THE COURT: Okay.

MR. DU WORS: And so on page 13, Exhibit D, at

the top you see Arlyne Sorrells, my secretary -- one of my secretaries --

THE COURT: Um-hmm.

MR. DU WORS: -- is receiving this communication from Mr. Wade.

THE COURT: Well, and that -- it looks like that communication in Exhibit D is a review on -- review on Google My Business; is that correct?

MR. DU WORS: Correct. Correct. And we just hired a new receptionist who was Googling our law firm to get our address for a lunch delivery who said that she discovered Mr. Wade's post on the Google reviews as well.

THE COURT: Okay. Well, let's talk about this. So it says, "Partner John Du Wors has a lengthy criminal record, including: Imprisonment of a minor, domestic violence against his wife, hit and run, and multiple charges for obstructing a public officer. He" -- it's so small. "He will threaten suit against anyone who lets it be known that he is an abusive alcoholic. How he still has a license to practice law is beyond me."

So tell me what about that is not true.

MR. DU WORS: Which exhibit are you looking at?

THE COURT: I'm looking at Exhibit D filed. It said -- I'm reading Google My Business review from Houston Wade, the -- a named person. I'm looking at the email that was sent to -- it was an email that was sent to Arlyne Sorrells from this Google My Business. It says, in the subject line, "Houston left a review for Newman Du Wors LLP on Google My Business."

MR. DU WORS: "The lengthy criminal record of domestic violence in -- against my wife" is a mischaracterization.

"Multiple charges for obstructing a public officer" is not true.

"He will threaten to sue anyone who lets it known he's an abusive of alcoholic," that's not true. And I'm not one.

"How he has a license to practice law is beyond me."

The things that I would pause for a minute on --

THE COURT: But it is -- but is it true that you have a conviction for imprisonment of a minor and domestic violence?

MR. DU WORS: In 2012.

THE COURT: So, yes; is that --

MR. DU WORS: Right.

THE COURT: Okay. And what about domestic violence conviction?

MR. DU WORS: That's the same thing.

THE COURT: Okay. So -- so, yes. So is there a -- that's correct?

MR. DU WORS: Correct.

THE COURT: Okay. And -- and it's correct that you have a conviction for hit and run?

MR. DU WORS: Correct.

THE COURT: But you don't have a conviction for obstructing a public officer?

MR. DU WORS: No.

THE COURT: Okay. But were you ever charged with that?

MR. DU WORS: I don't think so.

THE COURT: Okay.

MR. DU WORS: Here's the thing that I think Your Honor should focus on, because I think this is the proper analysis: Judge Carruthers came away from the October 23rd hearing finding that the conduct fit the definitions of harassment and stiber [sic] stalk -- cyberstalking. And we can go through the plain language definitions of those two statutes.

Your Honor's line of questioning seems to

focus on the defamatory quality of the posts.

THE COURT: That's correct.

MR. DU WORS: And the overwhelming caselaw says that defamation is a completely separate question from harassment and cyberstalking under the Washington statute as well as the federal cyberstalking statute.

THE COURT: Well, before you go into that, doesn't RCW 10.14.020 indicate that the course of conduct does -- does not include constitutionally protected free speech?

MR. DU WORS: It does.

THE COURT: And is true -- true statements defamatory free speech?

MR. DU WORS: Is not --

THE COURT: I mean defamatory language?

MR. DU WORS: Defamatory language is one of the many kinds of unprotected nonfree speech. There are several kinds. The statute -- the statutes in Washington for cyberstalking and harassment deal with another kind; specifically, under the *Giboney* doctrine.

Defamation would be a whole other conversation. Free speech that's otherwise protected, because it's true or because it's opinion

or because it's hyperbole, becomes unprotected for purposes of the Washington cyberstalking antiharassment statutes, as well as the federal antiharassment statute, when it's coupled with particularized conduct that fits the plain language definitions of conduct prescribes be those statutes.

Every court looking at this issue has found that it's an entirely distinct question from defamation.

So the research in front of Your Honor in the supplemental briefing that I supplied, represents a review of every single federal case dealing with the First Amendment section with the federal cyberstalking statute and every case in Washington dealing with our cyberstalking statute at all and every case in Washington dealing with harassment where there are First Amendment implications either in the restraining order setting or in a criminal prosecution setting. Because the --

THE COURT: Well, why don't we -- before we get into legal arguments, I mean, why don't we finish going through what the facts of -- of this are and what happened.

MR. DU WORS: Right.

THE COURT: So -- so you were talking about

the -- what it is that he did --

MR. DU WORS: Yes.

THE COURT: -- to constitute harassment and stalking.

MR. DU WORS: So it's Facebook posts, Twitter posts, his own Facebook posts, the Bainbridge Island Bad List Facebook posts, the hundreds of comments under those Facebook posts, and including a discourse which I couldn't fit on to these pages.

THE COURT: Did you bring those for admission to the court record?

MR. DU WORS: No. They were taken down by Mr. Wade after the restraining order was --

THE COURT: Okay.

MR. DU WORS: -- issued.

THE COURT: All right. And so --

MR. DU WORS: And so I don't have access to them.

THE COURT: -- there was conversations that went on between Mr. Wade and other people after this was posted. Is that what you're trying to say?

MR. DU WORS: Correct.

THE COURT: And -- and other people said negative things about you?

MR. DU WORS: Yes. Largely at Mr. -- in

response to Mr. Wade's criticisms.

THE COURT: Okay.

MR. DU WORS: And it's resulted in social disassociation; it's resulted in disassociation from friendships with the parents of my children's schoolmates, resulting in a lack of access to a healthy social environment for them.

Mr. Wade's stated intent is to destroy my life. And he's pursuing that very aggressively.

I believe the caselaw properly places the inquiry, not on the defamation analysis -- I know that Mr. Wade hopes that the case will only be about defamation, so that as he states here -- and I guess I'll offer this into admission -- in an online exchange on the Bainbridge Island Bad list.

May I approach, Your Honor?

THE COURT: Yes. Why don't you show it -- hand it to the officer so -- is that the copy for him?

MR. DU WORS: Yes.

THE COURT: Okay. You can come -- that's fine. I'll have the officer bring it up. So --

MR. WADE: Oh, I have this.

THE COURT: Okay. So you're offering this as an exhibit?

MR. DU WORS: Yes, Your Honor.

THE COURT: Any objection?

MR. WADE: No.

MR. DU WORS: Okay. So this will be marked and admitted as Plaintiff's Exhibit 1.

(Plaintiff's Exhibit 1 admitted.)

MR. DU WORS: These bear on the question of intent, which is core to the First Amendment analysis for the cyberstalking and antiharassment statutes.

At the top he says, "We look forward to creating hundred -- dozens of corroborating and character witnesses showing just what a horrible liar and abusive person you are. Should be memorable."

And the question you'll see raised in the caselaw, Your Honor, is whether or not that appears to be First Amendment protected social commentary, or by preponderance of the evidence more geared toward harassment, tormenting, or embarrassment. Where defamation, under the caselaw, has no part of the analysis.

At the same -- when I asked him to tell me who he was so that I could pursue legal recourse, he just said, "We're going to go to the Bar Association. You're going to have to juggle your divorce, a harassment suit against your wife, her countersuit,

investigation by the Bar Association, and you're going to sue us? Sounds like you've got a full docket there chief."

He says, "I like having you do it the expensive way," at the top of that last comment. In other words, I have to send a subpoena in order to find out who's sending the messages.

He -- on page 19, he says to me, "You will lose your law license in the coming year, you drunk moron. I'm going to ruin you. It's going to be so much fun."

When we do get to the caselaw that governs all this, Your Honor, those kind of comments "I'm going to ruin you" and "it's so much fun" are the exact intent, or mens rea, that the courts at the federal and state level are looking at to determine whether or not speech has remained pure, protected First Amendment speech, or whether it's combination with conduct has elevated it to the proper subject of the antiharassment and cyberstalking statutes.

THE COURT: Okay. Well, I'll ask you later if you can point me to the citation where it tells me that I don't look at the First Amendment if the intent is negative.

MR. DU WORS: Yeah, absolutely. And it's not

that you don't look at the First Amendment. It's this -- and this is the analysis, I'll try to state in -- in summary form, then I'll show all the citations that support it.

THE COURT: Okay. But let's continue to talk about the facts that you are presenting here. So if you have additional facts that aren't in your petition, let's get to those.

MR. DU WORS: Additional facts that aren't in my petition? I don't have additional facts that aren't in my petition, except that Mr. Wade has continued to violate the order since October 23rd. He emailed me in violation of the no contact principle component of the temporary restraining order. He left derogatory posts up on his Twitter page. He left derogatory posts about Mr. Nelson up on his own Facebook page. He left the Google review site up on his Facebook page.

And on October 29th, he came into a restaurant where I was dining with a friend, walked past me, gave me clear evidence that he knew I was there. My Jeep was parked out front. He knows what my Jeep looked like -- looks like. He winked at me. He waved at me. He walked up to the bartender next to me and said, "Do you know if John Du Wors has ever

been 86ed from this establishment?"

And I told Wade to leave -- I told Mr. Wade to leave, and he gave me the finger on his way out the door.

MR. WADE: Hmm.

THE COURT: Okay. And so is that all that you have to present for your testimony?

MR. DU WORS: Other than Mr. Nelson. But I'd -- I'd rather spend my time on the law.

THE COURT: Well, is -- does -- is Mr. Nelson a fact witness for your situation?

MR. DU WORS: For the posting on the Bainbridge Island Bad List and the course of conduct in making those posts; which is relevant, both to intent the actus reus elements under both the cyberstalking and antiharassment statutes. It's part of the context --

THE COURT: Okay. Well --

MR. DU WORS: -- the Court provided --

THE COURT: -- this is your opportunity to present facts. So if you want to call him as a witness, this is the time.

MR. DU WORS: Let's do it.

THE COURT: Okay. So Mr. Nelson can come up. He can have a seat here at the witness chair.

(Witness enters courtroom.)

THE COURT: All right. Mr. Nelson you can come up here. Before you sit down, I'll have you raise your right hand.

Do you swear or affirm that the testimony you're about to provide is the truth, the whole truth, and nothing but the truth?

THE WITNESS: I do.

WILLIAM NELSON, witness herein, being first duly sworn on oath, was examined and testified as follows:

THE COURT: Okay. You can have a seat please.

And state your full name for the record.

THE WITNESS: William Peter Nelson.

THE COURT: All right. And, Mr. Du Wors, would you like to ask him some questions?

MR. DU WORS: Yes, please, Your Honor.

THE COURT: Um-hmm.

MR. DU WORS: Does Your Honor prefer that I stand?

THE COURT: No, you can remain seated.

MR. DU WORS: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. DU WORS:

Q. Mr. Nelson, what do you do for work here on the Island?

A. Construction. I'm a building contractor. I have my own business. Have had for 30 years.

Q. How long have you lived here on the Island?

A. All my life. Fifty-nine years.

Q. Okay. When did you first meet Houston Wade?

A. 2001 was my first recollection of ever laying eyes on or knowing who Houston Wade is.

Q. And how did you come to meet him?

A. City Council race. I was running for city council against Bill Knobloch and Houston Wade. Houston at the time was 20 years old and a barista at Town & Country Market.

Q. Okay. Did you come to become acquainted with him in the course of city council race?

A. Very little. Just at the coffee stand, getting coffee.

Q. What was the nature of your interactions with him?

A. Getting coffee. I don't recall having any conversations with Houston Wade.

Q. Okay. Now, are you aware of blog posts made by Houston Wade in late of September or early October of this year --

A. Painfully.

Q. -- on his Facebook page? Okay.

Between the time that you met him in that city council race and the time that you learned of those blog posts, have you had any other interactions with him?

A. No.

Q. Have you ever --

A. I should take that back. He was served at his place of work by a professional service company and I accompanied -- I came with the professional service company to identify Mr. Wade.

Q. But that was after the blog posts?

A. That's correct.

Q. Okay. My question is, have you had dealings with Mr. Wade that would give rise to a personal dispute between the two of you?

A. None.

Q. Okay. Have you spent any time with him between that city council race and the time the blog post arose?

A. None.

Q. Do you have any idea why Mr. Wade would have any ill will towards you?

A. It's to be investigated. I have no idea.

Q. Okay. What blog posts were the first blog posts that you saw or were made aware of in late September or early October 2018?

A. It was about -- I was made aware of the fact

these posts went up on October 4th. But they had been up for several weeks. I was made aware of them on -- I don't have the exact date. It was Monday or Tuesday approximately three weeks ago. So mid-October was when I was made aware of Mr. Wade's writings.

Q. And how were you made aware?

A. Through a mutual friend.

Q. Okay. Did you get a chance to see them?

A. I'm not a Facebooker, so it was brought to my attention through a mutual friend.

Q. Were there -- did Mr. Wade make grave allegations against you in those posts?

A. He made extensive allegations against me that were all untrue.

Q. What allegations did he make that were untrue?

A. Rape of a woman. Abusing my stepchildren, that evidently he felt he had knowledge of, which beyond me how he would ever have obtained that, because I've never abused anyone. My children. He accused me of abusing my ex-wife. He accused me of being married five to seven times. He accused me of abusing and -- and taking advantage of my partners. He accused me of bringing outside money in from out of state for my campaign.

I mean, it goes and on and on and on. All untrue, unfactual, and unsubstantiated. He has no facts

for the matter. He just brought those out openly to disparage and destroy my character.

I've been in this community all of my life. I've never done anything to anybody, including my two ex-wifes. I treat them with kindness and love. My stepchildren, kindness and love. My generosity in the community and people I know and don't know, kindness and love. So this is completely contrary to who I am.

Q. Did Mr. -- did Mr. Wade's posts include any mention of the Bainbridge Island Police or the Bainbridge Island Fire Department?

A. Yes, it did.

Q. What -- what were those -- what was the substance of those (indiscernible) --

A. He was associating my actives and those of the police department and the fire department with a backyard private bar that's in what's called The Chicken Coop, or was. There's an auto mechanic that lived there who owned The Chicken Coop and the auto business.

He afforded me a corner on his property after my 2009 financial collapse at Lynnwood Center, which I was developing. And I stored equipment and lumber and supplies on one corner of his property.

So Mr. Wade associated my attendance on the property as someone that was involved with The Chicken

Coop, involved with the deplorable examples of -- of taking advantage of either underage or young women.

He also accused the police department of this. He also accused the fire department of this.

So everybody's included in Mr. Wade's fantasy world.

Q. Is The Chicken Coop essentially, like, a clubhouse on this auto yard where the old guys get together and drink beer?

A. Typically, it was just business and attorney -- friends of his, unrelated to you or me, his friends. An older gentleman that had a boat repair business. Other people that come and have a cocktail at four or five in the afternoon and leave by six or so.

The place sat empty, as far as I recall, quite a bit of the time. It was just his little backyard place for guys to hang out, have a cocktail, and enjoy their -- the company of each other in that environment.

Whatever he eludes to, never went on. I never saw it. I never experienced it. And neither did the other people that could testify to the fact that that's the case.

Q. In the -- in the comment -- in the online posts on Facebook that started Mr. Wade's comments about you, did it include allegations by Mr. Wade that the Bainbridge

Police Department use The Chicken Coop to drug and rape underage girls?

A. Yes.

Q. Did he say the same thing about the fire department?

A. He eluded the fact that fire department was also taking advantage of girls at The Chicken Coop.

Q. Did he say that you were participating in similar activities?

A. Yes, he did.

Q. Was it true?

A. No.

Q. Did he say that you raped a young adolescent friend of his?

A. That I raped an adolescent friend?

Q. A woman who committed --

A. I never raped --

Q. -- suicide?

A. -- anybody in my life.

Q. Did he accuse you of raping a woman who later committed suicide?

A. He did.

Q. Who was that woman?

A. Elizabeth Kaltreider.

Q. Was she your girlfriend?

A. Brief relationship with Elizabeth for a period of a few months.

And it was not to be discussed about what Elizabeth's condition was. But I ended up getting restraining orders enforced against Elizabeth, because at night she would call me and leave messages endlessly.

I have 250 pages of transcriptions in the file, in this court, where the restraining orders were violated not once but twice, to get her to stop calling my phone, and to leave me alone. And she finally did. That was my interaction. And that was years prior to her death.

Q. Were you ever charged with rape?

A. No.

Q. Have you ever committed rape?

A. No.

Q. Officer Weiss said Houston reported in the police report that his sole source of information about this rape was some stepfather of the young girl. Do you know who that might have been?

A. Jerry Dennon.

Q. Do you know anything about that?

A. What I knew of Jerry is he liked to sit at Harbor Pub from about two to four every day, was his routine, and then at the Treehouse Cafe from four to six. I'm just approximating. But that was his normal routine

to drink and then drive home to Point White, where he resided with his wife.

THE COURT: Mr. Du Wors, do you have questions of this witness related to the harassment of you?

BY MR. DU WORS:

Q. Did you see posts about me online?

A. I did.

Q. Have you heard people talking about them?

A. I have.

Q. Who have you heard talking about them?

A. Do I have to mention specific names?

Q. Not if you feel uncomfortable.

A. I don't care to bring anyone else into it right now. But it's in the public. It's known -- he's got 1100 followers. Word spreads on the 25,000 population base. Everybody knows everybody and knows what's going on. And bad news travels faster than good news.

So he advocated bad news. Has spread the word out to the community to the point where -- I don't know how you feel, Mr. Du Wors, but I don't feel comfortable going into a grocery store right now.

Q. Well, no, I don't.

How -- how has Mr. Wade's various statements about you, that you characterize as harassing in your petition, how have they affected you emotionally and

protect -- and professionally?

A. Devastating.

Q. Why?

A. It's counterintuitive to my character. It's counterintuitive to what a majority of Bainbridge Island that knows me would say about me. It's counterintuitive to my reputation as a businessman, as a father, as a stepfather. My ex-wife would easily come in and testify right now to the fact of my credibility and my character.

So this misinformation campaign has been lodged against you, Mr. Du Wors, and to me is beyond my understanding. Fact or -- or -- or fiction, which 100 percent of what he spoke about me is fiction, created in his own mind. I can't imagine what you're going through. But you and I are sharing in this public humiliation and flogging -- and I'd call it a stoning.

My internal mechanisms, my sense of fear, my sense of being an outcast, my sense of looking from the outside in on this going -- and my heart's beating right now how bad I feel about myself, and you, that any of this in a sane, civil society should occur.

I don't care what the Internet means to you or anybody else. But if this gets -- exceeds the power of the newspaper in print and if people can do whatever they want and this the wild, wild west to destroy people, count

me out.

MR. DU WORS: I have no other questions for this witness, Your Honor.

THE COURT: All right.

Mr. Wade, would you like to ask any questions?

MR. WADE: I would. Thank you.

CROSS-EXAMINATION

BY MR. WADE:

Q. We've known each other since I was four years old, when you married my best friend's mother. So to say that you only met me in 2001 --

THE COURT: Okay. Is there a question?

MR. WADE: Oh, yes. Yes.

THE COURT: You're asking questions.

MR. WADE: We're --

THE COURT: You're going to get a chance to --

MR. WADE: Okay.

THE COURT: -- provide testimony.

BY MR. WADE:

Q. So, yes. In 2001, when we ran for city council, and later I -- I was out in the primary, you went on to general election, did you ever come in to Town & Country and threaten my life?

A. No.

Q. Did you ever do so in front of 30 witnesses?

A. No.

Q. Did you ever come in repeatedly over the course of five nights and threaten my life?

A. No.

Q. Did Town & Country have to obtain a security guard to guard me at night, because you'd come in and try to kill me?

A. You're fantasizing. No.

Q. Excellent.

Did you ever grope Ashley Cross?

A. No.

Q. Did you do so in front of her father?

A. No.

Q. Did you ever get charged with drunk driving?

A. I have.

Q. Recently?

A. I have.

Q. Are you an alcoholic?

A. That's to be decided by the treatment program that I'm in.

Q. Okay.

MR. DU WORS: Your Honor, I'm going to object on relevance grounds to the DUI. None of those are part of the posts. I don't think there's any mention --

MR. WADE: The posts I refer to him as an alcoholic, Your Honor.

THE COURT: If so, then I think it's reasonable.

BY MR. WADE:

Q. Have you ever used cocaine?

A. Years ago.

Q. And have you ever used it recently?

A. No.

Q. When was the last time you used cocaine?

A. In my 20s.

Q. Really? So you were 20 years old in 1999?

A. I'm sorry?

Q. Were you 20 years old in --

A. Do you have --

Q. -- 1999?

A. Do you have something you're trying to drive to here?

Q. Yes. Because I witnessed you using cocaine when you showed up to a high school party March of 1999. And then --

THE COURT: Okay. You're -- Mr. Wade, you're going to get --

BY MR. WADE:

Q. -- forced yourself on a 15 year old girl.

A. You're going to have to substantiate that through background information.

Q. I will.

MR. WADE: Sorry, Your Honor.

THE COURT: Any other questions of this witness.

MR. WADE: No. We'll probably discuss the rest of this next week at his hearing.

THE COURT: All right.

Any further questions, Mr. Du Wors?

MR. DU WORS: No, Your Honor.

THE COURT: All right. Mr. Nelson, you can be excused.

Does this witness -- any objection to him remaining in the courtroom? Or are you still asking for him to be removed?

MR. DU WORS: No objection, Your Honor.

MR. WADE: I would like him to be removed, Your Honor.

THE COURT: All right.

MR. DU WORS: Well, now that he's testified, I think the only basis for excluding witnesses from the courtroom is to avoid poisoning --

THE COURT: Subject --

MR. DU WORS: -- testimony.

THE COURT: -- to being recalled.

MR. DU WORS: I have no intention to recall this witness. And so I don't think -- I assume that Mr. Wade's case would be closed at this point.

THE COURT: All right. Did you intend to recall him as a witness here today?

MR. WADE: That is yet to be determined.

THE COURT: I -- I'm going to allow him to remain in the courtroom.

MR. WADE: Okay.

THE COURT: I think it's -- he's done testifying here. And I think his testimony is very -- of limited helpfulness to the Court in Mr. Du Wors's case. But I appreciate and understand why he was called.

So, Mr. Nelson, you can have a seat on the bench and remain in the courtroom, if you wish.

All right. Any other witnesses?

MR. DU WORS: No, Your Honor.

THE COURT: Okay. And so any other evidence that you're going to be presenting?

MR. DU WORS: No, Your Honor. Just want to move on to legal citation, when it's the appropriate time.

THE COURT: Okay.

All right. So, Mr. Wade --

MR. WADE: Yes?

THE COURT: -- do you have testimony or witnesses that you're going to call?

MR. WADE: I have testimony, Your Honor.

THE COURT: Your own testimony?

MR. WADE: Yes.

Okay. Please raise your right hand.

Do you swear or affirm that the testimony you're about to provide is the truth, the whole truth, and nothing but the truth?

MR. WADE: I do, Your Honor.

HOUSTON WADE, witness herein, being first duly sworn on oath, testified as follows:

THE COURT: All right. Please state your name for the record.

MR. WADE: My name is Houston Curry Wade.

THE COURT: All right. And, Mr. Wade, please tell the Court what it is that you want me to know about --

MR. WADE: Okay, I --

THE COURT: -- this petition.

MR. WADE: I wrote it out.

Okay. The timeline of events in this matter is very important. And so establishing the character

and habits of Mr. Du Wors.

Mr. Du Wors is an alcoholic and drug addict. And his need to lie, gaslight, and threaten frivolous lawsuits in a vain attempt to somehow keep his criminal and unethical behavior hidden will be quite relevant as this proceeding goes on.

I have little doubt that Mr. Du Wors will perjure himself repeatedly during this proceeding. Mr. Du Wors is an officer of the court, a licensed attorney in the State of Washington, and a prominent member of the legal community. And as such should be held at a higher standard than others.

THE COURT: Can you just slow down just a little --

MR. WADE: Sorry.

THE COURT: -- bit --

MR. WADE: Yes.

THE COURT: -- as you're reading? Okay.

MR. WADE: In early October, Mr. Du Wors estranged wife Amber, having grown sick and tired of the nonstop abusive, threatening, and belittling messages Mr. Du Wors sends her daily, posted to her Facebook page several examples of said messages.

Mr. Du Wors's response was to threaten her -- threaten to sue her for harassment for posting his

own harassing, abusive words.

Upon my discovering of what Mr. Du Wors has done and the history of abuse and violence he has inflicted upon her and her -- and their family, I took to Facebook to post my own anger over the issue.

I wrote about his domestic violence convictions, hit and runs, alcoholism, et cetera. In my posts, I never once mentioned Mr. Du Wors by name. But the Islanders who read it, easily identified who it was. This is because Mr. Du Wors's perception in this community is downright terrible. I may even be able to use the term infamous.

After an episode in a community page I administrate involving a man pursuing children and young women in Winslow, I decided what the Island needs is a news source for who, where -- who and where the sexual predators and abusers are and what they have done.

The public has a right to know this information. And it's beyond relevant for a topic of journalism.

Utilizing police and court records, witness testimony, and others sources of documentation, I had the first five irreverent reports ready to post on the Bainbridge Island Bad List.

I have zero interest in coddling abusers and predators.

Mr. Du Wors was among these five reports.

In my capacity as a journalist and publisher of a news page, I take this very seriously. And wrote nothing that was not backed up with evidence.

I have known Mr. Du Wors for 15 years. And he has been awful the entire time. You see, alcoholics spend a lot of their time in restaurants and bars drinking. This means that very momentous occasions in their lives unfold in these establishments.

I was there for more than one occasion where Mr. Du Wors made his wife cry in public. A coworker was present when Mr. Du Wors had a very public hissy fit when he discovered that his wife was pregnant. I was present when Mrs. -- Ms. Du Wors discovered her husband was cheating on her.

I say it again, Mr. Du Wors is an alcoholic and drug addict. He has been banned permanently from multiple establishments on Bainbridge, including Bruciato, where he came to the bar heavily intoxicated, was refused service, and attempted to drive away. He would have done so, too, if dozens of patrons had not followed him out in the street and blocked his Jeep from leaving.

A similar episode resulted in Mr. Du Wors being 86ed from the San Carlos after multiple instances of him driving drunk, including a last straw where the owner called Mr. Du Wors a taxi cab to pick him up after finding him slumped over the steering wheel of his car.

The cab arrived and the driver called San Carlos to inform that Du Wors got out two blocks away. By the time the restaurant's owner made it to the parking lot, Mr. Du Wors was driving away in his vehicle.

THE COURT: Can I stop you for just a second?

MR. WADE: Yes.

THE COURT: So are you claiming that you have firsthand -- you witnessed all of these things, and that's your basis of knowledge?

MR. WADE: Some of them. And others are witness testimony from other people --

THE COURT: Okay.

MR. WADE: -- to me.

THE COURT: Okay.

MR. WADE: Yes.

MR. DU WORS: I guess I'd raise a standing objection on hearsay grounds and lack of personal knowledge for the sake of the record, I'll -- despite

the relaxed evidentiary standards.

THE COURT: I take it into consideration for weight but not admissibility. So your objection is overruled. But I -- I appreciate the comment.

MR. WADE: All right. The owner subsequently called the police and reported the incident.

Mr. Du Wors has a history of drunk driving and hit and runs, including a conviction from earlier this year, in this very courtyard -- courtroom.

Over a five-month period in 2017, leading up to hit and run on July 1st of last year for which he was convicted, Mr. Du Wors was involved in seven collisions. Five of which he claimed were the result of someone hitting his vehicle while it was parked.

Coincidently, Mr. Du Wors filed a fraudulent claim with GEICO insurance over the July 1st collision, falsely stating his vehicle was hit while it was parked. GEICO subsequently gave Mr. Du Wors $29,000 for his totaled vehicle based on this false information.

As you no doubt are well aware, fraud of this caliber is a felony in the State of Washington.

While the July 1st incident may be Du Wors's only conviction for hit and run, it certainly was not his first and probably not his last.

Mr. Du Wors needs to lie time and again where -- Mr. Du Wors's need to lie time and again were profoundly evident in this -- in the past several weeks. After Ms. -- Ms. Du Wors posts spotlighting her husband's abusive messages. Numerous people, of course, commented on the posting.

One of these individuals who commented was Ms. Shannon Evans. Then received a series of unsolicited messages from Mr. Du Wors, where Mr. Du Wors repeatedly made false claims that he was, in fact, the victim of abuse in his marriage at the hands of his wife.

When Ms. Evans confronted Du Wors about him being 86ed from Bruciato, Mr. Du Wors lied and said it never happened. And then lied again, and said he was the attorney for Brendan McGill, the owner of Bruciato.

This unethical behavior by an attorney shocked Ms. Evans and she contacted Mr. McGill about the -- about the encounter and Mr. Du Wors's false statement.

After launching the Bainbridge Island Bad List, it took Mr. Du Wors about 24 hours to discover the page. Where he went on a belligerent commenting tirade. Threatened to sue anyone and everyone for

defamation. And, again, falsely claiming that he was a real victim of spousal abuse in -- spousal abuse in his marriage.

Ironically, Mr. Du Wors posted a prime example of defamation to the Bainbridge Island page -- Bainbridge Island Bad List, charging a man who had nothing to do with the page as being behind it. Falsely stating the man was armed and mentally unbalanced.

The strange thing is, the man Mr. Du Wors falsely named is a process server for the court, who Mr. Du Wors, in the past, threatened to shoot if he ever attempted to serve him with papers again.

Mr. Du Wors posted under the article -- Ms. Du Wors posted under the article about Mr. Du Wors on the Bainbridge Island Bad List asking that I, as the publisher, remove the post. I complied with this victim's wishes and removed the post.

Friday afternoon, October 19th, Mr. Du Wors served my mother with a defamation lawsuit intended for me. He also sent me a message via Bainbridge Island Bad List informing me that he had -- that he had me served.

The first exchange, of which, Mr. Du Wors

included as evidence in his TRO packet, is fascinating, in that his initial message has a glaring and blatant lie. Mr. Du Wors informed me that there would be a hearing in Superior Court in Port Orchard that Monday, October 22nd, at 9:00 a.m.

There was never a hearing. It was a lie to get me to go on a wild goose chase to Port Orchard, and waste time and energy on nothing. Mr. Du Wors had not officially filed the suit with Superior Court and, to my knowledge, still has not filed it.

Our interaction via messenger that evening, I encouraged Mr. Du Wors to file the suit, as it would be an easy win in court, since the truth is the ultimate defense to a charge of defamation.

Our interaction -- our interaction was irreverent and heated over the span of four hours or so, and included Mr. Du Wors saying he was willing to subpoena my boss, Mr. McGill.

And when I informed him that Mr. McGill would gladly testify against him, Mr. Du Wors then immediately sent a message to Mr. McGill threatening him with a frivolous ADA lawsuit, all the while claiming a fictitious client he refused to name.

Our conversation culminated with Mr. Du Wors repeatedly sending my mother's home address to me,

describing the outside of her home in detail, and then informing me that he was on his way to sodomize her.

At this point I called police and blocked Mr. Du Wors from contacting me via the Bainbridge Island Bad List.

Let's be honest, the only way it is possible to defame this man is to say something nice about him.

As a resort -- as a result, Mr. Du Wors threatened frivolous legal action. I reposted his article to the Bainbridge Island Bad List and posted to my Facebook page an update as to what is going on regarding the page and the lawsuit Mr. Du Wors had served my mother.

I refuse to handle domestic abusers with kid gloves. And making everyone possibly -- everyone I can aware of his behavior is the absolute best tactic to take with a rich, powerful bully.

I filed a complaint with the Washington State Bar Association and wrote Mr. Du Wors's law firm where he's a partner informing them of his legal threat and unethical criminal behavior. His partner asked me to elaborate, so I did. And -- and told him to get Mr. Du Wors into rehab.

Monday the 22nd, I ignored Mr. Du Wors's lie about Port Orchard; instead, I took my mother to the police station to file a report over the threat made against her, and then came in here to the court to seek a protection order for her.

Because Mr. Du Wors only threatened her once and not multiple times, it could not be granted orders by Mr. Du Wors's violent history.

I was served with the TRO we are discussing here today close to midnight, Wednesday, the 24th.

Mr. Du Wors has messaged me repeatedly via three different email addresses I have and via my personal page on Facebook. I have blocked him from sending me any more messages via that platform.

The messages began before my being served with a TRO and continues to this day. I asked Mr. Du Wors to stop threatening me, harassing me, and to refrain from further messages. He has not stopped and continues to harass and threaten me.

Every instance of communication between us has been initiated by Mr. Du Wors. Every single one.

Mr. Du Wors's history of abuse is not just physical or emotional. It's also financial. Repeatedly, Mr. Du Wors will site all he wants to do is get on with his life and provide for his family;

yet, Mr. Du Wors, a multi millionaire, who hasn't -- who has not sent spousal support, child support, even paid his kid's preschool this month.

After domestic -- after his domestic violence conviction in 2014, Ms. Du Wors wanted a divorce. In an effort of good faith, Mr. Du Wors offered and sold Ms. Du Wors all of his interest in a startup company called Green Canopy Incorporated on August 24th, 2014.

This transfer of stock was intended to make Ms. Du Wors financially independent should Mr. Du Wors ever revert back to his abusive behavior.

Mr. Du Wors never gave Ms. Du Wors the shares in Green Canopy. And Mr. Du Wors still -- is -- still sits on the board of directors to this day, reaping any and all rewards and compensation for doing so.

After Green -- after Green Canopy's recent Series C funding in October -- a conservative estimate of the -- for these shares Ms. Du Wors never received puts their value at or around $8 to $10 million, plus whatever compensation of profits she has been denied over the past four years.

For all intents and purposes, Ms. Amber Du Wors should be an independently wealthy woman, and

not currently struggling to find her -- find a way to feed her four children and keep a roof over their head.

As I said in the beginning, an officer of the court is to be held at a higher standard than the rest of the population. And time and again Ms. Du Wors -- Mr. Du Wors has -- has failed at this standard, and -- with his drunken, abusive, belligerent, unethical, dangerous, and criminal behavior.

My purpose -- my purpose at the Bainbridge Island Bad List is to warn members of our community, and particularly women and children, of the men who seek to target them.

Mr. Du Wors's prolific use of Internet sites to obtain sex and dates over the last 15 -- over the last five years constitutes a very real physical risk for any woman who -- who responds to him.

His behavior in person is just as repulsive. With one witness informing me he propositioned her for sex no less than four times, and even sexually assaulted her and groped her in front of her husband at the 122.

It is in the best interest of the community if these woman can be warned ahead of time of the risk

they would otherwise unknowingly be undertaking by accepting dates and intimate relations with Mr. Du Wors.

Mr. Du Wors is not the victim of abuse or harassment. He is the originator of abuse and harassment. And all his fancy legal wrangling will not change the simple fact that he is a terrible person who hurts people.

That's my prepared statement, Your Honor.

THE COURT: All right. Do you have additional paperwork that you're offering as exhibits?

MR. WADE: I do. Mr. Du Wors has perjured himself several times over the course of this proceeding.

I'd like to submit as evidence -- he claims that he is not a drunk, not an alcoholic, and not a drug addict. This is an email he sent to his wife August 20th, 2014, where he admits to abusing his spouse and blames his alcoholism and chemical dependency for such.

THE COURT: And so why don't you hand that to the Officer so that --

MR. WADE: Yes.

THE COURT: -- he can show it to Mr. Du Wors.

And you obtained this how?

MR. WADE: It was sent to me by Mr. Du Wors's wife.

THE COURT: Okay. Can you show it to him first.

COURT OFFICER: Sure.

MR. DU WORS: Can I ask when that was sent?

THE COURT: You can --

MR. WADE: August 20th --

THE COURT: -- take a look at it.

MR. WADE: -- of 2014.

MR. DU WORS: Thank you.

MR. WADE: Mr. Du Wors also claims that his wife abused him and committed domestic violence against him. I have emails from him from that night to his wife, who could not read them at that time because she was being detained, where he states that he did not support the -- the -- the charges and would ask the judge to drop them. That's here.

THE COURT: All right. And you obtained that how?

MR. WADE: From his wife as well.

THE COURT: All right.

MR. WADE: And I apparently forgot to print off another set of emails where Mr. Du Wors later messages his wife telling her -- informing her that

he essentially got her arrested on domestic violence charges solely to obtain mugshots and use them to blackmail her. I can send those at a later date.

MR. DU WORS: Oh, Your Honor, that's just a line. I'm on going to object to the admissibility on that. If he's referring to something that he's not offering into evidence and characterizing what an email says and it is absolutely untrue, then even -- even under a relaxed admissibility standard I think it's totally inappropriate.

THE COURT: Why don't we just talk about these emails first.

MR. WADE: Okay.

THE COURT: So there's a second email?

MR. WADE: Yes.

THE COURT: Officer Roache (phonetic)?

COURT OFFICER: Yes.

THE COURT: Can you hand -- show that to Mr. Du Wors.

And --

MR. WADE: I also have as evidence a photograph of a contract of Mr. --

THE COURT: Well, before you --

MR. WADE: I'm sorry.

THE COURT: I'm going to stop you for just a

second.

MR. WADE: All right.

THE COURT: So, Mr. Du Wors, do you have any objection to these emails being admitted?

MR. DU WORS: No.

THE COURT: All right. Respondent's Exhibit 1 and 2 will be admitted.

(Respondent's Exhibits 1-2 admitted.)

THE COURT: As for your other objection related to the talking about some emails that he didn't bring in, that certainly goes to weight and not admissibility. And your objection is noted but overruled. Okay?

All right. So there are these two emails that have been admitted, Respondent's Exhibit No. 1 and 2. What else do you have?

MR. WADE: I have a photograph of a contract Mr. Du Wors signed to transfer 5,000 shares of common stock in Green Canopy Incorporated to his wife, that never actually transferred.

THE COURT: I'm going to deny admissibility on that.

MR. WADE: Okay.

THE COURT: I'm not interested in this -- what has happened between them related to money.

MR. WADE: All right.

THE COURT: That's just totally not important here.

MR. WADE: Okay.

THE COURT: What -- what other information do you have?

MR. WADE: This is screenshots of his conversation with Ms. Evans where he claims he was never tossed from Bruciato. And that he's the attorney for Mr. Brendan McGill.

THE COURT: All right.

MR. WADE: Which he is not.

THE COURT: Do you have the follow-up piece of the evidence related -- from Mr. McGill?

MR. WADE: Mr. McGill is willing to testify to the fact that -- but he's not here.

THE COURT: Is he here?

MR. WADE: He's not here. That --

THE COURT: Do you have any sworn declaration?

MR. WADE: I have -- one sec. Which pile is that in? I put it in -- oh, right here.

This is the complete conversation Mr. McGill had with me when he announced that he was suing me for defamation. In it, threatened my mother and announced that he was suing Mr. McGill for an ADA

noncompliance.

THE COURT: So this is the conversation that Mr. Du Wors had with you?

MR. WADE: Yes.

THE COURT: Okay.

MR. WADE: And he only included the first two interactions, where he messaged me and I messaged him back.

MR. DU WORS: I believe what Mr. Wade said was that that's an exchange between Mr. Wade and Mr. McGill.

THE COURT: Right. But --

MR. DU WORS: Not between me.

THE COURT: -- I think he misspoke. He -- you mean, this is an exchange between you and Mr. Du Wors?

MR. WADE: Oh, he also -- he also messaged -- messaged Mr. McGill. I have a screenshot on my phone of that message he sent Mr. McGill.

THE COURT: I can't accept anything --

MR. WADE: Yes.

THE COURT: -- that's on your phone.

MR. WADE: But in -- in -- in this conversation, he also says that he's going to be suing Mr. McGill for an ADA noncompliance when he

realized that Mr. McGill would not testify on his behalf.

THE COURT: And --

MR. DU WORS: Where is this?

THE COURT: And so you're offering this -- this full testimony --

MR. WADE: Yes.

THE COURT: -- because he only -- this is the full conversation that occurred, as opposed to one of --

MR. WADE: Yeah. He only --

THE COURT: -- Mr. Du Wors's exhibits --

MR. WADE: Yeah, he only offered one --

THE COURT: -- which is just partial?

MR. WADE: Yep.

THE COURT: Okay. Why don't you hand that to Officer Roache. I'm going to have that stapled --

MR. WADE: Okay.

THE COURT: -- first. And then --

MR. WADE: Oh, wait. Here's the emails Mr. Du Wors sent his wife where he said he obtained her mugshots and was going to use them against her.

THE COURT: All right. So those will be marked as separate exhibits.

MR. WADE: Oh, and I'm sorry. I did print out

more than I thought I did.

This is Mr. McGill messaging me and informing me that -- that Mr. Du Wors had threatened him with an ADA lawsuit. Sorry this got lost in the pile here.

THE CLERK: We're just going -- is this supposed to be stapled in with one of these?

MR. WADE: No.

THE CLERK: Or is this separate?

THE COURT: Separate, I guess.

THE CLERK: Thank you.

MR. WADE: And Mr. Du Wors claims he never used Seeking Arrangements. A young woman named Grace Gecko (phonetic) -- Grecko (phonetic) messaged me with proof that Mr. Du Wors contacted her to pay for sex via that website. His user name is nice guy.

MR. DU WORS: Can I -- can I see a copy of it?

THE COURT: We'll mark it as an exhibit and then I'll -- mark it as -- for identification and then I'll hand it to you.

MR. DU WORS: What's that marked as identification for?

THE COURT: Because he's offering it as an exhibit. And --

MR. DU WORS: No, no, no. I'm sorry. What --

what is the marking? Because I'm trying to track.

THE COURT: We'll hand those to you to take a look at.

MR. DU WORS: Okay. Great.

MR. WADE: Oh, and this is the message where he claimed he was Mr. McGill's attorney. He was not.

This packet here is the entire conversation that Mr. Du Wors and I had as the Bainbridge Island Bad List underneath the posts; including the post where he claims that a man named Mr. -- Mr. Tyler Heinemann is the creator of the Bainbridge Island Bad List. Says that "he suffers from mental illness, he's a danger to the community, and carries a gun."

In that, he also claims that his wife abused him and that he is, in fact, the victim of abuse.

And it's a very long conversation. Other people --

THE COURT: What --

MR. WADE: -- jump in as well.

THE COURT: What is the purpose of that long conversation to show? Why --

MR. WADE: That Mr. Du Wors is willing to lie and defame in order to -- and threaten legal action in order to keep the public from knowing about his behavior.

THE COURT: All right. Then that's the only purpose of that?

MR. WADE: Yes.

THE COURT: I'm -- I'm not going to admit that one.

MR. WADE: Okay.

THE COURT: I -- I don't think that's so helpful to the Court.

MR. WADE: Mr. Du Wors also claimed that he was never charged with obstructing a public officer. He was charged, and in this court, relating to his hit and run accident with that very charge. And this is also a copy of when he was charged in 2003 for that same thing in Kirkland.

THE COURT: All right. That will be marked.

Why don't we hand -- did you mark all those Diane?

THE CLERK: I did.

THE COURT: Why don't we hand those -- what we have so far here to Mr. Du Wors so he can take a look at those.

THE CLERK: All right.

MR. WADE: This is the complete posting after Mr. Du Wors threatened me with legal action. And I informed my -- my friends that he was doing so. In

it contains all the comments, including multiple woman who stated that Mr. Du Wors contacted them while he was married for sexual relations. It's very long. Sorry.

THE COURT: So it's essentially everything that -- the conversation that occurred on the Bainbridge Island Bad List?

MR. WADE: This is on my own -- this one is from my own personal page.

THE COURT: Oh, from your --

MR. WADE: This -- this is the conversation from Bainbridge Island Bad List that you said you would not admit.

THE COURT: Oh. It's all the conversation?

MR. WADE: Yes.

THE COURT: Okay. I will admit it.

MR. WADE: Okay.

THE COURT: Just for the purposes of being complete in the record as to what --

MR. WADE: This is so thick I couldn't quite stable that one.

That's the original post.

This is -- sorry, Your Honor.

THE COURT: I don't think that those two need to go together. I think those two are separate

packets; right?

MR. WADE: There should be -- it's one packet that I had a hard time stapling.

THE COURT: Oh, okay.

MR. WADE: Yeah, because it was so thick.

THE COURT: Okay. Sorry.

MR. WADE: I don't have one of those big fancy staplers.

This is my original post of -- where I did not use Mr. Du Wors by name. Where I expressed my anger about him being physically and emotionally abusive. In that, he is named by multiple other people as the culprit in the --

THE COURT: Mr. Du Wors, don't write on those exhibits.

MR. DU WORS: Oh, I'm sorry. I didn't realize these were court copies.

MR. WADE: Yeah.

THE COURT: They are court copies.

MR. DU WORS: I'm sorry.

THE COURT: They are the originals.

MR. DU WORS: Sorry.

THE COURT: Don't write on them.

MR. DU WORS: Sorry.

MR. WADE: Okay. And to extend from the fact

that Mr. Du Wors claims he did not abuse his wife, I have multiple exchanges between his wife where he calls her awful names, says horrible things about her, talks about how she's a terrible mother and whatnot; including ones where he committed a hit and run accident back in 2014, and his wife is trying to get him to stop drinking and to talk to the person who he hit. And instead he calls her disloyal and says several horrible names about her.

Also have other text messages where he threatens her and text messages where he is disgruntled at not being able to find baby formula and she informs him that there's breast milk in the freezer and he proceeds to try and kill all of her pets.

THE COURT: And you obtained these how?

MR. WADE: From his wife.

THE COURT: Ms. Du Wors?

MR. WADE: Yes.

THE COURT: All right. Officer Roache, you can take those up to have them marked.

MR. WADE: That's all these ones, yes.

And then this is just a screenshot of the Bainbridge Island Bad List where it's listed on Facebook as the news page.

THE COURT: Okay.

MR. WADE: Yeah.

THE COURT: That can be marked.

MR. WADE: Yeah.

THE COURT: Is there anything else?

MR. WADE: No. I would just like to point out that the evidence and Mr. Du Wors's own words demonstrates that he committed perjury several times during his own testimony. And that, as a witness, he should be invalidated, Your Honor.

THE COURT: All right. And so the -- do I understand it correctly that the reason that these exhibits are being offered, is that you are attempting to say that this is not defamatory information that you posted?

MR. WADE: Correct. It's not defamatory information. And his legal harassment of me began as a result of my publishing a report to the Bainbridge Island Bad List. And the harassment and every single time there's been any contact or interaction between us has been instigated by him.

And I would ask that if this does go further, that we pull video footage from Casa Rojas, where I never winked at him, never said a word to him, and never flipped him off. I did not know he was there.

THE COURT: Okay. Well, this is the -- the evidentiary hearing.

MR. WADE: Yes.

THE COURT: So we're not going to get -- have time to gather --

MR. WADE: Yes.

THE COURT: -- further evidence.

MR. WADE: Yeah.

THE COURT: This is the hearing.

MR. WADE: But he perjured himself in that case as well. I went in Casa Rojas to find out if he -- if he was allowed in there, in case I wanted to go there with my coworkers.

THE COURT: Um-hmm.

MR. WADE: It was during a time when he's not supposed to be drinking.

THE COURT: Um-hmm.

MR. WADE: He was court ordered not to drink within 24 hours of being with his children. And so I was not expecting him to be in there, because that was within that timeframe, Your Honor.

THE COURT: Okay. I want to give Mr. Du Wors an opportunity to look through these --

MR. WADE: Yes.

THE COURT: -- exhibits before we -- I rule on

their admissibility. They have all been marked for identification. The only two that were admitted were the first two that Mr. Du Wors did not object to having being admitted. So what I'm going to do, is those exhibits can be placed on the bar here.

THE CLERK: I'm going to need a minute to --

THE COURT: To mark them?

THE CLERK: -- place labels -- yes.

THE COURT: Okay.

MR. WADE: I'm sorry to dump that on you.

THE COURT: And so -- and I think that there's some next to Mr. Du Wors's computer there as well that were already marked.

MR. DU WORS: Yeah. Unfortunately, I wrote on Respondent Exhibit 9.

THE COURT: Okay. And so I will give -- we're going to take a recess.

MR. WADE: Yep.

THE COURT: I'm going to give Mr. Du Wors an opportunity to come up here to take a look at these a little bit further.

I know you may have another witness that you want to call. I'm going to excuse you to go in the hall --

MR. WADE: Sure.

THE COURT: -- during the recess. You can remain in the courtroom here to take a look at those.

MR. DU WORS: Okay.

THE COURT: And we'll come back in about ten -- ten minutes or so.

MR. DU WORS: I'm going to step out to my car, if it's all right with Your Honor.

THE COURT: Pardon?

MR. DU WORS: I'm going to step out to my car, if that's all right with Your Honor.

THE COURT: Yes, that's fine.

MR. DU WORS: Although Mr. Wade --

THE COURT: Did you want to take a look at these exhibits?

MR. DU WORS: Yeah. Well, I think I -- I think I --

THE COURT: You feel like you've had enough time?

MR. DU WORS: Yeah, I do.

THE COURT: Okay. Yeah, go ahead. So --

THE CLERK: I still got to mark these.

MR. WADE: Oh, do you want my testimony I read as --

THE COURT: No.

MR. WADE: No? Okay.

THE COURT: All right. So you're going to mark those?

THE CLERK: (Indiscernible).

THE COURT: And we'll give you an opportunity. We'll come back about 2:25.

THE CLERK: All rise.

MR. WADE: Thank you.

THE CLERK: Court's at recess.

(Court is in recess.)

THE CLERK: All rise.

Court will reconvene.

THE COURT: All right. Please be seated.

All right. So we had a recess where Mr. Du Wors has had an opportunity to review the exhibits that have been marked; is that correct?

MR. DU WORS: Yes, Your Honor.

THE COURT: Okay. And so Mr. Wade is offering these as exhibits in this hearing. Do you have any objections or comments related to the exhibits?

MR. DU WORS: Not until it's my turn to discuss things, Your Honor.

THE COURT: Okay. So no objection to the admission of the exhibits?

MR. DU WORS: No, Your Honor.

THE COURT: Okay. So those exhibits will be

admitted as evidence. I have not yet reviewed them, but I will do so. And that's Response Exhibits No. 3 through --

THE CLERK: Three through 18.

THE COURT: Okay. Three through 18. Those are admitted.

(Respondent's Exhibits 3-18 admitted.)

THE COURT: And did you have additional testimony that you were going to present?

MR. WADE: I have no further exhibits to present.

I just want to reiterate that Mr. Du Wors has been the one to initiate contact with me every single time we've had an interaction since I posted the Bainbridge Island Bad List. And I'm not sure how harassment works but, generally, if I'm the one being contacted I'm, generally, not the harasser, Your Honor.

THE COURT: All right. And did you -- you indicated earlier that you were going to have Mr. Moriwaki testify?

MR. WADE: I just had Mr. Moriwaki here as a friend, emotional support to -- to sit with me.

THE COURT: Okay. I --

MR. WADE: I never had intention to call him

as a witness.

THE COURT: Oh.

MR. WADE: So I wasn't sure if Mr. Du Wors was going to.

THE COURT: Okay. I guess I misunderstood that --

MR. WADE: Yeah.

THE COURT: -- you were earlier in the hearing.

MR. WADE: No.

THE COURT: Is Mr. Moriwaki still here?

MR. WADE: He might --

UNKNOWN SPEAKER: Yes.

MR. WADE: Yes. He's still in the hallway, yes, Your Honor.

THE COURT: All right. Well, then he can come in. I -- I did not understand that --

MR. WADE: Okay.

THE COURT: -- he was not a witness.

MR. WADE: Yeah.

THE COURT: You're not planning on calling Mr. Moriwaki?

MR. DU WORS: No, Your Honor.

THE COURT: Okay. So he can come back in.

All right. So nothing further?

MR. WADE: No, Your Honor.

THE COURT: All right.

Mr. Du Wors, did -- you're still under oath. Did you have additional testimony or evidence?

MR. DU WORS: Before we move on to the legal part?

THE COURT: Before we move on to argument, yes.

MR. DU WORS: Sure. I mean, that, to me, Mr. Wade's presentation was something like the out of The Twilight Zone, 90 percent false.

I'm not a drug addict. I didn't hear anything about drugs from Mr. Wade. I don't know what drugs he would be talking about. I don't take drugs at all. I rarely drink.

He brought an email in 2014, when I more or less quit drinking, in my marriage, where I was trying to repair my marriage in 2014. That doesn't mean I'm an alcoholic or drug addict. And that, frankly, it's offensive to me and an invasion of privacy that Mr. Wade would want to publicize four- or five-year-old emails with my wife when we were to together.

He says I beat my children. I've never beaten my children. I'm a wonderful father. I don't hit.

I don't believe in spankings. I've never beaten my children.

He says in early October after Amber Du Wors posted about me, I went to sue Amber. No. I had my lawyer speak to her lawyer about a potential motion for concept sanctions, because it violated the initial restraining orders in our divorce. And that was what resulted in a more enhanced stipulated joint order that kept us from disparaging each other to other third parties or encouraging people like Mr. Wade to post about each other online.

He says -- Mr. Wade says he's known me for 15 years. I moved here in January 2008. So I've been here just a little over ten years. I don't know what this 15 years is about. And I -- I've never -- I don't know ever meeting Mr. Wade.

He says that on more than one occasion at a restaurant, I threw a hissy fit and made my wife cry. It's just not true. It just is absolutely not true.

He says I committed adultery. It's none of his business, but I did not commit adultery.

He says I'm banned from multiple locations, including Bruciato. That's not what I was told. And I had a good relationship with Brendan McGill, the owner, for a long time.

I've been in to San Carlos many times recently. I've never been told that I was unwelcome at San Carlos.

He says I have a history of drunk driving. I've never had a drunk driving incident. I've never had a drug or alcohol related criminal conviction or charge. Never been charged with drunk driving or public drunkenness or possession of drugs or anything else illegal with respect to alcohol.

He said I've been in seven collisions. It's not true. I did have some fender benders. I don't think it's seven. They were really minor. It was -- it was, like, I scratched a guy's car at the gym parking lot and then paid for it voluntarily out of pocket and left my information.

He said I filed a false claim with GEICO Insurance. That's not true. And that's all just hearsay.

He said I threatened to sue everyone and anyone. No, I didn't.

He said I threatened to sue -- to shoot this Tyler Heinemann character. No, I didn't.

He said I tried to send him on a wild goose chase in Port Orchard. That's not true. Over the course of this legal dispute erupting, I examined the

applicable statutes and legal research and learned that the antiharassment statute and the anticyber squatting -- cyberstalking statutes are created specifically for this legal scenario, and they seem like the more appropriate way to seek the redress.

Just like having my lawyer contact my former spouse's lawyer in the context of our divorce to propose an enhanced mutual restraining order, based on her conduct of posting about me online seemed like the appropriate way to pursue legal redress.

Mr. Wade says I was going to sodomize his mother. I didn't say that. In fact, he tried to argue that to the Court on October 22nd. They rejected it.

He accused me of financial abuse of my wife. This is just absurd. I, in the first half of 2017, paid my wife -- well, in the year 2017, because I just did my taxes, I gave my wife $175,000 in spousal maintenance and child support. He said I haven't paid child support or spousal maintenance this year. It's not true.

And I just got my beer -- my bill for preschool today for the first time.

My wife gets -- I pay all the expenses. I pay $4200 for the mortgage on the house, I give her $7500

a month in cash every month. So 11,500. I pay all of the healthcare and all of the kids' expenses. I'm paying about 15 grand a month, for a total of about $180,000 and year. I don't commit financial abuse. That's just absurd.

The Green Canopy stock is part of our overall property division that is the subject of our divorce and going to trial. There's no shares to transfer. The judge is going to make a division of assets in our pending divorce. Which is why, frankly, Mr. Wade should be leaving me alone and us alone to go through our divorce and let our divorce court govern our interactions with each other.

I've never used the Internet to obtain sex for money -- in exchange for money. The post that he showed over there doesn't show anything except that I was on that website after I separated from my wife. And, in fact, I was investigating the website for a class action, because of the expiration of credits under Washington's gift certificate statute. I had a client that I was exploring that for.

I never groped a girl at the Winslow 122 or -- or in front of her husband. I don't grope women.

My wife absolutely was arrested for domestic violence on the morning of January 10th, 2017. It's

really hard for a woman to be found by officers responding to a 9-1-1 call -- or it's statistically uncommon, perhaps not hard, for the woman to be found as the primary aggressor.

All Your Honor has to do is read that police report. It was five in the morning, I was getting the kids ready for school, my former spouse, still drunk from the night before, and she got angry and smashed a glass over my head. And I responded by calling the police.

I've been really a model citizen for a long time. I just take care of my kids. I just work my job. And my former spouse hates me, because that happens in divorce. And Mr. Wade is attempting to, I guess, champion her interest for a sense of this own significance.

I think if there's anything that can be taken away for -- from Mr. Wade's testimonial presentation is that he is a man on a mission with respect to a fair number of people. I'm one. Bill Nelson is one. But his chosen method is harassment and public attacks and public shaming.

And I'll leave my testimony at that, because I want to focus on this super important legal issue.

THE COURT: Okay. Well, before we get to the

legal argument, any response -- any rebuttal response to just the information that was additionally provided --

MR. WADE: Yes, Your Honor --

THE COURT: -- (indiscernible) --

MR. WADE: -- he perjured himself several times there.

THE COURT: Specifically?

MR. WADE: Specifically in stating that he doesn't hurt his children and doesn't abuse his spouse. His own father called Child Protective Services on him when she mysteriously broke her arm.

Mr. Du Wors threatened to sue her. Mr. Du Wors did threaten to sue her. Mr. Du Wors did threaten to sue his wife for harassment for posting his own words to her Facebook page.

He also threatened to sue Ms. Shannon Evans for harassment as well as threatening to sue myself. He -- and threatened to sue Brendan McGill to either convince him to either fire me from my job or to not testify on my behalf if need be.

Mr. Du Wors uses legal threat as a means of controlling information about him. I see that as a rich, powerful attorney on this Island, and a man who has his name on his own law office door, that he

becomes a limited public figure in this respect. And the fact that he messages constantly every single woman in the Seattle metropolitan area trying to obtain sex or dates and has done so since before his wife filed for divorce.

He's lying when he says he has not tried to obtain sex via the Seeking Arrangements website. He's contacted several women I know, including a coworker, on that website as well.

So as a witness, his testimony is full of perjury and should be treated as such.

THE COURT: All right. Thank you.

MR. WADE: Yeah.

THE COURT: All right. Mr. Du Wors, I'll hear legal argument from you.

MR. DU WORS: The statutes that are involved in this petition are tricky, until one drills down into the caselaw interpreting them. And that is because it is anecdotally common when you're thinking about the exceptions to first amended protected speech, to think only about defamation. And, of course, that's only one of a list of types of speech excluded from First Amendment protections. Others include fighting words.

Others include speech that is integral to

criminal conduct. And that's the exception here. Not just because I say so, because it's the exception relied upon by all of the federal courts examining the issue and all of the state courts of Washington examining this -- this issue. It's also reflected in the Washington Attorney's General's briefing in response to Mr. Rynearson's remanded action for an injunction invalidating that statute.

THE COURT: What is the criminal conduct here?

MR. DU WORS: So all of the cases say, and I will direct you to the citations, that when speech that is otherwise protected -- let's just say it's truthful speech, John Du Wors had an affair -- is combined with the intent to harass as opposed to the intent to exercise what would be First Amendment protected social commentary. And the actus reus -- or conduct piece of carrying out harassing communications to the petitioner or third parties using new technologies like the Internet, including Facebook pages -- the speech, combined with that conduct, is found to no longer be pure speech protected by the First Amendment, but rather speech that is integral to the criminal conduct; and, therefore, it loses First Amendment protection.

So when Your Honor looks at the language of

the cyberstalking statute here in Washington, which mirrors the federal cyberstalking statute, as well as, I think, the expressed language of the antiharassment statute -- the recitals in definitions exclude First Amendment protected speech. But actually they don't exclude First Amendment protected speech, they say that these statutes don't criminalize First Amendment protected speech.

And it's a very different sentiment from a legal standpoint. Because when you look at the caselaw, one way to interpret what they're really saying is when the speech is coupled with conduct that meets the mens rea and actus rea elements of these two statutes, then the speech is no longer First Amendment protected speech.

And that's what the Court found in the *Rynearson vs. Moriwaki* vacating order, that the Kitsap Superior Court did not say that the analysis that I just gave Your Honor is not the appropriate analysis.

The Kitsap Superior Court said I looked at the context and content of the speech -- which was mainly debating political issues, local political issues -- and concluded by preponderance of the evidence that it was more social commentary, that would be

protected by the First Amendment, than it was motivated by a desire to harass. And that preponderance of the evidence analysis is what all the caselaw asks the Court to go into.

So, essentially, if Your Honor finds that by a preponderance of the evidence whether Mr. Wade calls his site a news website or a social commentary website, which are protectional arguments that have been rejected in other cases.

If Your Honor makes a preponderance of the evidence finding that the purpose of the speech is more to harass, torment, or publically embarrass, then it -- an order can issue restraining that speech.

And cases that articulate it best -- we'll start with Washington, those cases begin our discussion on page 6 of the supplemental briefing, Your Honor, in *Guardianship of Jansen*.

THE COURT: Isn't that an unpublished case?

MR. DU WORS: Many of these cases are unpublished, Your Honor, because this issue doesn't reach the appellate decisional level ex --

THE COURT: Isn't that the appellate case that's unpublished? *Guardianship of Jansen*.

MR. DU WORS: Well, I think it's because they

are so factually specific, Your Honor. I mean, there are a number of published cases here --

THE COURT: Can't I not consider it when it's unpublished?

MR. DU WORS: I don't know that that's true anymore, Your Honor.

THE COURT: All right. Why don't you go ahead.

MR. DU WORS: Starting with the analytical principle, that when applying either the federal or the state cyberstalking statutes or the antiharassment statutes, the notion is that the speech that gets combined with the conduct stops being First Amendment protected speech when it's combined with the conduct that meets the elements of either cyberstalking or harassment.

Separate and apart --

THE COURT: What's the conduct involved? Can you explain to me what isn't speech? Factually.

MR. DU WORS: Sure. In the *Mackovich* case --

THE COURT: No, I mean in this case. In your factual scenario.

MR. DU WORS: The dissemination of deliberately embarrassing information; not for the purpose of engaging in social commentary but for the

purpose of -- to use the language of the statute, seriously alarming, annoying, harassing, or causing detriment to such person.

THE COURT: So is it always harassment to disseminate information that's true, that could embarrass the person who is the subject of that?

MR. DU WORS: Great question. And that's why these cases are tricky. The answer is, no, it's not always harassment.

The Court has to find the requisite intent for harassment, by conducting a review of the context and evidence that would seem to reveal intent; such as, Mr. Wade's communications to me that his desire in all this is to ruin my life and take away my livelihood.

THE COURT: If -- if a writer for the New York Times has a desire to take down people who have gotten away with sexual misconduct for a long period of time and has a personal desire to do that and it motivates someone to do the research and write the article, is it harassment to write an article about somebody that contains true information because he wants to hurt that person?

MR. DU WORS: It depends on the elements in the particular state. The only elements that we're

looking at --

THE COURT: I'm just saying if that hype -- if that hypothesis were here, would that -- in the state of Washington, would that then be harassment?

MR. DU WORS: That would be a totality of the circumstances analysis that the Court would have to conduct if it was going to enforce the Washington antiharassment or cyberstalking statutes. And it would -- the Court would be asked by the existing caselaw, the controlling caselaw, to look at evidence revealing the intent of the writer; the extent to which the topic reached the public concern; the methods used, such as whether or not there are Facebook pages or an article in the New York Times or an academic journal, or to picketing; the medium used by the person disseminating the information is part of the analysis.

It's treated -- on page 10 of the supplemental briefing, where the Washington Court of Appeals in the *Kincaid vs. Priest* case says, "the key to the analysis is whether the purpose of the challenged speech is to harass the victim or serve a lawful purpose."

Similarly --

THE COURT: Isn't free speech a lawful

purpose?

MR. DU WORS: Until it becomes speech who's intent is to harass. At which point, it becomes -- combined with the conduct elements of the antiharassment statutes and cyberstalking statutes and falls outside the category of protected free speech. That's how the courts conduct that analysis.

And I just want to make sure that you have the cites that support that. For instance, on page 9 of the *Petts* case, which was not cyberstalking but posting fliers about a man's ex-wife accusing her of adultery. Sure that was free speech, but the conduct fit the antiharassment statute because it was combined with the requisite intent, or mens rea, and the adequate conduct to suit the definition of harassment of the Washington statute.

Similarly, in *Guthrie*, a former wife was restrained from contacting her soon to be ex-husband's military colleagues and the people that ran the VA Hospital and other organizations that he received services from. He obtained a temporary restraining order and permanent injunction.

She came back, much like Mr. Wade does, and says, "No, there's a lawful purpose. I'm exhibiting free speech, because I'm trying to prevent fraud."

And the Court concluded, by a preponderance of the evidence, after an examination of the content, context, and evidence of the speaker's purpose that the more likely desire was to harass her husband and an order issued. The order modified slightly on appeal. But only to say that there would be some circumstances, if not harassing, that she could contact the military; because she might be receiving, for instance, future military spouse benefits from the military.

That *Jansen* court, the restrained party is making posts to websites that are derogatory. The Court takes pains to say that the posts are both harassing and defamatory.

So, actually, if I could, Your Honor, on page 7, first full paragraph at the end, that Jansen is making -- taking notes that the cyberstalking petition "prohibits publication of harassing or defamatory speech."

I think that quote -- and we can go back and look at that case and expand on it, Your Honor, but the point is that -- that harassing speech -- you asked me the question, is it always harassment if this New York writer times [verbatim] produces a piece exposing child molesters, is that always

harassment that would not be First Amendment protected?

And the answer is, no, it wouldn't always be. But if a court looked at both the intent of that writer and the effects, to see if they fit the plain language definition of the harassing statute, it could be the subject of a criminal prosecution for harassment or a restraining order for harassment. And the type of media used and the public concern associated with it would be part of the analysis.

So this is a great quote highlighting that once the speech is harassing or defamatory, that is disjunctive, suddenly that speech is no longer a constitutionally protected right. It falls off the list of types of speech that would operate as a complete defense to a harassment or a cyberstalking claim.

The purpose of these statutes, Your Honor, is to create a remedy for a kind of harassment that arose with the ubiquitousness of the Internet being established, where defamation wasn't a viable or effective remedy but the new technologies were being used to harm people in a way that disrupts lives.

So if you have a chance to look at the Attorney's General opposition brief in analyzing the

likelihood of Mr. Rynearson's chance at the merits on the success. The Attorney's General's Office notes a lot of the social policy behind creating this cyberstalking statute, because of what people are doing with the Internet right now, like what Mr. Wade is doing; and points out that the facial constitutionally of the statute exists because it doesn't restrain pure speech, it restrains speech only that has been combined with this conduct, where the mens rea be actus rea are sufficiently present to meet the definitions -- plain language definitions of anticyberstalking and harassment.

The same -- and just so you know, if you want to go back to sort of -- the provenance of that analysis, it's known as the *Giboney* doctrine. And the idea is that speech isn't speech anymore when it becomes legally operative.

Sort of like hearsay isn't hearsay when it's -- when you're talking about out-of-court statements that would have a legally operative transactional effect, like forming a contract.

Under *Giboney*, they point out that in addition to defamation, fighting words, obscenity, other kinds of protected speech, the speech that would otherwise be protected, when combined with the conduct becomes

operative in nature.

And the three big cases that came out of that involved where ex-boyfriends posted sexually explicit material about their ex-girlfriends on the Internet. It would normally be First Amendment protected speech, but the Court found that when the speech became combined with conduct, it became the appropriate subject of criminal prosecution or civil restraining order, such as the one we're looking at here today.

And the Facebook -- you know, the sexual -- the sexually explicit -- the posting of sexually explicit information is an easy fact pattern. It's easy to get behind that. But the -- but other courts have extended it beyond.

That's why, at the federal level, you have the *Giboney* doctrine being applied by the *Matusevich* case, where the defendant posted websites, just like Mr. Wade has posted, and sent communications to the children's school and the wife's colleagues, just like Mr. Wade has done. And they accused the -- they accused the ex-wife of sexually abusing the couples' children.

This goes back to your question of "is it always harassment?" No. In fact, one of the

defenses raised in that case was that the husband's sister said, "I'm an aunt, and I'm just concerned about the welfare of my kids."

It's rather like Mr. Wade saying this is a news page and a matter of public concern.

The courts tend to find it pretextual when there's other indicia of an intent to harass there; such as Mr. Wade saying, "this is going to be fun. I'm here to destroy your life, not to warn people."

So the claim that it was -- that in Matusevich, it was really just being concerned about child welfare was disregarded on a preponderance of the basis standard by the Court, and that cyberstalking federal claim was allowed to go forward under the *Giboney* doctrine combining speech with conduct.

Similarly, the case in Washington that's most like ours is *Beanie* (phonetic), I think, which was sited by the Attorney General's Office. And it speaks excessively about how the pure speech no longer becomes First Amendment protected speech when combined with conduct that make it either harassment or cyberstalking under Washington statute.

And in that case the speech in question was that Beanie was a friend of a former spouse, just

like Mr. Wade is a friend of a former spouse of mine, and -- the former spouse was a male, who had actually gone to jail -- and the friend, Beanie, created this web page about the wife, who was the petitioner --

THE COURT: I'm familiar with the *Beanie* case. I did read it.

MR. DU WORS: Okay.

THE COURT: What are you --

MR. DU WORS: And it was the same kind of stuff of she's an alcoholic. She has drunken fits of rage. And he was required to take all of that down. And the taking of it down is considered, under the cases analyzing this, not to be a violation of First Amendment principles. Because the order, take down Facebook pages, or take down this website in the *Jansen* case, are not orders that specify content restrictions.

The whole point that the cases are reaching the state and federal level in the context of this jurisprudence is that it's just saying stop using these new instrumentalities or these styles of disseminating it, because it constitutes harassment.

It doesn't -- so an order in this case could never say, "Houston Wade cannot say that John is a drunk."

Houston Wade can say that "John is a drunk." If he says something more factually concrete than that, there may be a defamation claim, which the Court can enjoin under (indiscernible) principles.

But the order does and should continue to say, "Houston Wade cannot continue to post about John Du Wors online or knowingly reach out to John Du Wors's professional colleagues for purposes of harassing him."

THE COURT: So that's what your asking for? You're asking for the Court to indicate that Mr. Wade cannot continue to post about John Du Wors online in any way.

MR. DU WORS: Well, that language, as you've articulated it, satisfies all the caselaw. That's what we saw in the *Matusevich* case, it's what we saw in the *Jansen* case, it's what we saw in the *Beanie* case.

If, Your Honor, is afraid of restrictions, you could take the additional step of saying "for purposes of harassment."

So if the two pieces of language -- the main pieces were, "Houston Wade will not post online about John Du Wors for purposes of harassment, or he will not communicate -- he will not knowingly or willfully

communicate with the Du Wors's professional colleagues, family members, or social connections for purposes of harassment," that would be a cautionary step.

The reason why I don't want Your Honor to put that restriction on it only on the online posting, is that it's going to invite us to be here a lot because Mr. Wade is going to step by step --

THE COURT: Okay. Well, what I'm trying to -- what I'm trying to determine is what are you asking for in your request for this protection order? You're asking for him -- are you asking for all the language that was incurred -- specified in the temporary order?

MR. DU WORS: No. I think that if you can keep the language regarding --

THE COURT: It's -- it's yes or no. So you -- you proposed, as I understand it, this attachment, at the time of the temporary order, that provided specific language that the Court incorporated in the temporary order; is that correct?

MR. DU WORS: I did, Your Honor.

THE COURT: And are you asking for the same language?

MR. DU WORS: Well, some of it has been

mooted, is my point. That's why I hesitate. So to -- if we're being judicious about what language --

THE COURT: What do you mean --

MR. DU WORS: -- ends up in the order --

THE COURT: -- mooted?

MR. DU WORS: So, for instance, posts on Twitter and the Bainbridge Island Bad List have been taken down.

THE COURT: But isn't your intent to prevent Mr. Wade from posting anything on the Bainbridge Island Bad List and -- and Facebook going forward?

MR. DU WORS: Yes, Your Honor. I just want --

THE COURT: And that's what you're asking for?

MR. DU WORS: I wanted to answer your question accurately.

THE COURT: Okay.

MR. DU WORS: So the exact language, I mean, I would like --

THE COURT: I don't want get into specifics. It's just are you --

MR. DU WORS: Oh, okay.

THE COURT: I mean, are you asking for generally this language?

MR. DU WORS: Yeah.

THE COURT: Okay.

MR. DU WORS: That's right.

THE COURT: All right. We're at three o'clock. I would like to hear from Mr. Wade, if you would like to provide some argument. And then I want to have time to take a look at the exhibits.

MR. WADE: Yes.

THE COURT: Mr. Wade, do you have any argument?

MR. WADE: I do, Your Honor.

In the exhibits I -- I gave over, underneath my posts to my own personal page, there are several women who mention that Mr. Du Wors contacted them while he was married.

I would also like to point out that my original post did not use his name on my personal page. On the Bainbridge Island Bad List, the report that I wrote was factual and not defamatory. Even though Mr. Du Wors has threatened defamation lawsuit repeatedly, and his only recourse from that point forward was to seek harassment after he harassed me with frivolous legal threats and others.

Any escalation in this was a result of those frivolous legal actions. When I wrote Mr. Du Wors's colleagues and partner, I stated factually what was written in the -- the Bainbridge Island Bad List.

And I said the solution was to get Mr. Du Wors into rehab. Which is true. He needs to stop drinking. Much of our communication was while he was obviously intoxicated.

And he has, in fact, been kicked out of San Carlos. He has, in fact, been kicked out of Bruciato. He's not allowed in either of those locations because of his belligerent drinking.

It is well known on the Island, amongst the restaurant community, about Mr. Du Wors actions while intoxicated. I -- if -- if this were to come a harassment trial, I can provide many, many, many witnesses who will testify to that fact.

You know, this -- Bainbridge Island Bad List might not be the New York Times, might not be, you know, the Washington Post, but it is relevant to our community to protect people and make them aware of abusers and sexual predators amongst us.

And these men don't stop. They will continue to do what they do, regardless of -- of court findings, regardless of witness testimony, regardless of any of that.

And Mr. Du Wors will seek to try and temper that as much as he can via legal threat, because that's his -- his best avenue. He is a lawyer. But

legal threat does not change the truth.

And inside the -- the evidence I provided, he admits to abuse, he admits to alcoholism, he admits to chemical dependencies -- drug use. This has not changed.

I'm sure that after his domestic violence conviction in 2014, when he had to go to counseling, it may have been the first time in his adult life he had ever been sober, such as why the tone in his emails are so much different than any messages he -- he sent before or after.

The -- the intent of the Bainbridge Island Bad List is not to harass specifically Mr. Du Wors, but to make the Island aware that in our community there are men who hurt children or other women, and Mr. Du Wors is among them.

So this hearing for harassment finding is -- is -- well, it's silly. Because he's the one who keeps contacting me and threatening me with legal action. Threatening my mom. Threatening whoever he can.

And for him to state that he did not threaten my mom is ridiculous, because you have the documents that I submitted where he sends me her address repeatedly; describes her home in detail, down to the

wreath on our door; and then says he's on his way to, quote, butt sex her.

So Mr. Du Wors has perjured himself repeatedly in his testimony. And that alone is a violation of -- of legal ethics.

I think it is pertinent that officers of the court, lawyers -- licensed lawyers in our community, in our state, should abide by the law above all else. And that informing his partner of the illegal activities and his actions and his repeated frivolous legal threats is, in fact, pertinent that his partner should know.

THE COURT: All right. Thank you.

MR. WADE: Thank you.

THE COURT: All right. I am going to take a recess. We'll come back at 3:30. And the parties can just follow the directions of the officer related to the maintaining on our small premises.

THE CLERK: All rise.

(Court is in recess.)

THE CLERK: All rise.

Court will reconvene.

THE COURT: All right. Please be seated.

All right. I have reviewed the testimony and exhibits in this case and the caselaw that is

relevant here, and I'm going to go through and discuss what the Court is finding and the reason for the ruling as best I can.

So in this case this is a request for an Unlawful Harassment Protection Order as well as a Stalking Protection Order. The prior judge found that there was enough evidence to issue a temporary order and did so, prohibiting Mr. Wade from publishing on his pages information about Mr. Du Wors.

Unlawful harassment is defined as "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 which to cause a reasonable person to suffer substantial emotional distress and should actually cause substantial emotional distress." And the petitioner has to prove this by a preponderance of the evidence.

The definitions in the harassment statute are in 10.14.020. It says, "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, but any other form of communication conduct -- contact or conduct, the sending of electronic communication, but it does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of course of conduct."

So the issue here -- well, in -- in looking at the stalking protection order, stalking in the findings in 7.2 -- 92.010, the findings indicate that "protection can be accomplished without infringing on constitutionally protected activity."

7.92.01 requires that any stalking conduct also serves no lawful purpose.

And so the issue here really is, is there a legitimate or lawful purpose for this behavior?

I think that Mr. Du Wors has established that the respondent intends to cause harm to his career and have him, perhaps, be punished by the Bar Association or by, you know, his partners in his law firm, and that he intends to provide a public airing of Mr. Du Wors's wrongdoing.

And I think that's very clear from the information that's in the record that that's -- he has a dual intent, both personal and, as he indicated, to protect others from people who he

considers to be abusive or harmful to women and children.

So the legitimate or lawful purpose as referenced by the statute would include constitutionally protected free speech. And free speech would be legitimate or lawful purpose.

Of course, there are certain, narrow, limited classes that are unprotected by free speech, and they are: Obscenity, defamation, fraud, incitement, true threats, speech integral to criminal conduct.

Mr. Du Wors tried to argue that there was proof here that there was incitement or true threats and also speech integral to criminal conduct. And the Court finds that there really is not that. There's nothing about Mr. Wade's publications that indicate that he wants people to try to injure Mr. Du Wors or that he -- to do any sort of illegal acts. But just that he wants them to try to stay away from Mr. Du Wors.

Additionally, the -- so the proof -- the proof really would lie in Mr. Du Wors in trying to prove that this falls within the defamation category. And if it was indeed defamatory speech, then it would not have that constitutional protection.

I don't agree with Mr. Du Wors's assessment of

the caselaw that if Mr. Wade had a intent to harm him, then that overrides the constitutional protection of -- of speech. And I don't think that's what the caselaw said.

I read many of the cases that were cited by Mr. Du Wors, even they -- some of them were not published opinions. I did consult the rule; it does indicate that unpublished opinions of the court on or after March 1st, 2013, may be cited as nonbinding authorities and may be accorded such persuasive value as the court deems appropriate.

So it's not totally inappropriate for the Court to review them. But they don't have the kind of binding authority that some of the other cases do. And I'm going to discuss some of those here.

So the cases that the Court finds most instructive in this particular case is State of Washington -- *State vs. Noah*. In *Noah*, the respondent picketed outside on the sidewalk in front of a therapist's office, which -- with signs that indicated "Voodoo therapy practiced here. Dr. Calof you windbag psychotherapist. Big bucks for therapy. Spreading child abuse hysteria. And David Calof, voice of hatred and revenge."

In that case, Mr. Noah did not even have a

connection to this particular therapist. In fact, his daughter was treated by a totally different therapist in the -- in the office.

But the Court found that the picketing behavior could not serve as the basis of an antiharassment protection order, because it involved free speech, which is a lawful purpose. And it indicates that speech on the -- or -- or by application, that speech on the internet is our modern day picketing. And that's what the Court found in the RALJ appeal in the *Rynearson* case and, in fact, overruled a prior order of mine, indicating that speech on the Internet is much like picketing and it's a public forum where people are able to communicate with one another and post information.

U.S. v. Cassidy is also applicable here. That is 816 -- or I'm sorry 814 F.Supp.2d 574 (2011). In *Cassidy* a former sect member used Twitter and a blog to comment on the sect and the sect leader. All but a few of the nearly 8,000 Twitter posts by the defendant related to the sect or the sect leader, and the federal court upheld the speech as protected speech and dismissed the indictment for stalking against him. The Court in *Cassidy* reasoned that "the First Amendment protects speech, even when the

subject or manner of expression is uncomfortable and challenges conventional standards of good taste."

The U.S. Supreme Court has consistently classified emotionally distressing or outrageous speech as protected, especially when it touches on matters of public concern.

And in this case I would find that there is an intent to air this information because of public concern and trying to be protective information sharing to people who could be at risk in -- in the author's opinion.

Speech cannot be restricted simply because it is upsetting or arouses -- arouses contempt. The Court very bluntly explained in *Cassidy*, Twitter and blogs are today's equivalent of a bulletin board that one is free to disregard.

Here, the speech may be defamatory in nature, however, I don't find that that has been proven. The contents of the posts warn the public about Mr. Du Wors and his criminal history, his use of alcohol, and his behavior in the community as an attorney. There are posts on the Facebook pages of Houston Wade and the Bainbridge Island Bad List, there is an email to Mr. Du Wors's law firm at info@Newmanlaw.com and a review post on Google

Business.

Mr. Du Wors bears the burden of proving by a preponderance of the evidence that there is no lawful or legitimate free speech purpose for the behavior. Defamatory content would have no lawful or legitimate purpose.

He -- Mr. Du Wors did claim in his petition that the information presented is almost entirely false. For example, that he doesn't have criminal convictions. Although when pressed, he does admit that he has convictions for domestic violence, hit and run, imprisonment of a minor. He denies being charged with obstructing, but Mr. Wade did present evidence that suggests that he has been at least charged with those offenses in other courts.

There is also -- Mr. Wade also countered much of Du Wors -- Mr. Du Wors's testimony by presenting evidence that shows the basis of his knowledge and why it is that he says what he does. Some of it is lengthy and perhaps not as content very relevant to the concerns, but there are pieces of it that are -- that are relevant because it is the reason that Mr. Wade feels compelled to say that Mr. Du Wors is abusive, that Mr. Du Wors is a alcoholic, and that he has been in crashes for drunk driving and that he has

been on sites where there has been, perhaps, negotiations for sex. There was at least one document that -- that was from a woman on Facebook that had a conversation with Mr. Wade where she explained and sent him a post of Mr. Du Wors's profile on Seeking Arrangements.

So I -- while this behavior, the Court may not -- or this way of the public shaming, the Court may not agree with from a taste perspective, I think that it is constitutionally protected speech.

And the Court cannot issue the order that is asked for by Mr. Du Wors. The caselaw indicates that to do so and to prevent him from having any speech related to Mr. Du Wors, is what is considered a prior restraint on speech. I mean, it's prohibited from the First Amendment -- by the First Amendment. And so the Court is not able to grant such a request.

I think that Mr. Du Wors could have presented evidence and perhaps tried to meet his burden by perhaps proving -- presenting some criminal history record of his, to show that he did not have the charges that Mr. Wade claims he does. Or he could have presented affidavits or testimony that show that is true fabrication.

I don't find that the one-on-one conversations

are part of the harassment skim -- scheme. I think that they're -- they often were initiated or almost always initiated by Mr. Du Wors and was a back and forth that was -- was really mutual and that it was not harassment but more of a disagreement.

I also think that there is a public concern element in contacting his employer. Because he talks about criminal behavior in the community which is admitted, he talks about other behavior that would be of public concern for a person who is an attorney and -- and follow-up with the Bar Association.

And to prohibit him from contacting his employer would be -- even if the Court were to find that there was harassment, would be well beyond the scope of what the Court can do. A Court cannot prohibit a person from having contact with third parties in the scheme of a harassment order.

The Court could prohibit the respondent from having contact with Mr. Du Wors. But in this particular case, I'm not finding that there's a pattern of conduct where he's reaching out to Mr. Du Wors and trying to -- to harass him. I think that there's just disagreement going on about the behavior of maintaining this board.

So -- and I would also disagree with some of

the characterization of the caselaw. I have looked at the case, in particular the *Beanie* case. And I think what's distinct about some of the cases that are cited by Mr. Du Wors is that in -- well, sometimes they're on legal issues that don't -- that don't relate exactly, but -- but, factually, they are often cases where there is proof that there was actually defamatory conduct. And in *Beanie* specifically, in a fax it talks about -- it talks about the -- I'm going to pull the case up.

In that case, Mr. Beanie was contacting the past employer alleging that I was a criminal. And he claimed I was selling homes without a license, falsely representing myself, and not using my real name or going by many different aliases.

And in the discussion as well, during the facts, it says, "Mr. Beanie admitted he had no knowledge whether or not these allegations were true."

And that is the crux of what some of these cases are based on, is that there is enough basis to show that this was really reckless in the language that was being shared and there was no basis of the knowledge.

And I just can't find that here. I think that

at least in the case of Mr. Du Wors, Mr. Wade has a reason that he is -- feels that this information is true and not defamatory and he's sharing it.

If there are particular statements that are incorrect, certainly, Mr. Du Wors has the remedy of seeking a defamation suit, as he has eluded to. And he certainly can appeal the Court's order here today within 30 days. But the order of the Court is that the -- the requests for full order is denied and the petition is dismissed.

I've signed the order. I'll have you, Officer Roache, bring this to the parties for their signature and we will get you copies.

Is there anything further that we need to address?

MR. WADE: No, thank you.

MR. DU WORS: No, Your Honor.

THE CLERK: All rise.

Court's adjourned.

(Court proceedings concluded.)

SUPERIOR COURT OF WASHINGTON FOR KITSAP COUNTY

CERTIFICATE

STATE OF WASHINGTON)
)ss
COUNTY OF KITSAP)

I, GLORIA C. BELL, a Certified Court Reporter in and for the State of Washington, do hereby certify:

That the foregoing was transcribed by me;

That the foregoing transcript is a verbatim report of the court proceedings from digital recording, except for the inaudible/indiscernible sections thereto noted in the transcript by "(inaudible)/(indiscernible)," to the best of my ability.

I further certify that I am in no way related to any party to this matter, not to any counsel, nor do I have an interest in the matter.

Dated this 14th day of September 2020.

Gloria C. Bell, CCR #3261
Official Court Reporter

Exhibit 3

Gmail **Houston Wade <houstonwade@gmail.com>**

Du Wors v. Wade

1 message

Chy Eaton <chy@newmanlaw.com> Mon, Sep 14, 2020 at 10:01 AM
To: "houstonwade@gmail.com" <houstonwade@gmail.com>
Cc: John Du Wors <John@newmanlaw.com>, Nate Durrance <Nate@newmanlaw.com>

Mr. Wade,

Please see attached correspondence from John Du Wors. A hard copy will not follow unless requested and a mailing address provided. Thank you.

Respectfully,

Newman
Du Wors

Chy Eaton, *Paralegal*
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Main: (206) 274-2800
Direct: (415) 944-5425
chy@newmanlaw.com
www.newmanlaw.com

Email privileged and confidential - please destroy if you are not the intended recipient

2020-09-14 Ltr to Wade.pdf
454K

Newman
+DuWors
Seattle | Los Angeles | San Francisco

John Du Wors
Direct +206.274.2834
Main +206.274.2800
john@newmanlaw.com

2101 Fourth Avenue, Suite 1500
Seattle, WA 98121

SENT BY ELECTRONIC TRANSMITTAL

September 14, 2020

Houston Wade
Email: houstonwade@gmail.com

Re: *Du Wors v. Wade*
Kitsap County Superior Court Case No. 20-2-01225-18

Dear Mr. Wade,

We are aware of your Motion to Dismiss in this matter. But we first became aware of it on the morning of Friday, September 11, 2020, in preparing for oral argument on Plaintiff's Motion for Default. And we can find no record that you served your Motion to Dismiss on our office. Currently, your Motion to Dismiss is noted for Friday, September 18, 2020.

Kitsap County Local Civil Rule ("KCLCR") 7(b)(1)(A) requires that any motion be filed and served on the opposing party "no later than five court days before the date the party wishes the motion to be considered." It further states that "[n]o documents shall be submitted to the Court unless opposing counsel or the self-represented litigants have been timely provided with copies." Washington Court Rule ("CR") 5(a) provides that the day of filing is excluded from the computation of time necessary to provide advanced service of a motion. This means that, in order for you to have your Motion to Dismiss heard on Friday, September 18, 2020, you were required to have served a hard copy on my Seattle office by Thursday, September 10, 2020, and of course we have no email service agreement in place in this matter.

We have no record that you served my Seattle office on September 10, 2020—or any record that you served my Seattle office at all. Nor can I find a proof of service in the Court's docket indicating you served my office as required. If you did indeed timely serve us, please provide us with evidence of that service, including your proof of service. If you did not timely serve my office, you are required under the applicable rules to strike your Motion to Dismiss and re-note it. And you must comply with your service obligations (as well as all other rule-imposed obligations) relating to that re-noting date.

If you will not comply with these rule-imposed requirements, I will request fees from the Court as a sanction.

Best regards,

NEWMAN DU WORS LLP

John Du Wors

Exhibit 4

Superior Court of Washington, County of Kitsap

In re: Petitioner/s *(person/s who started this case)*: John Du Wors And Respondent/s *(other party/parties)*: Houston Wade	No. 20-2-01225-18 Proof of Mailing or Hand Delivery (for documents after Summons and Petition) (AFSR)

Proof of Mailing or Hand Delivery
(for documents after Summons and Petition)

Warning! *Do **not** use this form to prove you mailed or delivered a Summons, Petition, Order to Go to Court, or any kind of Restraining Order. For those documents, use Proof of Personal Service (FL All Family 101), or if you have court permission to serve by mail, use Proof of Service by Mail (FL All Family 107).*

I declare:

1. I am *(check one)*: ☐ the Petitioner ☒ the Respondent ☐ *(name)*: Houston Wade and am competent to be a witness in this case.

2. On *(date)*: 9/10/20, I served copies of the documents listed in **3** below to *(name of party or lawyer served)*: John Du Wors by:

☐ mail *(check all that apply)*: ☐ first class ☒ certified ☒ other Express Mail

2101 4th Ave #1500 Seattle WA 98121
mailing address *city* *state* *zip*

☐ email to *(address)*: _____
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ fax to *(number)*: _____
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ Hand delivery at *(time)*: _____ ☐ a.m. ☐ p.m. to this address:

_____
street address *city* *state* *zip*

I left the documents *(check one):*

- ☐ with the party or lawyer named above.
- ☐ at his/her office with the clerk or other person in charge.
- ☐ at his/her office in a conspicuous place because no one was in charge.
- ☐ with *(name):* _____, at the address listed in court documents where the party agreed to receive legal papers for this case.
- ☐ *(For a party or lawyer who has no office or whose office is closed)* at his/her home with *(name):* _____, a person of suitable age and discretion who lives in the same home.

3. List all documents you served *(check all that apply):*

(The most common documents are listed below. Check only those documents that were served. Use the "Other" boxes to write in the title of each document you served that is not already listed.)

☒ Notice of Hearing for 9/18	☐ Notice Re Military Dependent
☐ Motion for Temporary Family Law Order ☐ and Restraining Order	☐ Sealed Financial Documents
☐ Proposed Temporary Family Law Order	☐ Financial Declaration
☐ Proposed Parenting Plan	☒ Declaration of: Houston Wade
☐ Proposed Child Support Order	☐ Declaration of: _____
☐ Proposed Child Support Worksheets	☐ Declaration of: _____
☒ Other: Motion For dismissal	☐ Other: _____
☒ Other: Accompanying Evidence	☐ Other: _____
☐ Other: _____	☐ Other: _____

4. Other: _____

_____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at *(city and state):* Bainbridge Island, WA Date: 9/12/20

▶ _____ Houston Wade

Signature of server *Print or type name of server*

USPS Tracking®

FAQs >

Track Another Package +

Tracking Number: EJ422438151US

Remove ×

Scheduled Delivery by

THURSDAY

10 SEPTEMBER 2020 ⓘ by **3:00pm** ⓘ

Delivered

September 10, 2020 at 10:22 am
Delivered
SEATTLE, WA 98121

Get Updates ∨

Feedback

Text & Email Updates ∨

Proof of Delivery ∨

Tracking History ∨

Product Information ∨

See Less ∧

UNITED STATES POSTAL SERVICE.

PORT ORCHARD
1125 BETHEL AVE
PORT ORCHARD, WA 98366-9998
(800)275-8777

09/09/2020 04:41 P

Product	Qty	Unit Price	Price
Mailer 12.5x19	1	$3.09	$3.0
Total			$3.0
PM Exp 1-Day	1		$27.9
Seattle, WA 98121			
Weight:3 Lb 11.30 Oz			
Signature Requested			
Scheduled Delivery Day			
Thursday 09/10/2020 03:00 PM			
Money Back Guarantee			
USPS Tracking #			
EJ422438151US			
PM Exp Insurance			$0.
Up to $100.00 included			
Total			$27.
Grand Total:			$31.

Debit Card Remitd $31
Card Name VISA
Account #:XXXXXXXXXXXX1380
Approval #
Transaction #:771
Receipt #:033987
Debit Card Purchase:$31.04
Cash Back:$0.00
AID:A0000000098840 Chip
AL:US DEBIT
PIN:Verified

****
Due to limited transportation availability as a result of nationwide COVID-19 impacts package delivery times may be extended. Priority Mail Express® service will not change.
****

Includes up to $100 insurance

Use a friendly self-service kiosks offer quick and easy check-out Any Retail Associate can show you how.

Save this receipt as evidence of insurance. For information on filing an insurance claim go to https://www.usps.com/help/claims.htm

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit www.usps.com USPS Tracking or call 1-800-222-1811.

Preview your Mail
Track your Packages
Sign up for FREE @
www.informeddelivery.com

Money-back Guarantee: If the mailer submits an item at a designated USPS® Priority Mail Express® location on or before the specified deposit time, the Postal Service will deliver it by the applicable delivery date and time. Mailer must request waiver of the addressee or agent before the applicable delivery date and time. The Postal Service will refund the postage paid for the item if the addressee's signature is not obtained upon delivery by the applicable delivery date and time. Mailer must file a written claim for refund with the Postal Service within 30 days from the date of mailing. If the Postal Service does not deliver or attempt to deliver the item by the applicable delivery date and time, the Postal Service will refund the postage paid for the item upon request. Domestic Mail Manual (DMM®) 604.9.5.5 which is available at pe.usps.com.

Note: The Postal Service does not offer money-back guarantee for military or DPO addresses. Customers should request refund for an APO/FPO/DPO that was not delivered within 4 days of delivery or the delay was caused by one of the situations in DMM 604.9.5.5. Contact your local Post Office for information on delivery commitments and the USPS.com® or your local Post Office for information on military and Express Military Service (PMEMS). For details see DMM 703.2.6, which is available at pe.usps.com.

When a mailer submits a Priority Mail Express item requiring a signature and the Postal Service cannot deliver the item on the first attempt, the Postal Service leaves a notice for the addressee to schedule redelivery. If the addressee does not claim the item within 5 calendar days, the Postal Service returns the item to the sender at no additional charge.

Insurance coverage: The Postal Service provides insurance only in accordance with the postal regulations in the DMM, which is available at pe.usps.com. The DMM sets forth the specific types of losses that are covered, the limitations on coverage, terms of insurance, conditions of payment, and adjudication procedures. Certain items are not insurable. The DMM consists of federal regulations, and USPS personnel are not authorized to change or waive these regulations or grant exceptions. A mailer who requires information on Priority Mail Express insurance may contact the Postal Service before submitting an item. Limitations prescribed in the DMM provide, in part, that:

1. Insurance coverage extends to the actual value of the contents at the time of mailing, the cost of repairs, not to exceed the insured limit for the item.
2. The Postal Service insures the contents of Priority Mail Express "merchandise" items with "merchandise" defined by postal regulations) against loss, damage, or missing contents. The Postal Service includes coverage up to $100 per mailpiece at no additional charge. Additional merchandise insurance up to $5,000 per mailpiece may be available for purchase. Additional insurance for Priority Mail Express items is not available unless a signature is requested.
3. The Postal Service insures "negotiable documents" (defined by postal regulations as items that can be converted to cash without property), currency, or bullion up to a maximum of $15 per mailpiece.
4. The Postal Service does not provide coverage for consequential losses due to loss of mailpiece, delay of Priority Mail Express items or for concealed damage, spoilage of perishable items, and articles improperly packaged or too fragile to withstand normal handling in the mail. *Coverage, terms, and limitations are subject to change. For additional limitations and terms of coverage, consult the DMM, which is available at pe.usps.com.*
5. The Postal Service insures "negotiable documents" (defined by postal regulations as items that can be converted to cash without property), currency, or bullion up to a maximum of $15 per mailpiece. reasonable costs incurred in reconstructing duplicates of nonnegotiable documents mailed. Document reconstruction insurance coverage is not available. The mailer should not attempt to purchase additional document insurance because additional document insurance is void.

Indemnity Claims (Loss, Damaged or Missing Contents): Either the mailer or the addressee may file a reasonably claim for loss, damage or missing contents. The claimant may submit the claim online at usps.com, or by mail. For more information see Publication 122, *Domestic Claims, Customer Reference Guide*. The timelines for claims are as follows: claims for loss or no sooner than 7 days but no later than 60 days after the date of mailing; claims for damage or missing contents – generally but no later than 60 days from the date of mailing. Retain the original USPS retail receipt or electronic receipt for claims purposes. For claims involving damage or missing contents, also retain the article, container, and packaging for Postal Service inspection upon request.

Refund of Postage and Fees (Service Performance): If delivery of a Priority Mail Express (PME) item does not meet the scheduled delivery commitment(s) online and commercial customers may submit a refund request by visiting *USPS.com*. Retail customers may submit a refund request either online at USPS.com or at retail locations. Refund requests for postage must be submitted no later than 30 days from the date of mailing; Extra Services fees refund requests must be submitted no later than 60 days from the date of mailing. Each tracking number can only be submitted once for all applicable refunds. Refund requests for PMI or PME with Extra Services must be combined into a single submission.

Thank you for choosing Priority Mail Express service.

Tracking: For USPS Tracking, scan the QR Code below or go to USPS.com or call 800-222-1811

EJ 422 438 151 US

Priority Mail Express tracking number

EJ 422 438 151 US

20-2-01225-18
AFSR 14
Affidavit Declaration Certificate Confirmation of 8901411



FILED
KITSAP COUNTY CLERK
2020 SEP 17 PM 3:29
ALISON H. SONNTAG

Superior Court of Washington, County of Kitsap

In re:

Petitioner/s *(person/s who started this case)*:
John Du Wors

And Respondent/s *(other party/parties)*:
Houston Wade

No. 20-2-01225-18

Proof of Mailing or Hand Delivery
(for documents after Summons and Petition)
(AFSR)

Proof of Mailing or Hand Delivery
(for documents after Summons and Petition)

Warning! *Do **not** use this form to prove you mailed or delivered a Summons, Petition, Order to Go to Court, or any kind of Restraining Order. For those documents, use Proof of Personal Service (FL All Family 101), or if you have court permission to serve by mail, use Proof of Service by Mail (FL All Family 107).*

I declare:

1. I am *(check one)*: ☐ the Petitioner ☒ the Respondent ~~☒ *(name)*:~~ Houston Wade and am competent to be a witness in this case.

2. On *(date)*: 9/10/20, I served copies of the documents listed in **3** below to *(name of party or lawyer served)*: John Du Wors by:

☒ mail *(check all that apply)*: ☐ first class ☒ certified ☒ other Express Mail
2101 4th Ave #1500 Seattle WA 98121
mailing address *city* *state* *zip*

☐ email to *(address)*: _____
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ fax to *(number)*: _____
(only if allowed by agreement, order, or your county's Local Court Rule)

☐ Hand delivery at *(time)*: _____ ☐ a.m. ☐ p.m. to this address:

_____
street address *city* *state* *zip*

I left the documents *(check one)*:

- ☐ with the party or lawyer named above.
- ☐ at his/her office with the clerk or other person in charge.
- ☐ at his/her office in a conspicuous place because no one was in charge.
- ☐ with *(name)*: _____, at the address listed in court documents where the party agreed to receive legal papers for this case.
- ☐ *(For a party or lawyer who has no office or whose office is closed)* at his/her home with *(name)*: _____, a person of suitable age and discretion who lives in the same home.

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(The most common documents are listed below. Check only those documents that were served. Use the "Other" boxes to write in the title of each document you served that is not already listed.)

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☐ Proposed Child Support Order	☐ Declaration of: _____
☐ Proposed Child Support Worksheets	☐ Declaration of: _____
☒ Other: Motion For dismissal	☐ Other: _____
☒ Other: Accompanying Evidence	☐ Other: _____
☐ Other: _____	☐ Other: _____

4. Other: _____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at *(city and state)*: Bainbridge Island, WA Date: 9/12/20

Houston Wade

Signature of server *Print or type name of server*

USPS Tracking®

FAQs >

Track Another Package +

Tracking Number: EJ422438151US

Remove ×

Scheduled Delivery by

THURSDAY

10 SEPTEMBER 2020 ⓘ by **3:00pm** ⓘ

Delivered

September 10, 2020 at 10:22 am
Delivered
SEATTLE, WA 98121

Get Updates ∨

Feedback

Text & Email Updates ∨

Proof of Delivery ∨

Tracking History ∨

Product Information ∨

See Less ∧

UNITED STATES POSTAL SERVICE.

PORT ORCHARD
1125 BETHEL AVE
PORT ORCHARD, WA 98366-9998
(800)275-8777

09/09/2020 04:41 P

Product	Qty	Unit Price	Price
Mailer 12.5x19	1	$3.09	$3.0
Total			$3.0
PM Exp 1-Day	1		$27.9
Seattle, WA 98121			
Weight:3 Lb 11.30 Oz			
Signature Requested			
Scheduled Delivery Day			
Thursday 09/10/2020 03:00 PM			
Money Back Guarantee			
USPS Tracking #			
EJ422438151US			
PM Exp Insurance			$0.
Up to $100.00 included			
Total			$27.
Grand Total:			$31.

Debit Card Remit'd $31
Card Name:VISA
Account #:XXXXXXXXXXXX1380
Approval #
Transaction #:771
Receipt #:033987
Debit Card Purchase:$31.04
Cash Back:$0.00
AID:A0000000980840 Chip
AL:US DEBIT
PIN:Verified

****
Due to limited transportation availability as a result of nationwide COVID-19 impacts package delivery times may be extended. Priority Mail Express® service will not change.
****

Includes up to $100 insurance

Try a handy self-service kiosks offer quick and easy check-out. Any Retail Associate can show you how

Save this receipt as evidence of insurance. For information on filing an insurance claim go to https://www.usps.com/help/claims.htm

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Sign up for FREE @
www.informeddelivery.com

Money-back Guarantee: If the mailer submits an item at a designated USPS® Priority Mail Express® acceptance location on or before the specified deposit time, the Postal Service will deliver or attempt delivery to the addressee or agent before the applicable delivery date and time. Mailer may request the addressee see a signature from the addressee upon delivery by the Postal Service does not obtain or attempt delivery by the requested time and the mailer files a valid claim for a refund, the Postal Service will refund the postage and fees paid for the item. See *Mailing Standards of the United States Postal Service, Domestic Mail Manual* (DMM®) 604.9.5.5, which is available at *pe.usps.com*.

Note: The Postal Service does not offer money-back guarantee for military or DPO destinations. Items attempted due to customs inspections or the item was destined for an APO/FPO/DPO that was closed or the intended day of delivery or the delay was caused by one of the conditions in DMM 6[illegible] 15.5, C[illegible] USPS.com®, or your local Post Office for information on delivery commitments and Priority Mail Express Military Service (PMEMS). For details, see DMM 703.2.6, which is available at *pe.usps.com*.

When a mailer submits a Priority Mail Express item requiring a signature and the Postal Service cannot deliver the item on the first attempt, the Postal Service leaves a notice for the addressee. If the addressee does not claim the item within 5 calendar days, the Postal Service returns the item to the sender at no additional charge.

Insurance coverage: The Postal Service provides insurance only in accordance with postal regulations in the DMM, which is available at *pe.usps.com*. The DMM sets forth the specific types of losses that are covered, the limitations on coverage, terms of insurance, conditions of payment, and adjudication procedures. Certain items are not insurable. The DMM consists of federal regulations. Postal USPS personnel are not authorized to change or waive these regulations or grant exceptions. A mailer who requires information on Priority Mail Express insurance may contact the Postal Service before submitting an item. Limitations prescribed in the DMM provide, in part, that:

1. Insurance coverage extends to the actual value of the contents at the time of mailing, the cost of repairs, not to exceed the insured limit for the item.
2. The Postal Service insures the contents of Priority Mail Express "merchandise" items with "merchandise" defined by postal regulations) against loss, damage, or missing contents. The Postal Service includes coverage up to $100 per mailpiece at no additional charge. Additional merchandise insurance up to $5,000 per mailpiece may be available for purchase. Additional insurance for Priority Mail Express items is not available unless a signature is requested.

3. The Postal Service insures "negotiable documents" (as defined by postal regulations) against loss, theft, or damaging contents up to $100 per mailpiece for occurrence [illegible] subject to additional limitations, for multiple pieces lost or damaged in a single catastrophic occurrence. Document reconstruction insurance provides reimbursement for the reasonable costs incurred in reconstructing duplicates of nonnegotiable documents mailed. Document reconstruction insurance coverage is known $100 per mailpiece and available. The mailer should not attempt to purchase additional document insurance because additional document insurance is void.
4. The Postal Service insures "insurable items" (defined by postal regulations as items that can be converted to cash without forgery), currency, or bullion up to a maximum of $15 per mailpiece.
5. The Postal Service does not provide coverage for consequential losses due to loss of mailpiece, delay of Priority Mail Express items or [illegible] concealed damage, spoilage, or perishable items, and articles improperly packaged or too fragile to withstand normal handling in the mail. *Coverage, terms, and limitations are subject to change. For additional restrictions and terms of coverage, consult the DMM, which is available at pe.usps.com.*

Indemnity Claims (Loss, Damaged or Missing Contents): Either the mailer or the addressee may file a claim for loss, damaged or missing contents. The claimant may submit the claim online at *usps.com*, or by mail, for more information see Publication 122, *Domestic Claims, Customer Reference Guide*. The timelines for claims are as follows: Claims for insured no sooner than 7 days but no later than 60 days after the date of mailing; claims for damage or missing contents—immediately but no later than 60 days from the date of mailing. Retain the original damage or missing contents, also retain the article, container, and packaging for Postal Service inspection when requested.

Refund of Postage and Fees (Service Performance): If delivery of a Priority Mail Express (PME) item does not meet the scheduled delivery commitment(s) online and communication customers may submit a refund request by visiting *USPS.com* or at retail locations. Refund requests for postage must be submitted no later than 30 days from the date of mailing. Extra services fees refund requests must be submitted no later than 60 days from the date of mailing. Each tracking number can only be submitted once for all applicable refunds. Refund requests for PME or PME with Extra Services must be combined into a single submission.

Thank you for choosing Priority Mail Express service.

Tracking: For USPS Tracking, scan the **QR Code** [illegible] go to USPS.com or call 800-222-1811

EJ 422 438 151 US
Priority Mail Express tracking number

EJ 422 438 151 US

20-2-01225-18
NTHG 15
Notice of Hearing
8901412

FILED
KITSAP COUNTY CLERK
2020 SEP 17 PM 3:59
ALISON H. SONNTAG

Superior Court of Washington, County of Kitsap

In re:

Petitioner/s *(person/s who started this case)*:
Joh Do Wors

And Respondent/s *(other party/parties)*:
Houston Wade

No. 20-2-01225-18

Notice of Hearing
(NTHG)
☑ Clerk's action required: **1**

Notice of Hearing

To the Court Clerk and all parties:

1. A court hearing has been scheduled:

for: 10/2/20 *(date)* at: 9 *(time)* ☒ a.m. ☐ p.m.

at: 614 Division St, Port Orchard, WA 98366 *(court's address)* in TBD *(room or department)*

Civil Motions *(docket / calendar or judge / commissioner's name)*

2. The purpose of this hearing is *(specify)*: dismissal with prejudice

Warning! If you do not go to the hearing, the court may sign orders without hearing your side.

This hearing was requested by: ☐ Petitioner or his/her lawyer ☒ Respondent or his/her lawyer

Houston Wade
Person asking for this hearing signs here

Print name (if lawyer, also list WSBA #)

9/17/20
Date

I agree to accept legal papers for this case at:

236 Winslow Way E
address
Bainbridge Island, WA 98110
city *state* *zip*

(Optional) *email:*

This does **not** have to be your home address. If this address changes before the case ends, you **must** notify all parties and the court clerk in writing. You may use the *Notice of Address Change* form (FL All Family 120). A party must also update his/her *Confidential Information* form (FL All Family 001) if this case involves parentage or child support.

FILED
9/21/20
KITSAP COUNTY CLERK
ALISON H. SONNTAG

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS,

Plaintiff,

vs.

HOUSTON WADE,

Defendant

Case No.: 20-2-01225-18

DEFERMENT OF CR 26 CONFERNECE UNTIL AFTER MOTION FOR DISMISSAL HEARING

Defendant Houston Wade is seeking to defer the CR 26 conference requested by Plaintiff John Du Wors regarding a protective order sought my Mr. Du Wors until The Court has ruled on the October 2nd hearing for the motion to dismiss requested by Mr. Wade. At this time Mr. Wade represents himself pro se and feels that this conference, and the protective order which Mr. Du Wors seeks, represents an undue burden on Mr. Wade.

Dated this 21st of September 2020.

Houston Wade

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

FILED
October 1, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS,

Plaintiff,

vs.

HOUSTON WADE,

Defendant

Case No.: 20-2-01225-18

DECLARATION OF AMBER DU WORS

1. My name is Amber Rosanna Du Wors. . I am over 18 years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters. I make this statement from my personal and factual knowledge of John Du Wors. I am submitting this information upon being threatened by Mr. Du Wors to be named as a co-defendant in this case, of which I am truly not involved in.

2. I have been involved in a contentious divorce with Mr. Du Wors since January 10, 2017. This separation was created by Mr. Du Wors following a domestic violence incident in which he falsified information, claiming I was the perpetrator. The truth is, John spent three nights abusing me both verbally and physically preventing me from being able to sleep. He turned the light on in the room I was sleeping, took all my blankets and pillows from me, and sat at the edge of my bed calling me violent names and insulting me. He was simply angry that I refused to sleep with him after calling me and screaming drunkenly and violently during the day where said that I was a miserable excuse for a wife and I should be do my duty and sleep next to my husband. He screamed obscenities such as "stupid bitch" and "dumb cunt". I did not feel I wanted to share a bed with someone who treated me so unkindly and disrespectfully. His reaction was to ensure I was unable to sleep at all for three days.

3. The night of the occurrence, I was in my art studio talking to my sister on the phone about possible ways I could leave the marriage. I had been thinking about the past few years and realized that the majority of our intimate time together was non-consensual. If I disagreed with his advances, he would continue, multiple times per day, and despite pushing him away at night out of pure exhaustion from being awake for better part of a

year as I had recently birthed identical twin infants, as well as two other young children at home. I was not allowed the excuse of "I've been awake all night for a year with breastfeeding infant twins who you refused to help with," when not agreeing to sex. Parenting was my job, he made the money, and he did everything to let me know that was the deal we had made. If I refused his advances, he would continue until in a sleep deprived state, I would push him away. This was his excuse to become physically violent with me, claiming I was the instigator. I would run from him, half asleep down the hall, where he would grab my ponytail, throw me to the floor, and beat me. If I managed to escape and lock myself in a bathroom, or bedroom, he would simply break the door down, shove this arm through, grab my hair, and pull me to the ground, then slam the door against my head until it was free enough to let him in. Then he would hit me. I have had to replace multiple doors in all the homes we have lived in due to his destructive violence.

4.During the eight months leading up to the separation, Mr. Du Wors had an affair with a nineteen-year-old woman he met at a strip club and made her his secretary. He began behaving erratically and lost so much weight so rapidly that his kidneys had started to fail. This was according to John. He had always consumed more alcohol than anyone I had ever met, and anyone I knew, but there was another element occurring at this time. He became more aggressive, stopped eating and only consumed alcohol and cigarettes, and rapidly lost possibly sixty pounds. I could not have a conversation with him at all without him snapping at me and becoming aggressive. At this time he began insulting me in front of other people, talking over me, and calling me names, verbally abusing me in a way that suggested it was ok because I must be such a waste of a human, that I must be so idiotic and profoundly worthless that everyone could see it, and they would agree. Prior to this, he was tempered by society enough that he would at least pretend to be a good, loving, and doting spouse when out in public. Something changed and I strongly suspect he was using cocaine along with prescription drugs. I have been told by mutual friends that he was consuming cocaine, but I never suggested this to Houston Wade.

5. There were hundreds of occasions where Mr. Du Wors would consume enormous quantities of hard alcohol and drive from our home with a cocktail in the cup holder. I would chase him down the road and threaten to call the police if he did it again. To which he would reply that he would take everything and leave me in poverty. He still to this actual day uses this threat. Post separation, I called 911 multiple times because he had a cocktail in the car when he picked up the children and was clearly drunk. I could never stop him from driving. He

has committed multiple hits and runs while intoxicated, and at least one time while our children were in the car with him, for which he was convicted.

6. John Du Wors was arrested for a DUI during which time he was sending me rapid fire emails, which is why he was followed by the police, legally threatening me and including my then partner and my partner's ex-wife; this was all on my birthday while I was with my family. He then resumed harassing me by email the moment he was released from jail. I have all of the court documents and email timelines. Mr. Du Wors has sent me hundreds of harassing emails throughout our relationship, but more so post our mutual TRO which prohibits him from doing so. On one occasion, he stated that he had purchased the Internet domain names of both me and my partner at the time, claiming intention to use them to post defamatory material on them. He in fact does own both of our domain names with the sole purpose of making the threat of defamation for the purposes of extortion.

7. Mr. Du Wors has abused not only me, but my child, his stepdaughter. Although I did everything I could to have a peaceful outcome to a terrible evening, my sole objective being to protect her and keep her safe, John hurt her over and over, breaking her ribs and fingers and rupturing her eardrum. I will never stop advocating for the honesty of the abuse he caused her. Around this time, he became physically violent with and began calling me horrible names. I sometimes would take all the children and rent a room at a hotel to show him his behavior and vile name calling was not to be permitted. He then began physically preventing me from leaving by holding me down and twisting my wrist until I heard it crack, or lacerating my hands and arms with my keys, taking my phone and wallet, and pressing me against the wall or floor with his body and physically restraining me. This continued and escalated until August 2014 when he was arrested for domestic violence against me. The same scenario occurred, but more violently. He became enraged with jealousy, chased me through the house, broke a bathroom door to get to me, I escaped, he broke another door to get to me, I escaped again, and he was able to throw me from the car by my hair onto the concrete. He served jail time, house arrest, and was prohibited from drinking, enter court-mandated treatment and anger management classes, as well as scram anklets and a five year no contact order and could not be within 500 feet of me. While In jail, he called me several times, recorded, threatening me. He stated that if I did not post bail immediately, he would close all our accounts and I would be left starving with the children. This is on court record.

8. During this time, John contacted me relentlessly via new email addresses and a burner phone he obtained to be able to try to persuade me to remove the no contact order and let him resume our marriage. I then

realized I had become pregnant the day before he attacked me. Ultrasound revealed that I was in an extremely high-risk pregnancy with twins. John was ecstatic because he knew he had won the right to be able to come back to our house and took full advantage of the situation. He stated in writing that he would sign our house and shares of stock over to me and commit to sobriety if I would allow him the opportunity to show that he could be a good and doting husband (Exhibit 5). I strongly opposed John moving back in with us and contacted his criminal defense lawyer regarding my absolute fear and panic that he was in no way obeying the court orders and I was afraid he would try to take control of me once again and disregard all boundaries. My greatest fears proved true when John did exactly that. Prior to moving back home, John promised in writing and verbally that he would remain sober and so many other things. I was not interested in renewing a relationship with him at all, but he persisted and did not respect my boundaries or safety at all once he was permitted to be in the house with us.

9. It took him three days after having his alcohol monitoring anklets off for John to begin abusing alcohol again. He then rapidly slid into the same state of abuse and control where he had left off prior to his convictions, only growing far more extreme over the following two years.

10. When I was in the hospital, about three hours post-delivery with my high-risk twin daughters, John decided he was bored with the hospital scene and left to meet his friends for "lunch". He did this despite one hour after delivery of my twins, my daughter Mirabelle was unable breathe efficiently and being premature, had to be taken into the NICU department of Swedish Hospital for life support and observations. I was recovering in my room for a couple of hours, John elected to visit friends for lunch with the promise of a Thai food delivery. I waited for hours until 10 pm at night for him to return, while caring for my littlest, four-pound premature infant and achingly waiting for John to return so I could finally see the other in NICU. I was so worried about her the entire time and watched the clock all evening for his return. I had an epidural, which was different for me as I had previously had natural births. My legs were weak, but when John finally returned, I gave my littlest child to him and said, "Please, just hold her for 20 minutes. I have to see if Mirabelle is ok." I went through all the checkpoints and to the NICU where they were trying to fit the tiniest line into the vein of her hand and stood there in tears feeling helpless. I was so exhausted and sad and afraid, having just given birth to twins.

11. When I returned to the room when John and newborn four pound Juliette were, I was sickened to see him draped across the bottom of the rollaway bed, the front of his legs on the floor, takeout food spilled everywhere, and a nurse holding Juliette. John was completely unworkable and passed out drunk. The nurse said,

"We have to take them when someone falls asleep." I was livid. This was far from the last time he would do something like this and endanger his family. In my frantic state as a mother to a new born premature infant in NICU, I had failed to notice just how intoxicated John was but was informed by his legal father, George, a drug and alcohol counselor, that we could have had a CPS call for placing the baby in John's arms.

12. When he finally woke up, I told him he was not welcome in the hospital for the duration, I contacted his legal father for advice and resources, and stayed in the hospital for ten days. I breast fed Juliette in the sleeping room my doctor gave me and pumped and delivered milk every two hours around the clock for Mirabelle and had to navigate the situation with having two infants in separate departments. I filled all prescriptions, managed the NICU and pediatric checks, and made sure they were never fed formula for ten days entirely alone.

13, After returning from the hospital, the situation escalated. I was alone with the twins every night, awake all night with no help at all from John, who insisted he made the money and my job was to be the mother. I nursed the twins 24 hours per day while John slept or worked. I was always on careful watch around him when the children were involved. There were moments when he would remove one of the twins from their crib and I would hear her wail, but I thought he was trying to get her to sleep. I had to develop a hypersensitivity to their cries. One evening I heard Juliette crying and thought he was helping get her to sleep while I was cleaning the kitchen and doing dishes. When at some point I did not feel right about the situation, I went upstairs to check on her and found John in bed with her with his arm on her face, suffocating her. John was drunk and passed out and did not hear a thing. This happened on more than one occasion.

14. When I wanted any personal time at all, taking a shower, going to the gym, anything, I wasn't allowed to. We had a babysitter from 6 am to 2 pm during weekdays and we took turns holding one baby while I nursed the other. John refused to help at all, saying, "That's what I pay those women for." At one point I was so exhausted after six months of never having break from the twins or from John to even shower, I saved a huge amount of milk and told him I would go insane if I didn't have just one hour to myself. I sat in my car and tried to read a book, less than a block away. The entire hour, John texted me relentlessly, calling me names and telling me he would have my chickens killed by predators if I did not return immediately (Defendant's Exhibit 1, text messages submitted to BIMC in Du Wors v. Wade). He called me a "psychopath", a "child", a "bitch", and a "cunt", and over and over saying he would open the chicken coop door so that predators or my mother's dog could kill them. I had previously lost several of these chickens to raccoons and he knew this. I returned an hour later to find John drunk,

Mirabelle unstrapped in a swing, dangling and about to fall, and all the doors of my chicken coop propped open to predators.

15. I do not feel I need to continue to explain the horrors of my marriage because it would take several chapters at best, but I will move forward to our post separation story. Very shortly after separation, John purchased an 8,000 square foot home for himself, complete with an elevator and a fully finished bottom floor apartment. I did not agree to signing any of the equity in our home to the purchase of this home I thought ridiculously grandiose, especially when he was ignoring the legal agreement that specified everything he had promised me. He said he would pay off my house so the kids and I could live here, give me the stock he promised previously, and half of his earnings from a settlement he was awarded in a lawsuit against Facebook, plus other things like half of an investment we had made during marriage. Instead, he began a three-day harassment campaign against me that resulted in a no contact order for harassment. During this harassment, he called me vile names, threatened to take my children, to "destroy" me, called my mother a "parasitic bitch" in a text to her, along with other vile messages. He sent texts and emails to me and my lawyer every five minutes around the clock for these three days straight. He threatened that if I did not sign the paperwork he needed to purchase his new mansion, that he would "litigate to scorched earth." That he would keep me in litigation to destroy me, where I would be forced into foreclose on my and my children's home, and that we would be poverty-stricken and he would take the children from me because it will be apparent I will be unable to function on my own without his financial assistance. If I did not allow him to have the children when he wanted them, he said, "I will file criminal charges against you and you will be arrested for kidnapping." This behavior has continued to this very day despite my being awarded primary custody. In the end, he bought the house and committed fraud on the mortgage application when he claimed that all of our community assets were in his sole possession.

16. Over a year ago, during the deposition of me by John and his partner, Nate Durance, Mr. Durrance specifically asked me if I knew what it would take to have Houston Wade remove his post. I said, "I don't know," and something along the lines of, "If he felt I was protected from further abuse, I'm sure Houston would consider it." He continued to press, over and over asking if I knew what it would take, and wouldn't it persuade Houston if he knew you were suffering legal recourse? I said, "I didn't know." Mr. Durance said if I didn't communicate with Mr. Wade, aside from asking publicly online to have the admin remove the post about John, that

it could "pose harm to my children if they were to see the site". I informed my lawyer I would be meet with Mr. Wade to see what terms he would agree to in order to remove the article about John.

17. The following night, I went to dinner with my friends and informed my lawyer and all parties that I would be speaking with Houston at his place of employment. I did, in fact speak with Mr. Wade, and told him about the deposition and said they wanted to know what would persuade him take down the post. Houston said he would think about it. For Houston, and frankly myself, this is not nor has it ever been a matter of money or anything to do with my divorce. The objective has always been about my safety and John's continued and relentless abuse of me, verbally, financially. John is in fact the person extorting me. I have thousands of emails from John threatening me financially and legally over and over. John is intent on punishing me into convincing Mr. Wade to remove the article about John. Since losing to Mr. Wade in court, and according to the judge, the article on the Bainbridge Island Bad List about John was ruled not to be defamation due to the fact that all elements of it were public record and factual. John is simply trying to use my acquaintanceship with Mr. Wade as a way to relitigate the case he lost and to punish me into submission for something I have no power to control. I believe John did this so that Houston would feel sorry for me being continually harassed and abused by John and would agree to remove the article after seeing my continued suffering. John is simply using abuse and control tactics to silence evidence of his abuse of myself and my daughter, as well as his criminal behavior that seriously endangers himself and others, and in particular my children.

Upon seeing the post and article on the Bainbridge Island Bad List, John and his lawyer drew up a temporary mutual restraining order that stated we were not allowed to harass, cyber bully or stalk, or disturb the peace of the other party, and I was to use my best efforts to have the article removed. They then insisted I submit all correspondence between myself and Mr. Wade, which I produced as discovery. John then proceeded to harass me to the tune of sometimes 100 emails per day threatening me legally through fear tactics and manipulation and told me over and over I was not allowed to communicate with Mr. Wade, but was supposed to utilize my best efforts to have the site taken down. This was confusing to me, as I was told to use my best efforts to see the article removed, but simultaneously told not to communicate with Mr. Wade, and was later berated for not contacting Mr. Wade enough. I followed the guidelines from my lawyer and posted on the site, which did achieve temporary removal of the site, but was reactivated following the municipal court case, as the judge deemed the article a public service, having been the one to also convict John for his previous criminal behavior. Post deposition, I emailed Houston exclusively

regarding the site dozens of times and monthly posted on the site asking for the information to be removed. I did this regardless of John's nearly daily harassing and threatening onslaught of emails in which he endlessly and repeatedly violated our mutual protective order.

18. As I had been asked over and over during my deposition that I should have told Houston that "the post had caused me significant legal fees and stress," I reiterated this to Mr. Wade, and told him the details of the deposition. Truthfully, Mr. Du Wors and Mr. Durance have caused me significant legal fees and stress, and as I told them over and over hundreds of times, I did not create, nor have administrative authority over the page or article, nor did I know in truth that it was going to be created or that John Du Wors would feature in the site until a friend brought it to my attention a few days after it was posted. Mr. Durance had the gall, during my deposition, to claim that my communication with my family members and close friends about John's "alleged abuse", continued and relentless harassment and threats and actions would disturb HIS peace if he found out they knew. There has been absolutely zero regard for my safety or welfare, or to the stress, trauma, and legal fees accrued due to John's continued abuse and violation of our mutual protective order. He simply continues to do whatever he can get away with in every way specifically to cause me significant stress and monetary hardship.

19. Shortly after my deposition and meeting with Mr. Wade, John began sending me relentless text messages, asking me specifically what Houston wanted him to do to remove the posts. He had occasionally offered me a monetary sum if I would take the post down, but I reiterated that it was not up to me and that I did not know what it would take for Houston to remove the article. It was never about money at all. It was about my protection and the safety of the public. I said I would pass the message along to Mr. Wade. John began sending me dozens of text messages again asking me what Houston wants, and finally I said to John "For you to leave me alone and to make sure I am safe and won't be abused by you." John asked, "What else," and I said after days of harassment, that I am sure Houston would want me to have a fair and honest divorce settlement so that I could raise the children in peace. But this, again is not about money at all. He then asked me over and over what I perceived as a fair settlement, and I said what you promised me you would do. He asked again, "and what is that?" I said, well, you promised to pay my house off, you have signed over our green canopy stock, as your spouse, I deserve half of your 35% ownership of your firm, 401k, and my share of the investment we made while married. He then brought this back around and claimed I was extorting him, to which I replied, "Once again, you asked me what my idea of a fair settlement was." This has nothing to do with Houston Wade, which disturbingly is an obsession of his that comes in

as threats and harassment, and a bargaining chip for EVERY SINGLE THING I ask of him. "John, pay your court ordered medical bills and court ordered credit card bills that I have covered for over three years post ruling that you be responsible for them." His reply is always the same, I will not give you no fair settlement or additional money until you take down Houston's site. He said, "What if I just agree to not harassing you, he would take it down." I said, "Surely not. You cannot go a day without harassing or threatening me and I do not trust you. Your promises are only used as manipulation tactics to get whatever you want at the time and immediately discarded. I am sure he would want you to sign some legal document that would prohibit you from your continued abuse of me. It would have to be legally watertight because you cannot refrain from this for a day. And again, no this isn't about money, nor has it ever been."

20. After the lengthy texts where I continued to tell John I didn't wish to be contacted and it is not and never was my job to act as a go between for he and Houston, and for John to please leave me alone and for him contact Houston if he wants him to do something. It is not my responsibility to manage John's issues, I have done what the court has asked of me and this was not up to me. I said this over and over and over, dozens of times to no avail. The following day, my lawyer and I received an email that was crafted with dishonesty and manipulation, in which John cut and pasted my text messages and arranged them to appear as if I had told him that Houston would remove the post only if he gave me a dollar amount he listed out, which I never did even once. He claimed that it was extortion and a clear civil violation, and I should be reprimanded, etc... This has been John's tactic the entire length of my divorce. It was his tacti our entire marriage. It doesn't matter to John what the truth is, only that he can find a way to cut and paste and manipulate "evidence" to his favor, and commit perjury relentlessly if it means he could win or make me look bad. I have never lied to the court or guardian, or anyone else in this case, under oath or not. The truth of his misbehavior is so vast and overwhelmingly horrifying, that it would be nearly impossible to make up.

21. The entire process regarding the article has been very uncomfortable and disturbing to me, as a lot of the information is pertaining to John's arrests and abuse of me and my daughter, as well as endangerment to my children and community members. I do not believe in silencing abuse, and Mr. Du Wors is still to this day harassing me and blaming me for anyone being able to see his criminal record that I had nothing to do with aside from the fact that I and my daughter were the prominent victims in the situation. Community members and business owners alike are aware far prior to the post that he is abusive, that he has been kicked out of multiple establishments

because of his drunken behavior, and insistence on driving drunk. His sexual harassment of women and massage therapists who have claimed these stories publicly on Facebook both within and outside of the article.

22. I do not control John's behavior, nor do I condone it. I am not speaking publicly about him at all and to the extent anyone knows about it, it is because he chooses to harass and legally and financially threaten me so often that it causes me to have a huge amount of anxiety and damages my ability to feel safe or calm as a mother. Others also know about his behavior because he continues to involve people via email and texts in his threats of purchasing domain names in my name and also that of my mother, sister, friends, and ex-partner and my ex-partner's ex-wife. He did in fact purchase them, and according to emails sent by Mr. Du Wors, claims to use them to defame and extort me following finalization of our divorce trial (Exhibit 6). I respectfully ask that the Court order Mr. Du Wors to relinquish the domain names he possesses for myself, Brian Ladenburg, Melissa Unkel, and Marcia Kucera as he does not have permission from us to use these domains and his sole intent is to cause us harm. He has in fact, attempted to extort me in this manner, and also by stating hundreds of times, in writing, that any kindness, and any positive settlement outcome or generosity is determined by my removal of Houston's article. He has also told me, in 73 different email strings that he would use my deposition and all discovery in our divorce case to "litigate me to the ends of the earth, and to a fiery hell." That he will drain me of my finances, force me into bankruptcy, and return me to poverty to live in a shitty apartment where I could not "afford to keep the children" and because I'm such a "incompetent and idiotic child" who is unable to function without his money, and "a product of a selfish and parasitic, dysfunctional family," that I will wallow in poverty and I am incapable of survival without him and incapable of holding a job. That he would easily take the children from me to be raised by "healthy adults," those "adults" being he and his mother, of course. He falsely claimed to both the court in writing, as well as to the Guardian I appointed, that myself, my sister, and brother all had been diagnosed with bipolar disorder, and he waged a campaign of complete dishonesty and out of context, copy and paste correspondence to sway the court in his direction. None of this is true, in fact, I put myself through the UW Landscape architecture as a single mother and began a successful career as a King County parks designer for years until I was very pregnant with Clara, our 11 year old. I have not, nor have any of my family members, been diagnosed with anything aside from situational anxiety caused by John himself. I filed a motion that was approved to undergo mutual psychological evaluations just to disprove his claims.

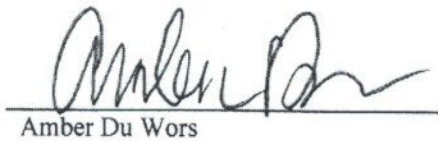
23. The legal threats, harassment to the tune of sometimes nearly 100 emails per day, once I had blocked him from text, continued and still continues to this day. This happens despite all efforts I have made to stop John from disturbing my peace, including a TRO written to prevent harassment, cyber stalking, and trespassing. I firmly believe, along with software security specialists, T-Mobile technical support, and having cross referenced ISP addresses for locations, that John, who is an intellectual property lawyer, has been illegally hacking my phone and computer. This happens every time without fail when he is about to file a motion for discovery of my personal information, texts, Facebook instant messages, and emails. Every time I am about to be deposed, or any time he files for any discovery at all. His motive is to have access to all of my personal information and this has been an issue since I dated him early on when he admitted to hacking into my email account and refreshing it constantly until he found an email from a man who I had broken off a very short relationship with. This has been the topic at hand and the reason for many domestic violence situations, including the reason he was arrested for attacking me in August 2014. He filed a motion to be granted access to three years of any information in my possession, emails, text messages, phone calls, in which I may have alluded to him, and was granted a year's worth of them, which I had to produce. I opposed this request for discovery on the grounds that it was dangerous to produce personal information to the man who had violently abused me because of innocent texts in the past, and was forced to still produce a year's worth of this information.

24. Following the deposition, in which his partner, Nathan Durance deposed me for six and a half hours, where he asked me the same questions over and over and over, all about Houston Wade, John began his campaign of threats, despite our mutual TRO, to use any discovery or deposition information obtained during our divorce proceedings for further litigation against me. I have 76 email strings from John Du Wors, from his law firm email threatening to relitigate the very case he lost against Houston Wade and myself again, claiming I was also responsible for the creation and administration of the Facebook site Bainbridge Island Bad List. I was not a creator, nor do I have administrative rights, but I believe that the judge who presided over this case made a decision based on factual evidence and that John Du Wors is once again attempting to relitigate a case he has lost not once, but twice already. I am exhausted by having to defend the very person who abused me from information that is part of the public record and those crimes were committed against me or my daughter. This is his third attempt to litigate the same case, and his claims are arguing minute semantics. This is the same case he lost against both myself and Mr. Wade. I have submitted this statement due to Johns relentless claims that he will call me as a co-defendant in this

relitigate the same case for the third or fourth time. As you can see, the person extorting and using this post as a way to control me monetarily in our divorce, a completely separate case, is John Du Wors.

25. This is my true and accurate account of my relationship and interaction with John Du Wors, as pertaining to this case.

Dated this 30th of September 2020.



Amber Du Wors

Exhibit 5

This Purchase and Sale Agreement is made and entered into this 23rd day of August 2014, by and between John Du Wors and his wife, Amber Du Wors.

1. John Du Wors owns 5,000 shares of common stock in Green Canopy, Inc. (the "Stock").

2. John Du Wors hereby contractually obligates himself to transfer and sell to Amber Du Wors the proceeds his 5,000 shares of the Stock (and any resultant shares thereof following any forward or reverse split) upon sale or other liquidation of the Stock, minus any amounts in tax obligations that become owing by John Du Wors as a result of his ownership or transfer of the Stock.

3. Alternatively, John Du Wors will transfer to Amber Du Wors the Stock itself when, if earlier than sale or other disposition, the stock becomes the subject of a properly registered public offering, and all applicable state and federal transfer restrictions are lifted with respect to the Stock.

4. Amber Du Wors' property right in the Stock and/or its proceeds (as applicable) shall vest as of the date of execution of this Agreement, and, pursuant to the transfer to be made by John Du Wors hereunder, ownership of the Stock and/or its proceeds (as applicable), shall vest in Amber Du Wors as separate, non-community property, whether she remains at the time of transfer married to John Du Wors or another husband.

5. John Du Wors disclaims any separate and/or community property interest in the Stock and/or its proceeds, except to the extent he retains title and voting power with respect to the Stock until sale, disposition, or public offering and lifting of transfer restriction.

6. In exchange, Amber Du Wors will pay, and has paid, $1.00 USD, consideration whose receipt, legal sufficiency, and legal adequacy is hereby acknowledged.

John D. Du Wors

Amber R. Du Wors

Exhibit 6

Gmail **Amber Petrich <ahadenfeldt@gmail.com>**

Du Wors Order.pdf

42 messages

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 5:28 PM
To: "ahadenfeldt@gmail.com" <ahadenfeldt@gmail.com>

Looks like you finally will have to produce your discovery, now 7 months later. Let's hope you actually do it, or we're moving for sanctions. I can pretty much guarantee we're moving for sanctions on the Houston Wade issue. If you want money in the divorce, you'll need to take care of that.

2 attachments

Du Wors Order.pdf
604K

ATT00001.txt
1K

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 5:35 PM
To: "ahadenfeldt@gmail.com" <ahadenfeldt@gmail.com>

How would it feel to you and Brian if I were to publish a Website under Brian's name that did nothing other than display the attached? Wouldn't you agree that would be unfair to him, and his children, and his career? And wouldn't you just prefer we left each other alone to live our lives? I think you should think about that.
[Quoted text hidden]

[redacted]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 5:39 PM
To: John Du Wors <John@newmanlaw.com>

you need to leave me alone
[Quoted text hidden]

[redacted]

2 attachments

ATT00001.txt
1K

Du Wors Order.pdf
604K

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:03 PM

[redacted]

[Quoted text hidden]

Brian DVPO Petition.pdf
1913K

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 6:10 PM
To: "ahadenfeldt@gmail.com" <ahadenfeldt@gmail.com>

By the way, I own Brianladenburg.com and Amberduwors.com.

-----Original Message-----
From: John Du Wors
Sent: Friday, March 8, 2019 5:35 PM
To: ahadenfeldt@gmail.com
Subject: RE: Du Wors Order.pdf

[Quoted text hidden]

[redacted]

To: "ahadenfeldt@gmail.com" <ahadenfeldt@gmail.com>

I also own Amberpetrich.com
[Quoted text hidden]

[redacted]

i've asked you to leave me alone
[Quoted text hidden]



[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:27 PM
To: John Du Wors <John@newmanlaw.com>

i have asked you to leave me alone and stay out of my life and relationship.
brian has nothing to do with this, and you can leave him out of it.
he is the most wonderful man and father i have ever known, but for personal reasons, i have had to stop seeing him.
[Quoted text hidden]



John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 6:31 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

That's fine; I don't care. I have no interest in the topic. But based on Houston Wade's philosophy, it seems it is in the community's best interest to make his domestic violence activity known online. So I want to make sure I fulfill that public purpose through First Amendment protected speech.

From: Amber Du Wors <ahadenfeldt@gmail.com>
Sent: Friday, March 8, 2019 6:28 PM
To: John Du Wors <John@newmanlaw.com>
Subject: Re: Du Wors Order.pdf

i have asked you to leave me alone and stay out of my life and relationship.

[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:32 PM
To: John Du Wors <John@newmanlaw.com>

you can leave brian out of it as we are no longer together
[Quoted text hidden]



John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 6:35 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

It is irrelevant whether you and Brian are together. I am just pursuing the public service goals Houston Wade has exemplified. As you stated, he outsmarted me. So I guess the only thing to do is adopt his noble philosophy.

[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:35 PM
To: John Du Wors <John@newmanlaw.com>

he is a monster and this is a violation.
[Quoted text hidden]



Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:37 PM
To: John Du Wors <John@newmanlaw.com>

you just need to leave me alone
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 6:37 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

Who is the “he” in that sentence?

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082
[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:38 PM
To: John Du Wors <John@newmanlaw.com>

this had nothing to do with anything here. i thought i was responding to someone else
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 6:42 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

How sweet. Anyway, you chose this. And I seriously doubt you're broken up with Brian, otherwise, you wouldn't care if I made the legal community known of the domestic violence complaint from 2005, which is what I intend to do. The site goes live next week, Houston Wade has taught me that the people have a right to know.

I'm still waiting on your mugshot btw.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082
[Quoted text hidden]

[redacted]

Date: Fri, Mar 8, 2019 at 6:42 PM
Subject: Re: Du Wors Order.pdf
To: Amber Du Wors <ahadenfeldt@gmail.com>

[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:45 PM
To: John Du Wors <John@newmanlaw.com>

you can feel free to ask brian. i don't care. but he won't believe anything you say about me
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 6:46 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

It doesn't matter what I or Brian believe about you. I am agnostic on the subject.

[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:47 PM
To: John Du Wors <John@newmanlaw.com>

please leave me alone
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 6:47 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

Sure.

[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:48 PM
To: John Du Wors <John@newmanlaw.com>

i am heartbroken and i don't need your threats on top of it
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 6:49 PM

To: Amber Du Wors <ahadenfeldt@gmail.com>

I'm not making any threats. None at all.

[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 6:50 PM
To: John Du Wors <John@newmanlaw.com>

um....
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 7:35 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

I'm afraid I don't believe you with respect to Brian.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082
[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 7:39 PM
To: John Du Wors <John@newmanlaw.com>

i don't care. ask him if you must. but go away
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 7:47 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

It's just hard to believe. You're addicted to being a rich wife. I assume you're telling me this so his finances don't factor into the divorce. You're not honest in the slightest. I can't imaging you would have broken up with him, given his wealth. And I can't imagine he would have broken up with you, given your ability to pretend to be a good partner.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082
[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 7:51 PM
To: John Du Wors <John@newmanlaw.com>

did it ever occur to you that i love him because his is a really wonderful person who is a great father and friend? that i find him incredibly attractive and value his intellect and opinion? that maybe we have a lot in common? has it ever occurred to you that not everyone is using someone else? that maybe there are good people out there who actually care about eachother?
i will always love him and we will always be close friends. but as i said. for personal reasons, we cannot be together.
[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 7:55 PM
To: John Du Wors <John@newmanlaw.com>

the difference between you and i and brian is that we don't actulaly pretend to be anything.
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 8:49 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

Hopefully there are a lot more differences than that.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082
[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Fri, Mar 8, 2019 at 8:52 PM
To: John Du Wors <John@newmanlaw.com>

everything, thank god
[Quoted text hidden]

John Du Wors <John@newmanlaw.com> Fri, Mar 8, 2019 at 9:01 PM
To: Amber Du Wors <ahadenfeldt@gmail.com>

So funny. I don't expect you to ever believe this. But I am a really good person and a really good father. You've never believed that, which is why I am so glad we're divorced. You really blew this. No idea what you're going to do now. But it's not my problem and I don't care.

John Du Wors
Partner, Newman Du Wors, LLP
206-229-9082
[Quoted text hidden]

Amber Du Wors <ahadenfeldt@gmail.com> Sat, Mar 9, 2019 at 12:51 AM
To: John Du Wors <John@newmanlaw.com>

i don't owe you an answer. you keep saying this, but somewhere inside of your mind, buried... you know what you've done and why and you can keep trying to say this as if to convince me.. but i was there. and i know how much i had to struggle daily to parent with you and survive with you as you cheated and lied and hurt me and all of the other things. you know what they are. i don't have to tell you, becuase you know. and you know i have huge, enormous reasons for divorcing you. and that i never did any of those things. i worked my ass off to parent our kids daily and nightly alone. to make sure you had good dinners when you cane home. to talk to you about work and support you. to make sure you had clean laundry and to do all the work at night with the babies. to wait up when you were out trying to sleep around. to listen to your lies. you took advantage of me. used me, cheated, lied, hurt me and my daughter, said horrible things in front of the kids. i don't have to listen tomyou tell me you are a great father or wonderful person becuase i lived with you for over a decade and you have shown me your soul. you didn't care enough about your children or micah or me at all when you had multiple chances. and since then, you have spent every weekend threatening me and trying to control me when all you ACTUALLY have to do is be the good person and father you claim to be.
just move on. you can't control me anymore. go on with your life. i am a great mother and i was an excellent wife. the best you could have ever found and that's why you are so obsessed. you destroyed that with your actions. you had everything. you had to control everyone and have more than your fair share and now you are angry becuase you don't have what you once did. move on. you lost it. i didn't leave you or break up our "happy home". you made it horrible the moment you started cheating and lying and being abusive. which was from the beginning with brenda. i'm done. please let me be free of your abuse
[Quoted text hidden]

Amber Petrich <ahadenfeldt@gmail.com> Tue, Oct 1, 2019 at 12:25 PM
To: amberpetrich@yahoo.com

[Quoted text hidden]

20-2-01225-18
MTSMJG 18
Motion for Summary Judgment
9008009

FILED
KITSAP COUNTY CLERK
2020 OCT -5 AM 11:45
ALISON H. SONNTAG

Houston Wade
C/O Bruciatio
236 Winslow Way E
Bainbridge Island, WA 98110

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 MOTION FOR SUMMARY JUDGEMENT AND MOTION FOR DISMISSAL WITH PREJUDICE PURSUANT TO CR 56, CR 5(A), CR 5(B)(1), CR 5 (B)(2), CR 8(C), RCW 7.70.160, RCW 2.48.220 (1)(6)(10)(11), RCW 4.84.185, APR 21 (A)(1)(5)(6)(13), RES JUDICATA, AND COLLATERAL ESTOPPEL

RELIEF REQUESTED

Defendant Houston Wade respectfully requests the Court enter an order of Dismissal with Prejudice against Plaintiff John Du Wors.

STATEMENT OF FACTS

On July 31st, 2020, John Du Wors served Houston Wade with an unfiled summons and complaint. On August 4th, Mr. Du Wors's law firm received Mr. Wade's letter citing CR3 and demanded that Mr. Du Wors file and provide Mr. Wade with conformed copies as well as the case number. Mr. Du Wors subsequently filed the suit against Mr. Wade and then failed to provide Mr. Wade service with any documentation regarding the filing or case number including subsequent motion(s). Mr. Du Wors then sought to violate Mr. Wade's right to due process by moving for a default judgement without Mr. Wade being made aware that there was even a filed case pending.

In October 2018, Mr. Du Worse served Mr. Wade's mother with an unfiled complaint meant for Mr. Wade regarding the same issues outlined in the unfiled complaint Mr. Wade received in July of 2020. At that time Mr. Wade again cited CR 3 and demanded Mr. Du Wors file the complaint and provide Mr. Wade with dated and stamped conformed copies of the complaint and summons and case number. Mr. Du Wors did not file that complaint and opted to instead file an anti-harassment restraining order against Mr. Wade in the Bainbridge Island Municipal

Court (case no. 46-000018; Exhibit 4), citing the same arguments (defamation) in the unfiled complaint served upon Mr. Wade's mother.

For two weeks Mr. Du Wors enjoyed a TRO on Mr. Wade precluding Mr. Wade from posting about Mr. Du Wors and requiring the removal of any and all exiting posts about Mr. Du Wors. On November 6th, 2018, the BIMC held a hearing regarding the TRO where Mr. Du Wors argued that Mr. Wade defamed Mr. Du Wors. The court confirmed the accuracy of Mr. Wade's reporting on Mr. Du Wors's actions, unethical behavior, and criminal record and vacated the order. Since defamation required that Mr. Wade not be telling the truth about Mr. Du Wors, the court could not restrict Mr. Wade's 1st Amendment right to free speech.

Since that verdict, Mr. Wade has continued to update the article about Mr. Du Wors with the latest criminal news on Mr. Du Wors, and regarding Mr. Du Wors strange and unethical behavior. These updates include summaries of messages sent to Mr. Wade by Mr. Du Wors, as well as Mr. Du Wors's recent DUI arrest and conviction.

STATEMENT OF THE ISSUES

The filing of this case in Superior Court by Mr. Du Wors against Houston wade violate *Res Judicata*, in that he is trying to relitigate and exiting verdict, and *Collateral Estoppel*, in that he is raising arguments he had the opportunity raise in the previous BIMC hearing when he filed his current case against Houston Wade and where a verdict has already been reached. Mr. Du Wors also violated Court Rules and the law with how he filed this case and lied in the ensuing Motion for Default about how, when, and where Mr. Du Wors claims to have served Mr. Wade with the pertinent legal documents of this lawsuit (see submitted Declaration of Houston Wade), when in fact Mr. Wade has never served any document once this case was filed in violation of the law and court rules and Mr. Wade is still not in possession of the filed summons or complaint. Mr. Du Wors is an experienced lawyer of longstanding. He would not omit required actions deemed by court rules and state law, such as serving the Defendant all pertinent material in this case, unless he was trying to obscure the constitutional issues and court precedent surrounding the fact that this case has previously been tried and ruled upon by a lower court. This is intentional action is obviously in violation of RCW 2.48.220 (11), and ground for disbarment.

In the 2018 BIMC case, Mr. Du Wors claimed, just as now, defamation by Mr. Wade against Mr. Du Wors. citing that what was written about him on the Bainbridge Island Bad List page was "*[...] almost entirely false, and*

constitute defamation per se," (Exhibit 4, Du Wors's TRO filing, Declaration, page 1, paragraph 3.) The entire basis of his argument in the 2018 hearing was that what Mr. Wade wrote were lies that constituted defamation. The Bainbridge Island Municipal Court managed to verify the things Mr. Wade wrote about Mr. Du Wors. In that 2018 BIMC case it was established that Mr. Du Wors had in fact admitted to alcoholism and chemical abuse; the court concluded that he had used the "Seeking Arrangements" website to solicit women on the Internet (under the username "NICEGUY"); that he had been convicted of domestic violence, convicted of imprisonment of a minor, and was convicted of hit and run. Since that time, Mr. Du Wors has also been convicted of DUI. As the Court can plainly see, Mr. Du Wors is attempting to relitigate a verdict without first appealing the Lower Court's ruling in violation of *Res Judicata,* proper sanctions for which is dismissal with prejudice.

Mr. Du Wors is now attempting to frame his current lawsuit against Mr. Wade as if it is new and has not been decided by a previous verdict. Note how Mr. Du Wors makes claims about the Bainbridge Island Municipal Court rulings but has not supplied any documentation or transcript from that hearing or case. Instead, according to the unfiled draft of the complaint and summons Mr. Wade was served, Mr. Du Wors contends that the continued dissemination of truthful information about Mr. Du Wors criminal past and unethical behavior constitutes new violations, specifically extortion. The page which offends Mr. Du Wors has been up for over two years and survived one court test already. How can a legally existing news article protected by the 1st Amendment constitute a threat, something that is required for extortion to be asserted? Mr. Du Wors had ample opportunity to raise questions of extortion to either the police, since it is a criminal and not civil matter, or to the BIMC in 2018. Therefore, Mr. Du Wors's claims are in violation of *Collateral Estoppel*, sanctions for which is dismissal with prejudice. *Collateral Estoppel* is a doctrine related to *Res Judicata.* The doctrine of *Collateral Estoppel* applies when a party participates in two distinct cases arising out of different causes of action and a pivotal fact of both cases has been adjudicated against that party in a prior case. Department of Transp. v. Chicago Title and Trust Co., 303 Ill. App. 3d 484 (1st Dist. 1999). Essentially, the doctrine of *Collateral Estoppel* bars re-litigation of issues of ultimate facts that have been determined by valid and final judgment. People v. Terrell, 185 Ill. 2d 467 (1998).

The underlying decision made by the Bainbridge Island Municipal Court was that what Mr. Wade wrote about Mr. Du Wors could not be considered defamatory, therefore Mr. Du Wors had no right to restrict Mr. Wade's speech with his restraining order. Mr. Du Wors was more than welcome to appeal the BIMC's ruling and, had he

done so and prevailed, he could then have chosen to sue Mr. Wade for defamation in Superior Court. Since, Mr. Du Wors failed to act within 30 days from the verdict in the Prior Action, he is barred by law to refrain from shopping for new courts in which to attempt to relitigate a court case he previously lost.

Mr. Du Wors clearly acknowledges on page 15 of Exhibit 8 if the transcript of Du Wors v. Wade in Bainbridge Island Municipal Court that in lieu of filing a defamation suit he served on Mr. Wade that he "...elected to proceed with this course of remedy..." in pursuing the restraining order in the Bainbridge Island Municipal Court. Further, Mr. Du Wors based his entire argument for the restraining order on the precept that Mr. Wade "defamed" Mr. Du Wors with, "... comments by Mr. Wade, that are offensive and defamatory..." (page 16 of Exhibit 8). On page 17 of the same transcript, Mr. Du Wors lists the comments made by Mr. Wade he deems defamatory, which include Mr. Wade's conclusions that that Mr. Du Wors is "...an abusive alcoholic..." "commits domestic violence..." "...been charged multiple times for obstructing law enforcement..." "...been banned from several local restaurants..." "exhibits drunk and belligerent behavior..." "he spent his marriage trying to have sex with women using internet dating sites like Tinder and Seeking Arrangements..." The Court then reads a Google review of Mr. Du Wors's firm by Mr. Wade submitted as evidence by Mr. Du Wors (page 21 of Exhibit 8): "Partner John Du Wors has a lengthy criminal record, including: Imprisonment of a minor, domestic violence against his wife, hit and run, and multiple charges for obstructing a public officer [...] He will threaten suit against anyone who lets it be known that he is an abusive alcoholic. How he still has a license to practice law is beyond me." The Court then asks Mr. Du Wors, "So, tell me what about this that is not true." Mr. Du Wors asserts that all of it is not true. The Court responds, "...but it is true that you have a conviction for imprisonment of a minor and domestic violence?" The Court further presses Mr. Du Wors on page 22 and he is forced to affirm that he has been convicted for both crimes, which are violations of RCW 2.48.220(1) and court rules APR 21(a)(13) which are both grounds for disbarment. The Court goes on to force Mr. Du Wors on the next page to admit that he has a conviction for hit and run. The Court asks Mr. Du Wors if he has ever been charged for obstruction of a public officer, and Mr. Du Wors offers "I don't think so" as a response. Mr. Du Wors has been charged at least twice with obstruction of a public officer (Exhibit 1).

Once Mr. Du Wors realized his argument for defamation had no merit (Exhibit 8, page 24), he pivots to a different argument, and in the transcript states that "...caselaw says that defamation is completely separate from question from harassment and cyberstalking..." and the Court notes that the statute Mr. Du Wors cites "...does not

include constitutionally protected free speech..." and then The Court asks Mr. Du Wors if true statements can be considered defamatory free speech. Mr. Du Wors replies, "Is not."

Later, during Mr. Wade's testimony, evidence was submitted that established Mr. Du Wors's admission to alcoholism and chemical abuse, convictions for domestic violence and imprisonment of a minor, a conviction for hit and run, and two charges for obstruction related to other crimes. It was also revealed that when Mr. Du Wors had his wife falsely arrested for domestic violence in 2017, that he had concocted it as a ruse to obtain her mug shots so he could blackmail her (Exhibit 4), which is a violation of court rule APR 21(a)(5). Also submitted into evidence in that case were multiple incidents where Mr. Du Wors had been in other hit and run collisions; abused his wife; threatened to murder family pets; been trespassed from both Bruciato and San Carlos restaurants for belligerence and drunk driving; lied to someone when he claimed to be the attorney for Brenden McGill, and, within minutes of when he was caught in that lie, invented a fictitious client out of thin air and then threatened to sue Mr. McGill, which are both grounds for disbarment according to RCW 2.48.220(11); that Mr. Du Wors used sites like Seeking Arrangements to seek prostitutes; and where Mr. Du Wors sent Mr. Wade detailed description of his mother's home and threatened Mr. Wade's mother with sodomy.

After the lengthy submission of evidence, The Court, on page 73 of Exhibit 8, asks of Mr. Wade, "So, do I understand it correctly that the reason these exhibits are being offered, is that you are attempting to say that this is not defamatory information that you posted?"

Mr. Wade replied, "Correct."

When giving her ruling on page 110 of the transcript (Exhibit 8), The Court reiterates that the harassment and stalking with which Mr. Du Wors charged Mr. Wade in his TRO cannot include constitutionally protected speech and that Mr. Du Wors made claims that what Mr. Wade wrote about Mr. Du Wors constituted defamation and that defamation is not constitutionally protected free speech. The Court Concludes that Mr. Du Wors was not able to prove defamation and thus Mr. Wade's speech was protected. The Court goes on to affirm Mr. Wade's reasons for the articles about Mr. Du Wors as a matter of "public concern" (page 116 of Exhibit 8). On page 117, The Court notes that Mr. Du Wors's examples in caselaw all involve an element of defamation that Mr. Du Wors could not establish that defamation had taken place.

Mr. Du Wors's flippant abuse of process to garner a default judgement against Mr. Wade without providing proper service of the filed case is unethical, against court rules, and against the law. Mr. Du Wors's actions were a blatant attempt to deny Mr. Wade due process, and right to challenge the standing of the case. Since Mr. Wade cited CR3 in his letter to Mr. Du Wors upon being served the unfiled complaint and summons and demanded to be served the filed copies and case number, as Mr. Du Wors is required under the law and CR 5(a) to do, and since Mr. Du Wors lied to the court about serving this documentation to Mr. Wade, sanctions for this include dismissal of the case. Courts have held that personal jurisdiction is "the very bedrock of due process." McRae v. White, 269 App. 455, 604 S.E.2d 291 (2004). Personal jurisdiction is obtained through service of process, which is required in every lawsuit. Without proper service, no valid lawsuit arises. It is only after a plaintiff obtains proper service upon the defendant that the court obtains jurisdiction over the defendant to impose an enforceable judgment of liability and damages. If the plaintiff fails to obtain proper service upon the defendant, the lawsuit must be dismissed due to the court's lack of jurisdiction.

Not only did Mr. Du Wors fail to provide proper service in this case, he had the audacity to lie about the service of Mr. Wade and then force the court to hear a Motion for Default Judgement in an underhanded attempt to knowingly skirt precedent involving this case's violations of *Res Judicata* and *Collateral Estoppel*. Mr. Du Wors's blatant disregard in procedure and legal obligations in this matter constitute misconduct that are grounds for sanction. Mr. Wade's entire thesis on the Bainbridge Island Bad List is that Mr. Du Wors is an unethical attorney and a repeat criminal and should not be allowed to practice law. The actions Mr. Du Wors has taken in this unfounded legal action against Mr. Wade prove that Mr. Wade was just in his assessment of Mr. Du Wors's character. Mr. Du Wors's extensive, and ongoing criminal history, often violent, and his unethical legal misconduct means that Mr. Du Wors should face sanction and not be allowed to practice law in Washington.

In Mr. Du Wors's stated causes of action in the unfiled summons and complaint served to Mr. Wade, Mr. Du Wors first cause of action is "Defamation of Character". As the Court can plainly see, this cause of action was clearly argued at the lower court and Mr. Du Wors failed to prove defamation.

In Mr. Du Wors's second cause of action, "Defamation Per Se", he again is attempting relitigate the previous action decided by the lower court.

In Mr. Du Wors's third action, "False Light", Mr. Du Wors claims that the article Mr. Wade wrote paints Mr. Du Wors in a false light and that "Houston Wade's descriptions of would be highly offensive to a reasonable person;" and that "Houston Wade knew of, or recklessly disregarded the falsity of, his publications and the false light in which they would place John Du Wors." In the previous action in the lower Court Mr. Du Wors was forced to admit to everything Mr. Wade wrote about him (Exhibit 8, page 22).

In Mr. Du Wors's fourth action, "Civil Extortion", Mr. Du Wors not only failed to establish the required threat that must be inherent for extortion to take place, but in the previous action where Mr. Du Wors made similar claims the Court responded, "Mr. Du Wors tried to argue that there was proof here that there was incitement of true threats [...] And the Court finds that there really is not that. [...] But just that [Mr. Wade] wants them to try and stay away from Mr. Du Wors." (Exhibit 8, page 110). Also, What Mr. Du Wors considers "extortion" in his complaint is Mr. Wade's response to Mr. Du Wors's demands for negotiation (Exhibit 7). As the Court can see in the email exchange in Exhibit 7 Mr. Du Wors threatens Mr. Wade with legal action unless Mr. Wade meet Mr. Du Wors's demands, i.e. extortion. Also, Mr. Du Wors attempted to extort his then estranged wife when he purchased internet domains in her name and those of her loved ones and told her to do as he asked or he was going to use those domains to post salacious information about her and those she cares about (See Declaration of Amber Du Wors, and Exhibit 6).

In Mr. Du Wors's fifth cause of action, "Tortious Interference", Mr. Du Wors argues that Mr. Wade messages to his business partners where Mr. Wade made them aware of Mr. Du Wors's illegal and unethical behavior asked for their help to get Mr. Du Wors into rehab constitutes "interference". Mr. Du Wors raised these concerns in the lower court as well and the Court found that, "[Mr. Wade] has a dual intent, both personal and, as he indicated, to protect others from people who he considers to be abusive to harmful to women and children." The Court continues, "So the legitimate or lawful purpose as referenced by the statute would include constitutionally protected free speech. And free speech would be legitimate or lawful purpose." (Exhibit 8, page 109)

In Mr. Du Wors's sixth cause of action, "Harassment", Mr. Du Wors claims that Mr. Wade harassed him. The lower court found that Mr. Du Wors was always the first to establish contact with Mr. Wade and not the other way around and that Mr. Du Wors's arguments for harassment then required that what Mr. Wade wrote about Mr.

Du Wors had to constitute defamation. Since Mr. Du Wors failed to establish defamation, Mr. Wade was protected by his constitutional right to free speech.

In Mr. Du Wors's seventh cause of action, "Intentional Inflictions of Emotional Distress", Mr. Du Wors claims Mr. Wade's conduct was intentional and reckless, that Mr. Wade's behavior was "extreme and outrageous", that Mr. Wade defamed Mr. Du Wors, and that Mr. Wade's truthful claims as to Mr. Du Wors's criminal and unethical behavior was "outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." In this regard at least Mr. Du Wors agrees that hurting women and children, driving drunk, committing hit and runs while driving, and unethical behavior by an officer of the court to be considered "utterly intolerable in a civilized community."

In Mr. Du Wors's eight cause of action, "Cyberstalking", Mr. Du Wors again brings up yet another claim from his previous action against Mr. Wade in the lower court, and the Court found once again, that since Mr. Du Wors could not prove defamation and that Mr. Wade was protected by his constitutional right to free speech.

GROUNDS FOR SUMMARY JUDGMENT

Defendant believes that it is an issue of material fact that Mr. Du Wors is violating the Defendant's rights to protection under *Res Judicata* by attempting to relitigate a case the Plaintiff has previously lost on the same grounds as the present case. This case must be dismissed with prejudice.

1. Plaintiff's claims of defamation are not valid as Plaintiff has failed to establish falsehoods in a lower court ruling for the same claims.
2. Plaintiff's request for damages due to injury are barred because Defendant did not commit defamation, defamation *per se,* and there was no malice involved as ruled by a lower court.
3. Plaintiff's claims for false light are not valid as Plaintiff has failed to establish falsehoods in a lower court ruling for the same claims.
4. Plaintiff's claims to civil extortion are without merit as the Plaintiff previously argued such in the lower court, was ruled against, and failed to establish a criminal threat in this case.
5. Plaintiff's claims to tortious interference were previously argued in the lower court and was ruled against.
6. Plaintiff's claims to harassment where previously litigated in the lower court and the ruling went against the Plaintiff.

7. Plaintiff's claims of "intentional inflictions of emotional distress" are dependent upon the Defendant having defamed the plaintiff. Since the lower court ruled that the Plaintiff failed to prove defamation and the lower court compelled the under oath admission by the Plaintiff as to the truthfulness of the claims made by Defendant's authorship, the Plaintiff has previously lost on these grounds.
8. The Plaintiff's claims to "cyberstalking" were specifically addressed in the lower court and the Court ruled against the Plaintiff.
9. Plaintiff has submitted contradictory evidence and declarations with regards to his own testimony under oath and has committed perjury in both the lower court and in the present Court.

EVIDENCE RELIED UPON

This Motion relies upon the pleadings and papers in the Court's File, the Declarations of Houston Wade, Amber Du Wors, and John Du Wors, and the Exhibits thereto.

LEGAL AUTHORITY

CR 5(a) provides, "Service—When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard *ex parte*, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in rule 4." And CR 5(b)(1) required John Du Worse to provide service of the documents upon Mr. Wade, and if service attempts were made and failed, that Mr. Du Wors, "*filing with the clerk of the court an affidavit of attempt to serve.*" CR 5(b)(2) failure to provide service by mail. And CR 5(d)(2) sanctions.

CR 8(c) concerning *Res Judicata* and *Estoppel.* In Washington, these principles have been reduced to a four-part test. Res judicata applies "where a prior final judgment is identical to the challenged action in '(1) subject matter, (2) cause of action, (3) persons and parties, and (4) the quality of the persons for or against whom the claim is made.'" Lvnn v. Dep't of Labor & Indus.. 130 Wn. App. 829, 836, 125 P.3d 202 (2005) (quoting Loveridge, 125 Wn.2d at 763). Whether an action is barred by *Res Judicata* is a question of law that is reviewed de novo. Lvnn. 130

Wn. App. at 837. "*Collateral Estoppel*, or *issue preclusion, bars relitigation of an issue in a subsequent proceeding involving the same parties.*" Christensen v. Grant County Hosp. Dist. No. 1, 152 Wn.2d 299, 306, 96 P.3d 957 (2004). "*Collateral Estoppel* requires that the issue decided in the prior adjudication is identical with the one at hand." McDaniels v. Carlson. 108 Wn.2d 299, 305, 738 P.2d 254 (1987). Moreover, it "*precludes only those issues that have actually been litigated and determined; it 'does not operate as a bar to matters which could have . . . been raised [in prior litigation] but were not.*'" McDaniels. 108 Wn.2d at 305 (emphasis added) (alterations in original) (quoting Davis v. Nielson. 9 Wn. App. 864, 874, 515 P.2d 995 (1973)).

Frivolous or vexatious abuse of process, RCW 7.70.160 states: "In any action under this section [chapter], an attorney that has drafted, or assisted in drafting and filing an action, counterclaim, cross-claim, third-party claim, or a defense to a claim, upon signature and filing, certifies that to the best of the party's or attorney's knowledge, information, and belief, formed after reasonable inquiry it is not frivolous, and is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause frivolous litigation. If an action is signed and filed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the action, counterclaim, cross-claim, third-party claim, or a defense to a claim, including a reasonable attorney fee."

CR 11(a)(1) Failure to ground in fact. CR 11(a)(3) Improper purpose. CR 11(a)(4) Sanctions. CR 11(b)(1) Failure to ground in fact. CR 11(b)(3) Improper purpose. CR 11(b)(4) Sanctions.

Prevailing party to receive expenses for opposing frivolous action, RCW 4.84.185.

Grounds for disbarment or suspension, RCW 2.48.220 (1) His or her conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence. (3) Violation of his or her oath as an attorney, or of his or her duties as an attorney and counselor. (6) For the commission of any act involving moral turpitude, dishonesty, or corruption, whether the same be committed in the course of his or her relations as an attorney or counselor at law, or otherwise, and whether the same constitute a felony or misdemeanor or not; and if the act constitute a felony or misdemeanor, conviction thereof in a criminal

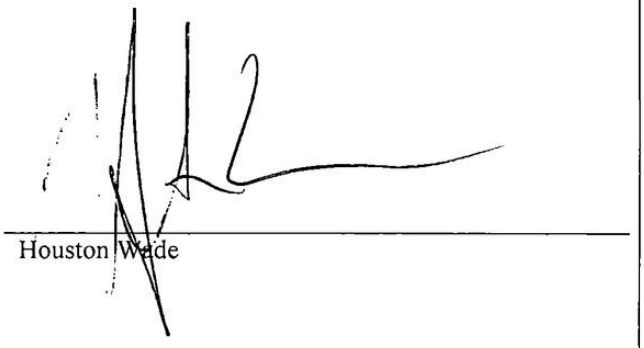
proceeding shall not be a condition precedent to disbarment or suspension from practice therefor. (10) Gross incompetency in the practice of the profession. (11) Violation of the ethics of the profession.

APR 21 (a) Factors Considered. The following factors shall be considered when determining an applicant's good moral character and fitness to practice law; (1) Unlawful conduct; (5) Acts involving dishonesty, making false statements, fraud, deceit, misrepresentation; (6) Abuse of legal process; (13) Conduct that physically threatens or harms another person.

CONCLUSION

A Proposed Order is attached.

Dated this 5th of October 2020.



Houston Wade

Houston Wade
C/O Bruciatio
236 Winslow Way E
Bainbridge Island, WA 98110

SUPERIOER COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 [PROPOSED] ORDER GRANTING DEFENDANT'S MOTION FOR DISMISSAL WITH PREDJUDICE PURSUANT TO CR 5(A), CR 5(B)(1), CR 5 (B)(2), AND CR 8(C)

This cause come on the motion of Defendant Houston Wade of the entry of the order for Dismissal with Prejudice for his favor against Plaintiff John Du Wors.

Based on that motion and accompanying documents, The Court finds:

John Du Wors failed to serve the Defendant required documents.

John Du Wors lied about service of documents to Defendant.

John Du Wors violated *Res Judicata* by bringing a previously litigated issue before the court.

John Du Wors violated *Collateral Estoppel* buy bringing arguments before the court he failed to raise, but could have, in previous litigation.

John Du Wors attempted to frame civil negotiations as criminal extortion in a civil case.

John Du Wors brought a frivolous and vexatious case and abused process in doing so.

IT IS ORDERED that this matter be, and hereby is, dismissed with prejudice. John Du Wors is to bear his own costs and fees. Houston Wade is to recover his costs and fees from the Plaintiff John Du Wors. Mr. Du Wors is to receive disciplinary action and have his license to practice law in the State of Washington suspended for no less than two years.

It is so ORDERED this ___ day of _____, 2020.

_____
Kitsap County Superior Court Judge

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 DEFERMENT OF CR 26 CONFERNECE UNTIL AFTER MOTION FOR DISMISSAL HEARING

Defendant Houston Wade is seeking to defer the CR 26 conference requested by Plaintiff John Du Wors regarding a protective order sought my Mr. Du Wors until The Court has ruled on the Motion for Summary Judgment hearing for the motion to dismiss requested by Mr. Wade. At this time Mr. Wade represents himself pro se and feels that this conference, and the protective order which Mr. Du Wors seeks, represents an undue burden on Mr. Wade, especially considering that this case is in violation of Res Judicata.

Dated this 5th of October 2020.

Houston Wade

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 DECLARATION IN SUPPORT OF SUMMARY JUDGMENT AND DISMISSAL WITH PREJUDICE

I, Houston Wade, declare as follows:

1. I am over 18 years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. I declare: On the evening of September 2nd, 2020, I received a private message from a friend (Exhibit 1) who happens to be an attorney. He informed me that there was a default motion against me in court from John Du Wors. This was news to me. Mr. Du Wors had served me with an unfiled draft complaint on July 31st, and I responded in the following days informing him that under CR3 he had 14 days to pay the fees and file the case and then provide for me dated and stamped copies of the summons and complaint along with a case number (Exhibit 2). Until that moment on the evening of the 2nd, I was unaware that Mr. Du Wors had actually filed the complaint against me. It appears that Mr. Du Wors did eventually file the case, but intentionally failed to notify me, via proper service, of the case number or provide me with a hard copy of the stamped and dated summons and complaint as my response demanded in complete violation of CR 5.

3. In the copy of the motion for default that my friend was able to download for me to see, Mr. Du Wors claims that after he filed his suit against me, that he "*Sent Houston Wade a conformed copy.*" He most certainly did not. Not only is this a lie, Mr. Du Wors had the audacity to assume that his feeble attempt with email (Exhibit 3, "Plaintiff's Motion for Default" Exhibit B), which I did not receive, was in fact service of these documents, while his own admission in his email is that it does not constitute legal process of service unless both sides agree to this; he writes in that email, "*Alternatively, do you want to agree on service by email in this matter? If so, I will put*

together a formal email service agreement." Again, Mr. Du Wors admits in his own evidence that email does not constitute service without the other party agreeing. I cannot receive Mr. Du Wors's emails because due to continued harassment I felt I had to block his email address nearly 6 months ago. In Mr. Du Wors's motion of default, he provides no proof that I received service of the filed complaint, summons, or even the case number. It is by pure chance that I was made aware of this case and motion against me in Superior Court. Mr. Du Wors cannot even claim "informal appearance" *Shreve v. Chamberlin, 66 Wash. App. 728, 832 P.2d 1355 (Div. 2 1992)* because that must constitute an exchange of communication. One sided email being sent to an account that has blocked Mr. Du Wors's email address does not constitute an exchange.

4. This is not the first time Mr. Du Wors has served me with an unfiled complaint. In October of 2018 Mr. Dur Wors served my mother with an unfiled complaint meant for me (Exhibit 9), and I responded citing CR3 then as well. Mr. Du Wors failed to file that 2018 complaint within the timeframe, and I figured he did the same this time around since I had received no confirmation of his filing. In lieu of filing the 2018 complaint, Mr. Du Wors opted to litigate his arguments in his complaint by filing an anti-harassment order against me in Bainbridge Island Municipal Court (*Du Wors v. Wade* case number: 46-000018, Exhibit 4). This failed attempt at getting a restraining order against me was in regards to the same web article Mr. Du Wors cites in the copy of the unfiled complaint I was served on July 31st of this year and the complaint my mother was served in 2018. This case was previously litigated in municipal court, and The Court found that what I wrote about Mr. Du Wors was accurate and truthful including: that he had indeed been convicted for child imprisonment, assault, and hit and run, and that Mr. Du Wors had admitted to abusing his family, admitted to drug and alcohol abuse, that he been using the Internet to hire prostitutes, and that he had trespassed from more than one bar in our community due to intoxication and belligerence. The Court also noted that I had provided a community with a service by warning them about Mr. Du Wors's criminal and unethical history with my reporting on him when the Court said, "And in this case I would find that there is an intent to air this information because of a public concern and trying to be protective information sharing to people who could be at risk," (Exhibit 8, page 113). Mr. Du Wors is attempting to relitigate a previously rendered verdict and is doing so in an unethical and illegal way. If Mr. Du Wors wished to, he was more than welcome to file for an appeal to BIMC case No. 46-000018 in Superior Court but failed to do so letting the original verdict stand. What Mr. Du Wors is not allowed to do is shop for courts in which to relitigate an existing verdict, see *Res Judicata.*

5. In his Declaration in Support of Plaintiff's Motion for Default, Mr. Du Wors also lied about how I was served the unfiled complaint. He states that, "*Served [sic] was accomplished by the Bainbridge Island Police Department by serving Houston Wade at his Home on July 31, 2020,"* (Exhibit 3, Plaintiffs declaration). Incorrect, Officer Noel called me to notify she had civil documents with which to serve me, and I arranged to meet her at the Bainbridge Island Police Department to receive service of the aforementioned unfiled complaint. Mr. Du Wors's own evidence (Exhibit 3, "Plaintiff's Motion for Default" Exhibit A) lists in Officer Noel's handwriting the police department's address as the location of service. As far as I know, Mr. Du Wors does not know where I live, and I would like to keep it that way. Mr. Du Wors has threatened and harassed me for nearly two years now, and the night in 2018 that he served my mother with an unfiled complaint meant for me, he sent me messages on Facebook which included my mother's home address, a detailed description of her home, and then claimed he was on his way to her home to sodomize her (Exhibit 4, all evidence submitted in BIMC case No. 46-000018 and BIPD incident report No. 118-1402). Mr. Du Wors continued his harassment of me via email and I informed him on March 18th, 2020 to stop messaging me as it was harassment, and that I would instead accept communication from the man in his firm who identified himself to me as Mr. Du Wors's attorney. I then blocked Mr. Du Wors's email address (copies of email exchange from last March are attached as Exhibit 7). Nate Durrance, who appears to work for Mr. Du Wors's firm, identified himself in the emails as Mr. Du Wors's attorney. Not once have I initiated contact with Mr. Du Wors. All communication with me was initiated by Mr. Du Wors and this was established as the case in our previous case (Exhibit 8, page 116).

6. Mr. Du Wors also contradicts himself in the proposed order for his Motion for Default where he claims that I did not respond to the service of the unfiled complaint, but then failed to notify me that he had filed his lawsuit against me. If Mr. Du Wors fails to serve me the conformed copy of the complaint and summons in a reasonable time after I cite CR3, as demanded in my letter to him, then how am I not to assume that he, once again, failed to file a legal threat against me? Mr. Du Wors attached copies of emails he sent to me in this motion (Exhibit 3, "Plaintiff's Motion for Default" Exhibit B), emails from an address which my Gmail account has been blocking since March 18th, 2020, Mr. Du Wors acknowledges my letter demanding he file (response and copy of certified mail receipt as well as a sceenshot of the USPS tracking attached as Exhibit 10). It is obvious from his email and the tracking information on the certified letter that I in fact responded well-within the 20-day window and that Mr. Du Wors's firm received the response on August 4th, but according to Mr. Dur Wors's evidence (Plaintiff's Exhibit B), Mr. Du

Wors pretends like his firm received my response 7 days later on August 11th with, "*Today, I received your correspondence demanding the filing of my complaint against you,*" (Exhibit 3, "Plaintiff's Motion for Default Exhibit B). I do not understand how it takes 1 day for a letter to get from Bainbridge Island to a Downtown Seattle office building, and 7 days for the letter to make it from the office receptionist to Mr. Du Wors's desk. Mr. Du Wors's entire play here was to obscure the facts and lie to the Court in order to sneakily win a default judgement and avoid the Court being made aware of his violation of *Res Judicata.*

7. Also, included in the evidence Mr. Du Wors supplied in his original motion is the form from the Clerk's office to Officer Noel (Exhibit 3, "Plaintiff's Motion for Default" Exhibit A) noting that the return of service is being returned "unfiled" because there was no case number since the complaint served to me had not been filed. To this day, in violation of CR 5, I have not been served in this active case, and I have no way of knowing if the case filed with the Court is the same as the draft I received; which is the entire point of my demanding stamped and dated copies via my CR 3 response. Mr. Du Wors is violated my rights to due process and broke the law in his attempt to obtain a default judgement against me, in violation of court rules, without ever bringing service to me with physical filed documents or notifying me of court dates. I still have not seen the filed complaint and as a result cannot give an answer to it.

8. Prior to this legal action, Mr. Du Wors challenged me to "mutual combat" on May 31st, 2020 in the comments of a Bainbridge Island community Facebook page post. During the conversation he showed that he is not the delicate flower he pretends to be (Exhibit 11) in the documents with which he served me. He also indirectly admitted during this interaction that his threat of a lawsuit was essentially frivolous and avoided responding to the fact that I clearly stated that any lawsuit he brought against me would constitute relitigation of a case he already lost. Sadly, he apparently backed out of the mutual combat challenge the next day after he sobered up. I do not have access to the exchange where he discussed why he capitulated on his challenge, but from what I have been told, everyone who witnessed it was disappointed with him. After that rather entertaining exchange, I managed to block Mr. Du Wors on Facebook as well when I heard he backed out of his mutual combat challenge. All in all, the exchange amounted to nothing more than a the bravado of a drunk.

9. On Wednesday September 16th Mr. Du Wors served me his response and declaration to my original motion to dismiss. In that response, Mr. Du Wors states that The Court in our Prior Action "*did not – as Houston Wade claims – make any findings or rulings that are determinative of any of the issues in this action.*" This is not

true. The Court specifically made note that Mr. Du Wors's entire central argument was based upon his claim that I defamed him and that I was not engaging in constitutionally protected free speech, and that Mr. Du Wors "did claim in his petition that the information presented is almost entirely false. [...] Although when pressed, [Mr. Du Wors] does admit that he has convictions for domestic violence, hit and run, imprisonment of a minor. He denies being charged with obstructing, but Mr. Wade did present evidence that suggests that he has been at least charged with those offenses in other courts." (Page 114 of Exhibit 8). The court also says that, "the proof really would lie in Mr. Du Wors in trying to prove that this falls within the defamation category." Page 110, Exhibit 2. The Court further states that they could not "find that [defamation] has been proven." (Page 113, Exhibi8).

10. I did reply to Mr. Du Wors's unfiled complaint which he had served upon me on July 31st, and that according to CR 3 he had 14 days to file and after he filed to process service upon me. Mr. Du Wors failed to process service upon me as required in CR 5(a). Mr. Du Wors claims he sent service by email but did so without my consent as such consent from both parties is required and without it does not constitute legal service in the State of Washington (ELC 4.1). Mr. Du Wors noted this in his own submitted evidence (Plaintiff's Exhibit B). Mr. Du Wors sent emails to an email address to which he was told specifically not to send correspondence due to his continued harassment and that he has been blocked from contacting that email address since March 2020 (Defendant's Exhibit A).

11. The Court in our Prior Action did say that Mr. Du Wors could pursue a defamation suit in Superior Court, but also suggested that Mr. Du Wors "[...] appeal the Court's order here today within 30 days." (Page 118 of Exhibit 8). Mr. Du Wors chose to not file in Superior Court in 2018 and opted to instead pursue action in Municipal Court. Mr. Du Wors's arguments failed in Municipal Court and now he is trying to bring the same arguments of defamation over the same website to this new action. Mr. Du Wors admits that his previous action failed due to First Amendment concerns, and those same concerns apply in this case as well. The Prior Action demonstrated that I did not defame Mr. Du Wors due to Mr. Du Wors not only not providing any evidence that what was written about him was untrue (his only arguments were denials of such documented behavior which ultimately constituted perjury on Mr. Du Wors's part), but that the Court then forced Mr. Du Wors to admit to the truth of the content written by me.

12. Again, Mr. Du Wors insisted in his latest declaration that I was served the unfiled complaint by the BIPD at my home. The documents clearly state that I was served at 625 Winslow Way E, on Bainbridge Island. That is the address of the police station (Exhibit 3, "Plaintiff's Motion for Default" Exhibit A). Mr. Du Wors complains

that he did not have "an address where [Wade] could be physically served with the filed summons and complaint." Mr. Du Wors managed to serve me with the unfiled summons and complaint just fine without knowing my address (Exhibit 3, "Plaintiff's Motion for Default" Exhibit A). Also, in the future Mr. Du Wors might want to check envelopes for return address before throwing them away.

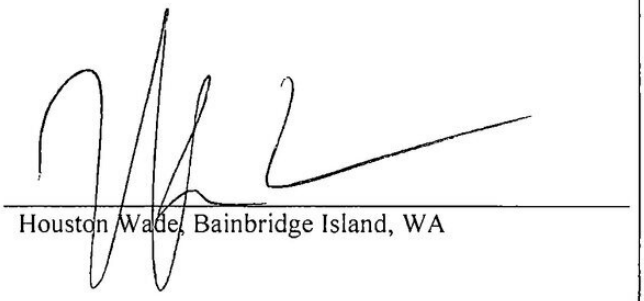
13. In Mr. Du Wors's opposition to my motion, he claims that the Court in our Prior Action that he "*may have had a basis for claiming defamation against Houston Wade.*" This is not true. The Court specifically said that Mr. Du Wors had failed to prove defamation, but that "*If* there are particular statements that are incorrect, certainly, Mr. Du Wors has the remedy of seeking a defamation suit, as he has eluded to." Emphasis added, (Page 118, Exhibit 8). Mr. Du Wors has yet to show incorrect statements, then or now, and failed to appeal the verdict in our Prior Action as suggested by The Court which would have opened up a window to filing a lawsuit had he prevailed. Without filing an appeal, Mr. Du Wors shows that all he is doing is shopping for courts to relitigate a previously rendered verdict.

14. Mr. Du Wors cites in his opposition to my motion CR 5(a) and claims that he is not required to serve me any further subsequent documents since he served me with an unfiled complaint. Mr. Du Wors in his opposition to my motion emphasizes that there is "No need service be made on parties in default for failure to appear" while ignoring that he still has not served me any other documents filed in this case when CR 5(a) specifically notes that every submitted document to the court must be served upon the other party, except for a motion of default due to a failure to appear. How am I to know that what is in the unfiled draft with which I was served matches what Mr. Du Wors filed with the Court? Especially considering all the lying and obfuscation Mr. Du Wors has already engaged in during this case in an underhanded attempt to pursue a default motion without my ever knowing he filed. He is legally obligated to serve me with those documents once filed. That is the entire point of CR 3 and CR 5. Plus, Mr. Du Wors claims I failed to appear, when he clearly acknowledges that I sent him a letter demanding he file, and thus "appeared" in this case.

15. Mr. Du Wors had his paralegal, Chy Eaton, send me an email on September 14th (Exhibit 12) containing a letter from Mr. Du Wors in which he claims, "We have no record that you served my Seattle Office on September 10th, 2020—or any record that you served my Seattle office at all." He notes that Kitsap County Local Civil Rule 7(b)(1)(A) that any motion requires five days' notice to the opposing party for the motion to be considered. As you can see from Exhibit 13, Mr, Du Wors's law firm signed receipt of certified mail and took

delivery of the documents and notice of motion at 10:22am on September 10th, 2020, on the very day he claims he had not been served. Mr. Du Wors has lied in this action yet again, and this is another cause for malpractice on Mr. Du Wors's part and further evidence that this case should be dismissed and his license to practice law in Washington be suspended. As you can see, Mr. Du Wors is unethical and fast and loose with the truth.

Dated this 5th of October 2020.



Houston Wade, Bainbridge Island, WA

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 DECLARATION OF AMBER DU WORS

1. My name is Amber Rosanna Du Wors. . I am over 18 years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters. I make this statement from my personal and factual knowledge of John Du Wors. I am submitting this information upon being threatened by Mr. Du Wors to be named as a co-defendant in this case, of which I am truly not involved in.

2. I have been involved in a contentious divorce with Mr. Du Wors since January 10, 2017. This separation was created by Mr. Du Wors following a domestic violence incident in which he falsified information, claiming I was the perpetrator. The truth is. John spent three nights abusing me both verbally and physically preventing me from being able to sleep. He turned the light on in the room I was sleeping, took all my blankets and pillows from me, and sat at the edge of my bed calling me violent names and insulting me. He was simply angry that I refused to sleep with him after calling me and screaming drunkenly and violently during the day where said that I was a miserable excuse for a wife and I should be do my duty and sleep next to my husband. He screamed obscenities such as "stupid bitch" and "dumb cunt". I did not feel I wanted to share a bed with someone who treated me so unkindly and disrespectfully. His reaction was to ensure I was unable to sleep at all for three days.

3. The night of the occurrence, I was in my art studio talking to my sister on the phone about possible ways I could leave the marriage. I had been thinking about the past few years and realized that the majority of our intimate time together was non-consensual. If I disagreed with his advances, he would continue, multiple times per day. and despite pushing him away at night out of pure exhaustion from being awake for better part of a

year as I had recently birthed identical twin infants, as well as two other young children at home. I was not allowed the excuse of "I've been awake all night for a year with breastfeeding infant twins who you refused to help with." when not agreeing to sex. Parenting was my job, he made the money, and he did everything to let me know that was the deal we had made. If I refused his advances, he would continue until in a sleep deprived state. I would push him away. This was his excuse to become physically violent with me, claiming I was the instigator. I would run from him, half asleep down the hall, where he would grab my ponytail, throw me to the floor, and beat me. If I managed to escape and lock myself in a bathroom, or bedroom, he would simply break the door down, shove this arm through, grab my hair, and pull me to the ground, then slam the door against my head until it was free enough to let him in. Then he would hit me. I have had to replace multiple doors in all the homes we have lived in due to his destructive violence.

4.During the eight months leading up to the separation, Mr. Du Wors had an affair with a nineteen-year-old woman he met at a strip club and made her his secretary. He began behaving erratically and lost so much weight so rapidly that his kidneys had started to fail. This was according to John. He had always consumed more alcohol than anyone I had ever met, and anyone I knew, but there was another element occurring at this time. He became more aggressive, stopped eating and only consumed alcohol and cigarettes, and rapidly lost possibly sixty pounds. I could not have a conversation with him at all without him snapping at me and becoming aggressive. At this time he began insulting me in front of other people, talking over me, and calling me names, verbally abusing me in a way that suggested it was ok because I must be such a waste of a human, that I must be so idiotic and profoundly worthless that everyone could see it, and they would agree. Prior to this, he was tempered by society enough that he would at least pretend to be a good, loving, and doting spouse when out in public. Something changed and I strongly suspect he was using cocaine along with prescription drugs. I have been told by mutual friends that he was consuming cocaine, but I never suggested this to Houston Wade.

5. There were hundreds of occasions where Mr. Du Wors would consume enormous quantities of hard alcohol and drive from our home with a cocktail in the cup holder. I would chase him down the road and threaten to call the police if he did it again. To which he would reply that he would take everything and leave me in poverty. He still to this actual day uses this threat. Post separation, I called 911 multiple times because he had a cocktail in the car when he picked up the children and was clearly drunk. I could never stop him from driving. He

has committed multiple hits and runs while intoxicated, and at least one time while our children were in the car with him, for which he was convicted.

6. John Du Wors was arrested for a DUI during which time he was sending me rapid fire emails, which is why he was followed by the police, legally threatening me and including my then partner and my partner's ex-wife; this was all on my birthday while I was with my family. He then resumed harassing me by email the moment he was released from jail. I have all of the court documents and email timelines. Mr. Du Wors has sent me hundreds of harassing emails throughout our relationship, but more so post our mutual TRO which prohibits him from doing so. On one occasion, he stated that he had purchased the Internet domain names of both me and my partner at the time, claiming intention to use them to post defamatory material on them. He in fact does own both of our domain names with the sole purpose of making the threat of defamation for the purposes of extortion.

7. Mr. Du Wors has abused not only me, but my child, his stepdaughter. Although I did everything I could to have a peaceful outcome to a terrible evening, my sole objective being to protect her and keep her safe, John hurt her over and over, breaking her ribs and fingers and rupturing her eardrum. I will never stop advocating for the honesty of the abuse he caused her. Around this time, he became physically violent with and began calling me horrible names. I sometimes would take all the children and rent a room at a hotel to show him his behavior and vile name calling was not to be permitted. He then began physically preventing me from leaving by holding me down and twisting my wrist until I heard it crack, or lacerating my hands and arms with my keys, taking my phone and wallet, and pressing me against the wall or floor with his body and physically restraining me. This continued and escalated until August 2014 when he was arrested for domestic violence against me. The same scenario occurred, but more violently. He became enraged with jealousy, chased me through the house, broke a bathroom door to get to me, I escaped, he broke another door to get to me, I escaped again, and he was able to throw me from the car by my hair onto the concrete. He served jail time, house arrest, and was prohibited from drinking, enter court-mandated treatment and anger management classes, as well as scram anklets and a five year no contact order and could not be within 500 feet of me. While In jail, he called me several times, recorded, threatening me. He stated that if I did not post bail immediately, he would close all our accounts and I would be left starving with the children. This is on court record.

8. During this time, John contacted me relentlessly via new email addresses and a burner phone he obtained to be able to try to persuade me to remove the no contact order and let him resume our marriage. I then

realized I had become pregnant the day before he attacked me. Ultrasound revealed that I was in an extremely high-risk pregnancy with twins. John was ecstatic because he knew he had won the right to be able to come back to our house and took full advantage of the situation. He stated in writing that he would sign our house and shares of stock over to me and commit to sobriety if I would allow him the opportunity to show that he could be a good and doting husband (Exhibit 5). I strongly opposed John moving back in with us and contacted his criminal defense lawyer regarding my absolute fear and panic that he was in no way obeying the court orders and I was afraid he would try to take control of me once again and disregard all boundaries. My greatest fears proved true when John did exactly that. Prior to moving back home, John promised in writing and verbally that he would remain sober and so many other things. I was not interested in renewing a relationship with him at all, but he persisted and did not respect my boundaries or safety at all once he was permitted to be in the house with us.

9. It took him three days after having his alcohol monitoring anklets off for John to begin abusing alcohol again. He then rapidly slid into the same state of abuse and control where he had left off prior to his convictions, only growing far more extreme over the following two years.

10. When I was in the hospital, about three hours post-delivery with my high-risk twin daughters, John decided he was bored with the hospital scene and left to meet his friends for "lunch". He did this despite one hour after delivery of my twins, my daughter Mirabelle was unable breathe efficiently and being premature, had to be taken into the NICU department of Swedish Hospital for life support and observations. I was recovering in my room for a couple of hours, John elected to visit friends for lunch with the promise of a Thai food delivery. I waited for hours until 10 pm at night for him to return, while caring for my littlest, four-pound premature infant and achingly waiting for John to return so I could finally see the other in NICU. I was so worried about her the entire time and watched the clock all evening for his return. I had an epidural, which was different for me as I had previously had natural births. My legs were weak, but when John finally returned, I gave my littlest child to him and said, "Please, just hold her for 20 minutes. I have to see if Mirabelle is ok." I went through all the checkpoints and to the NICU where they were trying to fit the tiniest line into the vein of her hand and stood there in tears feeling helpless. I was so exhausted and sad and afraid, having just given birth to twins.

11. When I returned to the room when John and newborn four pound Juliette were, I was sickened to see him draped across the bottom of the rollaway bed, the front of his legs on the floor, takeout food spilled everywhere, and a nurse holding Juliette. John was completely unworkable and passed out drunk. The nurse said,

"We have to take them when someone falls asleep." I was livid. This was far from the last time he would do something like this and endanger his family. In my frantic state as a mother to a new born premature infant in NICU, I had failed to notice just how intoxicated John was but was informed by his legal father, George, a drug and alcohol counselor, that we could have had a CPS call for placing the baby in John's arms.

12. When he finally woke up, I told him he was not welcome in the hospital for the duration, I contacted his legal father for advice and resources, and stayed in the hospital for ten days. I breast fed Juliette in the sleeping room my doctor gave me and pumped and delivered milk every two hours around the clock for Mirabelle and had to navigate the situation with having two infants in separate departments. I filled all prescriptions, managed the NICU and pediatric checks, and made sure they were never fed formula for ten days entirely alone.

13, After returning from the hospital, the situation escalated. I was alone with the twins every night, awake all night with no help at all from John, who insisted he made the money and my job was to be the mother. I nursed the twins 24 hours per day while John slept or worked. I was always on careful watch around him when the children were involved. There were moments when he would remove one of the twins from their crib and I would hear her wail, but I thought he was trying to get her to sleep. I had to develop a hypersensitivity to their cries. One evening I heard Juliette crying and thought he was helping get her to sleep while I was cleaning the kitchen and doing dishes. When at some point I did not feel right about the situation. I went upstairs to check on her and found John in bed with her with his arm on her face, suffocating her. John was drunk and passed out and did not hear a thing. This happened on more than one occasion.

14. When I wanted any personal time at all, taking a shower, going to the gym, anything, I wasn't allowed to. We had a babysitter from 6 am to 2 pm during weekdays and we took turns holding one baby while I nursed the other. John refused to help at all, saying, "That's what I pay those women for." At one point I was so exhausted after six months of never having break from the twins or from John to even shower, I saved a huge amount of milk and told him I would go insane if I didn't have just one hour to myself. I sat in my car and tried to read a book, less than a block away. The entire hour, John texted me relentlessly, calling me names and telling me he would have my chickens killed by predators if I did not return immediately (Defendant's Exhibit 1, text messages submitted to BIMC in Du Wors v. Wade). He called me a "psychopath", a "child", a "bitch", and a "cunt", and over and over saying he would open the chicken coop door so that predators or my mother's dog could kill them. I had previously lost several of these chickens to raccoons and he knew this. I returned an hour later to find John drunk,

Mirabelle unstrapped in a swing, dangling and about to fall, and all the doors of my chicken coop propped open to predators.

15. I do not feel I need to continue to explain the horrors of my marriage because it would take several chapters at best, but I will move forward to our post separation story. Very shortly after separation, John purchased an 8,000 square foot home for himself, complete with an elevator and a fully finished bottom floor apartment. I did not agree to signing any of the equity in our home to the purchase of this home I thought ridiculously grandiose, especially when he was ignoring the legal agreement that specified everything he had promised me. He said he would pay off my house so the kids and I could live here, give me the stock he promised previously, and half of his earnings from a settlement he was awarded in a lawsuit against Facebook, plus other things like half of an investment we had made during marriage. Instead, he began a three-day harassment campaign against me that resulted in a no contact order for harassment. During this harassment, he called me vile names, threatened to take my children, to "destroy" me, called my mother a "parasitic bitch" in a text to her, along with other vile messages. He sent texts and emails to me and my lawyer every five minutes around the clock for these three days straight. He threatened that if I did not sign the paperwork he needed to purchase his new mansion, that he would "litigate to scorched earth." That he would keep me in litigation to destroy me, where I would be forced into foreclose on my and my children's home, and that we would be poverty-stricken and he would take the children from me because it will be apparent I will be unable to function on my own without his financial assistance. If I did not allow him to have the children when he wanted them, he said, "I will file criminal charges against you and you will be arrested for kidnapping." This behavior has continued to this very day despite my being awarded primary custody. In the end, he bought the house and committed fraud on the mortgage application when he claimed that all of our community assets were in his sole possession.

16. Over a year ago, during the deposition of me by John and his partner, Nate Durance, Mr. Durrance specifically asked me if I knew what it would take to have Houston Wade remove his post. I said, "I don't know," and something along the lines of, "If he felt I was protected from further abuse, I'm sure Houston would consider it." He continued to press, over and over asking if I knew what it would take, and wouldn't it persuade Houston if he knew you were suffering legal recourse? I said, "I didn't know." Mr. Durance said if I didn't communicate with Mr. Wade, aside from asking publicly online to have the admin remove the post about John, that

it could "pose harm to my children if they were to see the site". I informed my lawyer I would be meet with Mr. Wade to see what terms he would agree to in order to remove the article about John.

17. The following night, I went to dinner with my friends and informed my lawyer and all parties that I would be speaking with Houston at his place of employment. I did, in fact speak with Mr. Wade, and told him about the deposition and said they wanted to know what would persuade him take down the post. Houston said he would think about it. For Houston, and frankly myself, this is not not has it ever been a matter of money or anything to do with my divorce. The objective has always been about my safety and John's continued and relentless abuse of me, verbally, financially. John is in fact the person extorting me. I have thousands of emails from John threatening me financially and legally over and over. John is intent on punishing me into convincing Mr. Wade to remove the article about John. Since losing to Mr. Wade in court, and according to the judge, the article on the Bainbridge Island Bad List about John was ruled not to be defamation due to the fact that all elements of it were public record and factual. John is simply trying to use my acquaintanceship with Mr. Wade as a way to relitigate the case he lost and to punish me into submission for something I have no power to control. I believe John did this so that Houston would feel sorry for me being continually harassed and abused by John and would agree to remove the article after seeing my continued suffering. John is simply using abuse and control tactics to silence evidence of his abuse of myself and my daughter, as well as his criminal behavior that seriously endangers himself and others, and in particular my children.

Upon seeing the post and article on the Bainbridge Island Bad List, John and his lawyer drew up a temporary mutual restraining order that stated we were not allowed to harass, cyber bully or stalk, or disturb the peace of the other party, and I was to use my best efforts to have the article removed. They then insisted I submit all correspondence between myself and Mr. Wade, which I produced as discovery. John then proceeded to harass me to the tune of sometimes 100 emails per day threatening me legally through fear tactics and manipulation and told me over and over I was not allowed to communicate with Mr. Wade, but was supposed to utilize my best efforts to have the site taken down. This was confusing to me, as I was told to use my best efforts to see the article removed, but simultaneously told not to communicate with Mr. Wade, and was later berated for not contacting Mr. Wade enough. I followed the guidelines from my lawyer and posted on the site, which did achieve temporary removal of the site, but was reactivated following the municipal court case, as the judge deemed the article a public service, having been the one to also convict John for his previous criminal behavior. Post deposition, I emailed Houston exclusively

regarding the site dozens of times and monthly posted on the site asking for the information to be removed. I did this regardless of John's nearly daily harassing and threatening onslaught of emails in which he endlessly and repeatedly violated our mutual protective order.

18. As I had been asked over and over during my deposition that I should have told Houston that "the post had caused me significant legal fees and stress," I reiterated this to Mr. Wade, and told him the details of the deposition. Truthfully, Mr. Du Wors and Mr. Durance have caused me significant legal fees and stress, and as I told them over and over hundreds of times, I did not create, nor have administrative authority over the page or article, nor did I know in truth that it was going to be created or that John Du Wors would feature in the site until a friend brought it to my attention a few days after it was posted. Mr. Durance had the gall, during my deposition, to claim that my communication with my family members and close friends about John's "alleged abuse", continued and relentless harassment and threats and actions would disturb HIS peace if he found out they knew. There has been absolutely zero regard for my safety or welfare, or to the stress, trauma, and legal fees accrued due to John's continued abuse and violation of our mutual protective order. He simply continues to do whatever he can get away with in every way specifically to cause me significant stress and monetary hardship.

19. Shortly after my deposition and meeting with Mr. Wade, John began sending me relentless text messages, asking me specifically what Houston wanted him to do to remove the posts. He had occasionally offered me a monetary sum if I would take the post down, but I reiterated that it was not up to me and that I did not know what it would take for Houston to remove the article. It was never about money at all. It was about my protection and the safety of the public. I said I would pass the message along to Mr. Wade. John began sending me dozens of text messages again asking me what Houston wants, and finally I said to John "For you to leave me alone and to make sure I am safe and won't be abused by you." John asked, "What else," and I said after days of harassment, that I am sure Houston would want me to have a fair and honest divorce settlement so that I could raise the children in peace. But this, again is not about money at all. He then asked me over and over what I perceived as a fair settlement, and I said what you promised me you would do. He asked again, "and what is that?" I said, well, you promised to pay my house off, you have signed over our green canopy stock, as your spouse, I deserve half of your 35% ownership of your firm, 401k, and my share of the investment we made while married. He then brought this back around and claimed I was extorting him, to which I replied, "Once again, you asked me what my idea of a fair settlement was." This has nothing to do with Houston Wade, which disturbingly is an obsession of his that comes in

as threats and harassment, and a bargaining chip for EVERY SINGLE THING I ask of him. "John, pay your court ordered medical bills and court ordered credit card bills that I have covered for over three years post ruling that you be responsible for them." His reply is always the same, I will not give you no fair settlement or additional money until you take down Houston's site. He said, "What if I just agree to not harassing you, he would take it down." I said, "Surely not. You cannot go a day without harassing or threatening me and I do not trust you. Your promises are only used as manipulation tactics to get whatever you want at the time and immediately discarded. I am sure he would want you to sign some legal document that would prohibit you from your continued abuse of me. It would have to be legally watertight because you cannot refrain from this for a day. And again, no this isn't about money, nor has it ever been."

20. After the lengthy texts where I continued to tell John I didn't wish to be contacted and it is not and never was my job to act as a go between for he and Houston, and for John to please leave me alone and for him contact Houston if he wants him to do something. It is not my responsibility to manage John's issues, I have done what the court has asked of me and this was not up to me. I said this over and over and over, dozens of times to no avail. The following day, my lawyer and I received an email that was crafted with dishonesty and manipulation, in which John cut and pasted my text messages and arranged them to appear as if I had told him that Houston would remove the post only if he gave me a dollar amount he listed out, which I never did even once. He claimed that it was extortion and a clear civil violation, and I should be reprimanded, etc... This has been John's tactic the entire length of my divorce. It was his tacti our entire marriage. It doesn't matter to John what the truth is, only that he can find a way to cut and paste and manipulate "evidence" to his favor, and commit perjury relentlessly if it means he could win or make me look bad. I have never lied to the court or guardian, or anyone else in this case, under oath or not. The truth of his misbehavior is so vast and overwhelmingly horrifying, that it would be nearly impossible to make up.

21. The entire process regarding the article has been very uncomfortable and disturbing to me, as a lot of the information is pertaining to John's arrests and abuse of me and my daughter, as well as endangerment to my children and community members. I do not believe in silencing abuse, and Mr. Du Wors is still to this day harassing me and blaming me for anyone being able to see his criminal record that I had nothing to do with aside from the fact that I and my daughter were the prominent victims in the situation. Community members and business owners alike are aware far prior to the post that he is abusive, that he has been kicked out of multiple establishments

because of his drunken behavior, and insistence on driving drunk. His sexual harassment of women and massage therapists who have claimed these stories publicly on Facebook both within and outside of the article.

22. I do not control John's behavior, nor do I condone it. I am not speaking publicly about him at all and to the extent anyone knows about it, it is because he chooses to harass and legally and financially threaten me so often that it causes me to have a huge amount of anxiety and damages my ability to feel safe or calm as a mother. Others also know about his behavior because he continues to involve people via email and texts in his threats of purchasing domain names in my name and also that of my mother, sister, friends, and ex-partner and my ex-partner's ex-wife. He did in fact purchase them, and according to emails sent by Mr. Du Wors, claims to use them to defame and extort me following finalization of our divorce trial (Exhibit 6). I respectfully ask that the Court order Mr. Du Wors to relinquish the domain names he possesses for myself, Brian Ladenburg, Melissa Unkel, and Marcia Kucera as he does not have permission from us to use these domains and his sole intent is to cause us harm. He has in fact, attempted to extort me in this manner, and also by stating hundreds of times, in writing, that any kindness, and any positive settlement outcome or generosity is determined by my removal of Houston's article. He has also told me, in 73 different email strings that he would use my deposition and all discovery in our divorce case to "litigate me to the ends of the earth, and to a fiery hell." That he will drain me of my finances, force me into bankruptcy, and return me to poverty to live in a shitty apartment where I could not "afford to keep the children" and because I'm such a "incompetent and idiotic child" who is unable to function without his money, and "a product of a selfish and parasitic, dysfunctional family," that I will wallow in poverty and I am incapable of survival without him and incapable of holding a job. That he would easily take the children from me to be raised by "healthy adults," those "adults" being he and his mother, of course. He falsely claimed to both the court in writing, as well as to the Guardian I appointed, that myself, my sister, and brother all had been diagnosed with bipolar disorder, and he waged a campaign of complete dishonesty and out of context, copy and paste correspondence to sway the court in his direction. None of this is true, in fact, I put myself through the UW Landscape architecture as a single mother and began a successful career as a King County parks designer for years until I was very pregnant with Clara, our 11 year old. I have not, nor have any of my family members, been diagnosed with anything aside from situational anxiety caused by John himself. I filed a motion that was approved to undergo mutual psychological evaluations just to disprove his claims.

23. The legal threats, harassment to the tune of sometimes nearly 100 emails per day, once I had blocked him from text, continued and still continues to this day. This happens despite all efforts I have made to stop John from disturbing my peace, including a TRO written to prevent harassment, cyber stalking, and trespassing. I firmly believe, along with software security specialists, T-Mobile technical support, and having cross referenced ISP addresses for locations, that John, who is an intellectual property lawyer, has been illegally hacking my phone and computer. This happens every time without fail when he is about to file a motion for discovery of my personal information, texts, Facebook instant messages, and emails. Every time I am about to be deposed, or any time he files for any discovery at all. His motive is to have access to all of my personal information and this has been an issue since I dated him early on when he admitted to hacking into my email account and refreshing it constantly until he found an email from a man who I had broken off a very short relationship with. This has been the topic at hand and the reason for many domestic violence situations, including the reason he was arrested for attacking me in August 2014. He filed a motion to be granted access to three years of any information in my possession, emails, text messages, phone calls, in which I may have alluded to him, and was granted a year's worth of them, which I had to produce. I opposed this request for discovery on the grounds that it was dangerous to produce personal information to the man who had violently abused me because of innocent texts in the past, and was forced to still produce a year's worth of this information.

24. Following the deposition, in which his partner, Nathan Durance deposed me for six and a half hours, where he asked me the same questions over and over and over, all about Houston Wade, John began his campaign of threats, despite our mutual TRO, to use any discovery or deposition information obtained during our divorce proceedings for further litigation against me. I have 76 email strings from John Du Wors, from his law firm email threatening to relitigate the very case he lost against Houston Wade and myself again, claiming I was also responsible for the creation and administration of the Facebook site Bainbridge Island Bad List. I was not a creator, nor do I have administrative rights, but I believe that the judge who presided over this case made a decision based on factual evidence and that John Du Wors is once again attempting to relitigate a case he has lost not once, but twice already. I am exhausted by having to defend the very person who abused me from information that is part of the public record and those crimes were committed against me or my daughter. This is his third attempt to litigate the same case, and his claims are arguing minute semantics. This is the same case he lost against both myself and Mr. Wade. I have submitted this statement due to Johns relentless claims that he will call me as a co-defendant in this

relitigate the same case for the third or fourth time. As you can see, the person extorting and using this post as a way to control me monetarily in our divorce, a completely separate case, is John Du Wors.

25. This is my true and accurate account of my relationship and interaction with John Du Wors, as pertaining to this case.

Dated this 30th of September 2020.

Amber Du Wors

Exhibit 9

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SENT BY PROCESS SERVER

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370 Grow Avenue NW, Apt. B10
Bainbridge Island, WA 98110

Re: *John Du Wors v. Houston Wade*, Kitsap County Superior Court

Dear Mr. Wade,

This law firm represents John Du Wors in the attached law suit, which has been commenced against you. In Washington, a law suit may be commenced by way of service of a summons and complaint, even if the law suit has not yet been filed with the Court. You remain obligated to answer the law suit within the time frame set forth in the Washington Court rules, even where it has been commenced by way of service before filing. Failure to timely answer this lawsuit may result in a default judgment against you.

You are also obligated to preserve all evidence related to the subject of the attached Complaint. The Complaint alleges defamation of character and intentional infliction of emotional distress, by way of statements you are alleged to have made publicly, both on and off the Facebook page entitled, "The Bainbridge Island Bad List." While you should certainly remove, and refrain from re-posting, all derogatory posts about Mr. Du Wors, in order to avoid further liability and an ex parte temporary restraining order in this matter, you should not destroy the evidence of those posts, as you have been on notice of an anticipated lawsuit since at least Monday, October 15th, 2018. Doing so constitutes spoliation of evidence, and subjects you to seriously potential civil and criminal penalties.

Finally, please consider this letter a demand that you cease and desist from further defamation and harassment of Mr. Du Wors by way of derogatory communications and/or social media posts. All derogatory statements about Mr. Du Wors in your control should be taken down immediately.

Please do not hesitate to contact me with questions or concerns at john@newmanlaw.com.

Best regards,

NEWMAN DU WORS LLP

John Du Wors

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. **SUMMONS**

TO: Defendant named above:

A lawsuit has been started against you in the above-entitled court by Plaintiff John Du Wors. Plaintiff's claim is stated in the Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and serving a copy upon the undersigned within twenty (20) days after the service of this Summons, excluding the day of service, or within sixty (60) days of service of this Summons, if served outside of the State of Washington, or a default judgment may be entered against you without notice. A default judgment is one where Plaintiff is entitled to what it asks for because you have not responded. If you serve a Notice of Appearance on the undersigned, you are entitled to notice before default judgment may be entered.

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

You may demand that Plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon Plaintiff. Within fourteen (14) days after you serve the demand, the plaintiff must file this lawsuit with the Court, or the service on you of this Summons and Complaint will be void.

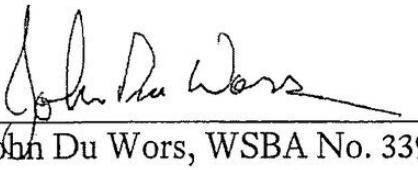
If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written responses, if any, may be served on time.

This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

Dated: October 19, 2018

Respectfully submitted,

NEWMAN DU WORS LLP



John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2800
Email: *john@newmanlaw.com*

Counsel for Plaintiff

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. **COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

PARTIES

1. Plaintiff John Du Wors brings this lawsuit for defamation of character and intentional infliction of emotional distress against Defendant Houston Wade. Both Mr. Du Wors and Mr. Wade are residents of Bainbridge Island. Mr. Wade is a close social friend of Mr. Du Wors' estranged spouse, Ms. Amber Du Wors. (Mr. Du Wors and Ms. Du Wors are divorcing.)

2. Out of apparent loyalty to Ms. Du Wors, Mr. Wade created a Facebook page entitled "The Bainbridge Island Bad List", which is located at the URL https://www.facebook.com/The-Bainbridge-Island-Bad-List-2159138697707311/ (the "Defamatory Page"). The Defamatory Page contains profoundly offensive factual misrepresentations about Mr. Du Wors, and others. Many if not most of these defamatory misrepresentations are sufficiently egregious to rise to the level of

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(206) 274-2800

defamation per se. Mr. Wade's stated goal in creating the Defamatory Page, is to destroy Mr. Du Wors' life and professional relationships.

3. True to his word, Mr. Wade has caused the content of the Defamatory Page to be disseminated to thousands of people, including Mr. Du Wors' clients, professional peers, family members, and friends. Mr. Wade's defamatory page has caused Mr. Du Wors severe economic and emotion harm, for which Mr. Du Wors seeks damages. And Mr. Wade has stated an intention to re-post further defamatory information about Mr. Du Wors. Mr. Du Wors believes that stated intention an appropriate basis for both provisional and permanent injunctive relief.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over the subject matter of this action pursuant to RCW § 2.08.010.

5. This Court has personal jurisdiction over Defendant pursuant to RCW § 4.28.080, because he is a resident of Kitsap County.

6. Venue is proper in Kitsap County pursuant to RCW § 4.12.020(3) because both Plaintiff Du Wors and Defendant Wade are residents of Kitsap County, Washington.

FACTS

7. Mr. Wade is a close social friend of Ms. Amber Du Wors, whom Mr. Du Wors is currently divorcing.

8. Mr. Wade created a Facebook page entitled "The Bainbridge Island Bad List", which is located at the URL https://www.facebook.com/The-Bainbridge-Island-Bad-List-2159138697707311/ (the "Defamatory Page").

9. The Defamatory Page contains profoundly offensive factual misrepresentations about Mr. Du Wors.

10. Many if not most of these defamatory misrepresentations are sufficiently egregious to rise to the level of defamation per se.

11. Mr. Wade has caused the content of the Defamatory Page to be

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(206) 274-2800

disseminated to thousands of people, including Mr. Du Wors' clients, professional peers, family members, and friends.

12. Mr. Wade's defamatory page has caused Mr. Du Wors severe economic and emotion harm, for which Mr. Du Wors seeks damages.

13. Mr. Wade has stated an intention to re-post further defamatory information about Mr. Du Wors.

14. Mr. Du Wors believes that stated intention is an appropriate basis for both provisional and permanent injunctive relief.

15. Now therefore, Mr. Du Wors brings the following causes of action against Mr. Wade.

FIRST CAUSE OF ACTION
(DEFAMATION OF CHARACTER)

16. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

17. Mr. Wade has made false and defamatory statements of fact concerning Mr. Du Wors.

18. The nature of these statements is such that they tend to hold Mr. Du Wors up to scorn, hatred, ridicule, disgrace, or contempt, in the mind of any considerable and respectable segment of the community.

19. Mr. Wade has published these false and defamatory statements to third parties—in fact thousands of people.

20. Mr. Wade's publication of these false and defamatory statements was, at minimum, negligent with regard to their factual truthfulness.

21. Mr. Du Wors has suffered significant special damages resulting from these defamatory statements, including but not limited to loss of client accounts and lucrative economic relationships, as well as legal fees and costs.

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(206) 274-2800

SECOND CAUSE OF ACTION
(DEFAMATION PER SE)

22. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

23. The nature of Mr. Wade's defamatory statements, as described above, rise to the level of defamation per se.

24. This is because they involve factual misrepresentations involving indications that Mr. Du Wors was involved in criminal activity; that Mr. Du Wors was unchaste and/or engaged in sexual misconduct; and that Mr. Du Wors was involved in behavior incompatible with the proper conduct of his business, trade, and/or profession.

25. Mr. Du Wors has incurred substantial general damages as a result of these statements, including but not limited to emotional distress.

THIRD CAUSE OF ACTION
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

26. Mr. Du Wors realleges and reincorporates all previous allegations as though fully stated herein.

27. In making the above-described defamatory statements, Mr. Wade acted intentionally and recklessly.

28. Mr. Wade's above-described conduct was extreme and outrageous.

29. In fact, the nature of Mr. Wade's defamatory statements make his conduct so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

30. And Mr. Wade's above described conduct was the direct, actual and proximate cause of severe emotional distress incurred by Mr. Du Wors.

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Seattle, Washington 98121
(206) 274-2800

PRAYER FOR RELIEF

WHEREFORE, Plaintiff John Du Wors requests the following relief:

1. Compensatory damages in an amount to be proved at trial;

2. Provisional and permanent injunctive relief prohibiting further conduct of the nature described herein.

3. Attorney's fees, legal costs, and interest; and

4. Such other and further relief as the Court deems appropriate.

Dated: October 19, 2018

Respectfully submitted,

NEWMAN DU WORS LLP

John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2800
Email: *john@newmanlaw.com*

Counsel for Plaintiff

Exhibit 12

Newman DuWors
Seattle | Los Angeles | San Francisco

John Du Wors
Direct +206.274.2834
Main +206.274.2800
john@newmanlaw.com

2101 Fourth Avenue, Suite 1500
Seattle, WA 98121

SENT BY ELECTRONIC TRANSMITTAL

September 14, 2020

Houston Wade
Email: houstonwade@gmail.com

Re: *Du Wors v. Wade*
Kitsap County Superior Court Case No. 20-2-01225-18

Dear Mr. Wade,

We are aware of your Motion to Dismiss in this matter. But we first became aware of it on the morning of Friday, September 11, 2020, in preparing for oral argument on Plaintiff's Motion for Default. And we can find no record that you served your Motion to Dismiss on our office. Currently, your Motion to Dismiss is noted for Friday, September 18, 2020.

Kitsap County Local Civil Rule ("KCLCR") 7(b)(1)(A) requires that any motion be filed and served on the opposing party "no later than five court days before the date the party wishes the motion to be considered." It further states that "[n]o documents shall be submitted to the Court unless opposing counsel or the self-represented litigants have been timely provided with copies." Washington Court Rule ("CR") 5(a) provides that the day of filing is excluded from the computation of time necessary to provide advanced service of a motion. This means that, in order for you to have your Motion to Dismiss heard on Friday, September 18, 2020, you were required to have served a hard copy on my Seattle office by Thursday, September 10, 2020, and of course we have no email service agreement in place in this matter.

We have no record that you served my Seattle office on September 10, 2020—or any record that you served my Seattle office at all. Nor can I find a proof of service in the Court's docket indicating you served my office as required. If you did indeed timely serve us, please provide us with evidence of that service, including your proof of service. If you did not timely serve my office, you are required under the applicable rules to strike your Motion to Dismiss and re-note it. And you must comply with your service obligations (as well as all other rule-imposed obligations) relating to that re-noting date.

If you will not comply with these rule-imposed requirements, I will request fees from the Court as a sanction.

Best regards,

NEWMAN DU WORS LLP

John Du Wors

20-2-01225-18
NTHG 19
Notice of Hearing
9008020

FILED
KITSAP COUNTY CLERK
2020 OCT -5 AM 11:45
ALISON H. SONNTAG

Superior Court of Washington, County of Kitsap

In re:

Petitioner/s *(person/s who started this case)*:
JOHN DU WORS

And Respondent/s *(other party/parties)*:
HOUSTON WADE

No. 20-2-01225-18

Notice of Hearing
(NTHG)
☑ Clerk's action required: **1**

Notice of Hearing

To the Court Clerk and all parties:

1. A court hearing has been scheduled:

for: 11/6/20 *(date)* at: 9:00 *(time)* ☒ a.m. ☐ p.m.

at: 614 Division St, Port Orchard, WA 98366 *(court's address)* in TBD *(room or department)*

Civil Motions *(docket / calendar or judge / commissioner's name)*

2. The purpose of this hearing is *(specify)*: Motion for Summary Judgment

Warning! If you do not go to the hearing, the court may sign orders without hearing your side.

This hearing was requested by: ☐ Petitioner or his/her lawyer ☒ Respondent or his/her lawyer

Person asking for this hearing signs here

Houston Wade *Print name (if lawyer, also list WSBA #)*

10/5/20 *Date*

I agree to accept legal papers for this case at:

236 Winslow Way E *address*

Bain. Is., WA 98110 *city state zip*

(Optional) *email:*

This does **not** have to be your home address. If this address changes before the case ends, you **must** notify all parties and the court clerk in writing. You may use the *Notice of Address Change* form (FL All Family 120). A party must also update his/her *Confidential Information* form (FL All Family 001) if this case involves parentage or child support.

FILED
OCT 05 2020
ALISON H. SONNTAG
KITSAP COUNTY CLERK
20-2-01225-18
ORP 20
Order of Preassignment
9010036

SUPERIOR COURT OF WASHINGTON FOR KITSAP COUNTY

JOHN DU WORS,

Plaintiff,

v.

HOUSTON WADE,

Defendant.

NO. 20-2-01225-18

ORDER PREASSIGNING JUDGE

****CLERK'S ACTION REQUIRED ** (Pg. 1, Ln. 21-26)**

It having come to the attention of the Presiding Judge of the above-entitled Court that in the furtherance of justice and pursuant to KCLCR 77(k)(2)(B), a judge should be preassigned to the above-entitled case to hear pretrial matters and to try the case, and the HONORABLE JEFFREY P. BASSETT having consented to said preassignment, and the Court being fully advised, it is now, therefore,

ORDERED that the above-entitled cause is hereby assigned to the Honorable Jeffrey P. Bassett for hearing of pretrial matters and for trial.

It is further **ORDERED** that Defendant's "Motion for Summary Judgement [sic] and Motion for Dismissal with Prejudice Pursuant to CR 56, CR 5(a), CR 5(b)(1), CR 5(b)(2), CR 8(c), RCW 7.70.160, RCW 2.28.220(1)(6)(10)(11), RCW 4.84.185, APR 21(a)(1)(5)(6)(13), Res Judicata, and Collateral Estoppel" noted for Friday, November 6, 2020 on the civil motions calendar, is CONTINUED to **1:30 pm** on the HONORABLE JEFFREY P. Bassett's departmental calendar on **Friday, November 20, 2020** in accordance with KCLCR 77(k)(2)(B).

DATED this 5 day of October, 2020.

K.D. Hull

HONORABLE KEVIN D. HULL
Presiding Judge

KITSAP COUNTY SUPERIOR COURT
614 Division Street
Port Orchard, WA 98366
(360) 337-7140

CERTIFICATE OF SERVICE

I, Kyle Gallagher, certify under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above entitled action, and competent to be a witness herein.

Today, I caused a copy of the foregoing document to be served in the manner noted on the following:

Houston Wade 236 Winslow Way E Bainbridge Island, WA 98110	Via Mail and email: houstonwade@gmail.com
John Du Wors Newman Du Wors LLP 2101 4th Ave Ste 1500 Seattle, WA 98121-2336	Via Mail and email: John@newmanlaw.com

DATED this 5th day of October, 2020, at Port Orchard, Washington.

Kyle Gallagher #47769
Staff Attorney

KITSAP COUNTY SUPERIOR COURT
614 Division Street
Port Orchard, WA 98366
(360) 337-7140

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

FILED
October 21, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 DECLARATION OF HOUSTON WADE IN OPPOSITION TO PLAINTIFF'S PROPOSED MOTION FOR PROTECTIVE ORDER AND SANCTIONS AGAINST HOUSTON WADE

I, Houston Wade, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of this matter. I make this declaration in opposition to Plaintiff's Motion for Protective Order.

2. I oppose this order and the requested sanctions for several reasons which include: the case is in violation of Res Judicata as Mr. Du Wors is attempting to relitigate a case he already lost; the request for a protective order is unnecessary since all evidence submitted is already a matter of public record; this case does not concern things like corporate IP or trade secrets for which a protective order like this is used and Mr. Du Wors real desire for this order is to keep any other crimes or unethical behavior from being made public by my news page in violation of my First Amendment rights; and finally I asked the Court to defer any CR 26 conference regarding Mr. Du Wors request for a Protective Order until after a ruling is made by the Court regarding my motion for Summary Judgment. No need for a Protective Order if the Court rules that the case should be dismissed as there will be no process for further discovery needed.

3. I wish to keep any personal contact with Mr. Du Wors to a minimum. He is a drunk, violent, a pathological liar, repeat criminal, and has threatened to rape my mother in the past. Any requirement that I must talk to this man in conference to discuss keeping his unethical and criminal behavior secret from the public constitutes an

undue burden on myself. If Mr. Du Wors wished to not have his dirty laundry aired in public, then he shouldn't have hogtied and beaten his stepdaughter and shouldn't have thrown his wife around by her head.

4. This proposed Protective Order is intended to keep my small news page from further exposing his historical and continued abuse. The entire purpose of journalism is to expose abuse. The First Amendment guarantees the freedom of the press.

5. I see the Plaintiff's motion as a way to stall and intimidate me and as a ruse to continue to abuse the legal process as Mr. Du Wors has done from the beginning of this case. It has been more than two months since Mr. Du Wors has filed this case and I still have not received a conformed copy of either the complaint or summons as required by law. Mr. Du Wors has lied to the Court about service, lied about the dates upon which he received documents from me, and has used legal threat to bully and harass me and others. This motion by Mr. Du Wors is no different than all the other forms of abuse he inflicts on others and the lengths to which he will attempt to keep those in the know silent.

Dated this 21st of October 2020.



Houston Wade

FILED
KITSAP COUNTY CLERK
2020 OCT 22 AM 10: 09
ALISON H. SONNTAG

20-2-01225-18
RPY 27
Reply
9117285

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR PROTECTIVE ORDER AND FOR SANCTIONS AGAINST DEFENDANT HOUSTON WADE

As a preliminary matter, Houston Wade's opposition to Plaintiff John Du Wors' Motion for Protective Order and for Sanctions should be rejected because Houston Wade did not serve it on John Du Wors. Pursuant to Kitsap County Local Court Civil Rule ("LR") 7(1)(A), Houston Wade's opposition briefing was required to be served on John Du Wors' office by noon on Wednesday, October 21, 2020. But Mr. Wade has not, even as of 9 am, October 22, 2020 (the time this reply is being written), served that opposition brief on John Du Wors' office. (Declaration of John Du Wors at ¶ 2, Exhibit A.) Rather, John Du Wors was required to retrieve that opposition from the Court's Odyssey system on the morning of October 22, 2020, when it became available—accordingly, that opposition should be stricken. (*Id.*)

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2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

And Mr. Wade's opposition declaration offers no meaningful substantive reason that a standard protective order should not issue, or that he should not be required to abide by the meet-and-confer requirements of Washington Court Rule ("CR") 26(i). First, Mr. Wade argues that a protective order should not issue because he will ultimately prevail in this case on summary judgment or at trial. But a party's belief that they will prevail on the merits of a matter is not relevant to how discovery should proceed. So for now, the Court should issue the requested protective order on the assumption that either party may prevail, and a protective order may be necessary.

Second, Mr. Wade argues that John Du Wors may use the protective order to assign confidentiality designations to materials that are not legitimately confidential. But ¶ 9 of the Proposed Protective Order entitles any party to challenge the appropriateness of a designation under the Proposed Protective Order. If Mr. Wade believes John Du Wors has made a confidentiality designation inappropriately, he can bring an appropriate motion. This removes any concern Mr. Wade may purport to have that information produced through discovery in this matter may be inappropriately designated under the Proposed Protective Order.

In fact, it is worth noting that Mr. Wade's opposition declaration highlights the need for a protective order. Mr. Wade states at ¶ 2 of his opposition declaration "Mr. Du Wors real desire for this order is to keep any other crimes or unethical behavior from being made public by my news page in violation of my First Amendment rights." This indicates Mr. Wade's desire and intention is to use discovery in this case to obtain sensitive personal and professional information about Mr. Du Wors and publicate it on the internet. That is one common concern sought to be addressed by standard protective orders, such as the Proposed Protective Order.

With regard to his refusal to meet-and-confer as required by CR 26(i), Mr. Wade argues he should be excused because he asked the Court to allow him to defer on that obligation until after the adjudication of his motion to dismiss. But Mr. Wade's Motion to Dismiss was denied by Judge Hauser on October 2, 2020. And nothing in the Court Rules entitles Mr. Wade to defer his 26(i) obligations until after a dispositive motion. Nor did the Court grant his request to do so.

Mr. Wade also appears to argue that he should not have to abide his CR 26(i) obligations because he does not want to speak to Mr. Du Wors. Mr. Wade states at ¶ 3 of his declaration: "Any requirement that I must talk to this man in conference to discuss keeping his unethical and criminal behavior secret from the public constitutes an undue burden on myself." But Mr. Wade does not identify any conduct John Du Wors has exhibited in the context of this litigation that he claims is inappropriate. And if any such conduct did occur, Mr. Wade would be entitled to bring a motion for a protective order, and/or for sanctions.

In truth, Houston Wade's declaration and related conduct suggest he will continue the behavior decried by Judge Hauser in Houston Wade's related litigation against Bill Nelson. In that previous litigation, as quoted at ¶ 29 of John Du Wors' Complaint, Judge Hauser issued an Order of Default against Mr. Wade, writing:

> In as much as prior contempt sanctions, allowing for additional time to comply, as well as providing a monetary incentive to comply, have not motivated Defendant to comply with the Defendant's discovery obligations, or demonstrated a willingness to comply with court orders. Furthermore, Defendant's willingness to knowingly lie under oath at deposition demonstrates a complete disregard to the legal process and the administration of justice. There is no other alternative for this Court than to Grant Plaintiffs motion for default and strike Defendant's responsive pleadings.

(Ex. 6 at Pg. 6, lines 5–11.)

At this point, Houston Wade must be required to behave consistently with the normally applicable rules of Court, as he is not exempt from them. John Du Wors' Motion should be granted.

Dated: October 22, 2020

Respectfully submitted,

NEWMAN DU WORS LLP

John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on October 22, 2020, I caused true and correct copies of the foregoing documents to be served by the method(s) listed below on the following interested parties:

Via Electronic Transmittal and Hand Delivery:

Defendant Houston Wade
c/o Bruciatio
236 Winslow Way E
Bainbridge Island, WA 98110
houstonwade@gmail.com

I hereby certify under the penalty of perjury that the foregoing is true and correct.

Executed on October 22, 2020 at Knoxville, Tennessee.

s/ Chy Eaton
Chy Eaton, Paralegal

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. 20-2-01225-18 **DECLARATION OF JOHN DU WORS IN SUPPORT OF REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR PROTECTIVE ORDER AND FOR SANCTIONS AGAINST DEFENDANT HOUSTON WADE**

I, John Du Wors, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matter. I make this declaration in support of the Reply in Support of Plaintiff's Motion for Protective Order.

2. Mr. Wade has not, even as of 9 am, October 22, 2020 (the time this reply is being written), served the opposition brief on my office. Yesterday, I directed my in-office staff to monitor incoming mail and service documents to see if we received Mr. Wade's opposition. That staff reports by email—a true and correct copy of which is attached as Exhibit A—that we did not receive Mr. Wade's opposition at all yesterday. Rather, I was required to retrieve that opposition from the Court's

Odyssey system this morning (October 22, 2020), when it became available on the Odyssey system.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22nd day of October, 2020 at Bainbridge Island, Washington.

John Du Wors

Exhibit A

From:	Alexis Brewer
To:	John Du Wors
Cc:	Chy Eaton
Subject:	Re: Du Wors v. Wade filing today
Date:	Thursday, October 22, 2020 8:11:58 AM

That's correct, yes!

From: John Du Wors <John@newmanlaw.com>
Sent: Thursday, October 22, 2020 8:11:22 AM
To: Alexis Brewer <alexis@newmanlaw.com>
Cc: Chy Eaton <chy@newmanlaw.com>
Subject: RE: Du Wors v. Wade filing today

Hi Alexis,

Will you confirm that the only item we received yesterday on the Wade matter was the "Order of Preassignment", and that we did not receive his opposition to my motion for a protective order?

Thanks!

John

-----Original Message-----
From: Alexis Brewer <alexis@newmanlaw.com>
Sent: Wednesday, October 21, 2020 4:56 PM
To: John Du Wors <John@newmanlaw.com>
Cc: Chy Eaton <chy@newmanlaw.com>
Subject: RE: Du Wors v. Wade filing today

Hi John! Attached is a piece of mail we received regarding Wade, saved to file.

Best,

Alexis J. Brewer
Legal Assistant
Main: (206) 274-2800
Fax: (206) 274-2801
Email: alexis@newmanlaw.com

This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

-----Original Message-----
From: John Du Wors <John@newmanlaw.com>
Sent: Wednesday, October 21, 2020 2:15 PM
To: Alexis Brewer <alexis@newmanlaw.com>
Cc: Chy Eaton <chy@newmanlaw.com>

Subject: Re: Du Wors v. Wade filing today

Thank you!

Sent from my iPhone

> On Oct 21, 2020, at 2:13 PM, Alexis Brewer <alexis@newmanlaw.com> wrote:
>
> Hi John! I just returned from the office for my normal mail check-in and didn't see anything relating to Houston Wade. I will check back again around 4:30 PM for you.
>
> Best,
>
>
>
> Alexis J. Brewer
> Legal Assistant
> Main: (206) 274-2800
> Fax: (206) 274-2801
> Email: alexis@newmanlaw.com
>
> This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.
>
> -----Original Message-----
> From: John Du Wors <John@newmanlaw.com>
> Sent: Wednesday, October 21, 2020 1:49 PM
> To: Alexis Brewer <alexis@newmanlaw.com>
> Cc: Chy Eaton <chy@newmanlaw.com>
> Subject: Du Wors v. Wade filing today
>
> Hi Alexis,
>
> I believe we will be receiving a filing from Houston Wade by close of business today. Can you please check the office at close of business to see if we've received one, and then scan and email it to me?
>
> Thanks!
>
> John
>
> Sent from my iPhone

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DUWORS
vs
HOUSTON WADE

Hon./Comm.:	Dalton, Jeanette M
Courtroom:	Courtroom 268
Reporter/FTR:	FTR Court Reporter
Court Clerk:	Tamra Cook
Date:	10/23/2020
Case No. #:	20-2-01225-18

PARTIES PRESENT:

Du Wors, John David	Attorney
DUWORS, JOHN	Plaintiff
WADE, HOUSTON	Defendant

THE MATTER BEFORE THE COURT:
Motion Hearing

TESTIMONY TAKEN:

- COURT REVIEWS WHAT MATERIALS HAVE BEEN RECIEVED FROM THE PARTIES.

MR. DU WORS: NEVER HAD A CASE WHERE OPPOSING PARTY OR COUNSEL HAS NOT AGREED A PROTECTION ORDER IS APPROPRIATE. PRINCIPAL OF PROTECTION ORDER HAS ALWAYS BEEN AGREED. ONLY OPPOSITION PRESENTED IS THAT MR. WADE WANTS TO ILLICIT SENSITIVE INFORMATION AND PUBLISH IT ON A WEBSITE. DEFAMITORY STATEMENTS MADE BY MR. WADE. DISCOVERY HAS NOT COMMENCED YET.

COURT NOTES THAT MOTION TO DISMISS SHOULD BE FILED AS A MOTION FOR SUMMARY JUDGEMENT SINCE IT APPEARED TO RELY UPON INFORMATION THAT WAS OUTSIDE OF PLEADINGS

MR. DU WORS: DON'T THINK THAT'S DIFFERENT THAN A DENIAL. NO FINDINGS WERE MADE AGAINST MR. WADE IN THAT DENIAL. OVERARCHING THEME IN LITIGATION, UNLESS COURT DISMISSES, EVERYONE NEEDS TO FOLLOW RULES. MR. WADE HAS DECLINED SERVICE BY EMAIL. OPPOSITION BRIEF IS NOT BEFORE THE COURT. DO NEED TO MEET AND CONFER.

COURT: NOTHING IN RECORD THAT INDICATES SERVICE. CAN ASK FOR CONTINUANCE IF WAS NOT SERVED.

MR. WADE: SUBMITTED CERTIFIED DOCUMENTS SAYING HIS FIRM WAS SERVED IN A TIMELY FASHION. 2 MONTHS INTO CASE AND HAVE NOT RECIEVED A SUMMONS OR COMPLAINT. MEET AND CONFER, ASKED TO WAIT UNTIL AFTER RULING ON SUMMARY JUDGEMENT. THIS CASE HAS BEEN PREVIOUSLY LITIGATED. THERE'S NO NEED FOR FURTHER DISCOVERY SO THERE IS NO NEED FOR PROTECTION ORDERS. IN ONGOING COMMUNICATIONS WITH MR. DU WORS HE HAS MADE THREATS. REQUESTED THAT ANY COMMUNICATIONS GO THROUGH ANOTHER ATTORNEY IN MR. DU WORS FIRM TO AVOID CONTACT WITH HIM. DISCOVERY HAS NOTHING TO DO WITH TRADE SECRETS OR CORPORATE IT THAT COULD HURT A BUSINESS. IT REVOLVES AROUND MR.

DU WORS CRIMINAL ACTIVITY. HAD TO BLOCK MR. DUWORS EMAIL ADDRESS BECAUSE OF HARASSMENT, FINE WITH EMAILING PARALEGAL.

COURT: CAN'T IGNORE THE RULES BECAUSE YOU ARE GOING TO GET BULLIED OR HARASSED.

MR. WADE INQUIRES IF RECORDING CR26I CONFERENCE IS ACCEPTABLE?

COURT: CAN'T RECORD AND USE RECORDING AS PUBLIC RECORD. MAKE A RECORD THROUGH WRITTEN COMMUNICATION.

MR. DU WORS: DOES NOT THINK ANOTHER EMAIL ADDRESS IS NECESSARY, JUST UNBLOCK

COURT: IF MR. WADE FEELS LIKE MR. DU WORS IS USING THE RULES OF CR26I TO ABUSE YOU CAN BRING ISSUE TO COURT. WILL ALLOW 26I CONFERENCE TO BE VIA EMAIL. UNBLOCK EMAIL ADDRESS.

MR. WADE: IF HARASSMENT CONTINUES WILL BRING IT BEFORE COURT. DO NOT WISH TO CONSENT TO A PROTECTIVE ORDER. REQUESTS NOT TO RECIEVE EMAILS OTHER THAN CR26. MR. DU WORS WAS 86'D FROM PROPERTY, HE CAN'T SERVE PERSONALLY.

MR. DU WORS: HAS NOT BEEN TRESPASSED FROM BUSINESS. HE DOES NOT OWN BUSINESS OR WORK AT BUSINESS.

COURT ADVISES MR. DU WORS TO PLACE ANYTHING NEEDED TO SERVE MR. WADE IN THE BIN NEXT TO THE DOOR.

MR. DU WORS REQUESTS CR26I EMAILS CAN NOT BE SHARED OUTSIDE OF THE PARTIES.

MR. WADE: ISSUE IS THAT IF MR. DUWORS GETS ABUSE AND CONTINUES HARASSMENT THERE IS NO REMEDY. IF HE THREATENS AND THE MESSAGE IS CONFIDENTIAL WHAT REMEDY DO I HAVE FOR CALLING THE POLICE OR OTHERWISE?

COURT: CRIMINAL COMMUNICATIONS ARE AN EXCEPTION TO ANY RULE.

MR. DUWORS: LIMITING REBUTTAL IN SUPPORT OF REQUEST THAT COURT ISSUE PROPOSED PROTECTION ORDER. WHAT HAS BEEN PRESENTED TO COURT SO FAR IS ORAL ARGUMENT. ORAL ARGUMENT REGARDING PROTECTIVE ORDER WAS THAT HE DOES NOT CONSENT TO ONE. CR26 SPECIFICALLY CONTEMPLATES THAT AN ASPECT OF THE PROTECTION SHOULD BE THAT DISCOVERY ISN'T SHARED PUBLICALLY. MOTION TO CHALLENGE DESIGNATION COULD BE APPROPRIATE IF MR. WADE FEELS THE NEED.

2:38 COURT IS AT RECESS

2:44 COURT IS IN SESSION

MR. DUWORS: REQUESTING ATTORNEY FEES

COURT: REQUEST FOR ATTORNEY FEES DENIED. WILL RECONSIDER IF THERE ARE FUTURE WILLFUL FAILURES TO PARTICIPATE. DISCOVERY HAS NOT YET BEGUN. FOR THE RECORD, BOTH PARTIES HAVE A HISTORY WITH EACHOTHER BUT NOT WITH THIS COURT. BEFORE THE COURT CAN ISSUE A PROTECTION ORDER THERE NEEDS TO BE A DISCOVERY REQUEST, THERE IS NO DISCOVERY REQUEST.

MR. DU WORS: INTERPRETED DIFFERENTLY.

COURT: PERCIEVE THAT NEED THE ACTUAL DISCOVERY REQUEST FIRST, IF THERE IS AN ISSUE

WITH THE QUESTIONS OR ANSWERS THEN THE PARTY CAN REQUEST A PROTECTION ORDER.
COURT DENIES MOTION

MR. WADE TO UNBLOCK MR. DU WOR'S EMAIL ADDRESS FOR CR26 PURPOSES ONLY.
MR. DU WOR TO SERVE MR. WADE IN MAILBOX NEXT TO DOOR OF BUSINESS.

☐ **Courtroom polled for** _____ ☐ **No response** **Time** _____
☐ Default Granted ☐ Writ Granted ☐ Judgment Approved
☒ Court denies motion. ☐ Court takes the matter under advisement.
☐ Order signed as presented. ☐ Order to be presented.
☐ Matter stricken/continued. ☐ Court Scheduler advised

☐ Court sets:

☐ Pleadings taken from this hearing by _____

FILED
NOV 09 2020
ALISON H. SONNTAG
KITSAP COUNTY CLERK

20-2-01225-18
OB 29
Objection Opposition
9236213

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

PLAINTIFF'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND MOTION FOR DISMISSAL WITH PREJUDICE PURSUANT TO CR 56, CR 5(A), CR 5(B)(1), CR 5(B)(2), CR 8(C), RCW 7.70.160, RCW 2.48.220(1)(6)(10)(11), RCW 4.84.185, APR 21(A)(1)(5)(6)(13), RES JUDICATA, AND COLLATERAL ESTOPPEL

RELIEF REQUESTED

The Court should deny Defendant Houston Wade's Motion for Summary Judgement. First, *res judicata* has no application to this case. The previous legal proceeding upon which Houston Wade basis his *res judicata* arguments was a municipal court petition for an anti-stalking protection order, whereas this is a civil action for damages asserting eight causes of action based on substantially different and/or additional facts. The differences between the factual and legal contentions in this case versus the prior proceeding eliminate the applicability of any issue preclusion doctrine. Moreover, the municipal court did not—as Houston Wade

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claims—make any findings or rulings that are determinative of any of the issues in this case.

And Houston Wade was properly served in this matter. The Bainbridge Island police served Mr. Wade personally at his home on July 31, 2020 with an unfiled summons and complaint, and filed a proof of that service with this Court. Thereafter, Mr. Wade transmitted correspondence demanding John Du Wors file the summons and complaint, and John Du Wors did so. Although further service of the filed summons and complaint is not required under the Washington Court Rules, John Du Wors did email Houston Wade the filed summons and complaint, and also requested multiple times that Houston Wade provide John Du Wors with a proper physical address at which John Du Wors could provide him with paper service of the filed copies.

But Houston Wade refused to respond to John Du Wors' multiple requests for a service address—Houston Wade later elected to use a pizza restaurant on Bainbridge Island as his service address, which John Du Wors could have never known he would choose to do.

STATEMENT OF FACTS

A. This action is based on previously unlitigated facts and legal theories.

John Du Wors brings this cause of action for civil damages and other relief against Houston Wade for 1) defamation of character; 2) defamation per se; 3) false light; 4) civil extortion; 5) tortious interference; 6) civil harassment; 7) intentional infliction of emotional distress; and 8) cyberstalking. (*See* Complaint.) It is based on online statements Houston Wade has made about John Du Wors, as well as communications Houston Wade has made to third parties, as described more fully in John Du Wors' Complaint. And while it is true that John Du Wors previously brough an anti-stalking petition against Houston Wade in Bainbridge Island Municipal Court (the "Prior Action"), the factual allegations in this action are substantially greater and different that those of the Prior Action, with Very little

overlap. (Declaration of John Du Wors ("Decl. Du Wors") at ¶ 2).

For example, the following allegations in John Du Wors Complaint had not even *occurred* as of the time of the Prior Action: 17(a), 17(b), 17(c), 17(d), 17(g), 17(h), 17(i), 17(j), 17(k), 17(l), 18, 18(a), 18(b), 19, 19(a), 19(b), 19(c), 19(d), 19(f), 21, 22, 22(a), 22(b), 23, 24, 25, 26, 28, 29, 30, and 31. (Decl. Du Wors at ¶ 3.) In fact, the only factual allegations made by John Du Wors' Complaint in *this* action that were included in John Du Wors' anti-stalking petition in the Prior Action are 17(e), 17(f), and 20 (a)-(c). (Decl. Du Wors at ¶ 4.) But those few overlapping allegations are offered for completely different legal theories that could never have been raised in the Prior Action, specifically including causes of action 1 through 7. (Decl. Du Wors at ¶ 5.)

B. The Court in the Prior Action specified that its decision did not foreclose a defamation claim or other actions by John Du Wors.

And the Court in the Prior Action did not—as Houston Wade claims—make any findings or rulings that are determinative of any of the issues in this action. (Decl. Du Wors at ¶ 6, Ex. 1.) The court in the Prior Action merely decided not to maintain the requested anti-stalking order, based on First Amendment concerns. (Decl. Du Wors at ¶ 7.) In fact, the court in the Prior Action said it appeared John Du Wors may have had a basis for claiming defamation against Houston Wade, and suggested that John Du Wors pursue that cause of action in Kitsap County Superior Court. (Decl. Du Wors at ¶ 8.) That is precisely what John Du Wors has done here.

The municipal court in the Prior Action made clear that its ruling did not reach the question of whether John Du Wors could bring a defamation suit, but was limited to whether the full requested anti-stalking order should issue.

> If there are particular statements that are incorrect, certainly, Mr. Du Wors has the remedy of seeking a defamation suit, as he has eluded to. And he certainly can appeal the Court's order here today

> within 30 days. But the order of the Court is that the -- the requests for full order is denied and the petition is dismissed.

(Ex. 1 at 118:4–10.) And of course, John Du Wors could not have brought a defamation suit before the municipal court—nor any of the other causes of action at issue in this case. Such actions must be brought before the Superior Court.

C. Houston Wade was properly served.

The Bainbridge Island Police Department ("BIPD") served Houston Wade with the unfiled summons and complaint in this action at his home on July 31, 2020. (Decl. Du Wors at ¶ 9, Ex. 2.) The BIPD then filed a proof of that service with this Court. (Decl. Du Wors at ¶ 10.) John Du Wors filed another proof of that service. (Decl. Du Wors at ¶ 11.) Subsequently, Houston Wade sent John Du Wors letter correspondence demanding that John Du Wors file the summons and complaint in this matter, which Houston Wade was permitted to do under CR 3. (Decl. Du Wors at ¶ 12.)

So, John Du Wors filed the summons and complaint, and emailed a copy along with the case number to Houston Wade's last known email address, which John Du Wors had previously used to communicate with Houston Wade. (Decl. Du Wors at ¶ 13.) But Houston Wade's demand correspondence did not contain an address where he could be physically served with the filed summons and complaint, so John Du Wors emailed Houston Wade three times requesting a service address or other service instructions, such as email. (Decl. Du Wors at ¶ 14, Ex. 3.) Houston Wade refused to respond to those requests. (Decl. Du Wors at ¶ 15.) And John Du Wors could not be sure that Houston Wade would accept service of litigation pleadings at his home address, because in two other lawsuits in which Houston Wade is a defendant before this court, Houston Wade has elected to use the pizza restaurant where he works as his address for accepting pleadings. (Decl. Du Wors at ¶ 15.)

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D. This Court has found that Houston Wade is not truthful.

One of the cases in which Houston Wade is a defendant before this Court is a defamation lawsuit, very similar to this one, filed by a plaintiff named Bill Nelson. (Decl. Du Wors at ¶ 16.) Judge Houser presides over that lawsuit. (Decl. Du Wors at ¶ 17.) After issuing multiple discovery orders against Houston Wade, including sanctions orders, Judge Houser entered a default order against Houston Wade as a sanction for discovery abuses. (Decl. Du Wors at ¶ 18.) Judge Houser wrote:

> In as much as prior contempt sanctions, allowing for additional time to comply, as well as providing a monetary incentive to comply, have not motivated Defendant to comply with the Defendant's discovery obligations, or demonstrated a willingness to comply with court orders. Furthermore, Defendant's willingness to knowingly lie under oath at deposition demonstrates a complete disregard to the legal process and the administration of justice. There is no other alternative for this Court than to Grant Plaintiffs motion for default and strike Defendant's responsive pleadings.

(Decl. Du Wors at ¶ 18, Ex. 4.) Based on that finding, this Court should not be inclined to accept the truthfulness of Houston Wade's unsubstantiated characterizations of the findings, rulings and comments of the court in the Prior Action.

E. Houston Wade's allegations about John Du Wors' alleged misconduct are either irrelevant or disputed, and further discovery is necessary before summary judgment can be properly adjudicated.

Houston Wade's Motion for Summary Judgment appears to only be based on 1) res judicata/collateral estoppel issues; and 2) service issues. But he also includes lengthy discussion of why he believes his defamatory statements about John Du Wors are truthful. Virtually all of his allegations are based on hearsay, and it is not clear whether those arguments even form the basis for his Motion for Summary Judgment. To the extent those factual averments are a basis for his motion, they are disputed and/or should be denied as inadmissible at this stage. (Decl. Du Wors at

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¶ 19.)

Further, no discovery has taken place in this matter. John Du Wors brought a motion for a protective order to facilitate discovery, but the Court denied that motion on the basis that no discovery requests had been propounded. In fact, Houston Wade has not even answered the Complaint. When discovery occurs, it will show that the alleged statements by Houston Wade as identified in John Du Wors' Complaint are false and otherwise violative of law. (Decl. Du Wors at ¶ 20.)

STATEMENT OF THE ISSUES

1. The doctrine of issue preclusion (which includes *res judicata and collateral estoppel*) only bars re-litigation of issues decided in a previous case, where the facts and legal theories in the prior action were identical. But in this case, seven of the eight legal theories asserted were not raised in the Prior Action (nor could they have been), and the minimal over-lapping facts are asserted here for completely different legal theories than they were in the Prior Action. Should the Court deny Houston Wade's Motion to dismiss?

2. Under Washington Court Rule 3, a plaintiff may commence a case by serving an unfiled summons and complaint on the defendant, and thereafter no further personal service of the summons and complaint is required, even if they are eventually filed. Here, Houston Wade received proper personal service of the summons and complaint by the BIPD at his home on July 31, 2020, as well as an emailed copy of the filed summons and complaint. Should the Court reject Houston Wade's objection to service in this matter?

EVIDENCE RELIED UPON

This Motion relies on the pleadings and papers in the Court's file, the Declaration of John Du Wors, and the Exhibits thereto.

LEGAL AUTHORITY

Summary judgment is only proper if no genuine issue of material fact remains and the moving party is entitled to judgment as a matter of law. CR 56(c). "A genuine issue of material fact exists where reasonable minds could differ regarding the facts controlling the outcome of the litigation." *In re Estate of Rippee*, 181 Wash. App. 1007 (2014). "A party cannot rely on inadmissible hearsay" in support a summary judgment motion. *Lynn v. Labor Ready, Inc.*, 136 Wash. App. 295, 309, 151 P.3d 201, 209 (2006), as amended (Jan. 17, 2007), as amended (Feb. 6, 2007). On summary judgment, "the court is required to consider all facts and inferences in a light most favorable to . . . the nonmoving party." *Clarke v. Alstores Realty Corp.*, 11 Wash. App. 942, 947, 527 P.2d 698, 702 (1974).

In truth, the basis of Houston Wade's summary judgment motion are not entirely clear. The motion appears to indicate that it is primarily basis on 1) res judicata/collateral estoppel theories, and 2) service issues. But Houston Wade's motion also appends hearsay declarations of Houston Wade and Amber Du Wors, which are inadmissible and therefore cannot form the basis of a summary judgment motion. And to the extent Houston Wade moves on the basis that he claims the statements identified in John Du Wors' complaint are truthful, John Du Wors' factually disputes those averments, and they are therefore an improper basis for summary judgment at this stage.

A. Res Judicata and Collateral Estoppel have no application here.

The outcome of the Prior Action has no preclusive effect on this action because the facts and theories asserted here were not litigated in the Prior Action. As Houston Wade admits, for *res judicata* or *collateral estoppel* to apply, the issues and/or causes of action and subject matter must be *identical* to those adjudicated in a prior action. *Lynn v. Dept. of Labor & Indus.*, 130 Wn.App. 829, 836 (2005); *Christensen v. Grant County Hosp. Dist. No 1*, 152 Wn.2d 299, 306 (2004); *McDaniels v Carlson*, 108 Wn. 2d 299, 305 (1987); (*see also* Def. Mot. Dismiss at pg.

5, lines 9–20). Seven of the eight causes of action in this case were not even remotely included in the subject matter of the Prior Action. And the factual allegations in this action only overlap minimally with the factual allegations in the Prior Action.

In fact, the causes of action brought by John Du Wors in this case could not have been brought before the municipal court. "The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three hundred dollars . . . ." Wash. Rev. Code § 2.08.010. The municipal court in the Prior Action did not even have jurisdiction to hear the causes of action brought in this case. So of course it could not have made rulings that are determinative in this matter.

And as Houston Wade admits at page 10, lines 3–7 of his Motion, the issue preclusion doctrine "precludes only those issues that have actually been litigated and determined; it does not operate as a bar to matters which could have . . . been raised [in prior litigation] but were not." *McDaniels*, 108 Wn. 2d at 305. So the factual allegations in this matter could have substantially greater overlap with those of the Prior Action—in fact they could be identical—and issue preclusion would still not apply because virtually all the causes of action in this case are new. Houston Wade's *res judicata* and *collateral estoppel* arguments are without merit and should be rejected.

B. Houston Wade was Properly Served.

Washington Court Rule 3(a) provides that a plaintiff may commence a lawsuit by personally serving the defendant with an unfiled summons and complaint. If the defendant demands that the plaintiff file the summons and complaint and pay the filing fee, the plaintiff must do so within 14 days of the demand, or the original service is deemed void. Washington Court Rule 3 does not require any further

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personal service of the summons and complaint, even if the unfiled summons and complaint originally served is later filed. In fact, CR 5(a) specifically provides:

> Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in rule 4.

(Emphasis added.) So once a defendant is served personally with an unfiled summons and complaint, they must appear in order to be entitled to subsequent service, and that service need not be personal in nature.

Here, there is no dispute that Houston Wade was properly served with the unfiled summons and complaint on July 31, 2020. And John Du Wors' obligation to file the summons and complaint was timely met. Although John Du Wors made efforts to obtain a physical address to serve Houston Wade a courtesy copy of the filed summons and complaint, he was not obligated to do so unless Houston Wade had appeared in the action, which he had not. Accordingly, Houston Wade's objection to service is not valid.

C. Request for Denial or Continuance under CR 56F.

The Court should also deny or continue Houston Wade's Motion for Summary Judgment because the parties require further discovery for this matter to be properly adjudicated. CR 56f provides that where discovery is not yet complete, "the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just." "The trial court must make justice its

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primary consideration in ruling on a motion for continuance, even an informal one." *Butler v. Joy*, 116 Wash.App. 291, 299, 65 P.3d 671 (2003). And "it is hard to see 'how justice is served by a draconian application of time limitations' when [the nonmoving] party is hobbled by legal representation that has had no time to prepare a [sufficient] response to a motion that cuts off any decision on the true merits of a case." *Butler*, 116 Wash.App. at 300, 65 P.3d 671. "Absent prejudice to the moving party, the trial court should grant a motion for continuance under such circumstances." *Keck v. Collins*, 181 Wash. App. 67, 88, 325 P.3d 306, 316–17 (2014), *aff'd but criticized*, 184 Wash. 2d 358, 357 P.3d 1080 (2015).

At this point in the case, no discovery has taken place. In fact, John Du Wors moved for a protective order, and the Court denied that request on the basis that Houston Wade had not yet served discovery on John Du Wors or any third party. Discovery will show that the statements made by Houston Wade after the hearing on the Prior Action are false, defamatory and otherwise violative of law. At this point, this litigation is in its naissance, and a summary judgment motion is woefully premature.

CONCLUSION

Houston Wade's Motion to for Summary Judgment should be denied.

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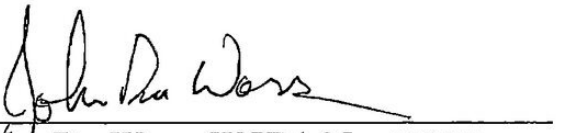
Dated: November 9, 2020

Respectfully submitted,

NEWMAN DU WORS LLP



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Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on November 9, 2020, I caused true and correct copies of the foregoing documents to be served by the method(s) listed below on the following interested parties:

Via Hand Delivery and Electronic Transmittal:

Defendant Houston Wade
c/o Bruciatio
236 Winslow Way E
Bainbridge Island, WA 98110
houstonwade@gmail.com

I hereby certify under the penalty of perjury that the foregoing is true and correct.

Executed on November 9, 2020 at Knoxville, Tennessee.

s/ Chy Eaton
Chy Eaton, Paralegal

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

FILED
November 12, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS,

Plaintiff,

vs.

HOUSTON WADE,

Defendant

Case No.: 20-2-01225-18

DECLARATION OF ISABELLA FRAWLEY

I, Isabella Frawley, declare as follows:

1. I am over 18 years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. I declare: I worked at the Bainbridge McDonalds from around 2016 to late 2018, and within that time John Du Wors came through the drive through visibly intoxicated multiple times - slurred speech, almost rear ends cars ahead of him, generally disoriented. He usually had a passenger (not Amber, no one that I recognized). At least two or three times I called the Bainbridge police and reported it with the make and model of the Jeep and license plate number, saying he's likely going to be going north on 305. I never heard anything back from about those reports.

Dated this 2nd of November 2020.

Isabella Frawley

Isabella Frawley, Bainbridge Island, WA

FILED
November 12, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

Exhibit 14

WASHINGTON STATE PATROL
CRIMINAL HISTORY RECORD SECTION
P.O. BOX 42633
OLYMPIA, WASHINGTON 98504-2633

****

CRIMINAL HISTORY INFORMATION AS OF 08/26/2019

****

NOTICE

THE FOLLOWING TRANSCRIPT OF RECORD IS FURNISHED FOR OFFICIAL USE ONLY. SECONDARY DISSEMINATION OF THIS CRIMINAL HISTORY RECORD INFORMATION IS PROHIBITED UNLESS IN COMPLIANCE WITH THE WASHINGTON STATE CRIMINAL RECORDS PRIVACY ACT, CHAPTER 10.97 RCW. NON-CRIMINAL JUSTICE AGENCIES WHO HAVE STATUTORY AUTHORITY TO RECEIVE NON-CONVICTION CRIMINAL HISTORY RECORDS MAY NOT USE SEALED JUVENILE RECORD INFORMATION IN MAKING LICENSING OR EMPLOYMENT SUITABILITY DETERMINATIONS.

POSITIVE IDENTIFICATION CAN ONLY BE BASED UPON FINGERPRINT COMPARISON. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED FOR SUBSEQUENT USE. WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT SUPPLIED THE INFORMATION TO THE WASHINGTON STATE PATROL.

THIS CONVICTION RECORD MAY INCLUDE INFORMATION FOR WHICH A PERSON IS CURRENTLY BEING PROCESSED BY THE CRIMINAL JUSTICE SYSTEM.

****

MASTER INFORMATION

****

NAME: DU-WORS,JOHN D DOB: 03/29/1978
SID NUMBER: WA21771564

****

PERSON INFORMATION

****

SEX	RACE	HEIGHT	WEIGHT	EYES	HAIR	PLACE OF BIRTH	CITIZENSHIP
M	W	601	185	BLU	BRO	CA	US

OTHER NAMES USED	OTHER DATES OF BIRTH USED	SOC SEC NUMBER
DUWORS,JOHN DAVID		

****

CONVICTION AND/OR ADVERSE FINDING SUMMARY

****

0 FELONY(S) DISPOSITION DATE

2 GROSS MISDEMEANOR(S)
UNLAWFUL IMPRISONMENT ATTEMPT 08/19/2014
ASSAULT-4 08/19/2014
0 MISDEMEANOR(S)

0 CLASSIFICATION(S) UNKNOWN

****

**** NO KNOWN DOC SUMMARY INFORMATION ****

****

E 14 AUG 26 '19

SEARCH PARAMETERS: WA21771564
REQUESTOR: HOUSTON WADE REQUEST TYPE: PUBLIC INFORMATION RAP MODE: C
PROCESSED BY: 14 08/26/2019

SID NUMBER: WA21771564 NAME: DU-WORS,JOHN D

****

CRIMINAL HISTORY INFORMATION

****

THE ARRESTS LISTED MAY HAVE BEEN BASED ON PROBABLE CAUSE AT THE TIME OF ARREST OR ON A WARRANT. PROBABLE CAUSE ARRESTS MAY OR MAY NOT RESULT IN THE FILING OF CHARGES. CONTACT THE ARRESTING AGENCY FOR INFORMATION ON THE FORMAL CHARGES AND/OR DISPOSITIONS.

AN ARREST IS NOT A CONVICTION OR FINDING OF GUILT.

ARREST 3 DATE OF ARREST: 07/05/2019

NAME USED: DUWORS,JOHN DAVID
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF
LOCAL ID: 40387376 PCN: 738120621 TCN: WA1800000101006278

ARREST OFFENSES	DISPOSITION
0764400 DRIVING UNDER THE INFLUENCE RCW: 46.61.502(5) GROSS MISDEMEANOR ORIGINATING AGENCY: WA0180700 BAINBRIDGE ISLAND POLICE DEPARTMENT DISPO RESPONSIBILITY: WA018011J DATE OF OFFENSE: 07/05/2019	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018011J BREMERTON MUNICIPAL COURT STATUS: DISPOSITION NOT RECEIVED

ARREST 2 DATE OF ARREST: 08/02/2014

NAME USED: DUWORS,JOHN DAVID
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF
LOCAL ID: 40387376 PCN: 737778959 TCN: WA1800000100650648

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018041J BAINBRIDGE ISLAND MUNICIPAL COURT COURT CASE NO: 20704302 STATUS: GUILTY DV PLED/ PROVED 0113400 ASSAULT-4 RCW: 9A.36.041(2) DOMESTIC VIOLENCE GROSS MISDEMEANOR STATUS DATE: 08/19/2014 COUNTS: 1 SENTENCE: JAIL: 364 D, JAIL SUS.: 294 D SUPERVISION: 2 Y, FINE: $5000.00, FINE SUS.: $4150.00

ARREST 1 DATE OF ARREST: 11/20/2012

NAME USED: DUWORS,JOHN DAVID

SID NUMBER: WA21771564 NAME: DU-WORS,JOHN D

CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF
LOCAL ID: 40387376 PCN: 737662870 TCN: WA1800000100530379

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018013J KITSAP COUNTY DISTRICT COURT COURT CASE NO: 20704301P STATUS: GUILTY A066400 UNLAWFUL IMPRISONMENT RCW: 9A.40.040(2) ATTEMPT DOMESTIC VIOLENCE GROSS MISDEMEANOR STATUS DATE: 08/19/2014 COUNTS: 1 SENTENCE: JAIL: 364 D, JAIL SUS.: 354 D FINE: $850.00

****
NO KNOWN DEPARTMENT OF CORRECTIONS INFORMATION
****
****
NO KNOWN SEX/KIDNAPPING OFFENDER REGISTRATIONS
****

****
NO KNOWN APPLICANT DETAILS
****
****
NO KNOWN MONITORED POPULATION REGISTRATION TRACKING INFORMATION
****
****
GLOSSARY OF TERMS IS AVAILABLE IN THE CRIMINAL JUSTICE TRAINING MANUAL (CJTM)
LOCATED AT HTTP://WWW.WSP.WA.GOV/_SECURED/IDENT/RESOURCE.HTM
****
RESOURCES
****

ADMINISTRATIVE OFFICE OF
THE COURTS (AOC)----------WWW.COURTS.WA.GOV
WSP CRIMINAL HISTORY
RECORDS SECTION----------CRIMHIS@WSP.WA.GOV OR (360) 534-2000
WSP CRIMINAL HISTORY &
FINGERPRINT TRAINING----------HTTP://WWW.WSP.WA.GOV/_SECURED/IDENT/RESOURCE.HTM
DEPARTMENT OF CORRECTIONS (DOC)---WWW.DOC.WA.GOV
WSP SEX/KIDNAPPING
OFFENDER REGISTRY (SOR) UNIT--(360) 534-2000
REVISED CODE OF WASHINGTON (RCW)--HTTP://APPS.LEG.WA.GOV/RCW/
WSP WASHINGTON ACCESS TO CRIMINAL
HISTORY (WATCH) WEBSITE-------https://fortress.wa.gov/wsp/watch
WSP IDENTIFICATION AND
BACKGROUND CHECK SECTION------WATCH.HELP@wsp.wa.gov OR (360) 534-2000

SEARCH PARAMETERS: WA21771564
REQUESTOR: HOUSTON WADE REQUEST TYPE: PUBLIC INFORMATION RAP MODE: C
PROCESSED BY: 14 08/26/2019

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge island, WA 98110
houstonwade@gmail.com

FILED
November 13, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 DEFENDENTS RESPONSE TO PLAINTIFF'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT.

REQUEST FOR RELIEF

The Court should affirm Defendant Houston Wade's Motion for Summary Judgment. First, Mr. Du Wors threatened suit against Mr. Wade on October 19th, 2018 by serving Mr. Wade's mother with an unfiled summons and complaint. Pursuant to CR 3, Mr. Wade told Mr. Du Wors to file his suit with the Court. Mr. Du Wors failed to do this and instead opted to file a restraining order against Mr. Wade citing the very same reasons listed in his initial complaint and told the Bainbridge Island Municipal Court then, "We elected to proceed with this course of remedy for now." (page 15 of Defendant's Exhibit 8). Nothing is different in this case from the previous case. Mr. Du Wors has no evidence that Mr. Wade lied and thus no evidence that Mr. Wade committed defamation against Mr. Wade. On the contrary, Mr. Wade has provided hundreds of pages of evidence to the Court showing the truth behind the article Mr. Wade wrote about Mr. Du Wors.

The Plaintiff has submitted as evidence once again, emails sent to Mr. Wade's personal email address which Mr. Du Wors had been previously been blocked due to harassment of Mr. Wade. The previous hearing on Mr. Du Wors's protection order request established this once more. Email does not constitute service.

STATEMENT OF FACTS

A. This action is based on previously litigated arguments and legal theories.

Mr. Du Wors brought this suit against Mr. Wade because his previous legal action was not successful, and Mr. Du Wors was compelled to admit that he had in fact been convicted for abusing his wife and abusing his child. Mr. Du Wors is hoping that the Court ignores the fact that it was his stepchild for whom he was convicted for

abusing by claiming that she technically wasn't *his* child but his stepchild. This should be interpreted by the Court that Mr. Du Wors feels that it is perfectly ok to hog tie and beat other children under his care and break their ribs and fingers so long as they are not a blood relation.

With regards to Mr. Du Wors's Cause of Actions: 1) Mr. Du Wors has failed to prove defamation now, just as he did in his previous action against Mr. Wade. He has not even bothered to submit evidence to this effect despite threatening suit against Mr. Wade more than two years go. 2) Mr. Du Wors has failed to prove defamation per se now, just as he did in his previous action against Mr. Wade, and Mr. Du Wors has also failed to provide any evidence to this effect. 3) Mr. Du Wors's claims of false light require that defamation be made, and since Mr. Du Wors has provided zero evidence of defamation, there is not false light case here. 4) Mr. Du Wors's claim of civil extortion are the result of Mr. Du Wors's own demands from Mr. Wade for terms that would result in Mr. Wade removing the article from the Bainbridge Island Bad List about Mr. Du Wors (Defendant's exhibit 7), and Mr. Wade's response included no threats. Since a threat is required to be able to define an instance as "extortion", Mr. Du Wors has once again failed to provide evidence of such. Conversely, according to the declaration of Amber Du Wors, Mr. Du Wors's ex-wife, Mr. Du Wors attempted to extort her to force her to convince Mr. Wade to remove the article by threatening her with posting salacious information about her, her family, and her partner to web domains Mr. Du Wors bought involving their names (Defendant's exhibit 6). 5) Mr. Du Wors's claims of tortious interference was already considered by the previous Court and found Mr. Wade to be in line with keeping the public safe by informing parties of Mr. Du Wors's criminal past (Defendant's Exhibit 8, page 109). 6) The Court in the previous case also noted that Mr. Du Wors's claims of civil harassment were dependent upon his proof of defamation. Since Mr. Du Wors never presented evidence of defamation then, as in now, there cannot be civil harassment. Especially when all communication between the two parties has been initiated by Mr. Du Wors. 7) With regards to Mr. Wors claims intentional infliction of emotional distress: if Mr. Du Wors is so concerned about his emotional state, then he should have thought about that before committing this litany of crimes. This is no different than The McCloskey's in St. Louis suing the news photographer over the image of them committing a crime with their firearms by threatening peaceful marchers because the image of them committing this crime is causing them "emotional distress". It has no merit. 8) Mr. Du Wors claims cyberstalking against Mr. Wade. Again, in the previous action the Court ruled that cyberstalking required Mr. Wade to defame Mr. Du Wors, and since then, as in now, Mr. Du Wors has not provided evidence of defamation, cyberstalking cannot be considered.

Mr. Du Wors lists a host of allegations as being new to this action, so let us go through them one by one according to the unfiled complaint Mr. Wade received:

17(a) The previous Court found no evidence that what Mr. Wade wrote constituted defamation and that Mr. Du Wors failed to provide any evidence that he was defamed (Defendant's Exhibit 8, page 110).

17(b) Submitted into evidence in the previous action and in this action is correspondence from Mr. Du Wors where he admits to alcoholism and chemical abuse (Defendant's Exhibit 4).

17(c) Mr. Du Wors has been convicted of DUI (Exhibit 14).

17(d) The previous Court found that Mr. Wade's intent was to protect the public (Defendant's Exhibit 8, page 109).

17(g) Mr. Du Wors claimed that Mr. Wade defamed him to the previous Court when Mr. Wade wrote about Mr. Du Wors's crimes including domestic violence, imprisonment of a minor, and hit and run. Mr. Du Wors denied to the Court that he had ever done any of these things. The Court then compelled Mr. Du Wors to admit to all these crimes. Mr. Du Wors fails to see how he was under oath when he made the spurious claims of his innocence, despite being repeatedly convicted in public court, constitutes perjury (Defendant's Exhibit 8, page 22).

17(h) Mr. Du Wors claims he has never abused *his* children because he does not consider his minor stepdaughter under his care to be his child, and therefore ok to abuse. This is a disgusting, reprehensible argument of semantics.

17(i) This harkens back to 17(d) and Defendant's Exhibit 8, page 109 can once again be referenced.

17(j) Mr. Wade will admit that he is flummoxed at the fact that the Washington State Bar Association did not disbar Mr. Du Wors seeing as how Mr. Du Wors is a repeat violent criminal, a drunkard, lied in court, falsely represented himself as someone's attorney, made up fake clients and used constant legal threat to keep his behavior from being exposed. Mr. Wade had misplaced confidence that the WSBA would do the right thing. They did not.

17(k) Again, this can reference back to the response to 17(b) and Defendant's Exhibit 4 where Mr. Du Wors admits in correspondence that he is an alcoholic and chemical abuser.

17(j) This can reference back to the responses to 17(d) and 17(i) and Defendant's Exhibit 8, page 109 can be used.

18(a) The Court is in possession of a copy of the contract Mr. Du Wors wrote and signed giving his then wife complete control of the shares in Green Canopy stock. (Defendant's Exhibit 5).

18(b) Once again, Mr. Wade assumed the WSBA would do the right thing and discipline Mr. Du Wors for his criminality and unethical behavior. The WSBA failed in its duty.

19(a) Once again, see Defendant's Exhibit 8, page 109

19(b) Mr. Du Wors did threaten Mr. Wade's mother with sodomy (Defendant's Exhibit 4), and he has repeatedly frequented the Bainbridge Island McDonald's while intoxicated (Attached declaration of Isabella Frawley). Mr. Matthew Timmons was also a customer at McDonald's on May 23rd, 2019 and confronted Mr. Du Wors about his intoxication as Mr. Du Wors was getting into his vehicle about to drive drunk. Mr. Timmins is in possession of video evidence of Mr. Du Wors's inebriation. Mr. Timmons has said he can be available to Zoom into the hearing scheduled for November 20th if needed to testify to this fact.

19(c) Again, refer to response to 17(g).

19(d) Again, refer to response to 17(b) and 17(k).

19(f) Again, refer to response to 19(b).

21 The previous Court found Mr. Wade made no threats, and without threats there is no extortion. (Defendant's Exhibit 8, page 110)

22(a) Mr. Du Wors demanded negotiations for what it would take for Mr. Wade to remove the article from the Bainbridge Island bad List (Defendant's Exhibit 7), and setting terms for behavior change on the basis of negotiations demanded by the Plaintiff does not constitute a threat being made by the Defendant.

22(b) See response to 22(a).

23, 24, & 25 Mr. Du Wors is under the impression that his obeying the law constitutes a threat to his person.

26 The complaint of Malice requires that Mr. Wade has lied and knew he was lying when he published his article and wrote about Mr. Du Wors. Since Mr. Du Wors has not only failed to provide any evidence that what Mr. Wade wrote constitutes defamation, he most certainly cannot claim malice. Especially considering that Mr. Du Wors was forced to admit in the previous action to the crimes Mr. Wade referred (Defendant's Exhibit 8, page 22).

28, 29, 30, & 31 Mr. Du Wors is attempting to use an ongoing case for which Mr. Du Wors volunteered as a witness, and lied in his declaration, as evidence that Mr. Wade has lied in this action. Mr. Wade takes no issue with the statement: "I am all for ruining a life. If they want to exhibit character, then they have to seek forgiveness." Mr. Du Wors hurts women and children. He has been repeatedly convicted of these things. Not once has Mr. Du Wors sought to make amends and actually meant it (see, Green Canopy contract, Defendant's Exhibit 5).

B. The Court in the Prior Action specified that Mr. Du Wors failed to prove defamation and has done so again in this action.

Mr. Du Wors's entire argument in this case is that Mr. Wade defamed him. Where is the evidence to this fact? Has Mr. Du Wors been able to provide a single shred of evidence that what was written by Mr. Wade about Mr. Du Wors to be untruthful? No. Just because Mr. Du Wors does not like hearing about his actions, behaviors, and criminality does not constitute defamation. As Mr. Wade stated in the Previous Action, "[…] the only way it is possible to defame this man is to say something nice about him." (Defendant's Exhibit 8, page 56). Mr. Du Wors outrage at having to read about his own egregious behavior brings to mind the recent case of *Lenny Dykstra v. St. Martin Press, LLC, et al.*, 153676/2019 (New York County). The Court in this case ruled that Mr. Dykstra's reputation was so bad that it was impossible to defame him. Mr. Du Wors's reputation in the Bainbridge Island community is just as bad. This man cannot be defamed.

C. Houston Wade has not received conformed copies of the suit or complaint.

To this day, despite months of legal action, Mr. Wade still has not been served conformed copies of the original summons and complaint. Email does not constitute service. CR 5(a) requires service of all filed documents upon the opposing party. Mr. Du Wors failed to do this, and despite being made aware of this for months now, still will not provide service of the conformed copies he filed with the Court upon Mr. Wade.

Mr. Du Wors pretends like he is still unaware that his email address had been blocked by Mr. Wade due to harassment and tries to shift the blame for lack of communication onto Mr. Wade by repeatedly emailing an address to which Mr. Wade could not communicate. Mr. Du Wors was able to serve Mr. Wade with unfiled documents the first time, he is an attorney with 17 years of experience, and should be confident that he can figure out how to provide service a second time. The Court asked Mr. Wade at the most recent hearing to unblock Mr. Du Wors's email address, which Mr. Wade has since done.

D. Mr. Wade's allegations about Mr. Du Wors are truthful and well documented.

If Mr. Du Wors had proof that what Mr. Wade wrote about him was defamation, then why, in over two years of legal action against Mr. Wade, has Mr. Du Wors failed to provide evidence on one instance where what Mr. Wade wrote was untrue? "Nuh-uh" is not an argument when hundreds of pages of documentation and Mr. Du Wors's own testimony has been submitted as evidence by the Defendant. Not only this, Mr. Du Wors has not once even attempted to deny a piece of evidence submitted by Mr. Wade. The implication here is that Mr. Du Wors knows that what was written about him is true.

STATEMENT OF THE ISSUES

1. The doctrine of the issue of preclusion applies in this case since the previous legal action required Mr. Du Wors to provide evidence of defamation. Since he failed to provide such evidence in that previous case and has failed to provide any evidence in this new action, his argument remains the same and thus Mr. Wade is protected from having a previous ruling relitigated. If Mr. Du Wors wanted to the Court to hear his arguments repeated, then he had the opportunity to file for an appeal within 30 days of the previous Court's ruling. That being said, repeating the same baseless arguments in a new case is not only a waste of the Court's time, but a violation of Mr. Wade's rights to protection under the law.

2. While Mr. Du Wors is correct that according to CR 3, a plaintiff may commence a case by serving an unfiled summons and complaint on a defendant, after Mr. Wade told Mr. Du Wors that he had 14 days to file and provide for him service of the then filed, stamped and conformed copies of the documents, Mr. Du Wors failed to do so. Not only was Mr. Wade unaware that Mr. Du Wors had actually filed the case with the Court, Mr. Du Wors then moved for a motion of default judgement against Mr. Wade after failing to inform Mr. Wade that the case had been filed, let alone serve Mr. Wade with the filed motion. Not even junior attorneys working credit cases where the defendant has appeared would do something like that. If a document is filed with the Court, service upon the opposing party must be made.

EVIDENCE RELIED UPON

This Motion and its response rely on the pleadings and papers in the Court's file, and the declarations of Houston Wade, Amber Du Wors, and Isabella Frawley, and the Exhibits thereto.

LEGAL AUTHORITY

Summary Judgement and Dismissal with Prejudice are appropriate in this matter. While the Court is required to consider all facts and inferences in light most favorable to the nonmoving party, Mr. Du Wors has failed to provide facts or inferences for the Court to consider. This is a matter of defamation, and the defense to defamation is truth. *New York Times Co. v. Sullivan, 376 U.S. 254*. As Mr. Wade is the only party who has provided material evidence to support his claims in this action, and Mr. Du Wors has failed to even address the mountain of evidence provided by the Defendant, Summary Judgment according to CR 56 is the proper remedy.

A defamation case filed without evidence by the Plaintiff does not constitute a proper case. Mr. Du Wors has only provided Mr. Wade's written word as evidence in this case and has not provided any documentation that what Mr. Wade wrote about Mr. Du Wors as being untruthful, and thus constituting defamation. In *Levinsky's, Inc.*

v. Wal-Mart Stores, Inc., 127 F.3d 122 (1st Cir. 1997) the Court held that all defamation claims need showing of fault, which requires the plaintiff to prove that the defendant was at least negligent. Mr. Du Wors has done no such thing, and on the contrary, Mr. Wade has provided the Court with ample evidence that Mr. Wade was writing with a host of documentation and witnesses to back his claims.

The Courts have repeatedly established that the Plaintiff must establish the element of fault with clear and convincing proof with "a degree of belief greater than the usually imposed burden of proof by a fair preponderance of the evidence, but less than the burden of proof beyond a reasonable doubt .... [It] must be 'strong, positive, and free from doubt.'" *Stone v. Essex County Newspapers, 367 Mass. 849, 871, 330 N.E.2d 161, 175 (1975).* Seeing as how Mr. Du Wors has failed to provide any context or evidence for his claims outside his own personal denial of the things written about him by Mr. Wade, the Court is fully withing its jurisdiction to render a ruling on the Motion for Summary Judgment.

Courts are generally hesitant to restrict the First Amendment Rights of citizens. Mr. Du Wors's insistence that Mr. Wade's basis for this motion as not "entirely clear" is desperate and lacking in evidence to the contrary. If Mr. Du Wors had any shred of evidence to support his claims that Mr. Wade committed defamation, he would have provided it upon the filing of this case.

CONCLUSION

Houston Wade's Motion for Summary Judgment should be affirmed.

Dated this 12th of November 2020.

Houston Wade

Houston Wade

SCANNED

FILED
NOV 09 2020
ALISON H. SONNTAG
KITSAP COUNTY CLERK

20-2-01225-18
DCLR 30
Declaration Affidavit
9236291

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

DECLARATION OF JOHN DU WORS IN SUPPORT OF PLAINTIFF'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT AND MOTION FOR DISMISSAL WITH PREJUDICE PURSUANT TO CR 56, CR 5(A), CR 5(B)(1), CR 5(B)(2), CR 8(C), RCW 7.70.160, RCW 2.48.220(1)(6)(10)(11), RCW 4.84.185, APR 21(A)(1)(5)(6)(13), RES JUDICATA, AND COLLATERAL ESTOPPEL

I, John Du Wors, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matter. I make this declaration in support of Plaintiff's Opposition to Motion for Dismissal with Prejudice Pursuant to CR 5(A), CR 5(B)(1), CR 5(B)(2), CR 8(C), and RCW 7.70.160.

2. While it is true that I previously brought an anti-stalking petition against Houston Wade in Bainbridge Island Municipal Court (the "Prior Action"), the

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

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factual allegations in this action are substantially greater and different that those of the Prior Action, with very little overlap.

3. For example, the following allegations in my Complaint had not even *occurred* as of the time of the Prior Action: 17(a), 17(b), 17(c), 17(d), 17(g), 17(h), 17(i), 17(j), 17(k), 17(l), 18, 18(a), 18(b), 19, 19(a), 19(b), 19(c), 19(d), 19(f), 21, 22, 22(a), 22(b), 23, 24, 25, 26, 28, 29, 30, and 31.

4. In fact, the only factual allegations made by my Complaint in *this* action that were included in my anti-stalking petition in the Prior Action are 17(e), 17(f), and 20 (a)–(c).

5. But those few overlapping allegations are offered for completely different legal theories that could never have been raised in the Prior Action, specifically including causes of action 1 through 7.

6. And the Court in the Prior Action did not—as Houston Wade claims—make any findings or rulings that are determinative of any of the issues in this action. A true and correct copy of relevant excerpts of the municipal court's ruling is attached hereto as Exhibit 1.

7. The court in the Prior Action merely decided not to maintain the requested anti-stalking order, based on First Amendment concerns.

8. In fact, the court in the Prior Action said it appeared John Du Wors may have had a basis for claiming defamation against Houston Wade, and suggested that John Du Wors pursue that cause of action in Kitsap County Superior Court.

9. The Bainbridge Island Police Department ("BIPD") served Houston Wade with the unfiled summons and complaint in this action at his home on July 31, 2020. Attached hereto as Exhibit 2 is a true and correct copy of that proof of service.

10. The BIPD then filed a proof of that service with this Court.

11. I filed another proof of that service.

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12. Subsequently, Houston Wade sent me letter correspondence demanding that I file the summons and complaint in this matter, which Houston Wade was permitted to do under CR 3.

13. So, I filed the summons and complaint, and emailed a copy along with the case number to Houston Wade's last known email address, which I had previously used to communicate with Houston Wade.

14. But Houston Wade's demand correspondence did not contain an address where he could be physically served with the filed summons and complaint, so I emailed Houston Wade three times requesting a service address or other service instructions, such as email. Attached hereto as Exhibit 3 is a true and correct copy of my email correspondence to Houston Wade.

15. Houston Wade refused to respond to those requests. And I could not be sure that Houston Wade would accept service of litigation pleadings at his home address, because in two other lawsuits in which Houston Wade is a defendant before this court, Houston Wade has elected to use the pizza restaurant where he works as his address for accepting pleadings.

16. One of the cases in which Houston Wade is a defendant before this Court is a defamation lawsuit, very similar to this one, filed by a plaintiff named Bill Nelson.

17. Judge Houser presides over that lawsuit.

18. After issuing multiple discovery orders against Houston Wade, including sanctions orders, Judge Houser entered a default order against Houston Wade as a sanction for discovery abuses. Attached hereto as Exhibit 3 is a true and correct copy of that order.

19. Houston Wade's Motion for Summary Judgment appears to only be based on 1) res judicata/collateral estoppel issues; and 2) service issues. But he also includes lengthy discussion of why he believes his defamatory statements about John Du Wors are truthful. Virtually all of his allegations are based on hearsay, and

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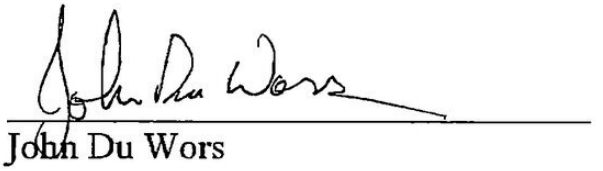
it is not clear whether those arguments even form the basis for his Motion for Summary Judgment. To the extent those factual averments are a basis for his motion, they are false, disputed and/or should be denied as inadmissible at this stage.

20. Further, no discovery has taken place in this matter. I brought a motion for a protective order to facilitate discovery, but the Court denied that motion on the basis that no discovery requests had been propounded. In fact, Houston Wade has not even answered the Complaint. When discovery occurs, it will show that the alleged statements by Houston Wade as identified in my Complaint are false and otherwise violative of law.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 9th day of November, 2020 at Bainbridge Island, Washington.



John Du Wors

SCANNED

Exhibit 1

SCANNED

IN THE BAINBRIDGE ISLAND MUNICIPAL COURT

IN AND FOR THE STATE OF WASHINGTON

JOHN DU WORS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 46-18
	)	
HOUSTON WADE,	)	
Respondent.	)	

TRANSCRIPT OF PROCEEDINGS
Protection Order Hearing
(Stenographically Transcribed via Digital Recording)

6 November 2018

Before the Honorable Sara McCulloch,
a Bainbridge Municipal Court Judge.

APPEARANCES

FOR THE PLAINTIFF: JOHN DU WORS
Self-represented Litigant

FOR THE DEFENDANT: Houston Wade
Self-represented Litigant

TRANSCRIBED BY:

GLORIA C. BELL, CCR 3261

[*]

SCANNED

GLORIA C. BELL, CCR, 3261
Official Court Reporter
360.337.7177

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I N D E X

PROCEEDINGS: PAGE

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WILLIAM NELSON
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Cross by Mr. Wade.....42

Testimony by Mr. Wade.....47

Argument by Mr. Du Wors.....87

Argument by Mr. Wade.....104

Court's decision.....107

* * *

EXHIBIT NO.	ADMITTED	PUBLISHED
Petitioner's Exhibit No. 1	28	
Respondent's Exhibit No. 1	63	
Respondent's Exhibit No. 2	63	
Respondent's Exhibit No. 3	78	
Respondent's Exhibit No. 4	78	
Respondent's Exhibit No. 5	78	
Respondent's Exhibit No. 6	78	
Respondent's Exhibit No. 7	78	
Respondent's Exhibit No. 8	78	
Respondent's Exhibit No. 9	78	
Respondent's Exhibit No. 10	78	
Respondent's Exhibit No. 11	78	

[*]

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Respondent's Exhibit No. 11.....78
Respondent's Exhibit No. 12.....78

[2]

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EXHIBIT NO.	ADMITTED	PUBLISHED
Respondent's Exhibit No. 13.....	78	
Respondent's Exhibit No. 14.....	78	
Respondent's Exhibit No. 15.....	78	
Respondent's Exhibit No. 16.....	78	
Respondent's Exhibit No. 17.....	78	
Respondent's Exhibit No. 18.....	78	

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at least in the case of Mr. Du Wors, Mr. Wade has a reason that he is -- feels that this information is true and not defamatory and he's sharing it.

If there are particular statements that are incorrect, certainly, Mr. Du Wors has the remedy of seeking a defamation suit, as he has eluded to. And he certainly can appeal the Court's order here today within 30 days. But the order of the Court is that the -- the requests for full order is denied and the petition is dismissed.

I've signed the order. I'll have you, Officer Roache, bring this to the parties for their signature and we will get you copies.

Is there anything further that we need to address?

MR. WADE: No, thank you.

MR. DU WORS: No, Your Honor.

THE CLERK: All rise.

Court's adjourned.

(Court proceedings concluded.)

[*]

SCANNED

[2]

SCANNED

SUPERIOR COURT OF WASHINGTON FOR KITSAP COUNTY

CERTIFICATE

STATE OF WASHINGTON)
) ss
COUNTY OF KITSAP)

I, GLORIA C. BELL, a Certified Court Reporter in and for the State of Washington, do hereby certify:

That the foregoing was transcribed by me;

That the foregoing transcript is a verbatim report of the court proceedings from digital recording, except for the inaudible/indiscernible sections thereto noted in the transcript by "(inaudible)/(indiscernible)," to the best of my ability.

I further certify that I am in no way related to any party to this matter, not to any counsel, nor do I have an interest in the matter.

Dated this 14th day of September 2020.



Gloria C. Bell, CCR #3261
Official Court Reporter

[*]

SCANNED

Official Court Reporter

[2]

SCANNED

Exhibit 2

SUPERIOR COURT OF WASHINGTON FOR KITSAP COUNTY

John Du Wors, Petitioner,

vs.

Houston Wade, Respondent.

NO.

RETURN OF SERVICE (RTS)

1. My name is Bobbie E Noel. I am ☑ a peace officer ☒ 18 years of age or older and not the petitioner.
2. ☐ I was unable to make personal service on the respondent. ☐ I have notified the petitioner that respondent was not served.
   ☐ Personal service was attempted on the following date(s) _____
   ☐ No service was attempted because _____
3. ☒ I served Houston Wade (name of person served) with the following documents:

☐ Temporary Order for Protection and Notice of Hearing	☐ Motion to Modify/Terminate Order for Protection
☐ Petition for Order for Protection	☐ Order Modifying/Terminating Order for Protection
☐ Reissuance of Temporary Order for Protection and Notice of Hearing	☐ Order Transferring Domestic Violence Case and Setting Hearing
☐ Order for Protection	☒ Other: Summons (20 days) - Case Info Cover Sheet - Complaint for Damages + Injunctive Relief - Exhibits 1 thru 6
☐ Order Realigning Parties and Notice of Hearing	

4. I served these documents on 07/31/2020 (date) at 1500 hrs (time) at this address: 625 Winslow Way E Bl
5. Other: _____

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED 07/31/2020 at Bainbridge Island, Washington.

Fees: Service _____
Mileage _____
Total _____

Bobbie E Noel
Signature of Server
Bainbridge Island Police Dept.
Law Enforcement Agency

SCANNED

Exhibit 3

SCANNED

From: John Du Wors
To: houstonwade@gmail.com
Cc: Chy Eaton
Subject: RE: Service of filed complaint
Date: Wednesday, August 12, 2020 2:44:00 PM
Attachments: 20-2-01225-18-conformed.pdf

Houston,

Attached is the filed complaint. What is your address for service so that I can serve it on you in hard copy? Alternatively, do you want to agree on service by email in this matter? If so, I will put together a formal email service agreement.

Regards,

John Du Wors

From: John Du Wors
Sent: Tuesday, August 11, 2020 6:47 PM
To: houstonwade@gmail.com
Subject: RE: Service of filed complaint

Houston,

If you are not going to agree on email service, you will need to serve me at my Seattle office. At what address can I serve you for purposes of this lawsuit?

-John

From: John Du Wors
Sent: Tuesday, August 11, 2020 4:00 PM
To: houstonwade@gmail.com
Subject: Service of filed complaint

Dear Houston,

Today, I received your correspondence demanding the filing of my complaint against you. We are filing now, and I will send you a copy of the filed complaint. Will you agree that we can serve each other by email in order to facilitate litigation documents reaching each other faster?

Regards,

John Du Wors

SCANNED

Exhibit 4

SCANNED

FILED
KITSAP COUNTY CLERK
2020 APR -6 PM 3:00
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KITSAP COUNTY

WILLIAM NELSON, Plaintiff, vs. HOUSTON WADE, Defendant.	No. 18-2-03205-18 RULING ON PLAINTIFF'S MOTION FOR: ORDER OF DEFAULT AND/OR FINDING OF CONTEMPT, AND AWARD OF ATTORNEY FEES AND COSTS UNDER CR 37

THIS MATTER comes before the Court on the Plaintiff's Motion for Order of Default and/or Finding of Contempt, and Award Attorney Fees and Costs Under CR 37. A hearing on the motion was held on January 17, 2020 with Plaintiff William Nelson appearing by and through is attorney Alexander Savojni; and Defendant Houston Wade appearing as an unrepresented litigant.

The Court; having the benefit of briefing by the parties and oral argument on the motion; makes the following findings and conclusions:

1. On March 20, 2019, Plaintiff, though his attorney, propounded interrogatories and requests for production upon Defendant Wade.

2. Defendant Wade provided his response to the interrogatories and requests for production on May 7, 2019. Plaintiff did not consider the responses complete. They were

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18-2-03205-18
CTD 56
Courts Decision
8023471

SCANNED

non-responsive, combative and, in some instances, insulting to Plaintiff and Plaintiff's counsel.

3. A CR 26(i) conference was held on May 16, 2019. During the telephone call, Defendant agreed to provide the requested documents and told Plaintiff's counsel he would need until May 23, 2019 to comply.

4. Defendant did not make further responses to the requests for production or interrogatories by May 23, 2019.

5. A motion to compel was noted on June 14, 2019. On the day of the hearing Defendant provided to Plaintiff's attorney additional documents. The matter was continued until June 28, 2019 for Plaintiff to review the newly submitted documents.

6. Plaintiff, through his counsel, reviewed the materials, and determined they were insufficient responses to the requests for production and interrogatories propounded on March 20, 2019.

7. On June 28, 2019, the Court ordered Defendant to provide full and complete responses to Plaintiff's First interrogatories and produce all documents responsive to the Plaintiff's Request for Production by July 12, 2019. The Court also required Defendant to pay $3,000.00 to Plaintiff for attorney fees by July 5, 2019.

8. Defendant has not paid any of the Court ordered attorney fees to date.

9. Defendant attempted to comply with his discovery obligation on July 17, 2019. This attempt did not meet the requirements of the discovery requests.

10. A second CR 26(i) conference was scheduled for August 9, 2019. A letter from Plaintiff's attorney instructed Defendant on the deficiencies of his attempts to provide adequate responses to Plaintiff's discovery requests.

11. Defendant then provided his fourth attempt to provide adequate responses to the discovery requests. This fourth attempt did not comply with the requests for production and interrogatories propounded to Defendant on March 20, 2019.

12. During the time attempts to obtain adequate responses to the Plaintiff's discovery requests occurred, Defendant continued to post about Plaintiff on the internet on Facebook.

SCANNED

Posts occurred on July 27, August 6, September 1, October 12 and October 19. These posts were concerning Plaintiff and the present litigation.

13. Defendant submitted to a deposition on October 2, 2019. During this deposition, Defendant acknowledged failing to attempt to obtain the contact information of his witnesses. The June 28, 2019 court order required Defendant to obtain and provide his witnesses' contact information to Plaintiff.

14. During the deposition, Defendant provided the names of previously undisclosed witnesses. He did not provide, nor did he appear to have any other contact information for these previously undisclosed witnesses.

15. Defendant has provided the address of one witness and has provided no phone numbers of any witness.

16. As of January 17, 2020, Defendant has failed to adequately answer the Plaintiff's propounded interrogatories and requests for production. Defendant has failed to make a reasonable attempt to provide adequate responses to those requests. Plaintiff extended time limits for Defendant to allow full disclosure and those time limits have been ignored. Defendant has been held in contempt, and continues to be in contempt, of the court order of June 28, 2019.

17. During Defendant's October 2, 2019 deposition, Defendant stated that he had contact with Deputy Prosecuting Attorney Stokes, and indicated that she was inclined to charge Plaintiff with a felony if the case against Defendant was not dismissed by Plaintiff.

18. In a subsequent declaration dated December 18, 2019[1] DPA Stokes: denied having any contact with Defendant since a brief email exchange on November 8, 2018, denied having any contact with Defendant between November 8, 2018 and October 2, 2019, denied having any discussions with Defendant regarding Plaintiff at any time prior to the October 2, 2019 deposition, and denied telling Defendant she had any inclination to prosecute a number of individuals, including Plaintiff, of a felony. DPA Stokes stated that Defendant emailed her October 3, 2019, the day after his deposition, about Plaintiff and witness

[1] See Dec. of Savojni, Exhibit 9.

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tampering charges. This conduct supports the conclusion that Defendant purposefully and knowing lied under oath at his deposition.

19. During Defendant's deposition, Defendant admitted he had not tried to obtain contact information of at least 17 of his 41 witnesses. He has not done the bare minimum of providing contact information for his own witnesses.

DISCUSSION

Plaintiff requests the Court strike Defendant's responsive pleadings in this matter and issue an order of default against Defendant pursuant to the authority of CR 37. In the alternative, Plaintiff is requesting Defendant be held in contempt and sanctions be imposed for that contempt in some way that less than striking Defendant's pleadings.

The striking of pleadings is an extreme remedy under the rules of civil procedure. The Court has authority to enter a default judgment when a party fails to make discovery. CR 37(d) authorizes a court to impose sanctions for failure to meet their obligations regarding discovery in litigation. The sanctions may range from a finding of contempt, to exclusion of evidence, to granting a default judgment.[2] Furthermore,

> When the trial court "chooses one of the harsher remedies allowable under CR 37(b), ... it must be apparent from the record that the trial court explicitly considered whether a lesser sanction would probably have sufficed," and whether it found that the disobedient party's refusal to obey a discovery order was willful or deliberate and substantially prejudiced the opponent's ability to prepare for trial.[3]

Defendant has done next to nothing to respond to the discovery requests propounded upon him by Plaintiff. While Defendant has listed up to 60 witnesses he may call, he does not appear to have, or he is intentionally hiding, contact information for these witnesses. His sworn deposition answers are admissions of a failure to perform even the most rudimentary actions required under the civil rules. His conduct is a direct disregard for the rules, and for this Court's order. "A party's disregard of a court order without reasonable excuse or

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[2]See *Smith v. Behr Process Corp.* 113 Wn. App. 306, 324 54 P.3d 665 (2002).

[3] *Burnet v. Spokane Ambulance*, 131 Wn.2d 484, 494, 933 P.2d 1036, 1040 (1997), as amended on denial of reconsideration (June 5, 1997) citing *Snedigar v. Hodderson*, 53 Wash.App. 476, 487, 768 P.2d 1 (1989).

SCANNED

justification is deemed willful."[4] This willful disregard of a court order and the administration of justice is further demonstrated by Defendant's brazen unwillingness to answer truthfully at his deposition regarding his communications with DPA Stokes.

Defendant has no reasonable excuse for the complete lack of effort in complying with the court rules and this Court's order.

Plaintiff is unable to adequately prepare for trial without the responses from Defendant on the basic information about witnesses, as well as other requests for production and interrogatories. Plaintiff is confronted by the pleadings with a defense by Defendant. The responses by Defendant to the discovery requests on that defense place Plaintiff in limbo as to the quality of the defense, and the quality of the witnesses for Defendant. It deprives Plaintiff the opportunity to gain information required by our discovery rules to rebut defenses and plan his case in chief. Plaintiff has established substantial prejudice in his ability to prepare for trial based upon Defendant's inaction to Plaintiff's discovery requests.

This court issued a contempt ruling on Defendant's failure to adequately respond to Plaintiff's discovery requests. Multiple extensions for Defendant to produce the requested material and answers to interrogatories were granted by the Court. Deadlines for that compliance were set. Attorney's fees were granted as part of that sanction. In light of the Court's ruling, Defendant has not complied satisfactorily with any of the Court's orders. Discovery was not provided by the deadline. Court ordered attorney's fees were not paid by the deadline.

Now, Plaintiff requests further court enforcement of the court rules. It is clear that another order of contempt will be fruitless. Defendant has not demonstrated a willingness to accept the responsibility of cooperating with the Court in this litigation. This Court could restrict Defendant's witnesses as a potential sanction. This option is directly tied to the lack of information from Defendant. To evaluate this option for sanction, the Court understands that Defendant does not have contact information for most, if not all, of his potential witnesses, only because he has not demonstrated any reasonable effort to get that

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[4] *Rivers v. Washington State Conference of Mason Contractors*, 145 Wn.2d 674, 686–87, 41 P.3d 1175, 1181 (2002).

SCANNED

contact information. To restrict Defendant's pool of potential witnesses, denies Defendant the evidence he needs to put on his defense; unless additional names of potential witnesses are provided prior to the trial in the matter. As such, the restriction of witnesses is an inappropriate remedy.

In as much as prior contempt sanctions, allowing for additional time to comply, as well as providing a monetary incentive to comply, have not motivated Defendant to comply with the Defendant's discovery obligations, or demonstrated a willingness to comply with court orders. Furthermore, Defendant's willingness to knowingly lie under oath at deposition demonstrates a complete disregard to the legal process and the administration of justice. There is no other alternative for this Court than to Grant Plaintiff's motion for default and strike Defendant's responsive pleadings.

The Court also awards reasonable attorney's fees and costs to Plaintiff pursuant to CR 37. Plaintiffs' attorney shall submit the appropriate declarations clearly setting out the time and costs allocated in preparing and arguing this motion.

Plaintiff's counsel is further directed to prepare orders in accordance with this ruling for presentation to the Court.

Dated this 6 Day of March 2020.

William C. Houser
Superior Court Judge

SCANNED

CERTIFICATE OF SERVICE

I, Kyle Gallagher, certify under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above entitled action, and competent to be a witness herein.

Today I caused a copy of the foregoing document to be served in the manner noted on the following:

Alexander Savojni 918 S Horton St Ste 901 Seattle, WA 98134-1953	☒ Via U.S. Mail
Houston Wade c/o Bruciato 236 Winslow Way E. Bainbridge Island, WA 98110	☒ Via U.S. Mail

DATED ~~March~~ April 6, 2020, at Port Orchard, Washington.

Kyle Gallagher #47769
Staff Attorney

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110

FILED
November 12, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS,

Plaintiff,

vs.

HOUSTON WADE,

Defendant

Case No.: 20-2-01225-18

DECLARATION OF ISABELLA FRAWLEY

I, Isabella Frawley, declare as follows:

1. I am over 18 years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. I declare: I worked at the Bainbridge McDonalds from around 2016 to late 2018, and within that time John Du Wors came through the drive through visibly intoxicated multiple times - slurred speech, almost rear ends cars ahead of him, generally disoriented. He usually had a passenger (not Amber, no one that I recognized). At least two or three times I called the Bainbridge police and reported it with the make and model of the Jeep and license plate number, saying he's likely going to be going north on 305. I never heard anything back from about those reports.

Dated this 2nd of November 2020.

Isabella Frawley

Isabella Frawley, Bainbridge Island, WA

FILED
November 12, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

Exhibit 14

WASHINGTON STATE PATROL
CRIMINAL HISTORY RECORD SECTION
P.O. BOX 42633
OLYMPIA, WASHINGTON 98504-2633

****

CRIMINAL HISTORY INFORMATION AS OF 08/26/2019

****

NOTICE

THE FOLLOWING TRANSCRIPT OF RECORD IS FURNISHED FOR OFFICIAL USE ONLY. SECONDARY DISSEMINATION OF THIS CRIMINAL HISTORY RECORD INFORMATION IS PROHIBITED UNLESS IN COMPLIANCE WITH THE WASHINGTON STATE CRIMINAL RECORDS PRIVACY ACT, CHAPTER 10.97 RCW. NON-CRIMINAL JUSTICE AGENCIES WHO HAVE STATUTORY AUTHORITY TO RECEIVE NON-CONVICTION CRIMINAL HISTORY RECORDS MAY NOT USE SEALED JUVENILE RECORD INFORMATION IN MAKING LICENSING OR EMPLOYMENT SUITABILITY DETERMINATIONS.

POSITIVE IDENTIFICATION CAN ONLY BE BASED UPON FINGERPRINT COMPARISON. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED FOR SUBSEQUENT USE. WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT SUPPLIED THE INFORMATION TO THE WASHINGTON STATE PATROL.

THIS CONVICTION RECORD MAY INCLUDE INFORMATION FOR WHICH A PERSON IS CURRENTLY BEING PROCESSED BY THE CRIMINAL JUSTICE SYSTEM.

****

MASTER INFORMATION

****

NAME: DU-WORS,JOHN D DOB: 03/29/1978
SID NUMBER: WA21771564

****

PERSON INFORMATION

****

SEX	RACE	HEIGHT	WEIGHT	EYES	HAIR	PLACE OF BIRTH	CITIZENSHIP
M	W	601	185	BLU	BRO	CA	US

OTHER NAMES USED	OTHER DATES OF BIRTH USED	SOC SEC NUMBER
DUWORS,JOHN DAVID		

****

CONVICTION AND/OR ADVERSE FINDING SUMMARY

****

0 FELONY(S) DISPOSITION DATE

2 GROSS MISDEMEANOR(S)
UNLAWFUL IMPRISONMENT ATTEMPT 08/19/2014
ASSAULT-4 08/19/2014
0 MISDEMEANOR(S)

0 CLASSIFICATION(S) UNKNOWN

****

**** NO KNOWN DOC SUMMARY INFORMATION ****

****

E 14 AUG 26 '19

SEARCH PARAMETERS: WA21771564
REQUESTOR: HOUSTON WADE REQUEST TYPE: PUBLIC INFORMATION RAP MODE: C
PROCESSED BY: 14 08/26/2019

SID NUMBER: WA21771564 NAME: DU-WORS,JOHN D

****

CRIMINAL HISTORY INFORMATION

****

THE ARRESTS LISTED MAY HAVE BEEN BASED ON PROBABLE CAUSE AT THE TIME OF ARREST OR ON A WARRANT. PROBABLE CAUSE ARRESTS MAY OR MAY NOT RESULT IN THE FILING OF CHARGES. CONTACT THE ARRESTING AGENCY FOR INFORMATION ON THE FORMAL CHARGES AND/OR DISPOSITIONS.

AN ARREST IS NOT A CONVICTION OR FINDING OF GUILT.

ARREST 3 DATE OF ARREST: 07/05/2019

NAME USED: DUWORS,JOHN DAVID
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF
LOCAL ID: 40387376 PCN: 738120621 TCN: WA1800000101006278

ARREST OFFENSES	DISPOSITION
0764400 DRIVING UNDER THE INFLUENCE RCW: 46.61.502(5) GROSS MISDEMEANOR ORIGINATING AGENCY: WA0180700 BAINBRIDGE ISLAND POLICE DEPARTMENT DISPO RESPONSIBILITY: WA018011J DATE OF OFFENSE: 07/05/2019	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018011J BREMERTON MUNICIPAL COURT STATUS: DISPOSITION NOT RECEIVED

ARREST 2 DATE OF ARREST: 08/02/2014

NAME USED: DUWORS,JOHN DAVID
CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF
LOCAL ID: 40387376 PCN: 737778959 TCN: WA1800000100650648

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018041J BAINBRIDGE ISLAND MUNICIPAL COURT COURT CASE NO: 20704302 STATUS: GUILTY DV PLED/ PROVED 0113400 ASSAULT-4 RCW: 9A.36.041(2) DOMESTIC VIOLENCE GROSS MISDEMEANOR STATUS DATE: 08/19/2014 COUNTS: 1 SENTENCE: JAIL: 364 D, JAIL SUS.: 294 D SUPERVISION: 2 Y, FINE: $5000.00, FINE SUS.: $4150.00

ARREST 1 DATE OF ARREST: 11/20/2012

NAME USED: DUWORS,JOHN DAVID

SID NUMBER: WA21771564 NAME: DU-WORS,JOHN D

CONTRIBUTING AGENCY: WA0180000 KITSAP COUNTY SHERIFF
LOCAL ID: 40387376 PCN: 737662870 TCN: WA1800000100530379

ARREST OFFENSES	DISPOSITION
	CONTRIBUTOR OR RESPONSIBLE AGENCY: WA018013J KITSAP COUNTY DISTRICT COURT COURT CASE NO: 20704301P STATUS: GUILTY A066400 UNLAWFUL IMPRISONMENT RCW: 9A.40.040(2) ATTEMPT DOMESTIC VIOLENCE GROSS MISDEMEANOR STATUS DATE: 08/19/2014 COUNTS: 1 SENTENCE: JAIL: 364 D, JAIL SUS.: 354 D FINE: $850.00

****
NO KNOWN DEPARTMENT OF CORRECTIONS INFORMATION
****
****
NO KNOWN SEX/KIDNAPPING OFFENDER REGISTRATIONS
****

****
NO KNOWN APPLICANT DETAILS
****
****
NO KNOWN MONITORED POPULATION REGISTRATION TRACKING INFORMATION
****
****
GLOSSARY OF TERMS IS AVAILABLE IN THE CRIMINAL JUSTICE TRAINING MANUAL (CJTM)
LOCATED AT HTTP://WWW.WSP.WA.GOV/_SECURED/IDENT/RESOURCE.HTM
****
RESOURCES
****

ADMINISTRATIVE OFFICE OF
THE COURTS (AOC)----------WWW.COURTS.WA.GOV
WSP CRIMINAL HISTORY
RECORDS SECTION----------CRIMHIS@WSP.WA.GOV OR (360) 534-2000
WSP CRIMINAL HISTORY &
FINGERPRINT TRAINING----------HTTP://WWW.WSP.WA.GOV/_SECURED/IDENT/RESOURCE.HTM
DEPARTMENT OF CORRECTIONS (DOC)---WWW.DOC.WA.GOV
WSP SEX/KIDNAPPING
OFFENDER REGISTRY (SOR) UNIT--(360) 534-2000
REVISED CODE OF WASHINGTON (RCW)--HTTP://APPS.LEG.WA.GOV/RCW/
WSP WASHINGTON ACCESS TO CRIMINAL
HISTORY (WATCH) WEBSITE-------https://fortress.wa.gov/wsp/watch
WSP IDENTIFICATION AND
BACKGROUND CHECK SECTION------WATCH.HELP@wsp.wa.gov OR (360) 534-2000

SEARCH PARAMETERS: WA21771564
REQUESTOR: HOUSTON WADE REQUEST TYPE: PUBLIC INFORMATION RAP MODE: C
PROCESSED BY: 14 08/26/2019

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge island, WA 98110
houstonwade@gmail.com

FILED
November 13, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 DEFENDENTS RESPONSE TO PLAINTIFF'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT.

REQUEST FOR RELIEF

The Court should affirm Defendant Houston Wade's Motion for Summary Judgment. First, Mr. Du Wors threatened suit against Mr. Wade on October 19th, 2018 by serving Mr. Wade's mother with an unfiled summons and complaint. Pursuant to CR 3, Mr. Wade told Mr. Du Wors to file his suit with the Court. Mr. Du Wors failed to do this and instead opted to file a restraining order against Mr. Wade citing the very same reasons listed in his initial complaint and told the Bainbridge Island Municipal Court then, "We elected to proceed with this course of remedy for now." (page 15 of Defendant's Exhibit 8). Nothing is different in this case from the previous case. Mr. Du Wors has no evidence that Mr. Wade lied and thus no evidence that Mr. Wade committed defamation against Mr. Wade. On the contrary, Mr. Wade has provided hundreds of pages of evidence to the Court showing the truth behind the article Mr. Wade wrote about Mr. Du Wors.

The Plaintiff has submitted as evidence once again, emails sent to Mr. Wade's personal email address which Mr. Du Wors had been previously been blocked due to harassment of Mr. Wade. The previous hearing on Mr. Du Wors's protection order request established this once more. Email does not constitute service.

STATEMENT OF FACTS

A. This action is based on previously litigated arguments and legal theories.

Mr. Du Wors brought this suit against Mr. Wade because his previous legal action was not successful, and Mr. Du Wors was compelled to admit that he had in fact been convicted for abusing his wife and abusing his child. Mr. Du Wors is hoping that the Court ignores the fact that it was his stepchild for whom he was convicted for

abusing by claiming that she technically wasn't *his* child but his stepchild. This should be interpreted by the Court that Mr. Du Wors feels that it is perfectly ok to hog tie and beat other children under his care and break their ribs and fingers so long as they are not a blood relation.

With regards to Mr. Du Wors's Cause of Actions: 1) Mr. Du Wors has failed to prove defamation now, just as he did in his previous action against Mr. Wade. He has not even bothered to submit evidence to this effect despite threatening suit against Mr. Wade more than two years go. 2) Mr. Du Wors has failed to prove defamation per se now, just as he did in his previous action against Mr. Wade, and Mr. Du Wors has also failed to provide any evidence to this effect. 3) Mr. Du Wors's claims of false light require that defamation be made, and since Mr. Du Wors has provided zero evidence of defamation, there is not false light case here. 4) Mr. Du Wors's claim of civil extortion are the result of Mr. Du Wors's own demands from Mr. Wade for terms that would result in Mr. Wade removing the article from the Bainbridge Island Bad List about Mr. Du Wors (Defendant's exhibit 7), and Mr. Wade's response included no threats. Since a threat is required to be able to define an instance as "extortion", Mr. Du Wors has once again failed to provide evidence of such. Conversely, according to the declaration of Amber Du Wors, Mr. Du Wors's ex-wife, Mr. Du Wors attempted to extort her to force her to convince Mr. Wade to remove the article by threatening her with posting salacious information about her, her family, and her partner to web domains Mr. Du Wors bought involving their names (Defendant's exhibit 6). 5) Mr. Du Wors's claims of tortious interference was already considered by the previous Court and found Mr. Wade to be in line with keeping the public safe by informing parties of Mr. Du Wors's criminal past (Defendant's Exhibit 8, page 109). 6) The Court in the previous case also noted that Mr. Du Wors's claims of civil harassment were dependent upon his proof of defamation. Since Mr. Du Wors never presented evidence of defamation then, as in now, there cannot be civil harassment. Especially when all communication between the two parties has been initiated by Mr. Du Wors. 7) With regards to Mr. Wors claims intentional infliction of emotional distress: if Mr. Du Wors is so concerned about his emotional state, then he should have thought about that before committing this litany of crimes. This is no different than The McCloskey's in St. Louis suing the news photographer over the image of them committing a crime with their firearms by threatening peaceful marchers because the image of them committing this crime is causing them "emotional distress". It has no merit. 8) Mr. Du Wors claims cyberstalking against Mr. Wade. Again, in the previous action the Court ruled that cyberstalking required Mr. Wade to defame Mr. Du Wors, and since then, as in now, Mr. Du Wors has not provided evidence of defamation, cyberstalking cannot be considered.

Mr. Du Wors lists a host of allegations as being new to this action, so let us go through them one by one according to the unfiled complaint Mr. Wade received:

17(a) The previous Court found no evidence that what Mr. Wade wrote constituted defamation and that Mr. Du Wors failed to provide any evidence that he was defamed (Defendant's Exhibit 8, page 110).

17(b) Submitted into evidence in the previous action and in this action is correspondence from Mr. Du Wors where he admits to alcoholism and chemical abuse (Defendant's Exhibit 4).

17(c) Mr. Du Wors has been convicted of DUI (Exhibit 14).

17(d) The previous Court found that Mr. Wade's intent was to protect the public (Defendant's Exhibit 8, page 109).

17(g) Mr. Du Wors claimed that Mr. Wade defamed him to the previous Court when Mr. Wade wrote about Mr. Du Wors's crimes including domestic violence, imprisonment of a minor, and hit and run. Mr. Du Wors denied to the Court that he had ever done any of these things. The Court then compelled Mr. Du Wors to admit to all these crimes. Mr. Du Wors fails to see how he was under oath when he made the spurious claims of his innocence, despite being repeatedly convicted in public court, constitutes perjury (Defendant's Exhibit 8, page 22).

17(h) Mr. Du Wors claims he has never abused *his* children because he does not consider his minor stepdaughter under his care to be his child, and therefore ok to abuse. This is a disgusting, reprehensible argument of semantics.

17(i) This harkens back to 17(d) and Defendant's Exhibit 8, page 109 can once again be referenced.

17(j) Mr. Wade will admit that he is flummoxed at the fact that the Washington State Bar Association did not disbar Mr. Du Wors seeing as how Mr. Du Wors is a repeat violent criminal, a drunkard, lied in court, falsely represented himself as someone's attorney, made up fake clients and used constant legal threat to keep his behavior from being exposed. Mr. Wade had misplaced confidence that the WSBA would do the right thing. They did not.

17(k) Again, this can reference back to the response to 17(b) and Defendant's Exhibit 4 where Mr. Du Wors admits in correspondence that he is an alcoholic and chemical abuser.

17(j) This can reference back to the responses to 17(d) and 17(i) and Defendant's Exhibit 8, page 109 can be used.

18(a) The Court is in possession of a copy of the contract Mr. Du Wors wrote and signed giving his then wife complete control of the shares in Green Canopy stock. (Defendant's Exhibit 5).

18(b) Once again, Mr. Wade assumed the WSBA would do the right thing and discipline Mr. Du Wors for his criminality and unethical behavior. The WSBA failed in its duty.

19(a) Once again, see Defendant's Exhibit 8, page 109

19(b) Mr. Du Wors did threaten Mr. Wade's mother with sodomy (Defendant's Exhibit 4), and he has repeatedly frequented the Bainbridge Island McDonald's while intoxicated (Attached declaration of Isabella Frawley). Mr. Matthew Timmons was also a customer at McDonald's on May 23rd, 2019 and confronted Mr. Du Wors about his intoxication as Mr. Du Wors was getting into his vehicle about to drive drunk. Mr. Timmins is in possession of video evidence of Mr. Du Wors's inebriation. Mr. Timmons has said he can be available to Zoom into the hearing scheduled for November 20th if needed to testify to this fact.

19(c) Again, refer to response to 17(g).

19(d) Again, refer to response to 17(b) and 17(k).

19(f) Again, refer to response to 19(b).

21 The previous Court found Mr. Wade made no threats, and without threats there is no extortion. (Defendant's Exhibit 8, page 110)

22(a) Mr. Du Wors demanded negotiations for what it would take for Mr. Wade to remove the article from the Bainbridge Island bad List (Defendant's Exhibit 7), and setting terms for behavior change on the basis of negotiations demanded by the Plaintiff does not constitute a threat being made by the Defendant.

22(b) See response to 22(a).

23, 24, & 25 Mr. Du Wors is under the impression that his obeying the law constitutes a threat to his person.

26 The complaint of Malice requires that Mr. Wade has lied and knew he was lying when he published his article and wrote about Mr. Du Wors. Since Mr. Du Wors has not only failed to provide any evidence that what Mr. Wade wrote constitutes defamation, he most certainly cannot claim malice. Especially considering that Mr. Du Wors was forced to admit in the previous action to the crimes Mr. Wade referred (Defendant's Exhibit 8, page 22).

28, 29, 30, & 31 Mr. Du Wors is attempting to use an ongoing case for which Mr. Du Wors volunteered as a witness, and lied in his declaration, as evidence that Mr. Wade has lied in this action. Mr. Wade takes no issue with the statement: "I am all for ruining a life. If they want to exhibit character, then they have to seek forgiveness." Mr. Du Wors hurts women and children. He has been repeatedly convicted of these things. Not once has Mr. Du Wors sought to make amends and actually meant it (see, Green Canopy contract, Defendant's Exhibit 5).

B. The Court in the Prior Action specified that Mr. Du Wors failed to prove defamation and has done so again in this action.

Mr. Du Wors's entire argument in this case is that Mr. Wade defamed him. Where is the evidence to this fact? Has Mr. Du Wors been able to provide a single shred of evidence that what was written by Mr. Wade about Mr. Du Wors to be untruthful? No. Just because Mr. Du Wors does not like hearing about his actions, behaviors, and criminality does not constitute defamation. As Mr. Wade stated in the Previous Action, "[…] the only way it is possible to defame this man is to say something nice about him." (Defendant's Exhibit 8, page 56). Mr. Du Wors outrage at having to read about his own egregious behavior brings to mind the recent case of *Lenny Dykstra v. St. Martin Press, LLC, et al.*, 153676/2019 (New York County). The Court in this case ruled that Mr. Dykstra's reputation was so bad that it was impossible to defame him. Mr. Du Wors's reputation in the Bainbridge Island community is just as bad. This man cannot be defamed.

C. Houston Wade has not received conformed copies of the suit or complaint.

To this day, despite months of legal action, Mr. Wade still has not been served conformed copies of the original summons and complaint. Email does not constitute service. CR 5(a) requires service of all filed documents upon the opposing party. Mr. Du Wors failed to do this, and despite being made aware of this for months now, still will not provide service of the conformed copies he filed with the Court upon Mr. Wade.

Mr. Du Wors pretends like he is still unaware that his email address had been blocked by Mr. Wade due to harassment and tries to shift the blame for lack of communication onto Mr. Wade by repeatedly emailing an address to which Mr. Wade could not communicate. Mr. Du Wors was able to serve Mr. Wade with unfiled documents the first time, he is an attorney with 17 years of experience, and should be confident that he can figure out how to provide service a second time. The Court asked Mr. Wade at the most recent hearing to unblock Mr. Du Wors's email address, which Mr. Wade has since done.

D. Mr. Wade's allegations about Mr. Du Wors are truthful and well documented.

If Mr. Du Wors had proof that what Mr. Wade wrote about him was defamation, then why, in over two years of legal action against Mr. Wade, has Mr. Du Wors failed to provide evidence on one instance where what Mr. Wade wrote was untrue? "Nuh-uh" is not an argument when hundreds of pages of documentation and Mr. Du Wors's own testimony has been submitted as evidence by the Defendant. Not only this, Mr. Du Wors has not once even attempted to deny a piece of evidence submitted by Mr. Wade. The implication here is that Mr. Du Wors knows that what was written about him is true.

STATEMENT OF THE ISSUES

1. The doctrine of the issue of preclusion applies in this case since the previous legal action required Mr. Du Wors to provide evidence of defamation. Since he failed to provide such evidence in that previous case and has failed to provide any evidence in this new action, his argument remains the same and thus Mr. Wade is protected from having a previous ruling relitigated. If Mr. Du Wors wanted to the Court to hear his arguments repeated, then he had the opportunity to file for an appeal within 30 days of the previous Court's ruling. That being said, repeating the same baseless arguments in a new case is not only a waste of the Court's time, but a violation of Mr. Wade's rights to protection under the law.

2. While Mr. Du Wors is correct that according to CR 3, a plaintiff may commence a case by serving an unfiled summons and complaint on a defendant, after Mr. Wade told Mr. Du Wors that he had 14 days to file and provide for him service of the then filed, stamped and conformed copies of the documents, Mr. Du Wors failed to do so. Not only was Mr. Wade unaware that Mr. Du Wors had actually filed the case with the Court, Mr. Du Wors then moved for a motion of default judgement against Mr. Wade after failing to inform Mr. Wade that the case had been filed, let alone serve Mr. Wade with the filed motion. Not even junior attorneys working credit cases where the defendant has appeared would do something like that. If a document is filed with the Court, service upon the opposing party must be made.

EVIDENCE RELIED UPON

This Motion and its response rely on the pleadings and papers in the Court's file, and the declarations of Houston Wade, Amber Du Wors, and Isabella Frawley, and the Exhibits thereto.

LEGAL AUTHORITY

Summary Judgement and Dismissal with Prejudice are appropriate in this matter. While the Court is required to consider all facts and inferences in light most favorable to the nonmoving party, Mr. Du Wors has failed to provide facts or inferences for the Court to consider. This is a matter of defamation, and the defense to defamation is truth. *New York Times Co. v. Sullivan, 376 U.S. 254*. As Mr. Wade is the only party who has provided material evidence to support his claims in this action, and Mr. Du Wors has failed to even address the mountain of evidence provided by the Defendant, Summary Judgment according to CR 56 is the proper remedy.

A defamation case filed without evidence by the Plaintiff does not constitute a proper case. Mr. Du Wors has only provided Mr. Wade's written word as evidence in this case and has not provided any documentation that what Mr. Wade wrote about Mr. Du Wors as being untruthful, and thus constituting defamation. In *Levinsky's, Inc.*

v. Wal-Mart Stores, Inc., 127 F.3d 122 (1st Cir. 1997) the Court held that all defamation claims need showing of fault, which requires the plaintiff to prove that the defendant was at least negligent. Mr. Du Wors has done no such thing, and on the contrary, Mr. Wade has provided the Court with ample evidence that Mr. Wade was writing with a host of documentation and witnesses to back his claims.

The Courts have repeatedly established that the Plaintiff must establish the element of fault with clear and convincing proof with "a degree of belief greater than the usually imposed burden of proof by a fair preponderance of the evidence, but less than the burden of proof beyond a reasonable doubt .... [It] must be 'strong, positive, and free from doubt.'" *Stone v. Essex County Newspapers, 367 Mass. 849, 871, 330 N.E.2d 161, 175 (1975).* Seeing as how Mr. Du Wors has failed to provide any context or evidence for his claims outside his own personal denial of the things written about him by Mr. Wade, the Court is fully withing its jurisdiction to render a ruling on the Motion for Summary Judgment.

Courts are generally hesitant to restrict the First Amendment Rights of citizens. Mr. Du Wors's insistence that Mr. Wade's basis for this motion as not "entirely clear" is desperate and lacking in evidence to the contrary. If Mr. Du Wors had any shred of evidence to support his claims that Mr. Wade committed defamation, he would have provided it upon the filing of this case.

CONCLUSION

Houston Wade's Motion for Summary Judgment should be affirmed.

Dated this 12th of November 2020.

Houston Wade

Houston Wade

FILED
December 4, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP

In re: JOHN DU WORS Plantiff: And Defendant: HOUSTON WADE	No: 20-2-01225-18 ANSWER AND COUNTERCLAIMS OF DEFENDANT HOUSTON WADE

COMES NOW the Defendant, HOUSTON WADE, PRO SE. and by way of answer to Plaintiff's Complaint, alleges and avers as follows:

I.

1. Mr, Wade affirms that he is a resident of Bainbridge Island. Mr. Wade denies defamation of character, civil extortion, cyberstalking, tortious interference, and intentional infliction of emotional distress against Mr. Du Wors. Mr. Wade denies being a "close personal friend" of Amber Du Wors. Mr. Wade does consider himself a friend of hers, though.

2. Mr. Wade denies creating the Bainbridge Island Bad List out of "loyalty" to Amber Du Wors. Mr. Wade created the Bainbridge Island Bad List to make his community aware of men who hurt women and children. Men like Mr. Du Wors who has convictions to abusing his wife and stepdaughter and admitted in writing to alcohol and chemical abuse as well as the abuse of his family. Mr. Wade denies that the page contains "factual misrepresentations", although Mr. Wade does affirm that Mr. Du Wors's behavior described in the article is profoundly offensive. Mr. Wade denies that the content of the article constitutes defamation as there is a court record, document record, witness, or victim for each and everything written by Mr. Wade. Mr. Wade affirms that the goal of the Bad List article about Mr. Du

Wors is to destroy Mr. Du Wors's personal life. Men who pathologically hurt women and children have no right to keeping this information hidden from future potential victims. It is the job of journalism to expose abuse and protect the public from those who would prey on them. That is the entire purpose behind the freedom of the press.

3. Mr. Du Wors is an attorney who is a violent convicted criminal and alcoholic, and who has committed numerous unethical acts in his capacity as an officer of the court that are grounds for disbarment. It is of public interest that they be made aware of Mr. Du Wors's behavior, actions, and criminal record. Mr. Du Wors is required by the American Bar Association under Rule 19 to make his peers aware of his criminal convictions, Mr. Wade has not done anything that Mr. Du Wors is not already required to do himself. Mr. Du Wors's potential clients deserve to know if their prospective attorney is a criminal. Practicing law is not a right, it is a privilege and an honor, and if a lawyer violates the oath they take to the court, then they need not practice law anymore. Mr. Wade denies being solely responsible for any loss of income on Mr. Du Wors's part as all Mr. Wade did was report on Mr. Du Wors's criminal and unethical behavior. Also, Mr. Wade's page is not the first nor only page with articles about Mr. Du Wors's actions and behavior. A simple Google search will reveal that there are many, many pages that outline these behaviors. Some of these even include court documents and police incident reports. Mr. Du Wors is not suing these pages even though they came first and go into further detail of Mr. Du Wors's criminality and unethical behavior. Again, Mr. Wade denies posting defamatory information about Mr. Du Wors as Mr. Du Wors has already been convicted of this behavior and even had to admit to this in his Prior Action against Mr. Wade in Bainbridge Island Municipal Court where the Court found that Mr. Du Wors failed to prove defamation. If Mr. Du Wors continues in his criminality and unethical behavior, Mr. Wade affirms that it will be news-worthy and he will publish it on his news page as any journalist should.

4.Mr. Wade affirms.

5. Mr. Wade affirms.

6. Mr. Wade affirms.

7. Mr. Wade denies being a "close social friend" of Ms. Du Wors. Although, Mr. Wade does consider himself a friend of hers.

8. Mr. Wade affirms that he created the Bainbridge Island Bad List. Mr. Wade denies that it is "defamatory".

9. Mr. Wade denies that the page is "defamatory". Mr. Wade denies that there are profound "offensive factual misrepresentations" as the Court is already in possession of a preponderance of evidence establishing Mr. Du Wors's violent criminal history, drinking, abuse, and unethical behavior.

10. Mr. Wade denies that there are defamatory statements in his article about Mr. Du Wors.

11. Mr. Wade denies his page is "defamatory". Mr. Wade affirms that thousands of people may have accessed the Bainbridge Island Bad List. Some of those may include Mr. Du Wors's clients, colleagues, professional peers, family members and friends. Considering that Mr. Du Wors physically attacked his family and has convictions for this, it is safe to assume that since they were his victims that they were already well aware of his behavior. Also, since Rule 19 requires Mr. Du Wors to notify the Bar Association of his convictions, it is safe to assume that his colleagues and peers should already have been made aware of this information. As for Mr. Du Wors's friends and clients, who would want to be friends with or hire a man who hurts women and children and who commits violent crimes in opposition to the standards of his profession? This is news-worthy behavior, and the public has the right to know about it. The exposure of such predatory and abusive behavior is why the freedom of the press exists.

12. Mr. Wade denies that his page is defamatory. Mr. Wade also denies that his page is the sole reason for Mr. Du Wors's economic woes. There are many internet pages that existed years before Mr. Wade's page that notify the public about Mr. Du Wors's criminality and unethical behavior. Also, Mr. Du Wors in his divorce tried to establish that Mr. Wade's page resulted in his loss of clientele but was

forced to admit that he was in fact fired due to his poor work performance.

13. It is not Mr. Wade's intention to post defamatory information about Mr. Du Wors.

14. Mr. Wade denies defamation, extortion, cyberstalking, harassment, and tortious interference.

15. Mr. Wade affirms that he notified Mr. Du Wors's partners and firm and members of the community about Mr. Du Wors's criminality and unethical behavior. Mr. Wade explicitly told Mr. Du Wors's law partners to get Mr. Du Wors into rehab. Mr. Wade has also on numerous occasions told Mr. Du Wors directly that he needs rehab and sobriety. As the Court is no doubt aware by this point, Mr. Du Wors is a violent criminal and an alcoholic with admitted chemical abuse problems.

16. Mr. Wade denies that the cited statements Mr. Du Wors's listed constitute being "actionable".

17. Mr. Wade denies the page is defamatory.

(a) Mr. Du Wors was compelled by the Court in the Prior Action to admit to the veracity of the article by Mr. Wade.

(b) Mr. Du Wors is an admitted alcoholic and chemical abuser, and the Court is possession of this admission that Mr. Du Wors sent from his ALCOHOLISM TREATMENT PROGRAM. Also, Mr. Du Wors conveniently edited the sentence he quoted. The Complete sentence is as follows: "He is an alcoholic and very dependent upon illicit narcotics, as well as a convicted abuser, and perjurer." The fact that Mr. Du Wors is denying his convictions for abuse and his alcoholism in his court filings does constitute perjury.

(c) Mr. Du Wors was arrested under suspicion of drunk driving and later convicted. This was a year following his conviction for hit and run. There was a period of time during that process where he was ordered not to drive. Mr. Du Wors has perjured himself again.

(d) The Court in the Prior Action said that Mr. Wade's motivations were to protect the public from Mr. Du Wors. The Court found no liability in Mr. Wade's actions as Mr. Du Wors had to admit to

his behavior outlined in Mr. Wade's article.

(e) Mr. Du Wors did spend much of his marriage trying to have sex with other women who were not his wife. He even refers to one of his mistresses in an email to his then wife, email currently in possession by the Court, where the mistress in question was a stripper Mr. Du Wors hired has his assistant and with whom he had an affair. Mr. Du Wors has yet again perjured himself in his testimony and documentation.

(f) The Court is in possession of multiple communication between Mr. Du Wors and his then estranged wife that are clearly abusive and threatening.

(g) During the Prior Action, Mr. Du Wors did perjure himself. He claimed that he never abused his family and then was compelled to admit to it. He claimed he did not commit hit and run, and then was compelled to admit. He claimed that he was never charged with obstruction, and then evidence revealed that he had at least twice faced obstruction charges. Mr. Du Wors claimed that he was using the "Seeking Arrangements" website using his own photograph under the ironic screen name of "NICEGUY" as an investigation for work. The Court saw through this lie and corrected it. Just because Mr. Du Wors has not been convicted for perjury, does not mean he did not perjure himself.

(h) Mr. Du Wors is trying to be cute and using a semantic argument that his stepdaughter, who he hogtied and beat ruthlessly breaking ribs and fingers, is not HIS child, and therefore it was ok to abuse her.

(i) As the Court in the Prior Action found, Mr. Wade's motivations were to protect the public from Mr. Du Wors, and since the Court concluded that Mr. Du Wors had failed to prove defamation, Mr. Wade was not wrong in his actions.

(j) Mr. Wade will admit that he is flummoxed at the fact that the Washington State Bar Association did not disbar Mr. Du Wors seeing as how Mr. Du Wors is a repeat violent criminal, a drunkard, lied in court, falsely represented himself as someone's attorney, made up fake clients and used

constant legal threat to keep his behavior from being exposed. Mr. Wade had misplaced confidence that the WSBA would do the right thing. They did not.

(k) Again, the Court is in possession of evidence in the form of an email where Mr. Du Wors admits to alcoholism, chemical abuse, and abuse of his family.

(l) This is a repeat of 17(d)

18. Mr. Wade admits writing the board of Green Canopy.

(a) Mr. Du Wors has perjured himself yet again in his claims here as the Court is in possession of a copy of the contract written and signed by Mr. Du Wors and Amber Du Wors from August 23rd, 2014. Mr. Du Wors's divorce has also concluded that the shares belong to Ms. Du Wors. The sale of securities and the failure to deliver on them does constitute securities fraud as selling stock and failing to deliver violates SEC rule 204. Financial abuse is still abuse.

(b) Once again, Mr. Wade assumed the WSBA would do the right thing and discipline Mr. Du Wors for his criminality and unethical behavior. The WSBA failed in its duty.

19. Mr. Wade did exchange email with Ms. Du Wors.

(a) Again, As Mr. Du Wors failed to prove defamation in the previous action, Mr. Wade is protected by the 1st Amendment to continue to bring news-worthy reporting in an effort to protect the community at large.

(b) The Court is in possession of correspondence verifying that Mr. Du Wors did indeed stalk Mr. Wade's mother and said he was on his way to her home to "buttsex" her. A police report was filed. The Court is also in possession of a declaration by Ms. Isabella Frawley who worked at McDonald's and repeatedly called the police on Mr. Du Wors's drunk driving. Mr. Matthew Timmons, who was a customer at McDonald's on May 23rd, 2019, filmed Mr. Du Wors drunk and confronted him to not drive and told the staff to call the police when Mr. Du Wors drunkenly drove away. Once again, Mr. Du Wors has perjured himself in the documentation and declarations he has submitted to the Court.

(c) Seeing as how Mr. Du Wors has already perjured himself in this action, it is not hard for the Court to believe reading the transcript of the Prior Action that Mr. Du Wors perjured himself then as well.

(d) Again, the Court is in possession of documentation written while Mr. Du Wors was in substance abuse treatment admitting to alcoholism and chemical abuse. Yet another example of Mr. Du Wors perjuring himself in the documentation he has submitted to the Court. Mr. Du Wors has a prescription for Adderall. Adderall is an amphetamine. Mr. Du Wors uses cocaine and this can be confirmed by Mr. PJ LeDorze who used cocaine with Mr. Du Wors in the past and who has since found sobriety himself.

(e) Again, it must be pointed out to the Court that Mr. Du Wors is making the disgusting semantic argument that his stepdaughter, for whom he was convicted for hogtying and beating mercilessly, is not technically HIS daughter since she is not of blood relation. This should be interpreted by the Court that Mr. Du Wors finds it perfectly acceptable to hogtie and beat other people's children and therefore proves Mr. Wade's central thesis in his bad List article that Mr. Du Wors is a danger to the community.

(f) Once again, Mr. Du Wors perjured himself by denying his repeated drunken actions at McDonald's despite multiple witnesses and calls to the police.

20. Mr. Wade affirms that he did indeed write Mr. Du Wors's law partners.

(a) Ms. Samantha Goakey can confirm that Mr. Du Wors contacted her about having a sexual relationship while he was still married. Ms. Carmen Taylor can also confirm Mr. Du Wors was drunk and tried to seduce her at a tavern while he was still married. Once again, the Court should note that in emails to his then wife, after his conviction for beating her, he references his mistress, a former stripper. Yet another example for the Court of Mr. Du Wors perjuring himself in this Action.

(b) The Court will note that Mr. Du Wors does not deny sending his then wife abusive messages

and the Court is in possession of a great deal of these disgusting emails and text messages.

(c) Once more the Court is in possession of the communication where Mr. Du Wors threatened Mr. Wade's mother. Mr. Du Wors has perjured himself once more.

21. Mr. Wade denies extorting Mr. Du Wors.

(a) Mr. Du Wors demanded via email with Mr. Wade what actions he could take for Mr. Wade to remove the article. Mr. Wade told him what it would take. Asking Mr. Du Wors to commit to sobriety and to stop committing crimes does not constitute a threat, it is part of the social contract expected of all violent alcoholics.

(b) Once more, asking a violent alcoholic to change his dangerous behavior is not a threat. Just because Mr. Du Wors doesn't want to obey the law does not mean that someone asking him to obey the law could be considered a "threat" that is needed to define extortion.

(c) Yes, informing a violent alcoholic that if he violates the terms of a settlement negotiation , a settlement negotiation which the violent alcoholic demanded from Mr. Wade, that the penalty will be that the article demanded to be removed in negotiations will go right back up is not a threat, it is a consequence of violating a proposed contract.

23. Mr. Wade did not ask Ms. Du Wors to assist in extortion as there never was any extortion on Mr. Wade's behalf.

24. The Court in the Du Wors divorce trial ordered order Ms. Du Wors to negotiate with Mr. Wade on Mr. Du Wors's behalf to remove the article. Mr. Wade relayed his terms to her. Once more, asking a violent alcoholic to not be a violent alcoholic does not constitute extortion.

25. Mr. Wade published his article about Mr. Du Wors without ever consulting Mr. Du Wors or establishing contact with Mr. Du Wors. Mr. Wade has no desire to ever be in contact with Mr. Du Wors. Mr. Du Wors is a violent drunk who literally threatened to rape Mr. Wade's mother after stalking her home. Mr. Wade wants the article to remain up, but Mr. Du Wors keeps demanding negotiations for

how to get the page removed and each time Mr. Du Wors attempts to frame these negotiations as "threats" made by Mr. Wade. This is exhausting for Mr. Wade.

26. Mr. Wade denies committing malice.

27. Mr. Wade did write about Mr. Nelson on the Bainbridge Island Bad List but denies that it constitutes defamation.

28. Mr. Nelson has also sued Mr. Wade.

29. The Court did issue a ruling against Mr. Wade.

30. Mr. Wade denies that this suggest malice.

31. Malice requires that Mr. Wade knowingly wrote defamatory information about Mr. Du Wors. Since Mr. Du Wors has not only failed to prove defamation in this matter but has also neglected the preponderance of evidence validating Mr. Wade's writings about Mr. Du Wors, Mr. Du Wors cannot claim malice. In fact, the Court is in possession of evidence that verifies that Mr. Du Wors has perjured himself in this action and since he has knowingly done this, and disparaged Mr. Wade's good name, Mr. Du Wors has in fact committed malice against Mr. Wade.

32. Mr. Wade acknowledges that Mr. Du Wors has brought action against him.

33. Mr. Wade acknowledges that Mr. Du Wors has reincorporated the previous claims.

34. Mr. Wade denies making false and defamatory statements of fact concerning Mr. Du Wors.

35. Mr. Wade has firmly established that prior to his writing of his article that Mr. Du Wors was already widely disliked, scorned, hated, ridiculed, disgraced, held in contempt in the minds of a considerable and respectable segment of the community. The comments under the posts and article represent the disdain the community holds for Mr. Du Wors.

36. Mr. Wade denies publishing false and defamatory statements.

37. Mr. Wade denies that he published false and defamatory statements and stands by their truthfulness.

38. Mr. Wade alleges that Mr. Du Wors is experiencing the consequences of his own actions and attempting to project the blame onto Mr. Wade.

39. Mr. Wade acknowledges that Mr. Du Wors reincorporates the previous allegations.

40. Mr. Wade denies making defamatory statements, and since he has not made defamatory statements, he also has not committed defamation per se.

41.Mr. Wade denies making factual misrepresentations involving Mr. Du Wors's criminal activity as Mr. Du Wors has literally been convicted by the Court for his criminal actions. Mr. Du Wors has admitted to being unchaste to his then wife. The Court is in possession of documentation demonstrating that Mr. Du Wors acted improper in his business, trade, and profession.

42. Once more, Mr. Du Wors is projecting the consequences of his own actions onto Mr. Wade. Other websites detailing Mr. Du Wors's behavior existed for years before Mr. Wade ever published his article.

43. Mr. Wade once more acknowledges that Mr. Du Wors reincorporates his allegations.

44. Mr. Wade denies false light.

45. Mr. Wade denies false light.

(a) Mr. Wade affirms that Mr. Du Wors's actions as described by Mr. Wade would indeed be highly offensive to a reasonable person. It is safe to assume that a reasonable person would find spousal abuse, child abuse, drunk driving, and hit and run offensive.

(b) Mr. Wade denies the falsity of his statements as Mr. Du Wors has been convicted of despicable crimes.

46. Mr. Wade alleges that Mr. Du Wors was damaged long before Mr. Wade ever published his article about him.

47. Mr. Wade denies being responsible for damaging Mr. Du Wors's business or his relationships. Being bad at his job and a convicted criminal is what has damaged Mr. Du Wors's

business. Abusing the members of his family damaged Mr. Du Wors's relationships. Mr. Wade alleges that violent alcoholics should face social isolation if they refuse treatment and refuse to change their behavior. Mr. Du Wors's children have not been ostracized from the Bainbridge Island Community, but Mr. Du Wors largely has based on his drunkenness and criminal behavior.

48. Mr. Wade acknowledges that Mr. Du Wors reincorporates his previous allegations.

49. Mr. Wade denies extorting Mr. Du Wors.

50. Mr. Wade denies extorting Mr. Du Wors.

51. Mr. Wade denies extorting Mr. Du Wors.

52. Mr. Wade denies extorting Mr. Du Wors.

53. Mr. Wade denies extorting Mr. Du Wors.

54. Mr. Wade denies extorting Mr. Du Wors.

(a) Mr. Wade never threatened to expose a secret about Mr. Du Wors. Mr. Wade straight up published his article without ever consulting Mr. Du Wors because Mr. Wade is a publisher of a community news page and does not need Mr. Du Wors's permission to publish Mr. Du Wors's criminal history and abhorrent behavior.

(b) Mr. Wade never attempted to obtain property or services from Mr. Du Wors.

55. Mr. Wade denies making demands of Mr. Du Wors outside of the negotiation Mr. Du Wors demanded of Mr. Wade.

(a) Unrepentant abusers should not be in contact with their victims.

(b) Men who assault and abuse their partners should not continue to seek new partners as they will inevitably assault and abuse them as well.

(c) Abuse victims do not need a relationship with their perpetrators.

(d) Men who abuse and who have been repeatedly accused of assaulting their sexual partners should indeed remain celibate.

(e) The transfer of equal funds to an abused former spouse whom Mr. Du Wors continues to abuse to this day is certainly fair.

56. Mr. Wade denies extorting Mr. Du Wors.

57. Mr. Wade denies extorting Mr. Du Wors.

58. Mr. Wade denies extorting Mr. Du Wors and Mr. Du Wors has not suffered substantial damages.

59. All damages alleged by Mr. Du Wors are the result of Mr. Du Wors's own criminal and unethical behavior. Mr. Du Wors has an issue with accepting responsibility for his actions and the consequences therein.

60. Mr. Wade acknowledges that Mr. Du Wors reincorporates his previous allegations.

61. Mr. Wade denies engaging in tortious interference.

62. Mr. Wade denies engaging in tortious interference as tortious interference requires that Mr. Wade defamed Mr. Du Wors, and since Mr. Du Wors in this action as well as the Prior Action has failed to prove defamation, the claim of tortious interference is moot.

(a) As the Prior Action affirmed, without defamation, Mr. Wade making Mr. Du Wors's colleagues and peers aware of criminal behavior Mr. Du Wors was already required by Rule 19 of the ABA to do himself does not constitute defamation and therefore does not constitute tortious interference.

(b) Mr. Du Wors lied to his business partners and failed to reveal that he sold all interest in their corporation and yet for more than 5 years continued to behave as though he was a stockholder in their enterprise. This is a securities crime. He had no authority to behave in this manner and Mr. Wade making these entrepreneurs aware of this fraud perpetrated upon them is being a civic minded, responsible citizen.

(c) Mr. Wade denies that his actions were inappropriate as reporting criminal behavior is what

society should expect of its citizens.

(d) Mr. Wade denies that his motivation was malice. Mr. Wade's motivation is to protect the community he loves from a violent and unethical alcoholic.

(e) Mr. Wade denies his actions cause damage but alleges that Mr. Du Wors experiencing consequences for his own behavior is what caused damage. Mr. Wade did not force Mr. Du Wors to commit his crimes or engage in his unethical behavior.

63. Mr. Wade denies in engaging in actionable interference.

64. Mr. Wade alleges that Mr. Du Wors own behavior is what ahs resulted in damages to Mr. Du Wors's business, relationships, and any and all emotional stress he experiences. Again, Mr. Wade denies that Mr. Du Wors's children are ostracized from the community.

65. Once more, Mr. Wade acknowledges that Mr. Du Wors reincorporates all previous allegations

66. Mr. Wade denies harassing Mr. Du Wors.

67. Mr. Wade denies harassing Mr. Du Wors.

68. Mr. Wade denies harassing Mr. Du Wors.

69. Mr. Wade denies harassing Mr. Du Wors as harassment necessitates that Mr. Du Wors proves that Mr. Wade defamed him. As the Prior Action found, Mr. Du Wors failed to prove both defamation and harassment and recognized that all communication between Mr. Du Wors and Mr. Wade were established by Mr. Du Wors, and always by Mr. Du Wors.

(a) Mr. Wade did indeed know what he was doing when he wrote his article about Mr. Du Wors's well documented actions and behavior.

(b) Mr. Wade never directed his actions towards Mr. Du Wors, and as the Court in the Prior Action found, Mr. Wade told the community to avoid Mr. Du Wors and not engage due to Mr. Du Wors's criminality.

(c) Mr. Du Wors facing consequences for his behavior does not constitute Mr. Wade "annoying" or "harassing" Mr. Du Wors. Mr. Wade would hope that Mr. Du Wors would find Mr. Du Wors's behavior "alarming" as beating women and children is a terrible, reprehensible thing to do.

(d) The freedom of the press and making the public aware of abuse is a legitimate and lawful purpose.

70. Mr. Wade denies harassing Mr. Du Wors.

71. Mr. Du Wors is once more projecting the consequences of his own actions as damage he alleges was caused by Mr. Wade. Mr. Wade never made Mr. Du Wors commit the crimes for which he was convicted.

72. Mr. Wade acknowledges that Mr. Du Wors reincorporates the previous allegations.

73. Mr. Wade denies engaging in intentional infliction of emotional distress. Mr. Wade denies acting recklessly.

74. Mr. Wade denies that informing the public of a violent criminal in their midst is extreme or outrageous. Mr. Wade alleges that Mr. Du Wors beating his wife and stepdaughter is extreme and outrageous.

75. Mr. Wade denies that he made defamatory or extortionate statements or that his behavior making the community aware of the violent threat among them could at all be characterized as "outrageous", "extreme in degree", "atrocious", or "intolerable in a civilized community". Mr. Wade does allege that the fact that Mr. Du Wors is guilty of beating his wife and stepdaughter would certainly constitute as outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

76. Mr. Wade did not make Mr. Du Wors hogtie and beat his stepdaughter. Nor did Mr. Wade make Mr. Du Wors break down doors and attack his wife by throwing her around by her head. Nor did Mr. Wade make Mr. Du Wors get drunk and drive. Nor did Mr. Wade make Mr. Du Wors drunkenly

crash into vehicles and flee the scene. Any and all emotional distress a man like Mr. Du Wors, who is diagnosed with a cluster B personality disorder, experiences is most certainly the fault of his actions.

77. Mr. Wade acknowledges that Mr. Du Wors reincorporates the previous allegations.

78. Mr. Wade denies cyberstalking.

79. Mr. Wade denies cyberstalking.

80. Mr. Wade denies cyberstalking.

81. Mr. Wade denies cyberstalking and as the courts have ruled that cyberstalking requires defamation on Mr. Wade's part, and in this action, as well as the Prior Action, Mr. Du Wors has failed to prove defamation, so this claim is moot.

82. Mr. Wade denies cyberstalking.

(a) Mr. Wade has repeatedly blocked Mr. Du Wors from social media and email. Mr. Wade has never established contact with Mr. Du Wors, although Mr. Du Wors has repeatedly contacted Mr. Wade and even threatened Mr. Wade's mother and has contacted Mr. Wade even though Mr. Wade told Mr. Du Wors repeatedly to stop contacting him.

(b) Mr. Wade has never been to Mr. Du Wors's residence, although Mr. Du Wors stalked Mr. Wade's mother and threatened her with sexual assault.

(c) Mr. Wade has not desire to ever be in close proximity with Mr. Du Wors as Mr. Du Wors is a violent alcoholic who has threatened Mr. Wade's mother.

(d) Mr. Wade has never kept surveillance on Mr. Du Wors and has repeatedly asked the community to avoid Mr. Du Wors. Mr. Wade never wants anything to do with Mr. Du Wors and would appreciate it if Mr. Du Wors did not stalk and threaten members of Mr. Wade's family.

(e) Mr. Wade is not at all responsible for any injunctive relief for Mr. Du Wors as Mr. Du Wors cannot establish cyberstalking, harassment, or defamation.

(f) Mr. Wade is not at all responsible for the administrative court costs or attorney's fees as Mr.

Du Wors cannot establish cyberstalking, harassment, or defamation.

83. Mr. Wade will gladly stay away from Mr. Du Wors for the rest of his life so long as Mr. Du Wors stays away from Mr. Wade and his family.

II.

IN FURTHERANCE of his answer, Defendant, HOUSTON WADE, alleges the following

ASSUMPTION OF RISK

84. Mr. Wors was fully aware of his behavior and criminal actions prior to filing his claims against Mr. Wade and the allegations therein. As such, the Plaintiff knowingly engaged in risky and criminal behavior, thus the Plaintiff assumed the risk of having these actions published and made public. As such Mr. Wade is not responsible for the consequences Mr. Du Wors has experienced as the result of Mr. Du Wors's own actions. Since Mr. Wade clearly did not defame Mr. Du Wors, and as outlined in the answer, Mr. Du Wors repeatedly perjured himself to the Court both in this action as well as the Prior Action, thus Mr. Du Wors is solely responsible for any injury he has endured.

85. Due to the nature of Mr. Du Wors criminal and unethical behavior, Mr. Wade is absolved of any duty of care and should hereby be relieved. Mr. Du Wors assumed the risk of consequences when he broke the law.

CONTRIBUTORY NEGLIGENCE

86. As Mr. Du Wors is the person who committed the crimes, Mr. Wade has 0% responsibility for Mr. Du Wors's injuries. Writing about crime is not defamation, but the responsibility of the press.

DURESS

87. Mr. Du Wors has repeatedly threatened, harassed, and extorted Mr. Wade, his friends, and his family. Mr. Du Wors originally implicated an innocent party for being responsible for the Bad List, then later threatened suit against Mr. Wade as well as stalked and threatened Mr. Wade's mother. Later,

Mr. Du Wors attempted to extort his then estranged wife by threatening to create websites about her, her family, and her partner which would involve salacious allegations about all of them. Mr. Du Wors did all of this in an attempt to coerce all those involved to get the factual article on the Bad List removed.

ESTOPPEL

88. As Mr. Du Wors has attempted many of his previous arguments in a lower court, Mr. Du Wors is now attempting relitigate a verdict he lost regarding many of the actions he claims in his complaint. Mr. Du Wors lost his arguments for defamation of character, defamation pro se, false light, extortion, tortious interference, harassment, infliction of emotional distress, and cyberstalking in the Prior Actoin. All of which required that Mr. Du Wors prove that Mr. Wade lied. As Mr. Wade has repeatedly been able to source factual evidence for his article as well as provide evidence, witnesses, and victims, and Mr. Du Wors's own admissions and convictions, Mr. Du Wors has no claims he can make in this actions that are legitimate. Due to the precedent of estoppel Mr. Du Wors is barred from taking any position that he did not in a previous action.

FAULT OF A NONPARTY

89. Fault of a nonparty, also known as the "empty chair law"; as Mr. Wade is not responsible for the criminal and abhorrent behavior of Mr. Du Wors, Mr. Wade is not to be blamed for any damages that have resulted of Mr. Du Wors's actions. Mr. Wade's article about Mr. Du Wors is not an isolated publication. Other websites like, johndduwors.wordpress.com, johndduwors.files.wordpress.com, duwors.ashermadison.com, and johnduwors.ashermadison.com have existed for years before Mr. Wade ever published his article about Mr. Du Wors, and yet Mr. Du Wors has never attempted to sue these authors who describe similar criminality and behavior by Mr. Du Wors. Mr. Du Wors is an adult and therefore responsible for his actions and consequences therein.

FRAUD

90. Mr. Du Wors is intentionally deceiving the Court to deprive Mr. Wade of his rights to free

speech unfairly and unlawfully and Mr. Wade's publication's right to freedom of the press. Mr. Du Wors numerous false statements and denials of his actions in the face of the preponderance of evidence constitute perjury before the Court. His actions rise to the level of hoax in that he made a deliberate effort to deceive with the intention to gain materially and damage Mr. Wade.

ILLEGALITY

91. As Mr. Du Wors has committed a legal wrong in his perjury before this Court in denying his own documented criminality and unethical behavior in the face of the preponderance of evidence and in lieu of the Prior Action when Mr. Du Wors also lied to the Court in an attempt to deprive Mr. Wade of his 1st Amendment rights, Mr. Du Wors should face retribution and sanctions from the Court for his egregious behavior in this case.

LACHES

92. Mr. Du Wors never bothered to appeal his loss in the Prior Action, and then makes the same claims in this case regarding harassment, cyberstalking, and defamation he made then. Mr. Du Wors's lack of diligence to pursue the appropriates steps to rectify the actions he alleges in his complaint within the timeframe of the appeal he had the right to seek constitutes an unreasonable delay that can be viewed as prejudicing the Defendant. Mr. Du Wors failed to assert his rights in court in a timely manner.

RES JUDICATA

93. Mr. Wors is attempting to relitigate a municipal case he lost to Mr. Wade two years ago. His arguments are the same, his evidence is the same, his avoidance of the ample evidence proving Mr. Wade's innocence is the same. Mr. Du Wors's attempts to lie to the lower court are the same as the lies he has made to this Court.

III.

HAVING ANSWERED plaintiff's complaint and having asserted affirmative defenses, Defendant, HOUSTON WADE, now alleges the following **counterclaims**:

94. Defendant realleges the preceding paragraphs of this pleading.

95. Defendant is a resident of Kitsap County, Washington.

96. Plaintiff is residents of Kitsap County, Washington.

FIRST COUNTERCLAIM

97. Mr. Wade claims that Mr. Du Wors has perjured himself to the Court and defamed Mr. Wade's integrity and impugned his reputation as a member of the community and as a journalist. Mr. Wade has witnesses, documentation, court records, and Mr. Du Wors's own sworn testimony affirming that what Mr. Wade wrote about Mr. Du Wors was accurate, and as truth is the defense to defamation, ergo Mr. Du Wors lies about Mr. Wade now constitute defamation.

SECOND COUNTERCLAIM

98. Mr. Du Wors has engaged in abuse of process against Mr. Wade in contacting the police over Mr. Wade's protected free speech; filing of a restraining order to restrict Mr. Wade's free speech; contacting the police with false allegations of violations of a temporary restraining order; service of documents Mr. Du Wors never intended to file; stalking and threats made against Mr. Wade's family member; lying about his representation of people who are not his client, then attempting to extort that same person he claimed was his client by inventing a fake plaintiff for a lawsuit he never intended to file; extorting parties with threats of creating salacious websites in an attempt coerce Mr. Wade into removing his article; harassment of Mr. Wade via Facebook and email against Mr. Wade's statements that he wish Mr. Du Wors not contact him; injury and intentional infliction of emotional distress as Mr. Du Wors adamantly attempts to litigate and produce legal threat as a nuisance against Mr. Wade, defame Mr. Wade to individuals and the public, lie about his own criminal behavior, impede Mr. Wade's ability to live his life free from harassment and legal threat, and the threats and harassment of Mr. Wade and his family; and finally, perjury to the court in a fraud to attempt to deprive Mr. Wade of his 1st Amendment rights.

IV.

PRAYER FOR RELIEF

WHEREFORE, Defendant Houston Wade requests the following relief:

1. Compensatory damages in an amount to be proven at trial;

2. Provisional and permanent injunctive relief prohibiting further conduct of the nature describe herein;

3. Attorney's fees, legal costs, and interest; and

4. Such other and further relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED this 4th day of December 2020.

Houston Wade
HOUSTON WADE

FILED
December 8, 2020
KITSAP COUNTY CLERK
ALISON H. SONNTAG

Houston Wade
C/O Bruciato
236 Winslow Way E
Bainbridge Island, WA 98110
houstonwade@gmail.com

SUPERIOR COURT OF WASHINGTON STATE

COUNTY OF KITSAP

JOHN DU WORS, Plaintiff, vs. HOUSTON WADE, Defendant	Case No.: 20-2-01225-18 RETRACTION FROM ANSWER

Mr. Wade was contacted by Mr. P.J. Ledorze and Mr. Ledorze asked Mr. Wade to remove Mr. ledorze's name from the answer Mr. Wade submitted with regard to the response to 19(d). Mr. Wade would like to retract the answer to 19(d) concerning Mr. Ledorze according to Mr. Ledorze's wishes.

Dated this 7th of December 2020.

Houston Wade

Houston Wade

DocuSign Envelope ID: 7E4B4675-F71A-400F-A25B-371ED7A5D742

FILED
KITSAP COUNTY CLERK
2021 MAR -4 PM 4:02
ALISON H. SONNTAG

20-2-01225-18
MT 35
Motion
9891926

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

JOINT MOTION TO SEAL

RELIEF REQUESTED

The parties to this matter jointly request that the Court seal all substantive records in this case, as set forth in the accompanying Proposed Order. The case involves mutual claims for defamation of character among other things. The matter has now resolved. As the substantive submissions in this case have included sensitive personal information about both parties, it is requested that the Court seal those pleadings and attendant exhibits. Good cause exists for sealing under Washington Court General Rule ("GR") 15, as set forth below.

STATEMENT OF FACTS

This case involves claims for, among other things, defamation of character by both parties against one another. (Declaration of John Du Wors ("Decl. Du Wors") at ¶ 2.) In the course of litigation, the pleadings have necessarily

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disclosed highly private information. (Decl. Du Wors at ¶ 3; Declaration of Houston Wade ("Decl. Wade") at ¶ 2). Most importantly, this information relates to the family affairs minor children that have the potential to cause embarrassment, social isolation, and financial risk to those minor children. (Decl. Du Wors at ¶ 4; Decl. Wade at ¶ 3.) The parties and the involved minor children live in a small community—on Bainbridge Island, Washington—and the potential public dissemination of the information included in the pleadings submitted in this matter could cause severe harm to the children's welfare. (Decl. Du Wors at ¶ 5; Decl. Wade at ¶ 4.)

Additionally, the information contained in the pleadings in this matter could threaten the professional interests of both parties. (Decl. Du Wors at ¶ 6; Decl. Wade at ¶ 5.) The case has now resolved amicably. (Decl. Du Wors at ¶ 7; Decl. Wade at ¶ 6.) The parties both believe that the substantive records in this case should be sealed. (Decl. Du Wors at ¶ 8; Decl. Wade at ¶ 7.) The pleadings sought to be disclosed do not impact the public interest, and accordingly no public right to access will be undermined by granting the proposed sealing of these documents. (Decl. Du Wors at ¶ 9; Decl. Wade at ¶ 8.)

EVIDENCE RELIED UPON

This Motion is based on the pleadings and other papers filed in this case; this moving brief; and the Declarations of John Du Wors and Houston Wade and the attachments thereto.

LEGAL AUTHORITY

Good cause exists for the sealing of the subject records. GR 15(1) provides: "In a civil case, the court or any party may request a hearing to seal or redact the court records." "Under the General Rules, a court record may be sealed if a court 'enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record.'" *Hundtofte v. Encarnacion*, 181 Wash. 2d 1, 7 (2014). In

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evaluating whether the grant a request to seal records based on privacy considerations, courts consider the so-called five *Ishikawa* factors: 1) the need of the requesting parties; 2) whether any party present at the hearing on a motion to seal objects; 3) whether there are less restrictive means for limiting public access to the information sought to be sealed; 4) the competing interests of the public in having access to the subject information; and 5) whether a time limit on the sealing should be imposed. *Id.* At 8 (citing *Seattle Times v. Ishikawa*, 97 Wash.2d 30, 37 (1982). All of the *Ishikawa* factors weigh in favor of sealing.

First, the need of the parties is great—professional interests of both parties, and the interests of the minor children discussed in the substantive pleadings compel a conclusion that the pleadings should be sealed. Second, it is not anticipated that any party will appear at hearing to object to the proposed sealing of records. Third, curtailing public access to the information at issue cannot be accomplished through any less restrictive means than sealing. Fourth, the facts discussed in the pleadings are not the subject of public concern, and therefore the interests of the parties in having the records sealed is not outweighed by any competing public interest.

Finally, no time limit on the sealing is warranted, as it is not foreseeable that the public would benefit from later access to these records.

CONCLUSION

A Proposed Order is attached.

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Seattle, Washington 98121
(206) 274-2800

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Dated: February 10, 2021

Respectfully submitted,

NEWMAN DU WORS LLP

John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

Dated: February 10, 2021

HOUSTON WADE

DocuSigned by:
1BC5614821E...

Houston Wade

Pro Se Defendant

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on March 4, 2021, I caused true and correct copies of the foregoing documents to be served by the method(s) listed below on the following interested parties:

Via Electronic Transmittal:

Defendant Houston Wade
houstonwade@gmail.com

I hereby certify under the penalty of perjury that the foregoing is true and correct.

Executed on March 4, 2021 at Savannah, Tennessee.

s/ Chy Eaton
Chy Eaton, Paralegal

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. 20-2-01225-18 **DECLARATION OF JOHN DU WORS IN SUPPORT JOINT MOTION TO SEAL**

I, John Du Wors, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. This case involves claims for, among other things, defamation of character by both parties against one another.

3. In the course of litigation, the pleadings have necessarily disclosed highly private information.

4. Most importantly, this information relates to the affairs of my minor children, and the information contained within the pleadings has the potential to cause embarrassment, social isolation, and financial risk to my children.

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Seattle, Washington 98121
(206) 274-2800

5. My children and I live in a small community—on Bainbridge Island, Washington—and the potential public dissemination of the information included in the pleadings submitted in this matter could cause severe harm to my children's welfare.

6. Additionally, the information contained in the pleadings in this matter could threaten my professional interests, which further risks the financial welfare and stability of my children.

7. The case has now resolved amicably.

8. I believe that the substantive records in this case should be sealed.

9. The pleadings sought to be disclosed do not impact the public interest, and accordingly no public right to access will be undermined by granting the proposed sealing of these documents.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of March, 2021 at Bainbridge Island, Washington.

John Du Wors

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

DocuSign Envelope ID: 7E4B4675-F71A-400F-A25B-371ED7A5D742

FILED
KITSAP COUNTY CLERK
2021 MAR 4 PM 4:02
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

DECLARATION OF HOUSTON WADE IN SUPPORT JOINT MOTION TO SEAL

I, Houston Wade, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. In the course of this litigation, both parties have submitted highly personal and private information about each other.

3. Much of this information relates to the family and parenting environment related to John Du Wors' four minor children.

4. The community where John Du Wors and I live on Bainbridge Island, Washington is small. As an advocate for child welfare, I fear that the unnecessary dissemination of information contained within the pleadings submitted in this matter could impact the social and economic welfare of the Du Wors children.

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5. I also believe it is the case that the personal information contained within the pleadings could impact both John Du Wors and me professionally, in a negative way. I am an accomplished academic and educator. My preference is to keep my personal affairs private, and away from my professional community.

6. I feel it is appropriate that the substantive records in this case be sealed.

7. I also am not aware of any interest held by the public in accessing the substantive documents in this case, and therefore no public interest will be undermined in sealing those records.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17 day of February, 2021 at Bainbridge Island, Washington.

DocuSigned by:

TBC:5614821E0162...

Houston Wade

NEWMAN DU WORS LLP

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Seattle, Washington 98121
(206) 274-2800

DocuSign Envelope ID: 7E4B4675-F71A-400F-A25B-371ED7A5D742

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. 20-2-01225-18 **[PROPOSED] ORDER GRANTING JOINT MOTION TO SEAL**

THIS MATTER has come before the Court on the Parties' Joint Motion to Seal (the "Motion"). The Court having considered the pleadings on file and the written submissions, hereby GRANTS the Motion.

The Court finds as follows:

1. The sealing of the substantive pleadings listed below is justified by compelling privacy interests, including but not limited to the welfare of minor children.
2. The privacy interests at issue outweigh any public interest in access to the Court's record in this matter.
3. No less restrictive measure other than sealing is adequate to protect the privacy interests at issue in the subject pleadings.

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Seattle, Washington 98121
(206) 274-2800

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IT IS THEREFORE ORDERED:

1. The following pleadings in this matter shall be sealed:
   a. The Summons and Complaint filed on August 12, 2020
   b. The Motion for Default filed on August 31, 2020
   c. The Declaration Affidavit filed on September 4, 2020
   d. The Motion to Dismiss filed on September 9, 2020
   e. The Objection Opposition filed on September 16, 2020
   f. The Declaration Affidavit filed on September 16, 2020
   g. The Correspondence filed on September 17, 2020
   h. The Request for Deferrment filed on September 21. 2020
   i. The Declaration Affidavit filed on October 1, 2020
   j. The Motion for Summary Judgment filed on October 5, 2020
   k. The Motion for Protective Order filed on October 14, 2020
   l. The Declaration Affidavit filed on October 14, 2020
   m. The Objection Opposition filed on October 21, 2020
   n. The Reply filed on October 22, 2020
   o. The Court's Minutes of Hearing on October 23, 2020
   p. The Objection Opposition filed on November 9, 2020
   q. The Declaration Affidavit filed on November 9, 2020
   r. The Declaration Affidavit filed on November 12, 2020
   s. The Correspondence filed on November 12, 2020
   t. The Response filed on November 13, 2020
   u. The Answer and Counterclaim filed on December 4, 2020
   v. The Retraction filed on December 8, 2020
2. The Clerk of the Court shall cause these pleadings to be sealed and made inaccessible by the public in either paper or electronic form.

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(206) 274-2800

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Executed this ____ day of _____, 2021.

_____
Honorable Jeffrey P. Bassett

Presented by:

NEWMAN DU WORS LLP

_____
John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

HOUSTON WADE

DocuSigned by:
_____
1BC5614821E0462...
Houston Wade

Pro Se Defendant

20-2-01225-18
NTMTDK 36
Note for Motion Docket
9891927

Exhibit E

FILED
KITSAP COUNTY CLERK
2021 MAR -4 PM 4:01
ALISON H. SONNTAG

SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP

JOHN DU WORS
Plaintiff/Petitioner

John Du Wors
Attorney for Plaintiff/Petitioner

vs.

HOUSTON WADE
Defendant/Respondent

Attorney for Defendant/Respondent

No.: 20-2-01225-18

NOTE FOR MOTION DOCKET

(NTMTDK)

TO THE CLERK OF THE COURT AND

TO: Defendant Houston Wade

AND:

Please take notice that the undersigned will bring on for hearing:

NATURE OF MOTION: Joint Motion to Seal

The hearing is to be held:

DATE: March 12, 2021 TIME: 1:30 p.m. **a.m./p.m.**

AT: JUDGE/DEPARTMENT NO.: Judge Bassett
Superior Court of Kitsap County
614 Division Street
Port Orchard, WA 98366

COURT COMMISSIONER MAY HEAR THIS MOTION: ☐ YES ☑ NO
ELECTRONIC RECORDER ACCEPTABLE: ☑ YES ☐ NO
COURT COMMISSIONER MAY HEAR THIS MOTION: ☐ YES ☑ NO

DATED March 4, 2021

Signed: John Du Wors

Lawyer for: Plaintiff John Du Wors

Address: Newman Du Wors LLP
2101 4th Ave, Ste. 1500, Seattle, WA 98121

Telephone: 206-274-2800

DocuSign Envelope ID: 7E4B4675-F71A-400F-A25B-371ED7A5D742

FILED
KITSAP COUNTY CLERK
2021 MAR -8 AM 10:57
ALISON H. SONNTAG

20-2-01225-18
MT 37
Motion
9893702

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

JOINT MOTION TO SEAL

RELIEF REQUESTED

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STATEMENT OF FACTS

This case involves claims for, among other things, defamation of character by both parties against one another. (Declaration of John Du Wors ("Decl. Du Wors") at ¶ 2.) In the course of litigation, the pleadings have necessarily

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Additionally, the information contained in the pleadings in this matter could threaten the professional interests of both parties. (Decl. Du Wors at ¶ 6; Decl. Wade at ¶ 5.) The case has now resolved amicably. (Decl. Du Wors at ¶ 7; Decl. Wade at ¶ 6.) The parties both believe that the substantive records in this case should be sealed. (Decl. Du Wors at ¶ 8; Decl. Wade at ¶ 7.) The pleadings sought to be disclosed do not impact the public interest, and accordingly no public right to access will be undermined by granting the proposed sealing of these documents. (Decl. Du Wors at ¶ 9; Decl. Wade at ¶ 8.)

EVIDENCE RELIED UPON

This Motion is based on the pleadings and other papers filed in this case; this moving brief; and the Declarations of John Du Wors and Houston Wade and the attachments thereto.

LEGAL AUTHORITY

Good cause exists for the sealing of the subject records. GR 15(1) provides: "In a civil case, the court or any party may request a hearing to seal or redact the court records." "Under the General Rules, a court record may be sealed if a court 'enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record.'" *Hundtofte v. Encarnacion*, 181 Wash. 2d 1, 7 (2014). In

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evaluating whether the grant a request to seal records based on privacy considerations, courts consider the so-called five *Ishikawa* factors: 1) the need of the requesting parties; 2) whether any party present at the hearing on a motion to seal objects; 3) whether there are less restrictive means for limiting public access to the information sought to be sealed; 4) the competing interests of the public in having access to the subject information; and 5) whether a time limit on the sealing should be imposed. *Id.* At 8 (citing *Seattle Times v. Ishikawa*, 97 Wash.2d 30, 37 (1982). All of the *Ishikawa* factors weigh in favor of sealing.

First, the need of the parties is great—professional interests of both parties, and the interests of the minor children discussed in the substantive pleadings compel a conclusion that the pleadings should be sealed. Second, it is not anticipated that any party will appear at hearing to object to the proposed sealing of records. Third, curtailing public access to the information at issue cannot be accomplished through any less restrictive means than sealing. Fourth, the facts discussed in the pleadings are not the subject of public concern, and therefore the interests of the parties in having the records sealed is not outweighed by any competing public interest.

Finally, no time limit on the sealing is warranted, as it is not foreseeable that the public would benefit from later access to these records.

CONCLUSION

A Proposed Order is attached.

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Seattle, Washington 98121
(206) 274-2800

DocuSign Envelope ID: 7E4B4675-F71A-400F-A25B-371ED7A5D742

Dated: February 10, 2021

Respectfully submitted,

NEWMAN DU WORS LLP

John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

Dated: February 10, 2021

HOUSTON WADE

DocuSigned by:
1BC5614821E0462...

Houston Wade

Pro Se Defendant

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on March 4, 2021, I caused true and correct copies of the foregoing documents to be served by the method(s) listed below on the following interested parties:

Via Electronic Transmittal:

Defendant Houston Wade
houstonwade@gmail.com

I hereby certify under the penalty of perjury that the foregoing is true and correct.

Executed on March 4, 2021 at Savannah, Tennessee.

s/ Chy Eaton
Chy Eaton, Paralegal

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

FILED
KITSAP COUNTY CLERK
2021 MAR 18 AM 10:57
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual, Plaintiff, v. HOUSTON WADE, an individual, Defendant.	Case No. 20-2-01225-18 **DECLARATION OF JOHN DU WORS IN SUPPORT JOINT MOTION TO SEAL**

I, John Du Wors, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. This case involves claims for, among other things, defamation of character by both parties against one another.

3. In the course of litigation, the pleadings have necessarily disclosed highly private information.

4. Most importantly, this information relates to the affairs of my minor children, and the information contained within the pleadings has the potential to cause embarrassment, social isolation, and financial risk to my children.

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Seattle, Washington 98121
(206) 274-2800

5. My children and I live in a small community—on Bainbridge Island, Washington—and the potential public dissemination of the information included in the pleadings submitted in this matter could cause severe harm to my children's welfare.

6. Additionally, the information contained in the pleadings in this matter could threaten my professional interests, which further risks the financial welfare and stability of my children.

7. The case has now resolved amicably.

8. I believe that the substantive records in this case should be sealed.

9. The pleadings sought to be disclosed do not impact the public interest, and accordingly no public right to access will be undermined by granting the proposed sealing of these documents.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of March, 2021 at Bainbridge Island, Washington.

John Du Wors

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

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FILED
KITSAP COUNTY CLERK
2021 MAR -8 AM 10:57
ALISON M. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

DECLARATION OF HOUSTON WADE IN SUPPORT JOINT MOTION TO SEAL

I, Houston Wade, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. In the course of this litigation, both parties have submitted highly personal and private information about each other.

3. Much of this information relates to the family and parenting environment related to John Du Wors' four minor children.

4. The community where John Du Wors and I live on Bainbridge Island, Washington is small. As an advocate for child welfare, I fear that the unnecessary dissemination of information contained within the pleadings submitted in this matter could impact the social and economic welfare of the Du Wors children.

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5. I also believe it is the case that the personal information contained within the pleadings could impact both John Du Wors and me professionally, in a negative way. I am an accomplished academic and educator. My preference is to keep my personal affairs private, and away from my professional community.

6. I feel it is appropriate that the substantive records in this case be sealed.

7. I also am not aware of any interest held by the public in accessing the substantive documents in this case, and therefore no public interest will be undermined in sealing those records.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17 day of February, 2021 at Bainbridge Island, Washington.

DocuSigned by:

TBC:3614821E0462...

Houston Wade

NEWMAN DU WORS LLP

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Seattle, Washington 98121
(206) 274-2800

DocuSign Envelope ID: 7E4B4675-F71A-400F-A25B-371ED7A5D742

FILED
KITSAP COUNTY CLERK
2021 MAR -8 AM 10:57
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

[PROPOSED] ORDER GRANTING JOINT MOTION TO SEAL

THIS MATTER has come before the Court on the Parties' Joint Motion to Seal (the "Motion"). The Court having considered the pleadings on file and the written submissions, hereby GRANTS the Motion.

The Court finds as follows:

1. The sealing of the substantive pleadings listed below is justified by compelling privacy interests, including but not limited to the welfare of minor children.
2. The privacy interests at issue outweigh any public interest in access to the Court's record in this matter.
3. No less restrictive measure other than sealing is adequate to protect the privacy interests at issue in the subject pleadings.

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DocuSign Envelope ID: 7E4B4675-F71A-400F-A25B-371ED7A5D742

IT IS THEREFORE ORDERED:

1. The following pleadings in this matter shall be sealed:
   a. The Summons and Complaint filed on August 12, 2020
   b. The Motion for Default filed on August 31, 2020
   c. The Declaration Affidavit filed on September 4, 2020
   d. The Motion to Dismiss filed on September 9, 2020
   e. The Objection Opposition filed on September 16, 2020
   f. The Declaration Affidavit filed on September 16, 2020
   g. The Correspondence filed on September 17, 2020
   h. The Request for Deferrment filed on September 21. 2020
   i. The Declaration Affidavit filed on October 1, 2020
   j. The Motion for Summary Judgment filed on October 5, 2020
   k. The Motion for Protective Order filed on October 14, 2020
   l. The Declaration Affidavit filed on October 14, 2020
   m. The Objection Opposition filed on October 21, 2020
   n. The Reply filed on October 22, 2020
   o. The Court's Minutes of Hearing on October 23, 2020
   p. The Objection Opposition filed on November 9, 2020
   q. The Declaration Affidavit filed on November 9, 2020
   r. The Declaration Affidavit filed on November 12, 2020
   s. The Correspondence filed on November 12, 2020
   t. The Response filed on November 13, 2020
   u. The Answer and Counterclaim filed on December 4, 2020
   v. The Retraction filed on December 8, 2020
2. The Clerk of the Court shall cause these pleadings to be sealed and made inaccessible by the public in either paper or electronic form.

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Seattle, Washington 98121
(206) 274-2800

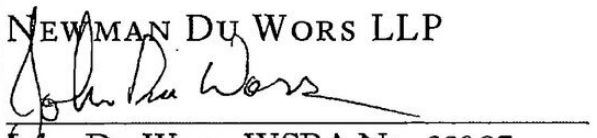
DocuSign Envelope ID: 7E4B4675-F71A-400F-A25B-371ED7A5D742

Executed this ____ day of _____, 2021.

_____
Honorable Jeffrey P. Bassett

Presented by:

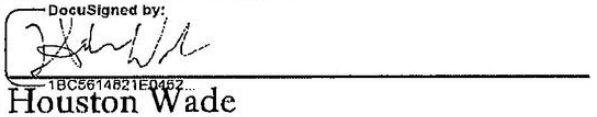
NEWMAN DU WORS LLP



John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

HOUSTON WADE



Houston Wade

Pro Se Defendant

20-2-01225-18
NTMTDK 38
Note for Motion Docket
9893722

FILED
KITSAP COUNTY CLERK
2021 MAR -8 AM 10:57
ALISON H. SONNTAG

Exhibit E

SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP

JOHN DU WORS
Plaintiff/Petitioner

John Du Wors
Attorney for Plaintiff/Petitioner

vs.

HOUSTON WADE
Defendant/Respondent

Attorney for Defendant/Respondent

No.: 20-2-01225-18

RE-**NOTE FOR MOTION**

DOCKET (NTMTDK)

TO THE CLERK OF THE COURT AND

TO: Defendant Houston Wade

AND: _____

Please take notice that the undersigned will bring on for hearing:

NATURE OF MOTION: Joint Motion to Seal

The hearing is to be held:

DATE: March 19, 2021 TIME: 1:30 p.m. **a.m./p.m.**

AT: JUDGE/DEPARTMENT NO.: Judge Tina Robinson
Superior Court of Kitsap County
614 Division Street
Port Orchard, WA 98366

COURT COMMISSIONER MAY HEAR THIS MOTION: ☐ YES ☑ NO
ELECTRONIC RECORDER ACCEPTABLE: ☑ YES ☐ NO
COURT COMMISSIONER MAY HEAR THIS MOTION: ☐ YES ☑ NO

DATED March 8, 2021

Signed: _____
Lawyer for: Plaintiff John Du Wors
Address: Newman Du Wors LLP
2101 4th Ave, Ste. 1500, Seattle, WA 98121
Telephone: 206-274-2800

SUPERIOR COURT OF WASHINGTON
COUNTY OF KITSAP

John Duwors
Petitioner/Plaintiff

Houston Wade
Respondent/Defendant

Hon./Comm. TINA ROBINSON
Court Reporter 268
Court Clerk Angie Younger
Date March 9, 2021
No. 20-2-01225-18

Pet/Pla appeared yes By Zoom/through/with Counsel _____ By Zoom
Pet/Pla appeared no By Zoom/through/with Counsel _____ By Zoom
Resp/Def appeared _____ By Zoom/through/with Counsel _____ By Zoom
Resp/Def appeared _____ By Zoom/through/with Counsel _____ By Zoom
Guardian Ad Litem appeared _____ By Zoom State / Other appeared _____ By Zoom

THE MATTER BEFORE THE COURT **[ ] Show Cause re:** _____
[/] Motion ~~for default / to compel~~ to seal RECORDS
[ ] Unlawful Detainer **[ ] Minor Settlement** **[ ] Summary Judgment** **[ ] Supplemental Exam**
[ ] Entry of Order **[ ] Status/Review** **[ ] Settlement on the Record**

Testimony taken:

Mr. Duwors states joint motion

Court: puts case law on record. Court not prepared to seal at this time. More information needs to be given

Court denies motion to seal. Would allow more briefing for reconsideration.

[ ] Courtroom polled for _____ **[ ] No response** **Time** _____
[ ] Default Granted [ ] Writ Granted [ ] Judgment Approved
[/] The Court ~~grants~~/denies motion. [ ] The Court takes the matter under advisement.
[ ] Order signed as presented. [ ] Order to be presented.
[ ] This matter stricken/continued. [ ] Court Scheduler advised

[ ] Court sets _____ hearing at _____ am/pm on _____

[ ] Pleadings/File taken from this hearing by _____

20-2-01225-18
MTHRG 39
Motion Hearing
9969246

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MAR 19 2021
KITSAP COUNTY CLERK
ALISON H. SONNTAG

20-2-01225-18
MT 40
Motion
9977620

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

JOINT MOTION TO SEAL

RELIEF REQUESTED

The parties to this matter jointly request that the Court seal all substantive records in this case, as set forth in the accompanying Proposed Order. The case involves mutual claims for defamation of character among other things. The matter has now resolved. As the substantive submissions in this case have included sensitive personal information about both parties, it is requested that the Court seal those pleadings and attendant exhibits. Good cause exists for sealing under Washington Court General Rule ("GR") 15, as set forth below.

STATEMENT OF FACTS

This case involves claims for, among other things, defamation of character by both parties against one another. (Declaration of John Du Wors ("Decl. Du Wors") at ¶ 2.) In the course of litigation, the pleadings have necessarily

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disclosed highly private information. (Decl. Du Wors at ¶ 3; Declaration of Houston Wade ("Decl. Wade") at ¶ 2). Most importantly, this information relates to the family affairs minor children that have the potential to cause embarrassment, social isolation, and financial risk to those minor children. (Decl. Du Wors at ¶ 4; Decl. Wade at ¶ 3.) The parties and the involved minor children live in a small community—on Bainbridge Island, Washington—and the potential public dissemination of the information included in the pleadings submitted in this matter could cause severe harm to the children's welfare. (Decl. Du Wors at ¶ 5; Decl. Wade at ¶ 4.)

Additionally, the information contained in the pleadings in this matter could threaten the professional interests of both parties. (Decl. Du Wors at ¶ 6; Decl. Wade at ¶ 5.) The case has now resolved amicably. (Decl. Du Wors at ¶ 7; Decl. Wade at ¶ 6.) The parties both believe that the substantive records in this case should be sealed. (Decl. Du Wors at ¶ 8; Decl. Wade at ¶ 7.) The pleadings sought to be disclosed do not impact the public interest, and accordingly no public right to access will be undermined by granting the proposed sealing of these documents. (Decl. Du Wors at ¶ 9; Decl. Wade at ¶ 8.)

EVIDENCE RELIED UPON

This Motion is based on the pleadings and other papers filed in this case; this moving brief; and the Declarations of John Du Wors and Houston Wade and the attachments thereto.

LEGAL AUTHORITY

Good cause exists for the sealing of the subject records. GR 15(1) provides: "In a civil case, the court or any party may request a hearing to seal or redact the court records." "Under the General Rules, a court record may be sealed if a court 'enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record.'" *Hundtofte v. Encarnacion*, 181 Wash. 2d 1, 7 (2014). In

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evaluating whether the grant a request to seal records based on privacy considerations, courts consider the so-called five *Ishikawa* factors: 1) the need of the requesting parties; 2) whether any party present at the hearing on a motion to seal objects; 3) whether there are less restrictive means for limiting public access to the information sought to be sealed; 4) the competing interests of the public in having access to the subject information; and 5) whether a time limit on the sealing should be imposed. *Id.* At 8 (citing *Seattle Times v. Ishikawa*, 97 Wash.2d 30, 37 (1982). All of the *Ishikawa* factors weigh in favor of sealing.

First, the need of the parties is great—professional interests of both parties, and the interests of the minor children discussed in the substantive pleadings compel a conclusion that the pleadings should be sealed. Second, it is not anticipated that any party will appear at hearing to object to the proposed sealing of records. Third, curtailing public access to the information at issue cannot be accomplished through any less restrictive means than sealing. Fourth, the facts discussed in the pleadings are not the subject of public concern, and therefore the interests of the parties in having the records sealed is not outweighed by any competing public interest.

Finally, no time limit on the sealing is warranted, as it is not foreseeable that the public would benefit from later access to these records.

CONCLUSION

A Proposed Order is attached.

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Seattle, Washington 98121
(206) 274-2800

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Dated: February 10, 2021

Respectfully submitted,

NEWMAN DU WORS LLP

John Du Wors, WSBA No. 33987
2101 Fourth Avenue, Suite 1500
Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

Dated: February 10, 2021

HOUSTON WADE

DocuSigned by:
1BC5614821E0452...

Houston Wade

Pro Se Defendant

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that on March 4, 2021, I caused true and correct copies of the foregoing documents to be served by the method(s) listed below on the following interested parties:

Via Electronic Transmittal:

Defendant Houston Wade
houstonwade@gmail.com

I hereby certify under the penalty of perjury that the foregoing is true and correct.

Executed on March 4, 2021 at Savannah, Tennessee.

s/ Chy Eaton
Chy Eaton, Paralegal

NEWMAN DU WORS LLP
2101 Fourth Avenue, Suite 1500
Seattle, Washington 98121
(206) 274-2800

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20-2-01225-18
DCLR 41
Declaration Affidavit
9977621



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IN OPEN COURT
MAR 19 2021

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

DECLARATION OF HOUSTON WADE IN SUPPORT JOINT MOTION TO SEAL

I, Houston Wade, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. In the course of this litigation, both parties have submitted highly personal and private information about each other.

3. Much of this information relates to the family and parenting environment related to John Du Wors' four minor children.

4. The community where John Du Wors and I live on Bainbridge Island, Washington is small. As an advocate for child welfare, I fear that the unnecessary dissemination of information contained within the pleadings submitted in this matter could impact the social and economic welfare of the Du Wors children.

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5. I also believe it is the case that the personal information contained within the pleadings could impact both John Du Wors and me professionally, in a negative way. I am an accomplished academic and educator. My preference is to keep my personal affairs private, and away from my professional community.

6. I feel it is appropriate that the substantive records in this case be sealed.

7. I also am not aware of any interest held by the public in accessing the substantive documents in this case, and therefore no public interest will be undermined in sealing those records.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17 day of February, 2021 at Bainbridge Island, Washington.

DocuSigned by:

TBC5614821E0462...

Houston Wade

NEWMAN DU WORS LLP

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Seattle, Washington 98121
(206) 274-2800

20-2-01225-18
DCLR 42
Declaration Affidavit
9977622

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IN OPEN COURT
MAR 19 2021
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

DECLARATION OF JOHN DU WORS IN SUPPORT JOINT MOTION TO SEAL

I, John Du Wors, declare as follows:

1. I am over eighteen years of age, competent to testify to the matters set forth in this declaration and make this declaration from personal knowledge of those matters.

2. This case involves claims for, among other things, defamation of character by both parties against one another.

3. In the course of litigation, the pleadings have necessarily disclosed highly private information.

4. Most importantly, this information relates to the affairs of my minor children, and the information contained within the pleadings has the potential to cause embarrassment, social isolation, and financial risk to my children.

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5. My children and I live in a small community—on Bainbridge Island, Washington—and the potential public dissemination of the information included in the pleadings submitted in this matter could cause severe harm to my children's welfare.

6. Additionally, the information contained in the pleadings in this matter could threaten my professional interests, which further risks the financial welfare and stability of my children.

7. The case has now resolved amicably.

8. I believe that the substantive records in this case should be sealed.

9. The pleadings sought to be disclosed do not impact the public interest, and accordingly no public right to access will be undermined by granting the proposed sealing of these documents.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4th day of March, 2021 at Bainbridge Island, Washington.

John Du Wors

NEWMAN DU WORS LLP

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Seattle, Washington 98121
(206) 274-2800

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20-2-01225-18
ORDYMT 43
Order Denying Motion Petition
9977623

DENIED

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IN OPEN COURT
MAR 19 2021
KITSAP COUNTY CLERK
ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP

JOHN DU WORS, an individual,

Plaintiff,

v.

HOUSTON WADE, an individual,

Defendant.

Case No. 20-2-01225-18

~~[PROPOSED]~~ ORDER GRANTING JOINT MOTION TO SEAL

DENIED

THIS MATTER has come before the Court on the Parties' Joint Motion to Seal (the "Motion"). The Court having considered the pleadings on file and the written submissions, hereby GRANTS the Motion.

The Court finds as follows:

1. The sealing of the substantive pleadings listed below is justified by compelling privacy interests, including but not limited to the welfare of minor children.
2. The privacy interests at issue outweigh any public interest in access to the Court's record in this matter.
3. No less restrictive measure other than sealing is adequate to protect the privacy interests at issue in the subject pleadings.

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IT IS THEREFORE ORDERED:

1. The following pleadings in this matter shall be sealed:
   a. The Summons and Complaint filed on August 12, 2020
   b. The Motion for Default filed on August 31, 2020
   c. The Declaration Affidavit filed on September 4, 2020
   d. The Motion to Dismiss filed on September 9, 2020
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2. The Clerk of the Court shall cause these pleadings to be sealed and made inaccessible by the public in either paper or electronic form.

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(206) 274-2800

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Executed this ____ day of _____, 2021.

Honorable ~~Jeffrey P. Bassett~~

TINA ROBINSON

Presented by:

NEWMAN DU WORS LLP

John Du Wors, WSBA No. 33987
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Seattle, WA 98121
Telephone: (206) 274-2800
Facsimile: (206) 274-2801
Email: *john@newmanlaw.com*

Counsel for Plaintiff

HOUSTON WADE

DocuSigned by:
1BC5614821E0452...

Houston Wade

Pro Se Defendant