

THE QUEEN'S BENCH  
FAMILY DIVISION  
WINNIPEG CENTRE

BETWEEN:

LIONEL ANDRE BOUCHARD,

Petitioner,

- and -

ANDRE LIONEL BOUCHARD,  
LYNDA STAUB  
and CLAIRE DEANNA DEMERY,

Respondents.

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TRANSCRIPT OF PROCEEDINGS before The Honourable  
Madam Justice MacPhail, held at the Law Courts Complex, 408  
York Avenue, in the City of Winnipeg, Province of Manitoba,  
on the 16th day of September, 2010.

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APPEARANCES:

MS. H. DIXON, for the respondent Lynda Staub

MR. K. LAND, for the respondents Claire Demery and  
Andre Bouchard

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1 SEPTEMBER 16, 2010

2

3 THE CLERK: Court is now open. Please be seated.  
4 This is the Bouchard, Demery, Staub, Bouchard matter, My  
5 Lady.

6 THE COURT: Yes. And if I could have appearances  
7 for the record, please.

8 MR. LAND: Yes, My Lady. My name is Land. I  
9 appear on behalf of Andy Bouchard and Claire Demery. Ms.  
10 Heather Dixon appears on behalf of Lynda Staub.

11 THE COURT: All right.

12 MR. LAND: There are three pockets in this matter.

13 THE COURT: Yes. Now, I received a phone call  
14 this morning from registry staff indicating that a lengthy  
15 fax had been sent to my attention, and my assistant has made  
16 copies of the lengthy fax. There is some in excess of 90  
17 pages, so there's a copy for each of you there and a copy  
18 has been made for each of the three pockets.

19 MS. DIXON: Thank you.

20 THE COURT: And in a nutshell the two page letter  
21 which is the beginning of the fax indicates that Mr. Lionel  
22 Bouchard has correspondence from his doctor indicating that  
23 he is unable to travel for medical reasons. And although it  
24 doesn't expressly say that he's not going to be here today,  
25 I think that's the message that he's giving to the court,  
26 that he's not going to give to the message, to the -- he's  
27 not going to be appearing in court for this hearing. And in  
28 paragraph 7 of the letter he essentially asks the court to  
29 uphold the protection orders that were granted to him.

30 Now, I am going to adjourn this hearing for 45  
31 minutes to enable the two of you to look through this bundle  
32 of documents and then I'll hear from you as to how you wish  
33 to proceed today, okay?

34 MR. LAND: Yes.

1 MR. DIXON: Thank you, My Lady.

2 THE COURT: Because clearly Mr. Bouchard was told  
3 in June that the matter would be proceeding to hearing  
4 today, but I'll hear from you as to how you wish to proceed  
5 when we come back. But I'd like to give you the opportunity  
6 to read through this material, okay?

7 MS. DIXON: Thank you, My Lady.

8 MR. LAND: Thank you, My Lady.

9 THE COURT: Thank you.

10 THE CLERK: Order, all rise.

11

12 (BRIEF RECESS)

13

14 THE CLERK: Please be seated.

15 THE COURT: Yes.

16 MR. LAND: Yes, My Lady.

17 THE COURT: Mr. Land.

18 MR. LAND: Ms. Dixon and I have had a chance to  
19 review the, the correspondence provided by Ms. LeGare. It's  
20 more of the usual as to what the file is already full of.  
21 These files are already full of -- basically what the  
22 correspondence tells me is that the applicant is acting in  
23 bad faith in regards his opposition to our application to  
24 have the protection order set aside and evidence of that bad  
25 faith is contained in the correspondence themselves.

26 This matter was set for trial at a case conference  
27 before Justice Johnston on March 17th, 2010. You will note  
28 that from the letter that she has filed from Dr. Strath  
29 (phonetic) the appointment that he complained about on June  
30 3rd was actually made on March 31st, 2010, so some two weeks  
31 after the trial date in June was set. He already knew that  
32 he had an appointment -- or a trial date set, goes out and  
33 sets a doctor's appointment for June 3rd and then comes to  
34 court and complains, oh, I can't make it on June 3rd.

1           We also have an acknowledgement on his part that  
2 he's residing in British Columbia as at this stage. In  
3 paragraph 4 he says he's out of his home, exiled in B.C.  
4 awaiting possessions, he is seeing physicians in British  
5 Columbia. It appears as though the only -- the real nexus  
6 he has to anywhere is now British Columbia. His address  
7 shown on all of the correspondence is now in Pitt Meadows,  
8 British Columbia, not in Manitoba.

9           THE COURT: In terms of the hearing today --

10          MR. LAND: Yes.

11          THE COURT: -- his letter indicates that he's  
12 unable to be here for medical reasons. That's in paragraph  
13 1 --

14          MR. LAND: That's correct.

15          THE COURT: -- of the letter September 14th.  
16 There's no request for an adjournment in his letter.  
17 Paragraph 7 he simply indicates that he appeals to the court  
18 to see the evidence for what it is "and that is elderly  
19 abuse of myself" and ask the court maintain the protection  
20 orders going forward. And there's additional information in  
21 that paragraph.

22          So --

23          MR. LAND: I think the court finds itself --

24          THE COURT: -- I have his position.

25          MR. LAND: Yes. The court finds itself in a  
26 position as a result of Justice Johnston's order by consent  
27 at the case conference that there is affidavit material  
28 already before the court that the court can rely upon. Our  
29 clients are here today. So if the court wants to hear viva  
30 voce evidence essentially confirming their affidavits in  
31 respect of the matter, we could certainly do that today.  
32 But I think probably, My Lady, all of the evidence is  
33 already before the court in the form of those affidavits.

34          THE COURT: So am I hearing you correctly that

1 your clients wish to proceed with the hearing today?

2 MR. LAND: Absolutely.

3 THE COURT: Okay. Ms. Dixon.

4 MS. DIXON: Yes, My Lady.

5 THE CLERK: Speak into the microphone, please.

6 MS. DIXON: Sorry, I apologize. Yes, My Lady, we  
7 are prepared to proceed, if that is what the court wishes.

8 THE COURT: Okay. Well, this matter -- madam  
9 clerk, may I have one of the pockets, please?

10 This matter involves applications by three  
11 individuals to have the protections order that Lionel  
12 Bouchard obtained against them set aside. The three matters  
13 were all considered at a case conference before my brother  
14 Justice Johnston on March 17th, at which time a one day  
15 hearing was ordered to take place on June 3rd, and at that  
16 time I was sitting and there was a request via  
17 teleconference from Mr. Bouchard for an adjournment because  
18 he was unable to be in Manitoba due to a medical  
19 appointment. At that time I adjourned the matter, subject  
20 to certain conditions, to a two day hearing to commence on  
21 today's date and I made it clear to Mr. Bouchard that the  
22 matter would be proceeding on that date.

23 As I indicated earlier this morning, I was advised  
24 by registry staff of correspondence with, I'll say numerous  
25 attachments in excess of 90 pages in total, a September 14th  
26 letter from Mr. Bouchard in which, as I indicated earlier,  
27 he advised that he's unable to be here due to medical  
28 reasons, unable to travel, and he asked that the protection  
29 orders be maintained.

30 The Domestic Violence and Stalking Act  
31 specifically provides that evidence that was considered by  
32 the judicial justice of the peace on a protection order  
33 application is evidence at any hearing, evidence to be  
34 considered by the court at any hearing to set aside the

1 protection orders. So Mr. Bouchard's evidence and the  
2 materials that he filed and the transcript of the  
3 proceedings before the judicial justice of the peace are  
4 evidence before me.

5 I'm prepared to grant you leave to proceed today,  
6 and in terms of the method of proceeding my -- the evidence  
7 and the information and the written documents that were  
8 before the judicial justice of the peace will each be marked  
9 as exhibits. So each of the three applications for  
10 protection orders, together with the appendices that were  
11 attached to them, as well as the transcripts which appear to  
12 be duplicate copies of the same transcript, there weren't  
13 separate hearings, but I think each of those should be  
14 marked as an exhibit because they are three separate  
15 pockets. And then once that is done then I'll ask you how  
16 you wish to proceed in terms of your clients' cases.

17 So the hearing will proceed. It's now, I note,  
18 11:05 and Mr. Bouchard indicated he wouldn't be here and in  
19 fact he's not here and so after the exhibits are marked I'll  
20 ask each of you how you wish to proceed with your client's  
21 evidence.

22 So if you could start with one of the pockets,  
23 madam clerk, and indicate which one will be Exhibit 1.

24 THE CLERK: The Staub pocket, My Lady, the  
25 application for a protection order, document one, Exhibit 1.

26  
27 **EXHIBIT 1 (STAUB): STAUB POCKET**  
28 **CONTAINING APPLICATION FOR**  
29 **PROTECTION ORDER**

30  
31 THE CLERK: The protection order, document three,  
32 Exhibit 2.

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**EXHIBIT 2 (STAUB): PROTECTION  
ORDER**

THE CLERK: Affidavit of Lynda Staub, document --  
THE COURT: Oh, not her affidavit, just the  
transcript. Just the applications, the protection orders  
and the affidavits (sic) will be the exhibits and then I'll  
ask counsel how they wish to proceed with respect to their  
clients' evidence.

THE CLERK: Transcript then on the same pocket,  
Exhibit 3, My Lady.

**EXHIBIT 3 (STAUB): TRANSCRIPT**

THE CLERK: On the Demery pocket, application for  
protection order, document one, Exhibit 1, My Lady.

**EXHIBIT 1 (DEMERY): APPLICATION  
FOR PROTECTION ORDER**

THE CLERK: Protection order, Exhibit -- document  
three and Exhibit 2, My Lady.

**EXHIBIT 2 (DEMERY): PROTECTION  
ORDER**

THE CLERK: Transcript, document eight, Exhibit 3,  
My Lady.

**EXHIBIT 3 (DEMERY): TRANSCRIPT**

MS. DIXON: I'm sorry, what document was that?

THE CLERK: I'm sorry?

THE COURT: The transcript is which document,



1 madam clerk?

2 THE CLERK: It was document eight on the Demery  
3 pocket.

4 On the Bouchard pocket, Exhibit 1, application for  
5 protection order, document one.

6

7 **EXHIBIT 1 (BOUCHARD): APPLICATION**  
8 **FOR PROTECTION ORDER**

9

10 THE CLERK: Protection order, Exhibit 2, document  
11 three.

12

13 **EXHIBIT 2 (BOUCHARD): PROTECTION**  
14 **ORDER**

15

16 THE CLERK: Transcript of proceedings, Exhibit 3,  
17 document seven.

18

19 **EXHIBIT 3 (BOUCHARD): TRANSCRIPT**

20

21 THE COURT: Okay. Ms. Dixon, can I hear from you  
22 first because numerically the Staub file is the first file?

23 MS. DIXON: Okay. May I have just one moment to  
24 consult with Mr. Land --

25 THE COURT: Certainly.

26 MS. DIXON: -- My Lady?

27 My Lady, the first thing we'd like to do is enter  
28 the affidavits, the affidavit of Lynda Staub --

29 THE COURT: So -- and I did read --

30 MS. DIXON: -- as --

31 THE COURT: -- the affidavits, as was indicated in  
32 the case conference memoranda I should do.

33 MR. LAND: Yes. Paragraph 14(4).

34 THE COURT: So I have read the three affidavits.

1 MR. LAND: Yes.

2 THE COURT: So it's your desire then to have Ms.  
3 Staub's affidavit?

4 MS. DIXON: Entered as an exhibit. Correct, My  
5 Lady.

6 THE CLERK: That's sworn November 30th, 2009, My  
7 Lady.

8 THE COURT: So that will be Exhibit 4 on that  
9 pocket.

10 THE CLERK: Exhibit 4, My Lady.

11

12 **EXHIBIT 4 (STAUB): AFFIDAVIT SWORN**  
13 **NOVEMBER 30, 2009**

14

15 MS. DIXON: And you indicated you had read that  
16 document, My Lady?

17 THE COURT: Yes, I did.

18 MS. DIXON: Yes. Okay. My Lady, if there are any  
19 questions arising I can put my client on the stand.

20 THE COURT: I leave it to you as to whether you  
21 feel you have any additional evidence that you want your  
22 client to give or whether you are going to be relying on her  
23 affidavit.

24 MS. DIXON: Thank you, My Lady. I will consult  
25 with my client.

26 THE COURT: If you could. And then, Mr. Land, if  
27 you could advise with respect to your clients' affidavits.

28 MR. LAND: Yes. My clients would like their  
29 affidavits of December 8th, 2009 entered as exhibits on  
30 their respective pockets.

31 THE CLERK: That will be Exhibit 4 on each of the  
32 pockets, My Lady.

33

34

1                   **EXHIBIT 4 (DEMERY):       AFFIDAVIT**  
2                   **SWORN DECEMBER 8, 2009**

3  
4                   **EXHIBIT 4 (BOUCHARD):       AFFIDAVIT**  
5                   **SWORN DECEMBER 8, 2009**

6  
7                   THE COURT:    Yes, Ms. Dixon.

8                   MS. DIXON:    My Lady, I've consulted with my  
9 client.    She believes that her affidavit is sufficient,  
10 unless there's anything you wish to cross-examine her or  
11 question her about.

12                  THE COURT:    No, I have no questions for her in  
13 relation to her affidavit.    So you'll be relying on her  
14 affidavit evidence then?

15                  MS. DIXON:    That is correct, My Lady.

16                  THE COURT:    All right.    Mr. Land.

17                  MR. LAND:    My clients take the same position, My  
18 Lady.

19                  THE COURT:    And did you have any additional  
20 evidence, Ms. Dixon, that you wish to call?

21                  MS. DIXON:    No, My Lady, I have no additional  
22 evidence.

23                  THE COURT:    Mr. Land?

24                  MR. LAND:    No, I have no additional evidence that  
25 I would call, My Lady.

26                  THE COURT:    All right.    Are you ready to proceed  
27 to argument each of you then?

28                  MR. LAND:    We are.

29                  MS. DIXON:    Yeah.

30                  THE COURT:    Okay.       Who wishes to proceed  
31 first?

32                  MS. DIXON:    Well, Mr. Land was, was going to  
33 proceed first, but we shall --

34                  THE COURT:    That's fine.    Mr. Land.

1 MR. LAND: Yes, My Lady.

2 This application under the Domestic Violence and  
3 Stalking Act has been before the courts for a considerable  
4 period of time. It arose out of the granting of a  
5 protection order under the act on October 31st, 2009.

6 The circumstances of the granting of that order  
7 are somewhat unusual. It was an after hours application by  
8 an individual who, in accordance with my clients' affidavit  
9 material, was no longer a full-time resident within the  
10 Province of Manitoba. He has maintained throughout that he  
11 has a residence and that there are other court proceedings  
12 that prevent him from occupying that residence. But the  
13 evidence is clear that he's not been in the Province of  
14 Manitoba on a residential basis since February of 2008.  
15 Under the circumstances that was never canvassed in any of  
16 the magistrate's questioning nor is it canvassed in the  
17 application evidence that's before the, the court at that  
18 time.

19 The other irregularity of that hearing, as I'm  
20 sure you've noted, My Lady, is the fact that although Mr.  
21 Bouchard was sworn, the applicant gave almost no evidence  
22 whatsoever in respect of --

23 THE COURT: Was he sworn?

24 MR. LAND: Well, that's a good question. I  
25 believe --

26 THE COURT: The transcript does not indicate that  
27 he was.

28 MR. LAND: I believe the, the magistrate at least  
29 felt he was sworn before he makes a note in the transcript  
30 that --

31 THE COURT: There's a reference to Ms. LeGare not  
32 being sworn.

33 MR. LAND: Being sworn, correct.

34 THE COURT: But there doesn't appear -- from my

1 reading of the transcript it doesn't appear that Mr.  
2 Bouchard was in fact sworn.

3 MR. LAND: You are correct, My Lady. I'm looking  
4 at the first page and there's no indication that he was  
5 sworn. Therefore, it would appear as though the whole of  
6 the transcript is not in accordance with the provisions of  
7 the legislation which requires sworn evidence to be given  
8 before a magistrate.

9 We're then left with the application form as the  
10 only evidence in support of the application for the  
11 protection order. The protection order application itself  
12 is, needless to say, in all cases containing next to no  
13 evidence and simply contains allegations of abuse, such  
14 things as abusive financial behaviour.

15 Just to, to go on, on one incident that's alleged  
16 in the material, Claire Demery was suggested to have abused  
17 a power of attorney. Her affidavit sets out the power of  
18 attorney, it sets out why she used it, namely that her  
19 father had disappeared from Manitoba in February of 2008.  
20 She was concerned about him, so she called the Caisse  
21 Populaire and had the line of credit that he had cancelled  
22 to make sure that it wasn't subject to abuse. She did that  
23 under a power of attorney.

24 Shortly thereafter, within a matter of a week, a  
25 letter arrived from Mr. Smith, which is also on the pocket,  
26 indicating that the power of attorney for Ms. Demery was  
27 cancelled and that the power of -- or the line of credit  
28 should be resurrected.

29 I'm not sure, My Lady, how any of that meets the  
30 definition contained in the legislation of domestic  
31 violence. The definition of itself is that there is the  
32 intentional reckless or threaten to act or omission that  
33 causes bodily harm or property damage. I for the life of me  
34 cannot see any allegations that would indicate that any of

1 these parties have caused bodily harm or property damage to  
2 the applicant.

3 The additional provisions regarding domestic  
4 violence would be the reasonable fear. Well, nothing that  
5 has been put forward is reasonable, given the evidence  
6 that's been stacked up against it. The suggestion of  
7 financial abuse by the cancelling of a line of credit rather  
8 than a utilization of the power of attorney to use the line  
9 of credit, is what normally one would expect to see rather  
10 than a, a cessation of damage, I can't see how that can be  
11 seen as a reasonable fear for property when in fact it was  
12 simply frozen.

13 Lastly, conduct that constitutes psychological or  
14 emotional abuse. Again there is no evidence before the  
15 court of any conduct that I would suggest comes anywhere  
16 close to that type of behaviour that warrants one of these  
17 orders. They have made allegations in the applications  
18 about threatened "when she will see me they will gang up  
19 with Andy, Lynda and Mike". Doesn't say what they're going  
20 to gang up about, doesn't give any particulars as to what  
21 the fear is about, simply that these people have an  
22 association.

23 There is information about cleaning out a home  
24 while he was no longer in residence. That's dealt with in  
25 Mr. Bouchard -- Andy Bouchard's affidavit and indicates why  
26 the home that he wanted to go back to after being absent for  
27 a little over two years was not suitable for him to return  
28 to.

29 All of the allegations in the applications  
30 themselves are just that, they're allegations that are not  
31 supported by any evidence whatsoever. The indication in my  
32 clients' affidavits is that they were very concerned and  
33 remained very concerned about their father, that they  
34 believe that he's under the influence of their sister

1 Marlene who has been the driving engine behind this process,  
2 as can be seen from the applications which are in her  
3 handwriting and all of the documentation that she tries to  
4 file with the court, it comes under her signature or at her  
5 hand.

6 My clients are still concerned. The, the  
7 information that they've filed today or that they're put  
8 before the court today just gives my clients further  
9 concerns about their father's well-being while in the care  
10 of Marlene.

11 The bottom line here, My Lady, is there is no  
12 significant evidence whatsoever nor was there on October  
13 31st, 2009 when this order was granted that should result in  
14 a protection order against these individuals. The glaring  
15 lack of jurisdiction in the court to even grant this order  
16 when Mr. Bouchard appears to have been a resident of British  
17 Columbia for slightly over two years at the time that the  
18 order was granted is indication that he is no longer,  
19 although he wants to claim to be a resident of Manitoba, it  
20 no longer has a residence here.

21 They are in fact all indicative of the fact that  
22 the magistrate was, I don't know how I should put this,  
23 overwhelmed by Marlene and her stream of information that  
24 she puts forward without any proof whatever, her stream of  
25 allegations that grow more and more outrageous and  
26 outlandish as this matter goes on. None of that is supposed  
27 by the evidence and in fact is all contradicted by my  
28 clients' evidence.

29 I would submit, My Lady, that my clients have  
30 tried to be as forthright with the court as possible in  
31 bringing the application. They have submitted the  
32 documentation that verifies their version of events.  
33 Certainly I would also rely upon the affidavit of Lynda  
34 Staub which is somewhat lengthier than my clients'

1 affidavits but contains the same information in greater  
2 detail and gives some more of the family background.

3           This has been a very troubling matter for my  
4 clients. It flows out of a very troubling family situation  
5 which I don't think these protection orders do anything to  
6 make it better or to proceed. Obviously Mr. Bouchard's lack  
7 of residency and lack of even existence in the Province of  
8 Manitoba makes this application moot in any event. The  
9 purview of this application is obviously only within the  
10 Province of Manitoba, but being a B.C. resident I see great  
11 difficulty seeing as why he would have any need whatsoever  
12 of such an order.

13           My Lady, there are additional examples of the lack  
14 of material or the lack of verification of allegations made  
15 set out in the affidavits of Mr. Bouchard and Ms. Demery.  
16 I've highlighted the one which is the power of attorney  
17 abuse. There are others that I can certainly go from -- for  
18 the court, however, I know the court's already read the  
19 material and is well versed with it having read it twice  
20 now.

21           So unless the court has any further questions,  
22 that would be my commentary.

23           THE COURT: No questions, Mr. Land. Thank you.  
24 Ms. Dixon.

25           MS. DIXON: My Lady, this, this application that  
26 has come before you today for trial is, is based -- we are  
27 coming here saying that the evidence shows absolutely no  
28 basis for the document -- pardon me, for the order to have  
29 been granted in the first place.

30           First of all, Mr. Bouchard was a non-resident.  
31 There doesn't seem to be any questioning about when -- where  
32 his residency was, where he was currently living, how long  
33 he had been living there or anything on the evidence.

34           Second of all, the evidence that was given, as, as



1 we have already discussed, was not sworn. Mr. Bouchard was  
2 not sworn in. That he, he appeared confused and in fact  
3 most of the evidence wasn't even being given by him. Clear  
4 reading of the transcript, most of the talking was done by  
5 Ms. LeGare and the, the magistrate clearly felt overwhelmed.

6 When you look at domestic violence, what it's  
7 there for, who it's meant to protect and why it's meant to  
8 protect these people, you have to -- people who come before  
9 the court asking for an order, you have to look at what it  
10 is meant to do. Threats, property damage or bodily harm or  
11 actual bodily harm or property damage.

12 There is no evidence anywhere in -- anywhere on  
13 the pocket that there had been ever property damage or  
14 bodily harm done to Mr. Bouchard. Or reasonable fear is the  
15 second part of the Domestic Violence Act. There's no  
16 reasonable grounds for fearing these people. In fact if you  
17 read Ms., Ms. Staub's affidavit, it was her father who asked  
18 her to protect him because he was afraid of Marlene, not  
19 afraid of her. That's page 6 of Ms. Staub's affidavit, My  
20 Lady, paragraph 16, I believe. Pardon me, page 5, paragraph  
21 17 of Lynda Staub's affidavit sworn the 30th of November  
22 2009.

23 My Lady, all of this has been orchestrated by  
24 someone who is trying to get even. We are concerned for Mr.  
25 Bouchard. He is the concern of this court and has been from  
26 the time that he came before the court on October 31st and  
27 he remains the concern of this court. However, he must have  
28 reasonable grounds to prove that, that he in fact does fear,  
29 could fear, should fear, not just grounds that have been fed  
30 to him. None of the allegations are supported. In fact  
31 they are countered in Ms. Staub's affidavit. They are all  
32 explained. The affidavit is sworn. The affidavit is  
33 properly prepared.

34 We believe that, that this has been a process

1 simply to harass. There has been no warning to anyone at  
2 any time ahead of time that these people would not appear  
3 for court. It is an abuse of process and has been right  
4 from the beginning.

5 An ex parte order granted after hours on a  
6 Saturday night with pages and pages and pages of material,  
7 most of which have very little, if any, connection with the  
8 complainant is not a grounds for an order.

9 Mr. Bouchard was warned very carefully by the  
10 court on June 3rd and Ms. LeGare heard as well. While  
11 theories and allegations can abound, we do know one thing,  
12 we have appeared as ordered by the court each and every  
13 time. In fact the court appearances before that I  
14 personally have made on behalf of this trial were on January  
15 -- twice in January, January 18th, January 20th before a  
16 Master, March 9th before Justice Allen, March 17th before  
17 Justice Johnston, June 3rd before you and again today. In  
18 addition, there were several non-contested motion  
19 appearances and each time the case was adjourned.

20 We finally get here. We get to the point where my  
21 client has very clearly explained she has not abused her  
22 father and in fact she has tried to help her father. When,  
23 when her father has asked for assistance she is there. It  
24 is her father who continues to make phone calls to her. She  
25 does not contact him. There's been no stalking.

26 What is the purpose of this Act? When did it come  
27 in? Why did it come in? We all know, it is to protect  
28 certain people. Mr. Bouchard is not one of those people.  
29 The matter should be dismissed.

30 THE COURT: Thank you, Ms. Dixon. I'm going to  
31 take the materials, the exhibits back to my office and I  
32 will be providing you with my decision orally, but I'm going  
33 to need some time to do so. And this matter had originally  
34 been scheduled to be in court tomorrow as well, so I'd like

1 you to come back tomorrow morning at ten o'clock, at which  
2 time I will provide you with my decision.

3 Now, whether or not you're able to deal with the  
4 issue of costs, if you want to make a submission of costs  
5 after you hear my decision, I don't know, so depending on  
6 the decision I give to you I'm -- you may want to be  
7 prepared to speak to that issue. If not, depending on the  
8 outcome of my decision, then that's something that we can  
9 schedule another time for, if that's what you'd like to do.  
10 But just because I know that your clients have already  
11 appeared several times and presumably will be back tomorrow  
12 to hear my decision, it may be helpful if you're prepared in  
13 either eventuality to deal with the issue of costs, all  
14 right?

15 MR. LAND: Yes.

16 THE COURT: So until ten o'clock tomorrow morning.

17 MS. DIXON: Yes, My Lady.

18 MR. LAND: Yes. Thank you, My Lady.

19 MS. DIXON: Thank you.

20 THE CLERK: Order, all rise.

21 (PROCEEDINGS ADJOURNED TO SEPTEMBER 17, 2010)

#### CERTIFICATE OF TRANSCRIPT

I hereby certify that the foregoing pages of printed matter, numbered 1 to 17, are a true and accurate transcript of the proceedings, transcribed by me to the best of my skill and ability.

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CHRISTINE JONES  
COURT TRANSCRIBER