

FD 09-01-92674
 FD 09-01-92671
 FD 09-01-92675

THE QUEEN'S BENCH
 FAMILY DIVISION
 WINNIPEG CENTRE

9BETWEEN:

10)	Ms. H. Dixon
11)	for the Respondent
12LIONEL ANDRE BOUCHARD,)	Lynda Staub
13)	Mr. K. Land
14 Petitioner,)	for the Respondents
15)	Claire Deanna Demery
16)	and Andre Bouchard
17- and -)	
18)	
19ANDRE LIONEL BOUCHARD,)	
20LYNDA STAUB AND CLAIRE)	
21DEANNA DEMERY,)	
22)	Judgment delivered
23 Respondents.)	September 17, 2010

26MACPHAIL, J. (Orally)

27 I asked you to return this morning so that I
 28could provide you with the reasons for and my decision with
 29respect to the three applications to set aside protection
 30orders that were obtained by Lionel Bouchard.

31 On October 31st, 2009, Lionel Bouchard,
 32accompanied by his daughter, Marlene Legare, applied for
 33protection orders pursuant to the Domestic Violence and
 34Stalking Act against three of his children, Andre Bouchard,

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1 Claire Demery and Lynda Staub, and a former friend, Michael
2 Slegers (phonetic).

3 The applications were heard that evening by
4 Judicial Justice of the Peace Harvey, who granted Mr.
5 Bouchard protection orders against his three children and
6 dismissed the request for a protection order against Mr.
7 Slegers.

8 Each of the protection orders contained the same
9 terms. The respondent was not to directly or indirectly
10 communicate with or contact the protected party. Secondly,
11 the respondent was not to attend at or near or within one
12 city block of where the protected party resides or
13 regularly attends.

14 Ms. Staub was served with the protection order
15 against her on November 1st, Ms. Demery on November 2nd and
16 Mr. Bouchard, Andre Bouchard, on November 3rd, 2009. The
17 protection orders were filed in the Court of Queen's Bench
18 on November 2nd, 2009.

19 On November 20th, Lynda Staub, Andre Bouchard and
20 Claire Demery each filed applications to have the
21 protection orders against them set aside. The three
22 notices of application appeared on the family standby
23 motions list on March 9th, 2010, at which time my sister
24 Justice Allen ordered a case conference for all three
25 matters to take place on March 17th, 2010 with counsel to
26 notify Lionel Bouchard of same. I should note that each of
27 the applications to set aside the protection orders were
28 subsequently supported by affidavits of the respondents
29 seeking to have the orders set aside.

30 A case conference for all three applications took
31 place as scheduled on March 17th, 2010 before my brother
32 Justice Johnston. Lionel Bouchard and his daughter Marlene
33 Legare participated by way of teleconference from what was
34 described as an unknown location in British Columbia.

1 A one day trial was set for June 3rd, 2010 to
2commence at 10:00 a.m. Lionel Bouchard did not appear in
3person at the June 3rd, 2010 hearing before me, but he did
4participate via teleconference, as did his daughter Marlene
5Legare. The three respondents, the applicants to set aside
6the protection orders, were all present with counsel and
7ready to proceed to hearing.

8 Lionel Bouchard requested an adjournment of the
9hearing indicating that he was unable to attend that day
10because he had an appointment with his eye doctor in
11British Columbia. I seized myself of the matter and
12granted an adjournment to September 16th and 17th, 2010
13with the hearing to commence at 10:00 a.m. on the first day
14on certain conditions.

15 By August 31st Lionel Bouchard was to file with
16the court a letter from his doctor confirming that he
17attended the eye appointment on June 3rd and indicating
18when that appointment was scheduled. Costs were ordered in
19favour of Andre Bouchard and Claire Demery in the amount of
20\$400 each payable forthwith and \$700 in favour of Lynda
21Staub payable forthwith.

22 Two letters from British Columbia doctors were
23filed with the court by August 31st, 2010. One dated March
2431st, 2010, two weeks after the case conference at which
25the June 3rd trial date was set, referred to an appointment
26being made for Mr. Bouchard on June 3rd, 2010. The second
27letter confirmed Mr. Bouchard's attendance at an eye
28appointment on that date.

29 The morning of September 16th, 2010 prior to the
30scheduled commencement of the adjourned hearing I was
31advised by the Court of Queen's Bench registry staff that
32they were in receipt of a lengthy faxed document addressed
33to my attention. Shortly thereafter I was provided with a
34faxed copy of a two page typed letter apparently signed by

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1Lionel Bouchard together with some 92 pages of attachments.

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In the letter dated September 14, 2010, but faxed the afternoon of September 15th, 2010, Mr. Lionel Bouchard indicated that he was attaching correspondence from his physician advising that due to medical reasons he was unable to travel until further notice. In addition, in paragraph 7 of the letter, he indicated that he wished to have the protection orders maintained. There was no request for an adjournment of the proceedings.

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I provided copies of the complete bundle of documents to counsel for all three of the individuals seeking to have the protection orders set aside on the morning of September 16th when the hearing was to have commenced. Counsel for these parties wanted to proceed with the hearing on that date and as Mr. Lionel Bouchard had clearly been advised that the trial would take place on September 16th and 17th, 2010 when it was adjourned from June 3rd, 2010 at his request, the hearing proceeded as scheduled on September 16th, albeit approximately an hour after its scheduled commencement time of 10:00 a.m.

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Mr. Bouchard's three applications for protection orders with evidence forms and appendices, the three protection orders, the three copies of the transcript of proceedings before the Judicial Justice of the Peace on October 31st, 2009, the November 30th, 2009 affidavit of Lynda Staub and the December 8th, 2009 affidavits of Claire Demery and Andre Bouchard were all filed as exhibits. No further evidence was adduced by any of the three respondents to the protection orders.

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Submissions were made by counsel and I reserved my decision to today's date.

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For the reasons that follow I am granting each of the three applications to set aside the protections orders obtained by Lionel Bouchard on October 31st. Those are the

orders against Lynda Staub, Claire Demery and Andre Bouchard.

3 The Domestic Violence and Stalking Act provides a
4mechanism for persons subjected to domestic violence or
5stalking (as defined in the Act) to seek civil protective
6orders. Lionel Bouchard sought without notice protection
7orders from a designated judicial justice of the peace.
8Sections 3 through 13 of the Act specifically relate to
9protection orders and other provisions can also be
10relevant. Section 4 of the Act provides:

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12 "4(1) Despite sections 42
13 (territorial jurisdiction) and 43
14 (exclusive jurisdiction) of *The*
15 *Court of Queen's Bench Act*, an
16 application for a protection order
17 may be made to a designated
18 justice of the peace without
19 notice in the manner prescribed by
20 regulation."

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22 Subsection 4(2):

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24 "An application for a protection
25 order may be submitted
26 (a) in person, by the subject;"

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28 The subsection goes on to provide other means,
29but they are not relevant to this particular proceeding.

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31 Subsection 4(3) provides:

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33 "Evidence adduced in support of an
34 application for a protection order

1 must be given under oath."

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3 As indicated, subsection 4(1) allows for a
4 without notice application for a protection order in the
5 manner prescribed by regulation. Section 2 of the *Domestic*
6 *Violence and Stalking Regulation* to the Act prescribes the
7 content of applications for protection orders, including
8 clause (f), a requirement to provide the name and contact
9 particulars of any individual who assists a person in
10 completing an application for a protection order.

11 Section 3 of the regulation prescribes the
12 evidence that is required to support such applications.
13 Standard forms have been developed for use by individuals
14 applying for protection order: an application for a
15 protection order form and a document entitled "Evidence in
16 support of application for a protection order". I
17 hereinafter refer to these documents as the application and
18 the evidence form.

19 Subsection 6(1) of the Act provides:

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21 "A designated justice of the peace
22 may grant a protection order
23 without notice where the justice
24 determines on a balance of
25 probabilities that an order is
26 necessary or advisable for the
27 immediate or imminent protection
28 of the subject, in circumstances
29 where

30 (a) the respondent

31 (i) is stalking or has stalked the
32 subject, or

33 (ii) is subjecting or has
34 subjected him or her to domestic

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violence;"

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4 clause (b):

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Section 2 of the Act provides in clause (1) that:

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24 And the relevant clause is (b):

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"(b) has or had a family relationship with him or her, in which they have lived together;"

Subsection 2(1.1):

"The following acts and omissions constitute domestic violence:

1 (a) an intentional, reckless or
2 threatened act or omission that
3 causes bodily harm or property
4 damage;

5 (b) an intentional, reckless or
6 threatened act or omission that
7 causes a reasonable fear of bodily
8 harm or property damage;

9 (c) conduct that reasonably, in
10 all the circumstances, constitutes
11 psychological or emotional abuse;

12 (d) forced confinement;

13 (e) sexual abuse."

14
15 Section 7 sets forth the provisions that a
16 designated justice of the peace may include in a protection
17 order if he or she considers it necessary or advisable.

18 The Act provides a mechanism for respondents
19 against whom protection orders are granted to seek to have
20 such order set aside. In particular, subsection 11(1)
21 provides:

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23 "A respondent against whom a
24 protection order is made may apply
25 to the court within 20 days after
26 being served with the order, or
27 such further time as the court may
28 allow, to have the order set
29 aside."

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31 And that is what occurred in this particular case.

32 Subsection 12(1):

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34 "The judge hearing an application

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to set aside a protection order
may confirm or set aside the order
or may vary it by deleting clauses
or by adding clauses from
subsection 7(1) (content of
protection order)."

Subsection 12(2) provides that:

"At a hearing, the onus is on the
respondent to demonstrate, on a
balance of probabilities, that the
protection order should be set
aside."

And subsection 12(3) goes on to provide that:

"The evidence that was before the
designated justice of the peace
shall be considered as evidence at
the hearing, and the subject may
present additional evidence."

As provided by subsection 12(3) of the Act, the
evidence submitted by Lionel Bouchard to the judicial
justice of the peace is evidence before me for purposes of
the hearing of the applications to set aside the protection
orders. As indicated previously, Mr. Bouchard did not
attend the hearing on September 16th, 2010, so he did not,
as is permitted by subsection 12(3) of the Act, provide or
present any additional evidence. At this hearing the onus
is on each of the respondents to demonstrate on a balance
of probabilities that the protection orders granted again
them should be set aside.

1 In the Manitoba Court of Appeal decision in
2Baril v. Obelnicki, 2007 MBQB 40, Justice Steel writing for
3the court interpreted the provision as requiring that:

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5 "the respondent must demonstrate,
6 on a balance of probabilities,
7 that it is just or equitable that
8 the judge set aside the order. He
9 may show among other possibilities
10 that, on a balance of
11 probabilities, full disclosure was
12 not made or that the restraints on
13 his liberty are unnecessary or too
14 restrictive and that the stalking
15 will not continue or based on the
16 weight of the evidence at the
17 review hearing the order should be
18 set aside."

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20 Baril v. Obelnicki was a case that involved a
21stalking situation, not a domestic violence situation,
22hence the reference to stalking.

23 Lionel Bouchard submitted individual applications
24for protection orders against each of Lynda Staub, Claire
25Demery and Andre Bouchard, as well as evidence in support
26of each of these applications. Presumably he also
27submitted an application and an evidence form with respect
28to his request for a protection order against Michael
29Slegers, which application was dismissed by the judicial
30justice of the peace. None of the three application forms
31were signed by Mr. Bouchard, although his name was printed
32on same. He did sign and swear the evidence forms relating
33to each of the applications.

34 The application for a protection order against

1 Claire Demery did not indicate, as required by clause 2(f)
2 of the *Domestic Violence and Stalking Regulation*, that Mr.
3 Bouchard had received help to complete the form, nor did it
4 provide contact details of any individual who had done so.
5 This is unlike the applications for protection orders
6 against Lynda Staub and Andre Bouchard which each stated
7 that he had received help from Marlene Legare and provided
8 her contact particulars.

9 The applications forms and the evidence forms
10 appear to have been printed by the same person. Presumably
11 the form was completed by Ms. Legare. That they were not
12 completed by Mr. Bouchard is apparent by some of the
13 language. For example, in paragraph 2 of the evidence form
14 relating to the application against Ms. Staub, the phrase
15 "grabbed you at Holiday Inn and dragged you into her car"
16 appears, language that obviously would not have been used
17 if Mr. Bouchard himself had completed the form.

18 All three of the evidence forms contain
19 indications in blue ink "refer to Appendix 6, 7, 8".
20 Appendix 6 is a five page photocopy of an affidavit of
21 Lionel Andre Bouchard sworn before Carolyn Cramer
22 (phonetic) notary public, on October 24th, 2009.

23 Appendix 7 is a 31 page photocopied document that
24 is entitled "Supplementary affidavit of Lionel Andre
25 Bouchard". On page 31 there is an indication that the
26 document was signed on October 28th, 2009, but it was not
27 sworn in front of any individual. The document appears to
28 have been created for purposes of Court of Queen's Bench
29 file number CI 08-01-57416 and contains references to as
30 many as 58 exhibits, none of which were attached to the
31 document. The document is rife with hearsay, argument and
32 inflammatory comments. Various statements are underlined
33 and bolded. There are serious evidentiary issues with
34 respect to this document, as well as a number of the other

1 appendices, but this particular document is certainly
2 clearly not in compliance with the rules of our court with
3 respect to evidence.

4 Appendix 8 is a photocopy of a document signed by
5 Lynda Staub, Claire Demery, Andre Bouchard, Lionel
6 Bouchard, Angela Bouchard and Marlene Legare relating to
7 the removal of no contact orders and charges against Andre
8 Lionel Bouchard, among other matters.

9 The evidence form relating to the application
10 against Lynda Staub refers to an Appendix 4 as well as an
11 Appendix 3. Appendix 4 consists of three pages of
12 documents relating to alleged telephone conversations.
13 There was no Appendix 3 attached to the evidence form.

14 The evidence form relating to the application
15 against Andre Bouchard refers to Appendix 1, Appendix 2 and
16 Appendix 3, in addition to the common appendices referred
17 to previously. The evidence form relating to Lynda Staub
18 also referred to what I will refer to as the common
19 appendices.

20 Appendix 1 consists of a copy of an authorization
21 from Lionel Bouchard to Hook & Smith and the investigation
22 firm of Oliver, Yaskiw & Associates to escort him from
23 Manitoba to British Columbia, dated August 19th, 2008.

24 Appendix 2 is a photocopy of an August 22nd, 2008
25 report letter from Oliver, Yaskiw & Associates.

26 Appendix 3 is a photocopy of a one page form
27 dated February 11th, 2006 between Lionel Bouchard and Andre
28 Bouchard reflecting Mr. Bouchard Sr.'s agreement to live at
29 the St. Eustache Manor effective immediately to alleviate
30 safety concerns.

31 The evidence form respecting Claire Demery
32 referred to an Appendix 5, as well as the common appendices
33 6, 7 and 8, Appendix 5 consists of three separate documents
34 relating to Ms. Demery's cancellation of her father's line

1 of credit at the Caisse Populaire in Elie in 2008.

2 The oral portion of the hearing before the
3 judicial justice of the peace was transcribed. Lionel
4 Bouchard was present in person with his daughter Marlene
5 Legare. At no point were either of Mr. Bouchard or Ms.
6 Legare sworn in. The 22 page transcript consists of what I
7 will describe as a dialogue between the judicial justice of
8 the peace and Mr. Bouchard, but to a significant degree Ms.
9 Legare. The judicial justice of the peace may have been
10 under the impression that Mr. Bouchard had in fact been
11 sworn in because in the latter part of the hearing she
12 expressed specifically that she did not swear Ms. Legare in
13 to have her testify "because I just needed to know what was
14 happening, why there wasn't a committee".

15 As the Act requires that evidence in support of a
16 protection order be given under oath, none of the
17 information in the transcript constitutes evidence. There
18 are also significant difficulties, as I indicated earlier,
19 with the written evidence submitted by Mr. Bouchard, much
20 of which would not be considered admissible if contained in
21 an affidavit proper.

22 Perhaps because of the amount of paper submitted
23 with the evidence forms and the number of applications, the
24 judicial justice of the peace misconstrued the nature of
25 the evidence in a number of fundamental respects. On page
26 16 of the transcript the judicial justice of the peace
27 stated:

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29 "So between Andre's, Claire's and
30 Lynda's, all the evidence is
31 identical, basically, and all the
32 exhibits are the same, everything
33 that's attached here."

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1 In fact the evidence forms were not identical and
2 did contain different information in a number of respects.
3 While some of the appendices were the same, others were
4 different.

5 On page 17 of the transcript the judicial justice
6 of the peace indicated:

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8 "Now, have there been
9 psychological or emotional abuse?
10 Everything that I've read here
11 regarding these three respondents,
12 yes, there has been abuse,
13 regarding everything that you've
14 gone through with the different
15 psychiatrists that they've sent
16 you to, removing you from the
17 province, having investigators
18 come, I am looking at all the
19 exhibits and all the affidavits
20 that are here."

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22 It was in fact Ms. Legare who arranged for Mr.
23 Bouchard's removal from the province and the involvement of
24 investigators, not the respondents to the protection order
25 applications.

26 The judicial justice of the peace further stated
27 on page 17:

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29 "So, on the balance of
30 probabilities that an, that an
31 order is, I wouldn't say it's
32 immediate, but I think it's
33 advisable, that an order be
34 granted because of what's been

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1 happening on the domestic violence
2 regarding yourself and your
3 children."

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5 The judicial justice of the peace on page 18
6 further stated that she had reviewed the evidence "both
7 written and verbal".

8 On the balance of probabilities there was --
9 well, there was clearly insufficient evidence, in my view,
10 before the judicial justice of the peace to determine on a
11 balance of probabilities that there had been conduct that
12 reasonably, in all the circumstances, constitutes
13 psychological or emotional abuse, or either an intentional,
14 reckless or threatened act or omission that causes bodily
15 harm or property damage or a reasonable fear thereof as
16 referred to in the definition of domestic violence in
17 subsection 2(1.1) of the Act.

18 There was also clearly no immediate or imminent
19 need for protection of Mr. Bouchard. Most of the events of
20 which he complained occurred years prior to his application
21 for a protection order. At the time he made his
22 application he had been living in British Columbia for well
23 over a year, for some 14 months. No recent events were
24 complained of so on a balance of probabilities there was
25 no reasonable likelihood that even if there was domestic
26 violence, which I do not find was the case, there was no
27 reasonable likelihood that it would continue or resume.

28 This was a without notice proceeding and as
29 indicated by my brother Justice Yard in the decision of
30 Shaw v. Shaw, at paragraph 35, "Applications to courts for
31 without notice relief are normally driven by circumstances
32 of imminent harm, danger or disruption and a clear need for
33 urgent protection of some description."

34 This is supported by the language that is used in

1The Domestic Violence and Stalking Act when dealing with
2the ability of a designated justice of the peace to grant a
3protection order. In particular subsection 6(1) of the Act
4in the opening stem provides that:

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"A designated justice of the peace
may grant a protection order
without notice where the justice
determines on a balance of
probabilities that an order is
necessary or advisable for the
immediate or imminent protection
of the subject ..."

When Lionel Bouchard applied for the four
protection orders he was accompanied, as I've indicated, by
his daughter Marlene Legare. During the hearing before the
judicial justice of the peace, on two occasions Ms. Legare
referred to the fact that she had been charged with
offences by her brother and that she had been held in
remand for some four months.

These comments should have raised concerns that
this family situation was far less straightforward than and
one-sided than the judicial justice of the peace was being
led to believe, making the situation one that clearly
should have provided an opportunity for the respondents to
the protection order applications to have an opportunity to
provide their evidence to the court and for a full and
complete hearing to take place. That being said, obviously
the matter should not have proceeded without notice and
protection orders should not have been granted.

Having read the affidavits of the three
protection order respondents, the affidavits of Claire
Demery, Andre Bouchard and Lynda Staub, and reviewing the

lexhibits that were appended thereto, I find that there were
2clear, cogent and persuasive explanations for many of the
3concerns expressed by Lionel Bouchard. After reviewing all
4of the material on these three matters, it is apparent to
5me that this is a very tragic family situation involving an
6elderly gentleman who desperately would like to return to
7live at his family farm.

8 Mr. Bouchard is almost 87 years of age. He, in
9Appendix 7 to his documentation, set forth other
10information that shed some light on some of the concerns
11that he has. In particular, towards the bottom of page 30
12of that document there is a statement that, "At Christmas
13time," and this is a document dated in October of 2009, so
14presumably it was the prior Christmas, "I heard from only
15one of my daughters and sons. Last summer my daughter from
16Wisconsin deliberately did not invite me to her daughter's
17wedding, as did my son Jerry (phonetic) in Lloydminster
18this past Christmas when one of his sons got married in
19Saskatoon. I received no invitation to either of my
20grandchildren's weddings, though I had been invited in
21years prior. On January 22nd, 2009, the day of my 85th
22birthday, I did not get one single call from any of my
23seven children, this despite being in contact with them
24regularly over the past six months since being away from
25Manitoba and sending them postcards for Christmas while on
26holidays in the States. For these reasons," and I'm
27assuming he's referring to the reasons in addition to this,
28the ones that he set forth in the prior 29 pages of the
29document, "I am seeking a no contact order against Andy
30Bouchard, Lynda Staub, Claire Demery, Helene Johnson
31(phonetic)," against whom there was no application to my
32knowledge, "and Michael Slegers."

33 He further stated on that page that, "I wish to
34take my rightful place again as the head of the Bouchard

1family." He, it is clear to me, was under the impression
2that somehow the granting of a protection order would
3enable him to return to and live at the family farm. There
4was evidence that the issue of possession of the family
5farm, and title to the family farm, was the subject of a
6separate legal proceeding that is currently in abeyance.

7 It was clear to me from the evidence that Mr.
8Bouchard fell and sustained a head injury in late 2005 and
9that his children in Manitoba took steps to ensure his
10safety and well-being, in light of his age, and health
11concerns. Arrangements were made for assessments, which in
12my view was completely reasonable, and for home care
13support as well as accommodation.

14 It is also clear that Mr. Bouchard was not
15forthright in disclosing past difficulties he had with his
16daughter Marlene. In particular, the fact that he had
17previously obtained protective orders or attempted to
18obtain protective orders against her and that she had been
19subject to no contact provisions with respect to him as a
20result of certain criminal charges.

21 I find on a balance of probabilities that there
22was no basis for the making of the protection orders
23against any of Lynda Staub, Andre Bouchard and Claire
24Demery. They have each satisfied the onus upon them
25pursuant to *The Domestic Violence and Stalking Act*. On a
26balance of probabilities I find that domestic violence did
27not occur in any of the three cases and that there was
28clearly no need for an order for the immediate or imminent
29protection of Mr. Bouchard when the judicial justice of the
30peace pronounced and granted the three protection orders on
31October 31st, 2009.

32 Accordingly, as indicated earlier, the protection
33order granted to Lionel Bouchard against Lynda Staub on
34October 31st, 2009 is set aside. The protection order

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1 granted to Lionel Bouchard against Andre Bouchard on
2 October 31st, 2009 is set aside. And finally, the
3 protection order granted to Lionel Bouchard against Claire
4 Demery on October 31st, 2009 is set aside.

5 And those conclude my reasons.

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(PROCEEDINGS CONTINUED)

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THE COURT: Clearly it's appropriate that there
10 be a cost order against Mr. Bouchard, given the success
11 that the three respondents, the three applicants, to have
12 protection orders set aside they have had with respect to
13 their applications and given the lengthy nature of these
14 proceedings and the hurdles through which each of the
15 respondents had to jump in order to, first of all, serve
16 their applications to set aside on their father and to
17 ensure that those applications proceeded to hearing and
18 were dealt with by the court. They have met with success
19 with respect to those applications, and I take that into
20 account.

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I am also taking into account the fact that costs
22 were previously ordered against Mr. Bouchard with respect
23 to his request for an adjournment when this matter was
24 first set down for trial, which trial was to take place on
25 June 3rd.

26

Against that is a balance the fact that it's
27 unlikely, as both counsel have noted, that there will be
28 any success in actually obtaining costs from Mr. Bouchard.
29 He hasn't paid the costs that were ordered against him to
30 be paid forthwith on June 3rd. Also his information to the
31 court was that he is of limited means.

32

It is clear to me that Mr. Bouchard has
33 throughout been encouraged to pursue what I will call ill-
34 advised legal proceedings against the three respondents and

1that he has made the process more difficult, more time
2consuming and more costly for the respondents as a result
3of his failure to cooperate in the process. Whether that
4was his decision or not, as an individual who is acting on
5his own behalf, even if he was influenced and encouraged by
6his daughter Marlene Legare, he is still the one who bears
7the responsibility for that.

8 The bill of costs that was submitted to me for
9Ms. Staub was based on class II tariff costs and showed
10tariff fee costs in the amount of \$2,887.50, as well as
11disbursements in the amount of \$1,011.33. I am prepared to
12grant costs to Ms. Staub for the amount of disbursements as
13set out on her bill of costs, as well as costs with respect
14to fees in the amount of \$3,750, which costs are payable
15forthwith.

16 With respect to the two respondents Claire Demery
17and Andre Bouchard who are both represented by the same
18lawyer and whose lawyer has been involved in other legal
19proceedings which overlap to a certain degree or reflect
20some of the same documents, there were obviously cost
21savings to those parties as a result of having the same
22lawyer involved in the proceeding and acting on their
23behalf and the fact that that lawyer had been involved with
24the other legal proceedings. I am prepared to order costs
25for fees in favour of each of Claire Demery and Andre
26Bouchard in the amount of \$1,600, which amounts to a total
27of \$3,200. I appreciate there will be separate bills of
28costs, Mr. Land.

29 MR. LAND: Yes.

30 THE COURT: As well as disbursements as set out
31on the bill of costs, in the same manner as set out on the
32bill of costs that was submitted on behalf of Ms. Staub,
33but taking into account the actual expenditures for each of
34the clients. Where there were shared expenses, then

1obviously those should be divided between the two
2respondents. For example, attempts at service and so on,
3I'm assuming that the attempts were made with respect to
4both documents. If there were separate motions, and
5obviously there were, and a separate application, then that
6would be a disbursement for each client. And the
7advertisements would be the advertisements relating to each
8one of the actions. And the photocopy expense would be
9divided between them as well in an appropriate manner.

10 MR. LAND: It would be \$1,070.11 in disbursements
11to each client.

12 THE COURT: All right. And you will provide the
13details of that --

14 MR. LAND: Yes.

15 THE COURT: -- on a bill of costs that will come
16to me. I am prepared to order disbursements in that amount
17to each. Again those costs would be payable to Ms. Demery
18and to Mr. Bouchard by Mr. Bouchard Sr. forthwith.

19 Now, with respect to the orders to set aside the
20protection orders, I assume you are going to be drafting
21those --

22 MS. DIXON: Correct.

23 THE COURT: -- forthwith --

24 MS. DIXON: Correct, My Lady.

25 MR. LAND: Yes.

26 THE COURT: -- for the three files and submitting
27them for my signature, and the service provision should be
28service upon Mr. Bouchard at the box number in Elie that he
29previously provided and indicated is his address to be used
30for service. I know that at the June 3rd hearing there was
31a friend of his who was here who was willing to also accept
32documents, but that individual is not here, so the service
33provision would simply be to send it to him at his address
34at that box number in Elie.

1 MS. DIXON: Thank you, My Lady. Would that be
2 ordinary mail or would you prefer registered mail?

3 THE COURT: It can be ordinary mail. It's going
4 to a box number.

5 MS. DIXON: Thank you.

6 THE COURT: And because these orders are
7 registered on CPIC it's important that you get me the order
8 to sign as soon as possible. When do you anticipate you
9 are going to be able to do that?

10 MS. DIXON: I would say --

11 THE COURT: The difficulty is I am not sitting
12 next week, so it would be the week after if you're not able
13 to get it to me today.

14 MS. DIXON: I, I think it would be -- it would
15 have to be the week after, My Lady. I think it would have
16 to be.

17 THE COURT: And certainly madam clerk will ensure
18 that the registry is aware of the decision that I have made.

19 MR. LAND: Certainly.

20 THE COURT: And she will also advise them that
21 you will be drafting the orders. I am also not sure that
22 there was an order filed by you, Mr. Land, with respect to
23 the order that I made on June 3rd with respect to --

24 MR. LAND: No, there hasn't been.

25 THE COURT: -- the adjournment.

26 MR. LAND: Yes.

27 THE COURT: And that order obviously contained
28 the cost orders in favour of your two clients with respect
29 to that matter. As I reviewed these three pockets I know
30 that Ms. Dixon had filed an order and that was served.

31 MR. LAND: No, I have not done that yet, My Lady.

32 THE COURT: All right. Thank you very much.

33