

THE PROVINCIAL COURT OF MANITOBA

IN THE MATTER OF: An application under "The Domestic
Violence and Stalking Act"

BETWEEN:

LYNDA STAUB,

Applicant,

- and -

MARLENE LEGARE,

Respondent.

TRANSCRIPT OF PROCEEDINGS, before Judicial
Justice of the Peace Cohn, held at the Law Courts Complex,
408 York Avenue, in the City of Winnipeg, Province of
Manitoba, on the 23rd day of November, 2009.

APPEARANCE:

MS. L. STAUB, in Person

INDEX

	Page
PROCEEDINGS	1
<u>WITNESS FOR THE APPLICANT:</u>	
LYNDA STAUB	
Clarification of Written Evidence	2
REASONS FOR JUDGMENT	11

1 NOVEMBER 23, 2009

2

3 THE COURT: All right. Can I get your name for
4 the record?

5 MS. STAUB: My name is Lynda Staub.

6 THE COURT: Please spell your name.

7 MS. STAUB: Lynda, L-Y-N-D-A, Staub, S-T-A-U-B.

8 THE COURT: All right. This hearing is an
9 application for a protection order. It's under The
10 Domestic Violence and Stalking Act. My name is Justice of
11 the Peace Cohn and I'll be reviewing your application and
12 your written sworn evidence to ensure that all the
13 necessary information has been provided. I'll also give
14 you an opportunity to provide further evidence. You'll
15 have to either swear an oath on the Bible or affirm to tell
16 the truth; do you understand that?

17 MS. STAUB: Yes, that's correct.

18 THE COURT: All right. I'm just going to
19 indicate for the record, today is November 23rd, 2009, the
20 time is now approximately 9:50 p.m. The applicant in these
21 proceedings, Lynda Staub. The respondent's name is
22 Marlene Legare, and that is M-A-R-L-E-N-E, last name L-E-G-
23 A-R-E.

24 Now, these proceedings are being recorded, so
25 please speak loud and clear for the record. As well, the
26 respondent is entitled to a copy of the taped evidence upon
27 request. Therefore, at no time should you disclose any
28 confidential information that you wouldn't want the
29 respondent to find out about. For instance, if you're in a
30 situation that you're hiding out from this individual,
31 don't give any names or addresses on the record that would
32 disclose where you've sought shelter.

33 And I'll also inform you that it is an offence to
34 knowingly make a false statement under oath; you understand

1 that?

2 MS. STAUB: I understand.

3 THE COURT: Please -- would you prefer to swear
4 an oath on the Bible or affirm to tell the truth?

5 MS. STAUB: Swear an oath on the Bible.

6 THE COURT: Please take the Bible in your right
7 hand and state your name.

8 MS. STAUB: My name is Lynda Staub.

9

10 **LYNDA STAUB**, sworn, testified as
11 follows:

12

13 CLARIFICATION OF WRITTEN EVIDENCE:

14 Q All right. You can place the Bible back down.

15 Now, it's very important in proceedings whereby
16 the other party, the respondent, is not here today to give
17 her side of the story, so it's important that you present
18 the material fully and fairly and disclose all facts
19 whether they're favourable to you, or not. If you do not
20 disclose the full facts today and let's say an order is
21 granted and then reviewed by a higher court, the order may
22 not stand; do you understand that?

23 A I understand that.

24 Q All right. So you were provided with a copy of
25 your application?

26 A Yes.

27 Q All right. I'm just going to go over the
28 application. You're seeking this protection order for
29 yourself, and that's your signature at the bottom of the
30 form?

31 A The -- yes, it is.

32 Q Okay. And you didn't receive any assistance in
33 filling out this form?

34 A No. I filled it out myself.

1 Q All right. I'm turning to the evidence in
2 support of your application. What is the nature of your
3 relationship to Marlene Legare?

4 A Marlene Legare is the sister and she has resided
5 in B.C. since 1972.

6 Q And you said she's your sister. Did you ever
7 live together?

8 A Yes, we did when we were -- she left home when
9 she was, I believe, 19. And she was born in 1951 and I was
10 born in 1955, so she's four years older than me.

11 Q All right. Can you describe the most recent time
12 that you've experienced domestic violence or stalking from
13 the respondent?

14 A Most recently she attended in my, at my place of
15 employment.

16 Q And when was that?

17 A And that would've been last Monday, November
18 16th.

19 Q All right. So November 16 she attended at your
20 employer's?

21 A That's correct.

22 Q All right.

23 A At my place of employment.

24 Q And what?

25 A She produced information that was false, and I
26 really do feel that she is harassing me and is trying to
27 discredit me and jeopardize my job, and this harassment has
28 been going on now since January of '06.

29 Q Has there been any physical abuse?
30 When was the most recent?

31 A She has physically abused me. It was an assault
32 charge against her on February the 26th, 2006.

33 Q All right. So, on November the 16th, she
34 attended your place of employment and you said she was

1 trying to discredit you.

2 A That's correct. She provided to my employer
3 documents that were not true, and she has been harassing me
4 and harassing our family now since 2006. There was a
5 probation order stating that she could not contact anyone
6 in Manitoba, any family members in Manitoba, but she has
7 breached that in that she has dialled phone numbers and had
8 my, and had my father ask the questions, and she provided
9 audio taped recordings of these phone calls, ongoing, and
10 we can hear her voice in the background, we can hear her
11 writing questions for my dad to ask. And so the harassment
12 has been ongoing pretty well since the whole time that the,
13 that the protection, probation order was in effect, from
14 2007 until, until February of 2009.

15 Q Okay. And I just want to move to -- you're
16 applying for an emergency --

17 A Yes.

18 Q -- order, and I just want to find out what
19 brought you here today.

20 A I, I do feel that she is following me, I do feel
21 she's still monitoring my phone calls.

22 Q And when, when you say you feel that she's
23 following you, when did you see her following you?

24 A I -- because I parked on Kennedy last Tuesday,
25 and I, when I -- I believe it was last Tuesday, one, it was
26 one day last week -- and when I returned to my vehicle my,
27 my car door was wide open.

28 I, I know she's been listening to -- she has
29 listening equipment. Because in the past when I've had
30 conversations with my mom, she's quoted exactly our
31 conversation. I do know that she has listening equipment.
32 I do know that, I, I do believe that she's following me. I
33 do know that she has assaulted me in the past.

34 I am going for some surgery on my knees in two

1 days from now, on Wednesday morning.

2 Q All right. And, and the assault, is that the
3 assault in 2006, that's the one you're talking about?

4 A With that, I know that she's desperate, she's
5 violent, and she will -- she has broken my, my father's
6 door, she's assaulted me, she, she does not stop, she's
7 desperate, and she makes her way until she gets what she
8 wants.

9 Q Okay. Other than showing up on November the
10 16th, what, what else has she done recently?

11 A I -- she's recording all my phone calls, so
12 that's, she harassing me.

13 Q When was that?

14 A She has provided me with, on -- when she appeared
15 at the office on November 16th, she provided my employer
16 with an audio CD of tape recordings of conversations of
17 myself and family members. So I know she's recording
18 conversations. So she continues to harass non-stop,
19 recording phone calls.

20 I want to be able to go to my office and be able
21 to work without being fearful of her being outside my door,
22 or coming into my office, and especially if I, if I'm on
23 crutches, because I will be with the surgery. I, I am very
24 concerned that I will not be able to defend myself against
25 her. She's, she pushes her way through
26 she doesn't stop. She has absolutely no, no regard for
27 family. She's -- her motive is financial gain at this
28 point.

29 Q Okay. Can you give me specific incidences?
30 Other than assaulting you, what happened in 2006?

31 A In 2006, I went to visit my father. He was at a
32 senior's complex, and when I walked into the complex
33 I approached her and I
34 said, Marlene, what are you doing? And she wouldn't listen

1 [REDACTED] And
2 I kept on saying, Marlene, you've been in Manitoba, like,
3 about 11 times in the last eight weeks. Why are you here
4 in Manitoba? Why are you harassing family? [REDACTED] you
5 [REDACTED]? And then my dad was on the
6 inside of his apartment and I was on the outside, and at
7 that point she, she started [REDACTED] head against the wall two
8 times. So she is violent, she doesn't stop, she's out of
9 control. [REDACTED] she is taking drugs. She wrote
10 a letter [REDACTED] admitting [REDACTED] [REDACTED] is on
11 [REDACTED] and I fear that her, her bizarre behaviour is, is
12 continuing to escalate. [REDACTED] know that she's financially
13 [REDACTED] and she's here in Manitoba for financial
14 [REDACTED]

15 Q When did she come back to Manitoba?

16 A We -- I believe she was here on or about October
17 the 24th of this year.

18 Q All right. And, and so the only time I guess she
19 contacted you was November the 16th; is that correct?

20 A November the 16th, but she's been recording
21 telephone conversations. I know she doesn't abide by court
22 orders. The probation order stated that she could not talk
23 to anyone.

24 Q Is that probation order still in effect?

25 A It, it expired on February the 9th, I believe, on
26 or about February the, the 9th of this year, of '09.

27 Q Okay.

28 A She has done a lot of bizarre things. She's
29 discharged our father without letting family know, while he
30 was at the hospital; she's taken our father away without,
31 out of province without letting the family know. So she's
32 totally controlling our father at this point.

33 Q Okay. Can you -- you're asking for a protection
34 order for yourself.

1 A That's correct.

2 Q Can you give me specific incidences of domestic
3 violence in relation to yourself?

4 A She has physically abused me.

5 Q And, and that's in 2006?

6 A Absolutely. And I, I don't put anything past
7 her, I don't, I don't trust her. She's violent, she's out
8 of control. Psychologically and emotionally she abuses us
9 non-stop, myself and my family, with all the recordings.
10 And she has taken binders of material, binders and binders,
11 approximately 30 binders in the last week that she's
12 distributed all over the community. Where my sister lives,
13 in Teulon, she's dropped some off; my, my community in Eli
14 where I used to live, she's dropped some off; to my friends
15 in Winnipeg; to the Eli Manor. So she, what she's doing is
16 defamation of character for all members of our family
17 and that in itself is, is psychological and emotional
18 abuse.

19 I am very concerned that if I meet her on the
20 street that she will assault me again. I'm, I'm very, very
21 concerned. I want her to -- I want to be able to step out
22 of my office and not have to worry that she's around the
23 corner. I work only a few blocks from the courts and she's
24 here a lot. She's always trying to find an angle. I want
25 her to stay away from my office and from my vehicle. I, I
26 -- my vehicle door was open. I'm concerned that one day
27 when I go to my vehicle that -- I'm, I'm very concerned
28 about her being -- what she's capable of doing.

29 She flew in unannounced 11 times from B.C. in
30 2006 within about eight weeks, and she admitted that in one
31 of her letters. So she's totally out of control, she goes
32 in circles.

33 Q Because she -- you said she flew in unannounced.

34 A Right. She -- because she want --

1 Q And did she contact you?

2 A Yes. Not -- she, she tries to take control of my
3 mom, she tried to kidnap my mother, she tried to take my
4 father away.

5 My mom was dying of cancer. So her, all her past history
6 is unbelievable, bizarre, out of control.

7 She's also living with David Dill, Jones
8 genetic, and he has a criminal record. And I, I --
9 I think that that has been her downfall. It
10 involved someone who had a, had criminal
11 it has just spiralled. Initially,
12 all tried to help her, and we were, we were
13 to see what kind of person she is today.

14 Q And you say that, when you say I believe that the
15 domestic violence or stalking will continue, what is it
16 that you feel with continue?

17 A I believe that she's going to keep attending at
18 my office; I believe she's still going to be recording
19 telephone calls; I believe she's still going to be
20 distributing these audio CDs all throughout the community.
21 That has been ongoing now for quite some time. She's,
22 she's psychologically and emotionally abusing the whole
23 family, myself, my father especially, myself, my, my -- it
24 is, it's been a, a nightmare for the last four years.

25 And she breaches a probation to not to have any
26 contact, directly or indirectly, with anyone from Manitoba,
27 and she continues. She did that throughout the two-year
28 probation order, and that was through my father. She would
29 force my father to talk when she did the dialling, and we
30 heard her many times on the audio CDs.. She would talk to
31 my dad and then she'd say, Okay, it's Lynda, now ask her
32 these questions.

33 Q Were there any threats during these
34 conversations?

1 [REDACTED] did she go to kill my brother [REDACTED], when
2 [REDACTED] at the [REDACTED] and, when she was waiting for trial.
3 [REDACTED] [REDACTED] my brother [REDACTED].

4 Q And when was that?

5 A That would've been in '06.

6 Q Okay.

7 A And I still believe that is, I still believe
8 she's capable of, of absolutely anything.

9 Q Is there anything else that you wanted to add?

10 A I would like, if at all possible, if you could
11 possibly grant an order for her to stay away from my work,
12 from my home, place of worship, and also an order for her
13 to stop recording telephone conversations and harassing me
14 that way.

15 Q And when you say harassing you that way --

16 A Because what she does is she records telephone
17 conversations and then she -- with her, on her Skype
18 program or some computer program she has -- and then she,
19 when she has enough on the audio CD, she mails them to
20 community members. So she drops them off all over. And I
21 actually have one right with me. And it's, it's family
22 conversations, it's, it's personal conversations that she's
23 recording, private, private conversations she's recording,
24 and she sends it out to the community as a means of
25 harassment.

26 Q And just at number 11 you say. I am being stalked
27 by the respondent and I fear for my own safety, and you put
28 I have proof that she's listening in all my conversations,
29 she's mentally unstable, and has provided an audio CD of
30 conversations amongst family members that she has recorded.
31 Is that why you, you're saying she's stalking you?

32 A Absolutely.

33 Q And with regards to fearing for your safety, when
34 she came to your work November 16th, were you there?

1 A Yes, I was. And she said -- I, I did not see
2 her. I was -- the material was dropped off at, to my
3 employer. My, my employer had discussions with me, and my
4 employer actually advised that I should get a protection
5 order.

6 Q And when you say false document, what, what was
7 it that she dropped off?

8 A What is -- the very first one, a letter by Hook &
9 Smith.

10 Q This is a letter that was dated September the
11 8th?

12 A Yes. She keeps, she keeps bringing that letter
13 up. She's brought it up in the past, and --

14 Q So is that a letter that was sent?

15 A Yes, it was. It was part of --

16 Q Okay.

17 A That was sent to my employer. What she's trying
18 to do is she's trying to discredit me at my office, to
19 saying that I'm, I'm falsifying or, or using my, my
20 position at --

21 Q Okay.

22 A -- Land Titles to alter documents or prepare
23 documents or act improperly. My brother has been out of
24 the --

25 Q And this, this is dated September the 8th, 2008.

26 A That's correct. And she keeps sending that. She
27 has sent it to my office once before and she's, and, and
28 she already, and now she sent it again on November 16th
29 again, in that parcel.

30 Q Okay. And I did review all the other documents
31 that you provided and a lot of these are quite dated.
32 These are, these are the probation orders, copy of the
33 probation order that was issued.

34 A The probation order stated that she could not

1 have any direct or indirect contact with all the family
2 members, and yet I have a list of phone calls. I was
3 keeping track of all the calls at -- she was forcing my dad
4 -- she would be dialling and I could hear her talking in
5 the audio CD, and then she would force my dad to talk,
6 and --

7 Q And, and during that time, she wasn't -- so she
8 was breaching her probation order?

9 A She absolutely was.

10 Q And she wasn't -- you didn't report it to her
11 probation officer?

12 A She's out in B.C. at that time.

13

14 (CLARIFICATION CONCLUDED)

15

16 THE COURT: All right. With regards to the
17 granting of a protection order without notice, a designated
18 justice of the peace may grant a protection order without
19 notice where the justice determines on a balance of
20 probabilities that an order is necessary or advisable for
21 the immediate or imminent protection of the subject, in
22 circumstances where the respondent is stalking or has
23 stalked the subject, or is subjecting or has subjected him
24 or her to domestic violence; the subject believes that the
25 respondent will continue or resume the domestic violence or
26 stalking; and that the subject requires protection because
27 there's a reasonable likelihood that the respondent will
28 continue or resume the domestic violence or stalking.

29 Now, with regards to the evidence that you've
30 provided of domestic violence, there was an incident in
31 2006 where you were assaulted by the respondent. You're
32 also alleging that the respondent is stalking you. Now,
33 under the definition of stalking, stalking occurs when a
34 person, without lawful excuse or authority and knowing that

1 another person is harassed or recklessly as to whether the
2 other person is harassed, repeatedly engages in conduct
3 that causes the other person reasonably, in all the
4 circumstances, to fear for his or her own safety.

5 Now, with regards to the conduct of the
6 respondent, you've indicated that she is providing a false
7 document to your employer and she is pretty much defaming
8 your character. I don't find that this would cause you to
9 fear for your safety from the respondent.

10 Also the evidence --

11 MS. STAUB: But I, I think it, I think it is, it
12 is, it's, it's psychological and emotional abuse. I really
13 feel it is because it has -- it's, it's something that
14 cannot be ignored anymore. It's been ongoing for four
15 years now.

16 THE COURT: And, and the fact that it has been
17 something that is ongoing for such a lengthy period of
18 time --

19 MS. STAUB: May I interrupt?

20 THE COURT: Yes.

21 MS. STAUB: Before I wasn't so afraid, she was in
22 B.C.

23 THE COURT: Um-hum.

24 MS. STAUB: But now I, I had -- I've seen her in
25 court, right here in the Law Courts. I know she's here and
26 I'm not certain why she was trying to get, what she was
27 trying to get here, but now I know that she's, she's within
28 a block of me. I don't know where exactly, but I know
29 she's around and that's why I'm very concerned.

30 And the, and the other, and the other issue is
31 that she has attended at my office. I know she will
32 continue. She said that she was going to be back. I am
33 going to be on crutches, I can't defend myself. She's
34 violent, she doesn't stop, she's assaulted me. She --

1 there's no reasoning with her. She's, she's told my non-
2 she's -- her letter, and her own handwriting in her
3 that, that she -- She's
4 unpredictable and, and I really, I really feel that I, that
5 I need a protection order.

6 THE COURT: Well, I mean, you've indicated that
7 she has assaulted you in 2006, so I do find that there has
8 been domestic violence. I don't find that it is an order
9 that is warranted without notice to the respondent. I do
10 find that the appropriate place would be to make the
11 application in the Court of Queen's Bench. So I am
12 dismissing this protection order because I don't find that
13 it is an emergency order that is warranted. I find that
14 the respondent can be served with notice to appear in
15 court.

16 MS. STAUB: The only thing is that I -- I
17 appreciate your comment on that, except like, as -- the
18 reason that I'm here is because I'm very concerned that I
19 will be on crutches on Wednesday and I -- there's lots that
20 can happen when I'm on crutches, that I -- from her past
21 assault on me, and I, I don't think that -- I'm, I'm,
22 concerned about allowing more time without a, without a
23 protection order with my going in for surgery and being on
24 crutches, and, and from her past record, from her past
25 assault.

26 And I know she's very desperate and I know she's
27 on drugs; I know that she's got all this listening
28 equipment; I know that she's keeping company with someone
29 who has a criminal record. I am very concerned she's been
30 in my office. The other day when I parked my
31 car on Kennedy, when I came back to it my car door was
32 open. I, I really, really am concerned. And I don't
33 think that I can protect myself against her when I'm on
34 crutches.

1 THE COURT: Okay. Well, I have to base my
2 decision on the real evidence that has been provided. You
3 have provided evidence that there was an assault in 2006.
4 There's no reason for me to believe that the respondent
5 will continue that behaviour. The other indication is that
6 she is giving documents to your workplace and you're saying
7 she's defaming your character. That's not something that I
8 find leads me to believe that you should fear for your
9 safety.

10 MS. STAUB: It is --

11 THE COURT: So if you do want to pursue a further
12 order --

13 MS. STAUB: Would you, would you consider that
14 under, under domestic violence, psychological and emotional
15 abuse?

16 THE COURT: While I might be able to consider
17 that her doing that is --

18 MS. STAUB: Um-hum.

19 THE COURT: -- psychological and emotional abuse,
20 it's not something that I feel warrants an order without
21 notice to the respondent. She's still entitled to be
22 served and, and be able to answer to the allegations. I, I
23 still don't find that --

24 MS. STAUB: If, if --

25 THE COURT: -- an emergency order is necessary.

26 MS. STAUB: If -- it, it can be overturned. If
27 you, if you, if you were to review it one more time and to
28 feel that possibly that you could give me a protection
29 order, she could review this and have it overturned if she
30 wanted; would that not be correct?

31 THE COURT: I'm sorry.

32 MS. STAUB: She would be able to review it and --

33 THE COURT: If, if an order is granted, but I
34 don't --

1 MS. STAUB: Yes.

2 THE COURT: -- find that the evidence warrants an
3 emergency order. So I am dismissing the application.

4

5

(PROCEEDINGS CONCLUDED)

CERTIFICATE OF TRANSCRIPT

I hereby certify that the foregoing pages of printed matter, numbered 1 to 15, are a true and accurate transcript of the proceedings, transcribed by me to the best of my skill and ability.

COLLEEN A. KUZYK
COURT TRANSCRIBER