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SUPREME COURT
STATE OF WASHINGTON
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Washington Supreme Court

Jeffrey T. Closson, Respondent

Lisa L. Ganowski, Respondent

v.

Elizabeth J. Kelsey, Pro Se, Petitioner

Pro Se

Lower Superior Court Case Numbers: 19-2-02404 & 19-2-02402

Bremerton Municipal Court Case Numbers: 63-2019 & 62-2019

PETITION FOR DISCRETIONARY REVIEW

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A. IDENTITY OF THE PETITIONER

Petitioner, Elizabeth Jane Kelsey, petitions this Court to review the decision in this consolidated case by the Court of Appeals, Division II (hereinafter “Division II”). Ms. Kelsey seeks review of Division II affirming the issuance of the two restraining orders by Jeffrey Closson and Lisa Ganowski. Ms. Kelsey also seeks review of the decision of Division II upholding the award of attorney fees by the lower court.

B. DECISION OF COURT OF APPEALS AND LOWER COURT

On August 3, 2021, Division II¹ entered a decision upholding a Kitsap Superior Court decision² granting Jeffrey Closson’s and Lisa Ganowski’s identical petitions for an anti-harassment order against the petitioner, Elizabeth Kelsey. Division II affirmed the lower court finding two instances of harassment that met the standard required under RCW 10.14 and applied both to Mr. Closson’s and Ms. Ganowski’s petitions.³ The two instances were: 1) Ms. Kelsey, late at night, ordering Mr. Closson off her and Mr. Longacre’s property, telling him to get off and stay off or she would Shoot Mr. Closson; and, 2) the allegation (very false) that smoke bombs were set off in the early afternoon on Ms. Kelsey’s and Mr. Longacre’s property and the wind carried the smoke in the direction of Ms. Ganowski’s property, when neither Ms. Ganowski or Mr. Closson were home, and when the witness that claimed they were smoke bombs could not

¹Appendix A, Division II August 3, 2021 Decision.

²The Kitsap Superior Court made no written Findings of Fact and Conclusions of Law, its oral decision is found at Appendix C, Verbatim Report of Proceedings (hereinafter VRP) Vol. 2, pgs. 313 ln 1 – 325 ln 3 on the findings of Unlawful Harassment for Threat to shoot Clausen, Smoke and Longacre dogs (other claims were dismissed by the court). For attorney fees, the court issued its order at VRP Vol 2, pgs 335 ln 4 – 336 ln 7.

³Appendix A, id.

identify who set them off.⁴ Division II stated it needed not address the Lower Court’s finding that Mr. Longacre’s dog coming on Ms. Ganowski’s property constituted harassment by Ms. Kelsey.⁵

Division II found that CR 54(d)(2)– the requirement that after a party is granted the right to actual attorney fees, the party seeking attorney fees present a Motion and Declaration backing up the sum certain amount of fees requested within 10 days of the Court granting them attorney fees, and allowing the other party adequate notice to object to certain fees claimed – does not apply to RCW 10.14 proceedings (or taken literally, to any Special Proceeding). In so doing, Division II upheld the Lower Court’s fees claimed by counsel for Ganowski and Closson without giving Ms. Kelsey the opportunity to contest specific parts of the fees requested.⁶

C. ISSUES PRESENTED FOR REVIEW

Issues Related To Threats To Shoot Closson Incident

- 1) Closson alone appeared at Kelsey’s Door late in the evening uninvited. He had Ganowski hide on the Ganowski side of the six foot solid fence separating the properties to secretly record the incident,⁷ and Kelsey had no idea that Ganowski

⁴App. A @ 13-17.

⁵Id., 17.

⁶Id., 17-20.

⁷App. B, VRP Vol.1:4 Purvis “So I’m going to play a video [From Ex. 1]. You can see from the screen it’s marked ‘2019/6/13 Elizabeth threatening Jeff part 1.’” See Clerk’s Exhibit 1, Items 35, 36 & 37 at App. D,E & F respectfully: 3 June 13, 2019 videos:

Elizabeth threatening Jeff Part 1, Voice of G describing what she is videoing:

Video shows that someone is holding camera over five foot fence.
G “Puppy jumped over the fence again and came into our yard. Just bringing her back over to next door and asking them to please keep their dogs out of our yard.” (Sound of feet walking and doorbell ringing) (Then tape cuts off)

was present or listening. Kelsey accused the neighbors of harassment, referring to the boys who pranked her (and Mr. Longacre) by piling snow from their parking

Elizabeth threatening Jeff Part 2

C This is Jeff your neighbor. I've got this little black lab he comes, he's coming into our yard a couple times.

K Thank you. (Takes dog) Here. You mean that neighbor over there?

C Yeah.

K Oh, they're a terrible neighbor.

C Oh really.

K They put snow over in our yard, and all kinds of—

C We did what in your yard? (G now aims camera and microphone at K's voice, not at C's)

K Dumped snow onto our yard. And you do . . .

C (Talking over K) You have dogs that are coming into our yard.

K I saw th. . . (talked over) trying to get the dog to come over into your yard.

C Really? (Getting antagonistic)

K And you, Do it again, buddy. You, you're the one with the white car, I saw you lump all that snow on our . . .

C No, I don't have a white car. (Inaudible)

K Oh, whatever. Then you're the asshole that's driving the burgundy thing, is now her new date. And you don't know how psycho they are. They've been doing nothing but harassing us since they moved in.

C (Talking loud over her) Cuz your dogs, your dogs are barking, your dogs bark constantly . . .

K (Talking over C) Don't you ever fucking come on my property again or I'll shoot . . .

C (Trying to Talk over K) Then you need to keep your dogs on your property.

K . . . your mother fucking ass. You hear me? (K is retreating into house, C remains on doorstep)

C You need to keep your dogs . . .

K Asshole. Come on . . . (Tape is cut off here while two are trying to over speak each other).

& Elizabeth threatening Jeff Part 3

(Tape cuts in, parts missing. In the last video K had been retreating into the house. Here something drew her back out, as her voice is no longer in the interior. Closson was still there on the property. G aiming camera and microphone at K's voice, not Closson).

K Come on my property again, threaten my dog and I'll fucking shoot you!

C Did I threaten your dog?

K And I'll fucking shoot you, bitch!

C Okay.

K And I'll shoot you, bitch!

C Alright!

K You want a war, you got a war!

C (Tape cuts off as C is starting to say something back)

all videos of Jeff Closson by himself at Kelsey Door.

lot onto their yard. She never mentioned Ganowski by name, only referred to her as a bad neighbor taking part in harassing Kelsey and Mr. Longacre. She ordered Closson off her and Mr. Longacre's property, threatening to shoot him if he didn't get off and stay off. She never included Ganowski or anyone else in her threat.

Did Div II err when it found the Threat to Shoot Constituted one instance of harassment against Ganowski⁸ because her household was mentioned by Kelsey in the argument but not when Kelsey made the Threat specifically to Closson?

- 2) Did Division II err along with the Superior Court by not using the right standard when it found the threat to shoot "unlawful harassment" under RCW 10.14.020(2)⁹ when the threat was made to simply get Closson to leave Kelsey's and Longacre's property and let him know he was not to come back; when Closson never had any verbal or physical interaction with Kelsey before or after the threats to shoot him¹⁰, and any reasonable person would have been merely put off by the threat but not "substantially" emotionally distressed¹¹?
- 3) Did Division II, along with the Superior Court, found the threat to shoot by Kelsey

⁸App. C, VRP Vol.2, 320:12 Judge's oral ruling, "It was directed immediately to Mr. Closson, but in the context of the whole event it was directed towards – also towards Ms. Ganowski and the house next door, the residence next door . . ." See also, 315:7-10, Judge's oral ruling, "And so those comments were directed to – they were directed right there in person to Mr. Closson, but in the Court's view they were directed to Ms. Ganowski and anybody else that was living in the Ganowski house."

⁹App. C, VRP Vol 2, 320:10-24.

¹⁰App. B, VRP Vol 1, 130:17-18 C "I had never spoken to her before and haven't spoken to her since."

¹¹App. G, Clerk's Ex. 2, 4c, Closson threat transcript from 911, C "Yes, this is not an emergency." VRP Vol 1 161:13-16.

constituted Harassment in spite of RCW 10.14.0202(1)'s Course of Conduct test.¹² Did both courts err by not using the right standard in applying RCW 10.14.020(1)'s "Course of Conduct" when the contact was planned by Closson and Ganowski; then initiated by Closson coming onto Longacre/Kelsey property late at night (when the dog could have simply been put back over the baby gate earlier in the evening – or returned in daylight); when Closson had Ganowski secretly video tape the encounter¹³ to create an edited record they planned to use to their benefit; when Closson knew he was not welcome on the respondent's and Longacre's property¹⁴; when Closson and Ganowski were obviously looking to record a confrontation¹⁵ they created; and, although poorly executed, Kelsey, who was alone and in a state of undress, was simply trying to get Closson to leave her property and leave her alone?¹⁶

Issues Related To The Smoke Incident Reported By Witness Heljma

- 1) Did Division II, along with the Superior Court err when it found the Smoke reported by Witness Heljma that originated from Kelsey and Longacre's patio

¹²App. C, VRP Vol 2, 320:10-24.

¹³App. D, E & F, respectfully Clerk's Exhibit 1, Items 35, 36 & 37: 3 June 13, 2019 videos.

¹⁴App. G, Clerk's Ex. 2, 4c, Closson threat transcript from 911, C "So, we've had continuing problems with our neighbor and their, neighbor and their dogs."

¹⁵App. B, VRP Vol 1, 70:1-2 Purvis Q "Why are you filming this?" G A "Because of my experience with her." The question arises – How did they know Kelsey was home alone.

¹⁶App. B, VRP Vol 1, 170:10 – 175:21 Kelsey direct testimony about Threats to shoot incident.

constituted “unlawful harassment”¹⁷ as defined by RCW 10.14.020(2) when the smoke from an outdoor fireplace was not directed at either petitioner and was simply “filtering over to” the petitioners’ upstairs deck as shown on the video?¹⁸

- 2) Did the Superior Court err¹⁹ when applying RCW 10.14.020(2) when it found the Smoke reported by Witness Heljma constituted harassment when neither petitioner was present until an hour after the smoke had ceased²⁰, and they reported the Smoke had dissipated by the time they got home, and they only smelled the remnants of smoke²¹ and under those facts no reasonable person would suffer “substantial” emotional distress and the petitioners in fact did not suffer “substantial” emotional distress?
- 3) The Superior Court applied RCW 10.14.020 finding²² the Smoke reported by Heljma constituted harassment by Kelsey. Yet, Heljma stated in her video and on

¹⁷App. C, VRP Vol 2, 316:11-318:8, Judge’s oral ruling.

¹⁸See App. H & I, Heljma videos on Clerk’s ex. 1, 58 & 59; App. B, VRP Vol 1, 77:24 – 78:21, Heljma talking while taking video’s, saying smoke was filtering over to their deck.

¹⁹App. C, VRP Vol 2, 316:11-318:8, Judge’s oral ruling.

²⁰App. B, VRP Vol 1, 107:25 – 108:3 Ganowski cross by LaCross, Q “so from the time that you were notified [of the smoke by Heljmaa’s phone call], you, – it would have been about an hour until you got back top your house?” A “I can only guess.”

²¹App. B, VRP Vol 1, 79:2-6, Ganowski by Purvis, Q What did you see when you went home?” A “. . . And when we went into the house, it was just, it wasn’t filled with smoke that we could see.” App. B, VRP Vol 1, 134:14-20 Closson “We didn’t see a lot of smoke. . . It had been stopped for a while.”

²²App. C, VRP Vol 2 316:11-318:8, Judge’s oral ruling.

the stand she could not see who started the fire creating the smoke²³, and could only see the smoke as it rose above the 6 foot high solid wooden fence. Division II upheld that finding. Without any evidence as to who caused the smoke, can Kelsey be held liable simply because she lives at the residence?

- 4) The Superior Court found the Smoke reported by Heljma was the result of Smoke Bombs (or something similar) originating from Kelsey and Longacre's patio.²⁴ Yet, no one saw a smoke bomb. The appellate court found petitioners' late addition of "sulfur" odor, which had never shown up in their earlier police reports or calls to 911 constituted substantial evidence. Can the self-serving false evidence of complaining witnesses ever be overcome by circumstantial evidence of its falsity?²⁵
- 5) Did Division II, along with the lower Court err²⁶ in applying RCW 10.14.020(1) when it found the setting off of smoke bombs on Kelsey's and Longacre's own property constituted harassment, when even if the Heljma reported smoke was a

²³ See App. H, Clerk's Ex 1- 58, 1st Heljmaa video "I suppose I could walk on the beach far enough down to see who's doing it." 1; App. B, VRP Vol. 1, 78:3-5. App. B, VRP Vol 1, 165:24 – 166:2 Heljmaa by LaCross Q "But you couldn't see who was lighting the smoke bombs. You just saw where they were coming from; right? A "Yes. Just saw where they were coming from, yes."

²⁴ App. C, VRP Vol 2, 316:11-318:8, Judge's oral ruling.

²⁵ App. J, See Clerk's ex. 2 item 6c, Transcript of Closson 911 call reporting what he found when he got home. No sulphur smell, but claimed house was full of smoke. Yet, in court both Closson and Ganowski claimed an odor of sulfur remained. App. B, VRP Vol 1, 79:2-6, Ganowski by Purvis, Q What did you see when you went home?" A ". . . it wasn't filled with smoke that we could see, but it was all sulfur smelling like something had come in through the windows . . . ; App. B, VRP Vol 1, 134:14.

²⁶ App. C, VRP Vol 2, 316:11-318:8, Judge's oral ruling.

smoke bomb (which it was not), Longacre and Kelsey were doing it well within their own yard?

Issues Related To Longacre's Black Lab Puppy Missy

- 1) Division II did not give an opinion regarding the Mr. Longacre's Black Lab Puppy "Missy." The Superior Court interpreted RCW 10.14.020(1) "Course of Conduct" and RCW 10.14.020(2) "Unlawful Harassment" in a way to find the actions of the puppy constituted harassment.²⁷ Yet, there was no testimony suggesting the respondent encouraged (i.e. directed) the puppy to go on the petitioner's property, and when to the contrary, testimony from petitioners²⁸, respondent²⁹ and Longacre³⁰ demonstrated that Longacre continually attempted remedial measures to keep the puppy off petitioners' property. Did the lower

²⁷ App. C, VRP Vol 2, 322: 9-15, Judge's oral ruling.

²⁸ App. B, VRP Vol 1, 91:4-6 Ganowski [Missy] Came into our property . . . Clayton was whistling for it . . . App. B, VRP Vol 1, 92:2 Ganowski "They whistle and call for the dog to return."

App. B, VRP Vol 1, 92:21-23, Ganowski ". . . when she hears me shooin. I hear her yelling for the dogs to come home or to stop or something; VRP Vol 1, 100:13-24, Q "Have you ever seen Mr. Longacre . . . doing any repairs to the fence?" G "No. . . I mean I go out every now and then there's an extra baby gate down by the water . . . Just seen the baby gates and now they put like an old – or an old outside couch or something . . . between our two bulkheads down by the water up against my shed."

App. B, VRP Vol 1, 158:20-25 Closson "I witnessed both of them calling for the dogs. . . He's usually whistling but I've heard her calling for the dogs." Q "Trying to get the dogs to come back in?" C "Right."

²⁹ App. C, VRP Vol 2, 201-206: Kelsey testimony about Exhibits 12, 13 & 14 picturing the barriers Longacre had been adding to keep Missy in the yard. App. C, VRP Vol 2, 205:17-18 ". . . he's been adding, adding, adding."

³⁰ App. C, VRP Vol 2, 267:13-268:11 Longacre regarding issues with his dog "because any time I would find out about it or anything, I would be right on it. And I've been home since somewhere in the middle of June, by the first of July. And I would monitor him by the hour and I would try to make sure she was where she was supposed to be . . . I would try to train her that if she goes out of the yard without permission she goes in the kennel."

court err in it's finding?

- 2) Division II referred to the black lab puppy as Mr. Longacre's. Did the Superior Court err in its interpretation of RCW 10.14.020 when it found the actions of the puppy constituted harassment³¹ when the uncontested evidence showed the puppy was owned by Longacre³² and not Kelsey?

Issues Related To Award of Attorney Fees

- 1) Did Division II, along with the Superior Court, err when it found attorney fees and costs³³ could be awarded in RCW 10.14 suits to petitioners without giving the respondent the opportunity to review and contest them³⁴?
- 2) Division II found that RCW 10.14 petitions were special proceedings and then ruled that CR 54(d)(2) did not apply to special proceedings. Did Division II, along with the Superior Court, err when it found CR 54(d)(2) did not apply to special proceedings and petitioners in a RCW 10.14 action need only check the box requesting attorney fees and then merely make an arbitrary request of the amount of fees without filing a motion and supporting documents that would allow the respondent notice and opportunity to be heard on the fees claimed?

³¹App. C, VRP Vol 2, 322:9-15"), Judge's oral ruling.

³²App. C, VRP Vol 2, 248:25-249:1, Longacre Q ". . . the black lab, is that your dog?" A "It is. And I have a – have him implanted with a microchip, verified to me . . ."

³³App. C, VRP Vol 2, 335:8-14, Judges Oral Ruling.

³⁴App. C, VRP Vol 2, 327:17 – 332:12. Ms. Purvis didn't file or provide a declaration before or at the hearing, filing it several days later. She filed no motion, set no hearing to discuss the issue. Ms. LaCross argued against attorney fees as best she could.

D. STATEMENT OF THE CASE

Ms. Kelsey purchased her new built home in 1998 and lived there since then.³⁵

Unbeknownst to her, a neighbor kiddy corner across the street, Paul Scheyer, had opposed the construction of her home, and from then until he moved, did what he could to harass Ms. Kelsey and whomever she was with to force her from the home he wanted removed.³⁶ When Ganowski moved in, he enlisted her help to continue the harassment of Ms. Kelsey and Longacre.

In 2019, Ms. Kelsey had three small dogs: one tan, one grey and one white.³⁷ None of them leave her yard.³⁸ In the Madrona Point neighborhood, dogs cruise the beach and the neighborhood. As well, dog are often barking across the channel.³⁹ Indeed, Kelsey and Longacre had never had a complaint to Animal Control until Ganowski and then Closson began harassing them.⁴⁰ Ganowski's harassment of Kelsey and Longacre began after Ganowski's household broke Kelsey's sewer cut-off valve and caused Ganowski household sewage to back up and flood the first floor of Kelsey's and Longacre's residence.⁴¹ As well, Ganowski built an illegal shed by the

³⁵App. B, VRP Vol 1, 167:6, Kelsey direct testimony.

³⁶App. C, VRP Vol 2, 241:9-13; Ex. 2, 1c, pg 4 (“ . . . we’re putting up with lack of enforcement, lack of . . . we’re going to make the city . . . what is kind of funny about this place is 2108 Madrona Point Drive is an illegal house. Okay? Now one way of getting rid of . . . they’re gonna, **I’m gonna make sure that the house is removed.** Okay? Because the house is illegal. Okay? And the city of Bremerton, they gotta, they’re allowing people to fake building permits, and fake sketches, and that’s gonna stop.”) (Emphasis added).

³⁷App. B, VRP Vol 1, 168:17, id.

³⁸App. B, VRP Vol 1, 169:5, id.

³⁹App. C, VRP Vol 2, 206-207, Kelsey direct testimony.

⁴⁰App. C, VRP Vol 2, 239-240, Kelsey cross testimony; VRP Vol 2, 270:14-24, Longacre direct testimony.

⁴¹App. B, VRP Vol 1, 181-182, Kelsey direct testimony; VRP Vol 2, 241:18-20, Kelsey Cross testimony

channel's edge that encroached on Kelsey's property and interfered with Longacre and Kelsey's ability to enjoy their fireplace by the water.⁴² Longacre wrote a letter asking them for their insurance information to repair the sewage damage, and asking them to move the illegal shed off the property line to the required setback. They moved the shed but never responded to the sewage issue. Instead, her adult boys began harassing Kelsey and Longacre.⁴³

One time on their return from the Scheyers across the street, Ganowski, with Closson beside her, stopped in front of the Kelsey/Longacre residence and said loudly, "Well, that's it. If I have to make shit up, I'll do whatever I – have to, [to] get that woman out of that house."⁴⁴ The Ganowski boys, threw trash over the fence onto the Kelsey/Longacre lawn, they piled all the snow from their parking lot onto the Kelsey/Longacre lawn, they would rattle the fence when they came in late at night to get the dogs barking.⁴⁵ Closson joined in the harassment when he moved in with Ganowski.⁴⁶ He and Ms. Ganowski claimed Longacre's dogs were barking to Animal Control on dates the dogs were not even at the home. They made false claims to the police, they called the 911 to get the fire department to come out – and the list goes on.⁴⁷

On June 13, 2019, Closson waited until Kelsey was home alone after dark to return Longacre's black lab puppy whom Ms. Ganowski's adult sons had invited into her yard

⁴²App. C, VRP Vol 2, 237:14-23, Kelsey cross testimony.

⁴³App. B, VRP Vol 1, 182, Kelsey direct testimony.

⁴⁴App. C, VRP Vol 2, 240:23 – 241:6.

⁴⁵Id.

⁴⁶Id., VRP Vol 2, 270:20-25 Longacre direct testimony.

⁴⁷Id.

previously. The puppy (approximately 4 months old) continued to jump the fence and go over there. Ms. Ganowski hid in the dark by the front fence between the yards to record the incident. Ms. Kelsey came down from a shower after hearing someone shout at the open Dutch door.⁴⁸ When she arrived, Mr. Closson spoke in a nice tone. After getting the dog, Ms. Kelsey learned who he was and told him to get off her property or she would shoot him. The tape stops with Ms. Kelsey going deep into the house. It comes back on with Closson and Kelsey arguing at the door and Kelsey again Orders Closson off the property, threatening to shoot him.⁴⁹ The next day Closson and Ganowski sought and obtained an ex-parte restraining order. In their petition they cited both Longacre and Kelsey not controlling the black lab. They also made a number of other claims. When it became obvious they had weak positions, on July 23, 2019 they filed another petition, this time complaining about the enclosed Chiminea fire that Longacre had started in his back yard a few days before. Indeed, the night of the fire they called 911 to cause trouble. The fire department looked at the fire, said it was legal and told Kelsey and Longacre to enjoy their fire.⁵⁰ Yet, in their new complaint, they did not mention the fire department had okayed the fire, instead they alleged their neighbor saw Kelsey setting off smoke bombs in her yard and the wind carrying the smoke over the fence into Ganowski's yard.

In pursuing their respective petitions for an anti-harassment order, Closson and

⁴⁸App. B, 170:8 – 175:21, Kelsey Direct.

⁴⁹Id.

⁵⁰App. C, 261:23 – 264:11

Ganowski both made multiple allegations against both Longacre and Kelsey.⁵¹ The Superior Court found only three were proved and/or constituted grounds for harassment under the statute. The remainder the Court discounted or simply ignored.⁵² The Court dismissed the June 14, 2019 petitions of Ganowski and Closson, making its finding on the July 23, 2019 petitions.⁵³

First, the Court found that Longacre's dog, a black Labrador Retriever puppy named Missy, came onto Ganowski's property, and Kelsey not successfully restraining it constituted harassment by Kelsey against both Ganowski and Closson.⁵⁴ Second, smoke that witness Heljma reported to Ganowski when neither Closson or Ganowski were home, smoke that emanated from Kelsey and Longacre's patio on the other side of the wooden solid six foot fence that witness Heljma said kept her from identifying who created the smoke, smoke that the petitioners claimed had dissipated but left the house with an odor of sulfuric like smoke when they returned home an hour later, constituted harassment by Kelsey against Closson and Ganowski.⁵⁵

And third, late at night when Closson came to the Kelsey and Longacre residence finding Kelsey home alone, Kelsey ordered Closson off her property and threatened to shoot him if he ever came back onto her property. Closson pretended he was only innocently returning a puppy – yet having Ganowski secretly record the event – and the recording being edited with two cuts in

⁵¹ See Clerk's Exhibit 1, Petitioners' thumb drive, Clrk's pprs 31-37 (Closson second petition), Clrk's pprs 111-117 (Ganowski second petition); VRP Vol 1, 55-65.

⁵² App. C, VRP Vol 2, 315:15 – 316:1, 318:9-20, 319:1-21, 322:1-9, Court's Oral ruling.

⁵³ App. C, VRP Vol 2, 326:12-14.

⁵⁴ App. C, VRP Vol 2, 322 9-15.

⁵⁵ App. C, VRP Vol 2, 316:11 – 318:8.

the middle. The court found that incident constituted harassment against both Closson and Ganowski even though the threats were specific to Closson alone.⁵⁶

After the Court entered its decision regarding the three findings of Harassment, Ms. Purvis, attorney for both petitioners, requested attorney fees.⁵⁷ Ms. Purvis did not file a written motion for fees as required by CR 54(d)(2). The Court did not require the written motion but simply asked “Do you know what your fees are, Ms. Purvis.”⁵⁸ Ms. LaCross objected and argument ensued without the opportunity of Ms. LaCross, attorney for Ms. Kelsey, to review the alleged attorney fees related to this case, and without the opportunity to forcefully argue against them.⁵⁹ Ms. Purvis asked for \$11,375.00 in attorney fees and \$522.00 in costs total for both clients.⁶⁰ The Court awarded \$5,000.00 in attorney fees and \$522.00 in costs to be equally divided between the petitioners.⁶¹

A week later, September 26, 2019, Ms. Purvis submitted a declaration of attorney fees with the judgment for attorney fees and costs for both clients.⁶² The Court signed it sui sponte.

Division II upheld the lower Court on the issue of the threat to shoot, the afternoon smoke, and the failure to follow CR 54 (d)(2) in awarding attorney fees. Division II admitted that

⁵⁶App. C, VRP Vol 2, 320:10 – 321:20.

⁵⁷App. C, VRP Vol 2, 325:7-8.

⁵⁸App. C, VRP Vol 2, 327:19-20.

⁵⁹App. C, VRP Vol 2, 327:21 – 332:6

⁶⁰App. C, VRP Vol 2, 329:7-8.

⁶¹App. C, VRP Vol 2, 335:8-23.

⁶²Clrks pprs 45-53 (for Closson), & 141-149 (for Ganowski).

the issues related to CR 54(d)(2) were of first impression. Division II did not rule on the issues regarding the black lab puppy. The rulings of both the lower court and Division II are dealt with in more detail above in the issues sections.

E. THESE ISSUES ARE RIPE FOR REVIEW

If ever there was a need for this court to give guidance to the lower courts on a statute under RAP 13.4 (b)(4), it is now with Washington's Civil Anti-harassment statute. There exist so many grey areas as presented in this case, gray areas that intelligently need to be analyzed and set forth in this Court's carefully crafted language. For that reason, it is a matter of important public interest that this case be reviewed and decided by Washington's Supreme Court.

As well, Division II failed to follow the proper standards in reviewing the lower court decision. Appellate Courts are supposed to review lower Court's interpretation of statute de novo. *Gronquist v. Dep't of Corr.* 196 Wn.2d 564, para. 7, 475 P.3d 497 (2020). But that is not a carte blanche for falsified self-serving testimony that doesn't stand up to circumstantial proof.

The legislature enacted RCW 10.14 with the intent to prevent "repeated invasions of a person's privacy by acts and words showing a pattern of harassment designed to coerce, intimidate or humiliate the victim." RCW 10.14.010. That did not occur here. Indeed, Division II failed to follow the plain dictates of the legislature which put in place the language to make sure the harassment met a proper standard. Although Division II correctly cited the standard of review for evidentiary decisions and granting of anti-harassment orders⁶³, it failed to follow the standard

⁶³*Trummel v. Mitchell*, 156 Wn.2d 653, 669, 131 P.3d 305 (2006); and *Ledgerwood v. Lansdowne*, 120 Wn. App. 414, 85 P.3d 950 (Div. III 2004).

for reviewing the lower court's interpretation of statute in applying the statute to the facts of this case. Division II's decision in this case allowed the lower court to warp the legislative intent to include grasping at conjecture to find the grounds to grant the respective restraining orders.

By the lower Court's reasoning, and Division II's affirmation, when RCW 10.14.20(2)(b) requires a finding that the harassment must be "directed at a specific person", it includes persons who might possibly be conjecturally imagined to be included. That turns the "directed at a specific person" language on its head.

Further, the plain meaning of "directed" requires the act be intended. RCW 10.14.20(2)(a) states that in the requirement for "willfully and knowing". The lower court finding that a dog escaping its yard when the owner (Mr. Longacre) time and again kept building more and more fencing to keep the dog in fails to show intent to harass. And more, the Court finding that intent is satisfied against Ms. Kelsey who did not own the dog makes a mockery of the statute requiring the act be "knowing and willful" by the respondent. RCW 10.14.20(2)(a).

Division II's liberal application of *Ledgerwood's* substantial evidence requirement also undoes the strict reading of the statute. Here, nothing but speculative evidence supported the claim that Ms. Kelsey lit smoke bombs (she did not, nor did anyone else) in the afternoon. Indeed, Division II cited an innocuous statement about leaving the dog home alone – a statement Ms. Kelsey made privately to Mr. Longacre – as proof that Ms. Kelsey must have been the one creating the smoke. The petitioner's witness stated she did not know who caused the smoke.

RCW 10.14 requires proof that a respondent committed the so called harassing act. Here there was no proof, other than a suspicion by Ganowski and Closson that it had to be Ms. Kelsey.

As well, missing is the elements of “knowing and willful” combined with “directed at a specific person.” There was no testimony that anyone was trying to harass Ganowski and Closson when the smoke emitted. Nothing was said about smoke, no mention of laughter or something that would indicate any intent to harass any specific person. The innocuous statement about the dog, cited by Division II and the lower Court does not pass muster for harassment, let alone offer proof of any attempt by Ms. Kelsey to light the imaginary smoke bombs in the afternoon when no one is home.

Allowing such speculative conclusions to become the anti-harassment law of the state, given that the courts have offered little guidance on the subject, will create confusion and injustice. That is especially concerning now that the Court Rules allow citing unpublished opinions in the face of no published opinions to guide a lower court.

The lower Court and Division II decimated subsection (e) which required a showing that a reasonable person would suffer “substantial emotional distress” and that the petitioner actually suffer “substantial emotional distress.” Division II found all that was necessary to meet the substantial evidence standard in “*Ledgerwood*” was for Ganowski and Closson to say they suffered emotional distress over the untoward stupid threat by Ms. Kelsey in her attempt to get Closson off her and Mr. Longacre’s property. The evidence of Closson’s phone call to 911 where he said it was not an emergency, and his conduct continuing to attempt to create another confrontation demonstrated his lack of actually suffering “substantial emotional distress.” Ms. Ganowski continuing to tape the scene after the threats were made, not calling in fear for Mr. Closson to “get out of her yard” clearly showed they knew Ms. Kelsey’s words were hyperbole. And their

testimony about what they felt when they finally decided to return home (they came home over an hour after being told of the smoke by their friend Ms. Hjelma), failed to show any of the Substantial emotional distress for that alleged incident as well. Indeed, they never reported the alleged “sulfuric” nature of smoke to 911 or the fireman they called to harass Ms. Kelsey. The fireman found a legal fire and left “the occupants” to enjoy it. Ganowski and Closson showed no real emotional distress, let alone “substantial” emotional distress.

The lower Court and Division II also failed to properly evaluate RCW 10.14.20(2)(d) which requires a showing of “no legitimate or lawful purpose.” The plain reading of the statute means that there may be other unlawful possibilities for the act alleged, but there is “no legitimate or lawful purpose” out of all the possibilities. Attempting to get a person off your land and stay off your land with threats, with threats of violence is a legitimate purpose, if not also lawful. Ms. Kelsey’s choice of words and conduct should have been much better, but taken in context, it had one purpose, to keep Mr. Closson off her and Mr. Longacre’s land. That purpose was legitimate.

The appellate briefs of Ms. Kelsey further identified the deficiencies in both the lower Court’s conclusions and Division II affirmation. Public interest needs this court needs to set firm guidance for the elements in RCW 10.14.20(2).

Further, both Courts failed to follow RCW 10.14.030 in analyzing a particular course of conduct. It is striking that subsection (1) in asking whether the contact was initiated by the respondent or both parties does not even contemplate an action where the contact was initiated solely by the petitioner. And that was the case here. Her comments came to end the contact initiated by Closson (and which unbeknownst to Kelsey, Ganowski helped plan and set up).

Anti-harassment orders affect the reputation of the accused respondents. They must not be issued like tubs of popcorn at the movies. The legislature obviously wanted to ensure exactly that when it set forth the guidelines for issuing such orders. They wanted to make them easily accessible to parties who actually need them, but no more. Otherwise the overflow of orders into the police computer network simply clog and confuse the system, as any police officer will attest.

Finally, Division II and the lower court ignored CR 54(d)(2)'s prerequisite for obtaining actual attorney fees after they have been granted by the court. In so doing, Division II noted that the issue was one of first impression. It found that Anti-harassment Actions were "Special Proceedings" that could ignore the rules if the rules conflicted with the Statute. Division II cited the forms developed for Anti-harassment petitions, which allowed for a check of the box asking for attorney fees, as proof the legislature intended to allow petitioners to ignore the dictates of CR 54(d)(2). Yet CR 54(d)(2) merely requires notice to the respondents and an opportunity to contest specific attorney fee claims after the request for actual attorney fees is granted. Division II's logic lacks merit. One need only look at almost any complaint and there will be a request for Attorney fees. The simple request does not conflict with CR 54(d)(2)'s requirement that notice and an opportunity to be heard at a hearing be provided a respondent before the amount of attorney fees is assessed. Attorney fees under RCW 10.14 are actual, rather than "seat of the pants" summation by the court. Otherwise, the actual attorney fees clause is more akin to a sanction for contesting a petition.

As well, Division II glossed over the reasonableness of the award, citing the "abuse of Discretion" standard afforded the lower court. But how can there be anything but arbitrary

decision making when the respondent has not been given the opportunity to study and address the amount of attorney fees sought. The lower court, along with Division II, failed to follow the basic tenets of American due process in awarding attorney fees when they simply refused to require the petitioners to follow CR 54(d)(2). In that respect, RAP 13.4(b)(3) is implicated.

F. CONCLUSION

Pursuant to RAP 13.4(b)(3)&(4), Ms. Kelsey seeks reversal of the Decisions by Division II and the Kitsap Superior Court. The issues raised in this case regarding Civil (rather than Criminal) Anti-harassment Actions under RCW 10.14 have not been addressed in Case Law in this state. Division II and the lower court ignored the plain language of the statute's standards in evaluating this case. This case creates many issues of great Public Interest and give this Court the opportunity to offer guidance on these issues to the lower Courts.

As well, CR 54(d)(2) was deleted by Division II and ignored by the Superior Court. It implicates due process issues as well as interpretation of RCW 10.14. This court should reverse Division II and the lower Courts on all the issues presented here.

Respectfully submitted this 2nd day of September, 2021.

Elizabeth J. Kelsey

Elizabeth J. Kelsey
Pro Se

CERTIFICATION OF PAGE LIMITS

I, Elizabeth Kelsey, declare under the penalty of perjury and the laws of the state of Washington that this Petition meets the requirements of font size and page limits. This petition is 20 pages excepting the Table of Contents, Table of Authorities, Title page and this page.

Signed this 2nd day of September, 2021 in Port Orchard, Washington, County of Kitsap.

Elizabeth Kelsey

PROOF OF SERVICE

I, Elizabeth Kelsey, declare under the penalty of perjury and the laws of the state of Washington that I filed this Brief electronic means (ECM) with the Court of Appeals Division II and counsel for Ganowski and Closson is signed up to receive a copy automatically via email.

Signed this 2nd day of September, 2021 in Port Orchard, Washington, County of Kitsap.

Elizabeth Kelsey

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

JEFFREY T. CLOSSON,

Respondent,

v.

ELIZABETH J. KELSEY,

Appellant.

LISA L. GANOWSKI,

Respondent,

v.

ELIZABETH J. KELSEY,

Appellant.

No. 54031-2-II
(consolidated with No. 54138-6-II)

(and consolidated with
No. 54021-5-II and No. 54148-3-II)

UNPUBLISHED OPINION

GLASGOW, A.C.J.—Jeffrey T. Closson and Lisa L. Ganowski lived next door to Elizabeth J. Kelsey and Clayton Longacre. Relations between the neighbors were tense. When Closson returned Longacre’s puppy one night after it had wandered into his and Ganowski’s yard, Kelsey threatened to shoot Closson if he came onto her property again. There was also an incident involving smoke bombs set along the fence line and smoke drifting into Closson and Ganowski’s home. The trial court granted Closson and Ganowski antiharassment protection orders against Kelsey.

We hold that the trial court did not abuse its discretion in issuing antiharassment protection orders. There is sufficient evidence in the record to support the trial court's findings of fact, and its findings support its conclusions of law. The trial court did not abuse its discretion in awarding costs and attorney fees to Closson and Ganowski. We affirm and award Closson and Ganowski costs and attorney fees on appeal.

FACTS

I. BACKGROUND

Kelsey moved into her home in Bremerton in November 1998. Clayton Longacre lived with Kelsey. As of 2019, Kelsey owned three small dogs, and Longacre owned four other dogs, including a young black Labrador retriever.

In January 2017, Ganowski moved into the house next door. Ganowski described being “woken up with [Kelsey] screaming profanities” and getting frustrated when Kelsey’s dogs would defecate in Ganowski’s yard and “bark in the middle of the night.” 1 Verbatim Report of Proceedings (VRP) at 51-52.

Tensions between the two households escalated in February 2019. They argued over whether Ganowski’s son had shoveled snow onto Kelsey’s property, and Kelsey admitted that she shouted profanities at Ganowski.

A. Threats to Shoot Closson

Closson moved in with Ganowski in April 2019. On June 13, 2019, Closson went over to Kelsey’s house to return Longacre’s black lab puppy that had gotten into their yard. Ganowski took a video of the exchange because she wanted “proof that [they] weren’t doing anything wrong.” *Id.* at 70.

The video, which the trial judge viewed, shows that Closson approached Kelsey's home, holding the dog in his arms, and rang the doorbell. In a second video, Closson said from the front porch, "This is Jeff, your neighbor. I've got this little black lab. She's come into our -- our yard a couple times." Ex. 1. Kelsey asked, "Are you that neighbor over there?" *Id.* When Closson answered, "Yeah," Kelsey responded, "Oh, you're terrible." *Id.*

Closson handed the dog to Kelsey, said "oh, really?" and turned to walk away. *Id.* As the two got further apart, they began to raise their voices. Closson said that Kelsey's dogs had been coming over into their yard, while Kelsey accused Closson and Ganowski of dumping snow into her yard. Kelsey also accused Ganowski of harassing her. She then yelled more loudly, "Don't you ever f***ing come onto my property again, or I'll shoot your motherf***ing a** you hear me? . . . You hear me, a**hole?" *Id.*

In a third video, Kelsey yelled, "Come on my property again, threaten my dog, and I'll f***ing shoot you." *Id.* Closson asked, "Did I threaten your dog?" *Id.* Kelsey continued, "And I'll f***ing shoot you, b**ch." *Id.* The video ended with the following exchange:

Closson:	Okay
Kelsey:	And I'll shoot you, b**ch.
Closson:	Alright.
Kelsey:	You want a war, you got a war.

Id. Closson made a noise at the end of the video that sounded like "huh." *Id.*

Closson called 911 that night and informed dispatch that it was not an emergency but he wanted to report the incident. Bremerton police contacted Closson and Ganowski and reviewed the videos. The responding officer "advised [he] would be writing a report for Harassment charges against Kelsey. [He] advised [Closson and Ganowski] to attempt to obtain an order against her."

Exs. to Clerk's Papers (Exs.) at 94.

The next day, June 14, 2019, Closson and Ganowski filed petitions for antiharassment protection orders against Kelsey in the Bremerton Municipal Court. The court issued temporary protection orders.

B. Smoke Bombs Incident

Cindy Hjelmaa, another neighbor, saw smoke blowing onto Ganowski's property on July 20, 2019 and took a video. In the video, Hjelmaa stated, "It looks like there's a smoke bomb that's coming, obviously, from the house next to [Ganowski's], just on the other side of the fence. It's been going on for about five minutes now, and it's white smoke, and it's been consistent." Ex. 1. Later she stated, "It looks like white smoke bombs, and it looks like it's not a -- not a barbeque, and not a fireplace, and something that is ongoing and deliberate." *Id.*

In a second video, Hjelmaa stated that it was "five minutes later," so there had been approximately ten minutes of "continuous, white smoke coming from the house next to [Ganowski's]." *Id.* She described the smoke as "filtering over to [the neighbors'] decks." *Id.*

When Closson and Ganowski returned home, Closson called 911 to report that there was not an emergency but their house was "full of smoke." Ex. 2. He called 911 again later that night to report that Kelsey had "an open fire going right next to [their] fence." *Id.* The fire department responded and reported that they "arrived to a person having a safe, controlled, recreational fire in a [chiminea]." Exs. at 76.

Closson and Ganowski then filed new petitions for antiharassment protection orders. These petitions added details about the smoke bombs and fire and repeated that Kelsey had threatened Closson. Both Closson's and Ganowski's petitions also incorporated their prior petitions.

Closson's petition explained, "I am afraid [Kelsey] will kill me or my girlfriend." Clerk's Papers (CP) at 21. Ganowski's petition similarly stated, "I am afraid [Kelsey] will become so angry she kills me or my boyfriend." Suppl. Clerk's Papers (SCP) at 117. Both petitions checked the boxes requesting that the court "[r]equire 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." CP at 20; SCP at 116.

The Bremerton Municipal Court granted temporary protection orders and transferred the petitions to Kitsap County Superior Court for a hearing.

II. SUPERIOR COURT HEARING

A. Testimony

Argument on the Porch: At the hearing, the trial court viewed the videos described above. Ganowski testified that Kelsey's threats against Closson were what prompted her to petition for a protection order and explained that she "[t]ook it as a direct threat to [herself] as well." 1 VRP at 66. She told the court, "It terrified me. . . . I have no idea what they had for weapons. . . . But the way that she screams at people and me, I didn't -- I was very afraid that she would actually shoot us." *Id.* at 72. Closson also testified that his confrontation with Kelsey "really rattled [him], considering [he] had never spoken to her before and [has not] spoken to her since." *Id.* at 130. He said, "That [was] the only conversation I had with her when I was returning her dog, you know, in my mind doing her a favor [and her response] was basically to threaten to shoot me multiple times." *Id.* He told the court, "I believe that's the first time I've ever called 911 was on that day. Because of how scared I was." *Id.* at 132.

Kelsey's testimony about the argument on her porch contradicted Closson's and Ganowski's. Kelsey testified that she was in the shower when she heard Closson "yelling through the front door. You need to leave. You need to leave the neighborhood now and swearing." *Id.* at 170. She said that the videos did not include "all that was said" and that they cut out "a whole bunch of interaction where [she] told [Closson] what [Ganowski] had been doing." *Id.* at 172. She also said that during the argument, Closson would start to walk away and "then he'd run back to the door, which scared [her]." 2 VRP at 194.

Kelsey apologized for threatening to shoot Closson, saying, "I was scared. I was in my home by myself. And as I came down the stairs I didn't even recognize this man." 1 VRP at 173. She explained that her threats to shoot were "[i]n the context of [Closson] coming back over onto [her] property." *Id.* at 175. She further explained, "I was taught when someone's scaring you, to try to be bigger so that you don't get attacked. . . . They're at my front door. I'm not at their front door." 2 VRP at 225.

Smoke Incident: Ganowski testified that after the smoke bomb incident, their house was "all sulfur smelling." 1 VRP at 79. It "didn't smell like wood from a fireplace. It smelled like fireworks or something. . . . It just smelled rotten." *Id.* Closson agreed and told the court, "I'm familiar with what smoke bombs are from when I was a kid. It was definitely the smell of a smoke bomb or something similar to it." *Id.* at 134-35. Hjelmaa testified that she observed the smoke blow toward Closson and Ganowski's home for about 20 minutes, but when the wind changed direction and began blowing the smoke toward Kelsey's home, the smoke stopped.

Ganowski and Closson also testified that later that night, Kelsey came out onto her deck and commented "something like you shouldn't leave that poor dog alone" or "you better be careful

about that poor dog being there.” *Id.* at 80, 136. Ganowski said, “[I]t felt like a threat that she knew I had a dog in the house and she knew the windows were open and she could see them and it was a deliberate attempt to hurt my dog. It was very upsetting to me.” *Id.* at 80. Closson said, “I took it distinctly as a threat based on the only other conversation I had ever had with her was a threat to my life like you better not leave your house or bad things will happen.” *Id.* at 136.

Kelsey and Longacre testified that the only fire they lit on their property that night was in their chiminea. Longacre believed this fire created a lot of smoke because there was debris in it, which “smelled, like, old leaves.” 2 VRP at 263. Kelsey told the trial court that she had not touched smoke bombs since she was a child because her sister was burned by one. Kelsey also said that the only comment she made about Ganowski’s dog was in a private conversation with Longacre and that she never threatened the dog.

Black Lab Puppy: With respect to the black lab puppy continuing to come onto their property, Closson said, “I don’t know that they are teaching the dog to come over and do that, but they know that the dog is doing this and they continue to let it happen.” 1 VRP at 146. Videos admitted into evidence showed the black lab puppy coming into Closson and Ganowski’s backyard, coming into Closson and Ganowski’s house, and taking a shoe. Ganowski testified that she contacted animal control about the dog “[20] or 30 times.” *Id.* at 60. Closson and Ganowski filed two declarations with Kitsap Animal Rescue and Enforcement detailing multiple instances when the black lab puppy had come onto their property and caused damage during August and September 2019.

Kelsey testified that the puppy belonged to Longacre, that he had been working to train the puppy, and that he had been setting up baby gates along the fence to try and keep the puppy inside

their yard. Longacre testified that he owned the black lab puppy but he had recently decided to place the dog in another home “because of the problems that [they had] been having.” 2 VRP at 247.

B. Trial Court’s Ruling

The trial court did not enter written findings of fact or conclusions of law, but it thoroughly explained its decision in an oral ruling. On the issue of the threats, the trial court found that Closson’s version of the events was “extremely credible” and Kelsey was not credible. *Id.* at 313. The trial court rejected Kelsey’s testimony that the videos were incomplete, and it found no basis for Kelsey’s assertions that she was afraid. The video showed Closson “peaceably” returning the black lab puppy, and “Mr. Closson did nothing whatsoever to instill any fear or anything else in Ms. Kelsey or anyone.” *Id.* at 314.

The trial court found that Kelsey “immediately lit into” Closson, asking him if he lived next door and then going into an “absolute tirade, complaining about everybody in the house next door.” *Id.* The trial court recited that Kelsey threatened to shoot Closson several times, cursed at him repeatedly, and was “totally out of control.” *Id.* at 315. Although these threats were directed at Closson in person, “in the Court’s view they were directed to Ms. Ganowski and anybody else that was living in the Ganowski house.” *Id.*

The trial court concluded that “the threats and [Kelsey’s] tone . . . and aggression and violence, and profanity was -- quite remarkable.” *Id.* at 316. “Obviously, on the tape Mr. Closson was completely stunned by it. . . . He’s testified that he’s been in fear as a result of that. It’s been on their mind, and Ms. Ganowski did [testify to that] also.” *Id.*

The trial court also found that the use of smoke bombs had been established by circumstantial evidence. It cited Hjelmaa's videos and observations, the sulfuric smell that remained when Closson and Ganowski returned home, which Closson recognized as a smell associated with smoke bombs due to his prior experience, and the testimony that Kelsey had said Closson and Ganowski "shouldn't leave [their] poor dog home alone like that." *Id.* at 317. The trial court concluded that the smoke bombs were set off "by or with the aid of Ms. Kelsey" and that this act was "done against both Mr. Closson and Ms. Ganowski." *Id.* at 317-18. The trial court did not find that the fire in the chiminea was an issue.

The trial court concluded that "based on the threats that were made June 13th to Mr. Closson, and the smoke that was done on July 20th, [it] would find that Ms. Kelsey committed unlawful harassment." *Id.* at 319. It found that the threats were sufficient to support issuance of antiharassment orders because they involved "knowing and willful" conduct, "the threats would cause any reasonable person substantial emotional distress," and the threats "did cause both [Closson and Ganowski] substantial emotional distress." *Id.* at 320-21. It further found that "the course of conduct [constituting harassment on June 13] was the entire tirade" because it included multiple threats and that although the smoke bombs were not violent or as threatening, that incident met "the elements of unlawful harassment together with the threats of June 13th." *Id.* at 321. It granted Closson and Ganowski's petitions "as a consequence of those two things." *Id.*

The trial court then addressed the issue of the black lab puppy "as an aside." *Id.* at 322. The trial court stated that "the black lab coming over to the house continuously, over and over and over again, and digging holes, chewing up shoes, pooping in the yard, and all that over a period of time . . . the depth [and] the breadth of that, I would consider that to be harassment." *Id.* The trial

court further explained that “in conjunction with the threat, [the black lab puppy’s behavior] was alarming. Because here you have these people that as far as they know they may get shot if they touch this animal, let alone try to bring it home. And so . . . they don’t do that anymore.” *Id.* at 323. Even though Longacre owned the dog, “in the context” of Kelsey and Longacre living together, the trial court “would also find that the series of events with the black lab was unlawful harassment by Ms. Kelsey.” *Id.* at 324.

The trial court granted Closson and Ganowski’s second petitions, which incorporated all of the allegations presented in their first petitions. Closson and Ganowski also requested reimbursement for \$552 in costs and \$11,375 in attorney fees. The trial court awarded the requested costs and \$5,000 in attorney fees, explaining, “Based on the time that[] went into these, the time of trial, and everything else, I think [\$]5,000 is reasonable.” *Id.* at 335. It required Closson and Ganowski to evenly split this award and entered orders granting each of them \$276 in costs and \$2,500 in attorney fees.

Kelsey appeals the two antiharassment protection orders against her, as well as the order granting Closson’s and Ganowski’s requests for costs and fees.¹

¹ Kelsey also designates the four temporary ex parte protection orders that were issued against her in her notice of appeal, but she fails to make any arguments specific to these orders. “Only issues raised in the assignments of error . . . and *argued* to the appellate court are considered on appeal.” *Weyerhaeuser Co. v. Commercial Union Ins. Co.*, 142 Wn.2d 654, 693, 15 P.3d 115 (2000) (alteration in original) (quoting *State v. Kalakosky*, 121 Wn.2d 525, 540 n.18, 852 P.2d 1064 (1993)).

ANALYSIS

I. ANTIHARASSMENT PROTECTION ORDERS

A. Antiharassment Orders Generally

The court shall issue an antiharassment protection order if it “finds by a preponderance of the evidence that unlawful harassment exists.” RCW 10.14.080(3).² “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.” RCW 10.14.020(2).

A “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.” RCW 10.14.020(1). The requirement that the respondent engage in a “course of conduct” means “that it is the *series* of acts that, when combined, serve to sufficiently alarm, annoy, or cause detriment such that the definition of harassment is met.” *State v. Haines*, 151 Wn. App. 428, 436, 213 P.3d 602 (2009). “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.” RCW 10.14.020(2).

“In determining whether the course of conduct serves any legitimate or lawful purpose,” the trial court considers several factors, including whether “[a]ny current contact between the parties was initiated by the respondent only or was initiated by both parties,” whether [t]he

² In 2021, the legislature repealed chapter 10.14 RCW, finding that “in order to improve the efficacy of, accessibility to, and understanding of, civil protection orders, the six different civil protection orders in Washington state should be included in a single chapter of the Revised Code of Washington.” ENGROSSED SECOND SUBSTITUTE H.B. (ESSHB) 1320, 67th Leg., Reg. Sess., § 1(7) (Wash. 2021). However, ESSHB 1320 does not significantly change the substance of Washington’s civil harassment law.

respondent's course of conduct appears designed to alarm, annoy, or harass the petitioner," whether "[t]he respondent is acting pursuant to any statutory authority, including but not limited to acts which are reasonably necessary to . . . [p]rotect property or liberty interests," and whether "[t]he respondent's course of conduct has . . . the purpose or effect of creating an intimidating, hostile, or offensive living environment for the petitioner." RCW 10.14.030(1), (3)-(5).

We review the trial court's issuance of antiharassment orders for an abuse of discretion. *See Trummel v. Mitchell*, 156 Wn.2d 653, 669, 131 P.3d 305 (2006). "[A]n abuse of discretion involves the unreasonable or arbitrary exercise of authority or the exercise of authority based on untenable grounds." *Ledgerwood v. Lansdowne*, 120 Wn. App. 414, 423, 85 P.3d 950 (2004). The relief granted "must be warranted by the facts." *Trummel*, 156 Wn.2d at 668.

"This court does not weigh evidence. We will uphold the trial court's findings of fact if they are supported by substantial evidence." *Ledgerwood*, 120 Wn. App. at 423 (citation omitted). "Substantial evidence exists when the record contains evidence of sufficient quantity to persuade a fair-minded, rational person that the declared premise is true." *State v. Askham*, 120 Wn. App. 872, 883, 86 P.3d 1224 (2004). "We defer to the trier of fact on the persuasiveness of the evidence, witness credibility, and conflicting testimony." *In re Vulnerable Adult Petition for Knight*, 178 Wn. App. 929, 937, 317 P.3d 1068 (2014) (part published). The trial court's factual findings must support its legal conclusions, which we review de novo. *Ledgerwood*, 120 Wn. App. at 423-24.

Both the Washington Supreme Court and this court have reviewed the issuance of civil antiharassment orders based on the trial court's oral ruling where the trial court did not enter written findings of fact or conclusions of law. *See Trummel*, 156 Wn.2d at 657-58; *Price v. Price*, 174 Wn. App. 894, 900-01, 301 P.3d 486 (2013). In addition, the trial court did not designate

expiration dates on the antiharassment orders at issue in this case, but they presumably expired in September 2020. *See* RCW 10.14.080(4) (“An order issued under this chapter shall be effective for not more than one year unless the court finds that the respondent is likely to resume unlawful harassment of the petitioner when the order expires.”). However, Kelsey’s appeal of the orders is not moot. She asks this court to remove the orders from her record due to the ““continuing stigma,”” and we have the authority to grant her requested relief. Appellant Kelsey’s Opening Br. at 29 (quoting *Hough v. Stockbridge*, 113 Wn. App. 532, 537, 54 P.3d 192 (2002), *reversed in part on other grounds*, 150 Wn.2d 234, 76 P.3d 216 (2003) (per curiam)).

B. Threats

Kelsey first argues that her threats to shoot Closson cannot constitute harassment against Ganowski because she “had no idea that Ganowski was present or listening.” *Id.* at 36. She also argues that the trial court erred in finding unlawful harassment because the threat was not enough to cause a reasonable person substantial emotional distress and the threat did not actually cause Closson substantial emotional distress. Additionally, Kelsey contends that the trial court erred by finding the threats did not serve any legitimate or lawful purpose because she did not initiate the contact and she only wanted Closson to leave her property after he had come over at night when Kelsey was “alone and in a state of undress.” *Id.* at 39.

Unlawful harassment requires “a knowing and willful course of conduct *directed at a specific person.*” RCW 10.14.020(2) (emphasis added). The knowing and willful element goes “to the identity of the targeted victim,” in addition to the conduct itself. *Burchell v. Thibault*, 74 Wn. App. 517, 522, 874 P.2d 196 (1994). Someone who “just happened to be in the company of” a person at whom harassment was directed cannot generally prove harassment. *Id.* However, “courts

have broad powers to address harassing conduct,” and this includes the power to protect a group of people when the entire group is threatened. *Trummel*, 156 Wn.2d at 664.

Here, although Kelsey’s threats were directed at Closson, their conversation escalated after Closson identified himself as Kelsey’s next-door neighbor, and Kelsey specifically referenced Ganowski during the altercation. The conversation involved an argument about previous disputes between the two households, including a snow shoveling incident before Closson moved in, and Kelsey said that Ganowski’s household was “psycho” and had been harassing Kelsey “since they moved in.” Ex. 1. This evidence supports the trial court’s finding that Kelsey’s threats, in addition to being directed specifically at Closson, “were directed to Ms. Ganowski and anybody else that was living in the Ganowski house.” 2 VRP at 315. Ganowski did not “just happen[] to be in the company of” Closson when the harassment occurred. *Burchell*, 74 Wn. App. at 522.

Kelsey also challenges the trial court’s findings that Closson and Ganowski reasonably suffered “substantial emotional distress” as required under RCW 10.14.020(2). Substantial evidence must support the finding of substantial emotional distress, but testimony that the petitioner “felt threatened” may be enough to satisfy this standard. *Askham*, 120 Wn. App. at 884.

There is ample evidence in the record that these threats actually caused Ganowski and Closson substantial emotional distress. Ganowski testified that the incident “terrified” her because she had “no idea what [Kelsey and Longacre] had for weapons” and she was “very afraid that [Kelsey] would actually shoot [them].” 1 VRP at 72. Closson testified, “[I]t really scared me. It really rattled me, considering I had never spoken to her before and haven’t spoken to her since.” *Id.* at 130. Both Ganowski’s and Closson’s petitions stated they were afraid Kelsey would kill them. These statements established substantial evidence of subjective fear. And the trial court did

not abuse its discretion in concluding that their fear was reasonable, especially in light of the unprovoked nature of the threats.

Finally, Kelsey challenges the trial court's determination that her conduct served no legitimate or lawful purpose. The trial court watched the video of the confrontation and heard testimony from both Closson and Kelsey. It found that Closson's review of the events was "extremely credible," whereas Kelsey's was not. 2 VRP at 313. "We defer to the trier of fact on the persuasiveness of the evidence, witness credibility, and conflicting testimony." *Knight*, 178 Wn. App. at 937.

Kelsey is correct that Closson initiated this contact and that she is entitled to protect herself and her property. However, the trial court also had to consider whether her conduct appeared "designed to alarm, annoy, or harass" and whether it created "an intimidating, hostile, or offensive living environment." RCW 10.14.030(3), (5). The trial court here found that Closson was "peaceably" returning Longacre's puppy and that he did "nothing whatsoever to instill any fear . . . in Ms. Kelsey." 2 VRP at 314. It also found that "the threats and [Kelsey's] tone . . . and aggression and violence, and profanity was . . . quite remarkable." *Id.* at 316. Kelsey testified that her perspective at the time was, "I'm afraid and I don't know the guy. And I was taught when someone's scaring you, *to try to be bigger* so that you don't get attacked." *Id.* at 225 (emphasis added). Kelsey's own testimony corroborated the trial court's finding that she was attempting to alarm and intimidate Closson.

Regardless of how Kelsey felt during the interaction, the evidence in the record is sufficient to support the trial court's finding that Kelsey's response exceeded what was legitimate and lawful under the circumstances. In sum, substantial evidence supported the trial court's findings that

Kelsey threatened Closson and Ganowski, that they experienced reasonable fear, and that her threats were not legitimate and lawful. The threats supported the entry of antiharassment orders.

C. Smoke Bombs

Kelsey next argues that there was insufficient evidence to support an antiharassment order based on the smoke bombs because there was no evidence that she was responsible for lighting smoke bombs or that the smoke was directed at Closson and Ganowski. She claims that “discrepancies and omissions” in Closson, Ganowski, and Hjelmaa’s statements would “lead any reasonable person to question whether substantial evidence supports the Court’s finding.” Appellant Kelsey’s Reply Br. at 11. She also challenges whether the remnants of the smoke and its odor would be sufficient to cause substantial emotional distress.

“This court does not weigh evidence.” *Ledgerwood*, 120 Wn. App. at 423. The question on appeal is whether the trial court’s factual findings were supported by substantial evidence, meaning whether “the record contains evidence of sufficient quantity to persuade a fair-minded, rational person that the declared premise is true.” *Askham*, 120 Wn. App. at 883. The record here contains a video showing white smoke, Hjelmaa’s testimony describing the duration and direction of the smoke, Closson and Ganowski’s testimony describing the lingering smell of the smoke, and testimony that Kelsey threatened Closson and Ganowski’s dog. This evidence is sufficient to persuade a fair-minded and rational person that Kelsey was involved in lighting smoke bombs and that the smoke bombs were lit when the wind was blowing toward Closson and Ganowski’s house.

The trial court ruled that the smoke bombs incident “wasn’t as violent, [or] as threatening, but . . . it meets the elements of unlawful harassment *together with the threats of June 13th.*” 2 VRP at 321 (emphasis added). The trial court granted Closson and Ganowski’s petitions “as a

consequence of *those two things*.” *Id.* (emphasis added). It did not abuse its discretion in ruling that the smoke bombs incident—when considered alongside the threats made approximately one month earlier—was part of a pattern of harassment and intimidation by Kelsey that reasonably caused substantial emotional distress. The trial court did not err by considering these incidents to be a series of acts, or a course of conduct, that combined to constitute unlawful harassment.

D. Black Lab Puppy

Kelsey also argues that the trial court erred by issuing antiharassment orders based on the black lab puppy’s behavior. Whether the black lab puppy’s behavior can be characterized as part of a knowing and willful course of conduct by Kelsey is debatable. But regardless, the trial court was clear that it issued antiharassment orders based on the threats and the smoke bombs incident, not the puppy’s behavior. *See id.* (“[J]ust for those two things [the threats and the smoke bombs], . . . I would find Ms. Kelsey committed unlawful harassment. And as a consequence of those two things, the most recent petition of both Ms. Ganowski and Mr. Closson would be granted.”). Therefore, we affirm the trial court’s orders granting the antiharassment petitions. We need not reach Kelsey’s arguments that the trial court erred by characterizing the puppy’s behavior as harassment by Kelsey.

II. ATTORNEY FEES

A. Attorney Fees Below

Kelsey next argues that the trial court erred when it awarded costs and attorney fees without giving her “the opportunity to review and contest them.” Appellant Kelsey’s Opening Br. at 39. She suggests that Closson and Ganowski failed to comply with CR 54(d) because, she says, they requested the fees orally and CR 54(d) requires that claims for attorney fees be made by motion.

We hold that proceedings under chapter 10.14 RCW are special proceedings created by the legislature and, therefore, it is permissible for petitioners to request costs and attorney fees in their petitions rather than by a separate motion.

CR 81(a) states, “Except where inconsistent with rules or statutes applicable to special proceedings, these rules shall govern all civil proceedings.” The civil rules do not define “special proceedings,” but the Supreme Court has described them as “proceedings created or completely transformed by the legislature,” including actions “unknown to common law” and actions where the legislature has “entirely changed the remedies available.” *Putman v. Wenatchee Valley Med. Ctr., P.S.*, 166 Wn.2d 974, 982, 216 P.3d 374 (2009).

Although no court has addressed whether proceedings for antiharassment orders under chapter 10.14 RCW are special proceedings, Division Three has held that proceedings for domestic violence protection orders are special proceedings. *Scheib v. Crosby*, 160 Wn. App. 345, 352, 249 P.3d 184 (2011). Division Three reasoned that “the [Domestic Violence Prevention Act, chapter 26.50 RCW,] replaces the common law injunction, to the extent that domestic violence protection becomes an adjunct of the common law injunction, with the statutory remedy of a domestic violence protection order.” *Id.*

Similarly, the antiharassment protection order is a statutory remedy that did not exist in common law. *See* Aaron H. Caplan, *Free Speech and Civil Harassment Orders*, 64 HASTINGS L.J. 781, 790 (2013) (“The advent of domestic violence restraining orders -- which combined elements of pre-existing criminal and tort laws with the enforceability of an injunction -- gave rise to modern civil harassment statutes.”). The Washington Legislature created this remedy in 1987. *See* RCW

10.14.040 (“There shall exist an action known as a petition for an order for protection in cases of unlawful harassment.”).

Because the legislature statutorily created the remedy of the antiharassment order, we hold that proceedings for antiharassment orders are special proceedings under CR 81(a) and that, to the extent the civil rules are inconsistent with chapter 10.14 RCW, the statutory provisions of chapter 10.14 RCW govern.

With chapter 10.14 RCW, the legislature “intended to provide victims with a speedy and inexpensive method of obtaining civil antiharassment protection orders preventing all further unwanted contact.” RCW 10.14.010. To achieve this goal, the legislature asked the administrative office of the courts to develop “a single master petition pattern form for all antiharassment and stalking protection orders.” RCW 10.14.800(1); *see also* RCW 10.14.050. It also directed all court clerks to “make available simplified forms and instructional brochures” and to provide these materials “free of charge.” RCW 10.14.040(3)-(4).

Kelsey cites to CR 54(d)(2), which provides that claims for attorney fees and expenses “shall be made by motion.” However, in developing the master petition pattern form for antiharassment orders that the legislature expressly required, the administrative office of the courts included a section permitting the petitioner to request costs and attorney fees by simply checking a box. This effectuated the legislature’s intent of providing petitioners with “a speedy and inexpensive method” of obtaining protection. RCW 10.14.010. To the extent CR 54(d)(2) conflicts, chapter 10.14 RCW governs, and a separate motion is not required.

RCW 10.14.090(2) provides, “The court may require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing

the action, including a reasonable attorney’s fee.” The decision to award costs and reasonable attorney fees is within the trial court’s discretion. *See* RCW 10.14.090(2) (“The court *may* require the respondent to pay.” (emphasis added)); *see also Hough*, 113 Wn. App. at 543 (“The trial judge had the discretion not to order fees, and we will not disturb that ruling.”). The statute does not require that the trial court enter findings to support its decision.

Closson and Ganowski checked the box requesting costs and attorney fees on their petitions. They requested \$552 in costs and \$11,375 in attorney fees. At the hearing, Kelsey argued that they did not have a basis for requesting such substantial attorney fees from her. The trial court reviewed the statute and awarded the requested costs and approximately half of the requested attorney fees—an amount which it determined was reasonable. Kelsey has not shown that the trial court abused its discretion in reaching this determination. Therefore, we affirm the trial court’s order granting reimbursement for costs and some attorney fees.

B. Attorney Fees and Costs on Appeal

Finally, Closson and Ganowski argue that under RCW 10.14.090(2) and RAP 18.1(a), they are entitled to additional costs and attorney fees on appeal. RAP 18.1(a) provides for the recovery of reasonable attorney fees on appeal if “applicable law grants to a party the right to recover reasonable attorney fees or expenses on review” and the party properly requests it. “If attorney fees are allowable at trial, the prevailing party may recover fees on appeal.” *Scheib*, 160 Wn. App. at 353.

RCW 10.14.090(2) allows for the trial court to “require the respondent . . . to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney’s fee.” Therefore, this court has discretion to award fees and costs pursuant to RCW 10.14.090(2) and

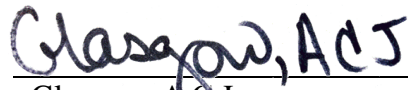
No. 54031-2-II

RAP 18.1(a). We award Closson and Ganowski costs and attorney fees on appeal in an amount to be determined by a commissioner of this court.

CONCLUSION


We hold that the trial court did not abuse its discretion in granting Closson's and Ganowski's petitions for antiharassment protection orders based on Kelsey's threats and the incident involving smoke bombs. The trial court did not abuse its discretion in awarding Closson and Ganowski costs and reasonable attorney fees below. We affirm and award Closson and Ganowski costs and attorney fees on appeal.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

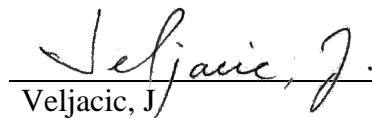


Glasgow, A.C.J.

We concur:



Cruser, J.



Veljacic, J.

FILED

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
Court of Appeals
Division II
 IN **State of Washington** COUNTY OF KITSAP
9/2/2021 4:10 PM

LISA GANOWSKI and JEFFREY)
 CLOSSON,)
)
 Petitioners,) No. 19-2-02402-18
) COA No. 54148-3-II
 v.)
)
 ELIZABETH KELSEY,)
)
 Respondent.)

TRANSCRIPT OF PROCEEDINGS

[Stenographically Transcribed via Digital Recording]

VOLUME I OF II

HONORABLE KEITH HARPER
 Pro Tempore
 Kitsap County Superior Court

APPEARANCES

FOR THE PETITIONERS: KYLIE J. PURVES
 Attorney at Law

FOR THE RESPONDENT: JENIECE LACROSS
 Attorney at Law

Date of Hearing: September 16, 2019

Transcribed by: Crystal R. McAuliffe, RPR, CCR #2121

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25			
		- None -	

1 THE COURT: Okay. Then we have -- we have
2 four cases involving antiharassment order petitions.
3 Ganowski versus Kelsey; Closson versus Kelsey; Closson
4 versus Kelsey; and Ganowski versus Kelsey.

5 And related to that is a -- a Superior Court civil
6 matter, Longacre versus Ganowski and Closson.

7 So who do we have?

8 MS. PURVES: Kylie Purves. I'm counsel for
9 Closson on Longacre v. Ganowski and Closson. And I'm
10 counsel for Ganowski and Closson on the petitions for
11 antiharassment order.

12 MS. WAGNER: Your Honor, Gabriella Wagner.
13 I'm counsel for Ganowski in the civil matter of
14 Longacre versus Ganowski and Closson.

15 MS. LaCROSS: Jeniece LaCross. I'm counsel
16 for Ms. Elizabeth Kelsey on the civil antiharassment
17 petitions; both Closson and Ganowski petitions.

18 THE COURT: And I'm sorry. How do I spell
19 your last name?

20 MS. LaCROSS: L-a, capital, C-r-o-s-s.

21 THE COURT: And, I'm sorry, so you represent
22 Ms. Kelsey in the four harassment cases?

23 MS. LaCROSS: Yes.

24 THE COURT: But you are not involved in the
25 other civil suit?

1 MS. LaCROSS: No, I am not.

2 THE COURT: Then are you Ms. Kelsey?

3 MS. KELSEY: Yes, I am, Your Honor.

4 THE COURT: And you are representing yourself
5 in the civil suit?

6 MS. KELSEY: Yes, I am, Your Honor.

7 THE COURT: And you are Mr. Longacre, and
8 you're representing yourself in the civil suit?

9 MR. LONGACRE: Correct, Your Honor. I've also
10 filed a motion to intervene in --

11 THE COURT: Pardon me?

12 MR. LONGACRE: And I've also filed a motion to
13 intervene in the antiharassment case.

14 THE COURT: Okay. So just a minute, I...

15 Okay. So as I understand it, we have the -- the
16 attorneys can correct me if I'm wrong, or everybody
17 can -- so and for harassment cases, they are set for
18 hearing. I presume maybe they are set for a contested
19 hearing today. But there's also Mr. Longacre's motion
20 to intervene in each of those four cases, and the
21 plaintiffs have opposed that motion in each of the four
22 cases.

23 In the civil suit, the defendants made a motion to
24 stay discovery until the Court decides a motion to
25 dismiss. And the defendants filed a motion to dismiss

1 under 12(b)(6) -- both defendants filed a 12(b)(6)
2 motion to dismiss the trespass and harassment or
3 inflicting emotional distress claims in the original
4 complaint.

5 In the meantime, Mr. Longacre has filed an amended
6 complaint. He's added abuse of process, malicious
7 prosecution, intentional infliction of emotional
8 distress. He's added -- and he's added -- well,
9 Ms. Kelsey is now named as a co-plaintiff in that case.

10 So that's what I understand we're doing today. So
11 I guess I want to hear in what order we want to do
12 this. And on the harassment cases, are we going to
13 have a hearing today?

14 So, Ms. Purves.

15 MS. PURVES: Yes, Your Honor.

16 So on the harassment cases, we are going to have a
17 hearing today. That's our intention.

18 My suggestion would be that we address the motion
19 to intervene first on those and -- and have that issue
20 settled and then proceed with a hearing on the
21 petition.

22 As to the other motions, I don't have a particular
23 care whether we want to do the motion to dismiss and
24 stay first and get that -- those issues resolved or
25 after the hearing on petition for harassment order.

1 I'll leave that to the court's discretion.

2 THE COURT: Okay. Ms. Wagner, you are not
3 involved in the harassment cases, and -- okay.
4 Ms. Kelsey you are -- or Ms. LaCross, you are
5 representing Ms. Kelsey in the four harassment cases.

6 MS. LaCROSS: That's correct, Your Honor.
7 Yes.

8 MS. WAGNER: All correct.

9 THE COURT: I'm sorry.

10 MS. WAGNER: Correct on my part as well.

11 THE COURT: Okay. It's proposed that we deal
12 with Mr. Longacre's motion to intervene, and then go
13 ahead with those four harassment case hearings.

14 Does that work?

15 MS. LaCROSS: I -- I think -- yes, that works
16 for me.

17 THE COURT: And, Ms. Kelsey, and -- well, you
18 are represented by an attorney here on that.

19 So, Mr. Longacre, does that make sense?

20 MR. LONGACRE: It makes good sense, Your
21 Honor.

22 THE COURT: Okay. So in the four harassment
23 cases, we have Mr. Longacre's motion to intervene. So
24 let's go ahead and do that.

25 MR. LONGACRE: Your Honor, the motion to

1 intervene is brought in my briefing sets it out.

2 It -- it -- I'm arguing that there's a right to
3 intervene and permissive intervention under the rules.
4 In that position, there's no right to intervene because
5 Ms. Kelsey and my interests are the same. Both want
6 antiharassment going forward.

7 But in that sense, that's all that they are is the
8 same, in this particular antiharassment order that they
9 have brought before the Court. And I have reviewed all
10 of the court proceedings when they gave testimony in
11 all of their pleadings -- does all of the evidence that
12 they intend to submit to the Court, over half of it
13 involves things that they are accusing me of doing.
14 And not just in a minor sense, but in a major sense.

15 A major -- there are major claims against
16 Ms. Kelsey is that -- is that there were smoke bombs,
17 and had to do with a lighting fire in a Chiminea was --
18 and the testimony is going to show that nobody saw
19 anybody who was lighting a fire or actually doing smoke
20 bombs and it was just they saw smoke and they presumed
21 that.

22 The -- but it comes to Ms. Ganowski claiming
23 that -- that she had been in -- in here she talks about
24 the fact that I threw snow over into her property. She
25 talks about my dog annoying her. She talks about

1 things that -- that are related to me specifically, and
2 so that gives me a right to intervene as a matter of
3 law.

4 And also -- another reason why the lower courts
5 ended up from Bremerton District Court to here is
6 because the complaint which we have filed against them,
7 essentially the facts are all intertwined in -- and
8 tied together.

9 And for that reason, we move for a motion to
10 intervene, Your Honor.

11 THE COURT: So let me ask, Ms. LaCross, on
12 behalf of Ms. Kelsey, are you opposed to that motion to
13 intervene --

14 MS. LaCROSS: No.

15 THE COURT: -- or are you in favor of it?

16 MS. LaCROSS: In favor of it.

17 THE COURT: So let me hear from you first, and
18 then I'll hear from Ms. Purves. Go ahead.

19 MS. LaCROSS: Well, Your Honor, I don't have
20 any argument one way or the other on that. I believe
21 that's Mr. Longacre's argument.

22 I would just let the Court know that we don't
23 oppose that and that Ms. Kelsey does support that and
24 these -- the civil antiharassment order, a lot of the
25 allegations and a lot of the evidence that's going to

1 be brought out is going to pertain to both Mr. Longacre
2 and Ms. Kelsey. Some of the allegations that are
3 brought against Ms. Kelsey are actually actions of
4 Mr. Longacre.

5 THE COURT: Okay. Ms. Purves?

6 MS. PURVES: Your Honor, the petitioners
7 oppose the motion to intervene. And primarily the
8 arguments made by the intervener and now the respondent
9 are that there are factual issues that Mr. Longacre can
10 provide information about that weaken their petition
11 because those are actions that he took, not that
12 Ms. Kelsey took. That's the crux of his argument.

13 That's not a basis for intervention under CR 24.

14 He might be able to testify as a witness for
15 Ms. Kelsey. And it sounds as if he will, but he
16 doesn't have the basis for intervention under the rule.

17 The other part -- issue in this case is exactly
18 what would he be if he were to be -- would he be an
19 intervenor or respondent?

20 Certainly, an antiharassment order petition is
21 necessary for the person to have an antiharassment
22 order entered against them, unless the Court did it
23 sua sponte.

24 There's no basis at this point, based on what he
25 said, that he has an interest in these petitions

1 separate and apart from Ms. Kelsey's interest and then
2 having them not be entered.

3 So rule CR 24(a) requires that a party show that
4 it had a divergent interest of the original party.

5 Since that's not present here, there's no right to
6 intervene. There is then the factors for permissive
7 intervention. It states that permissive intervention
8 may be allowed when the intervention action and main
9 action have a question of law or fact in common.

10 It's -- the cases that have allowed permissive
11 interventions are ones where the intervening party
12 could have maintained a cause of action against the
13 opposing side independently and, instead, bring a
14 motion to intervene and the Court grants that because
15 it makes sense to have the two cases together.

16 The case we cited State -- *Keller v. Port of*
17 *Peninsula* was a great example of how the -- the factors
18 for permission for intervention work. The -- Keller
19 had a cause of action against the Port. The State had
20 a similar cause of action against the Port. They moved
21 to intervene in Keller's action rather than bringing
22 their own cause of action instead.

23 In this case there's no basis for Mr. Longacre to
24 have an interest in this proceeding. Civil
25 antiharassment orders under 1014 have a petitioner and

1 a respondent.

2 His interest in providing testimony that
3 Ms. Kelsey didn't do some of the things that
4 petitioners say that she did is no different than
5 Ms. Kelsey's interest in having that testimony
6 presented to the Court.

7 So the motion to intervene should be denied.

8 In -- particularly concerning in this case -- and
9 this was the argument that was made to the Municipal
10 Court, is that Mr. Longacre, as an intervener, would be
11 allowed to participate in the hearing as a lawyer.

12 He's not representing Ms. Kelsey, but he would be
13 able to conduct cross-examination. He would be able to
14 direct testimony and participate in the hearing as if
15 he were representing her, and he's not.

16 And so the petitioner's position on this is that
17 the motion to intervene is a clever way to allow
18 Mr. Longacre, who doesn't practice law, to act as the
19 lawyer for Ms. Kelsey.

20 So we're asking that the motion to intervene be
21 denied because it doesn't meet the factors under
22 CR 24(a) or (b) or the statute on antiharassment
23 orders.

24 THE COURT: Reply?

25 MR. LONGACRE: If I may, Your Honor.

1 Your Honor, the interest -- and this is a perfect
2 case of intervention. And it is unusual, but it is in
3 the sense that there is a lawsuit that's bipolar, by
4 myself and Ms. Kelsey individually.

5 And the facts and allegations in that lawsuit are
6 being argued in this lawsuit. And without
7 intervention, we establish a res judicata situation
8 where they say, well, the defendant responds here; that
9 I wasn't able to protect my interest in order to
10 protect the interest in that lawsuit.

11 And in that sense, intervention is both permissive
12 and a right. The fact that there is a lawsuit going
13 on; the fact that that lawsuit -- the fact and things
14 will be argued in that lawsuit are present in this.

15 And for that reason, without that protection --
16 and I'm not here to protect Ms. Kelsey's rights in this
17 particular lawsuit, because she has an attorney that
18 can do that. I'm here to protect the rights of the
19 lawsuit that's been filed, and the motion to intervene
20 allows that.

21 THE COURT: Any response to that issue?

22 MS. PURVES: Sure. The relief that's being
23 requested in this case is an antiharassment order. The
24 release that's being requested in the lawsuit that
25 Mr. Longacre referenced is damages.

1 The specific relief under 1014 precludes the
2 recovery for damages.

3 And while there might be issues that are the same,
4 it was the petition for antiharassment order, frankly,
5 that came first. The lawsuit was filed after the
6 petitions. And without getting into the issues on the
7 motion to dismiss, frankly, it is just unpersuasive
8 that that would be a basis for the intervention.

9 THE COURT: Okay. You mentioned -- okay.
10 He -- okay.

11 The rule requires that a party show he has an
12 interest that's divergent from the interest of the
13 original party. In other words, Mr. Longacre would
14 have to have an interest divergent from that of
15 Ms. Kelsey.

16 Explain that -- you addressed that. Explain that
17 again to me.

18 MS. PURVES: Sure.

19 THE COURT: Your argument on that point.

20 MS. PURVES: Sure. When the parties have the
21 same interest -- in this case Mr. Longacre had
22 expressed in his motion that he did not want an order
23 to enter because he was afraid as Ms. Kelsey's
24 companion that false allegations would be made against
25 her and he would therefore be denied her companionship

1 were she arrested on false allegations after an order
2 issued.

3 So the interests are the same in that Ms. Kelsey
4 has an interest in not having an order entered against
5 her, and subject to criminal liability for violating
6 the order, Mr. Longacre's interest are the same. He
7 does not want Ms. Kelsey to have an order against her
8 because she might be subject to criminal liability.

9 So they are the same interest. Meaning that the
10 litigation on behalf of Ms. Kelsey adequately addresses
11 those concerns. And Mr. Longacre's participation as a
12 party, as an intervener in the action, isn't warranted
13 under the rule.

14 THE COURT: Okay.

15 MR. LONGACRE: Thank you, Your Honor.

16 Res judicata can be applied for two different
17 reasons. One is the legal outcome; and two is the
18 fact-finding that's created in prior hearing.

19 And in this case they are looking for fact-finding
20 that establishes something that they have fabricated.
21 And that fact-finding that you would have -- would
22 tremendously affect the lawsuit that I had filed.

23 The fact of which lawsuit came first does not
24 matter. The motion to intervene came after the lawsuit
25 was filed. And it was filed for the reason that I had

1 gathered all of the 911 calls, all the chronology, all
2 the court records and found -- and deposed one of
3 the -- their witnesses and found that they were
4 fabricating evidence with this particular lawsuit.

5 And res judicata applies if the Court is misled
6 and makes findings in order to establish an
7 antiharassment order. And for that reason, there is a
8 diversion. Diversion interest. And there is also, as
9 counsel says, a similar interest. An interest I'm
10 protecting as part of the marital interest.

11 We've been together over ten years. And if
12 there's -- all of our assets and everything we own are
13 together, if they have -- and have stated this on the
14 street that they intend to lie and do whatever is
15 necessary to get Ms. Kelsey, that when they do
16 something like that and if they lie about a violation
17 of restraining order, then we're stuck with that issue.

18 We're -- we're the ones -- my interests are
19 affected greatly because it is part of my income. Part
20 of my time is taken up with what happens to her. When
21 it effects one party when they are together, it affects
22 the other party. So we ask for intervention.

23 THE COURT: Okay. And I meant to ask -- okay.

24 Under permissive intervention there has to be a
25 question of law or fact in common, and it cannot unduly

1 prejudice the other party.

2 You seem to be -- okay.

3 Well, how do you address that, Ms. Purves?

4 First of all, question of law or fact in common,
5 whether that exists between these harassment cases and
6 the civil suit -- or no, I should say whether they
7 exist -- well, yeah.

8 Go ahead and explain that to me. And you've
9 argued mostly, I think, prejudice to the plaintiff.

10 MS. PURVES: Sure. I guess there's a few
11 things.

12 So the applicant in this case is -- you know, when
13 you read the second part of the rules, it's when an
14 applicant's claim or defense in this case there's no
15 affirmative claim because this is a petition for
16 antiharassment order. There's no claim in this action
17 against Closson and Ganowski available. The statute
18 simply doesn't have it.

19 And then you go on to the next thing, "or defense
20 in the main action."

21 So the defense in this case is not the applicant's
22 defense. There's no need for the applicant --
23 intervenor, Mr. Longacre, to have a defense because
24 there's no relief being sought against him.

25 So neither can he affirmatively have a cause of

1 action against the petitioners, nor can they seek any
2 relief against him.

3 So the permissive intervention in the main action,
4 it -- regarding -- regardless of whether he intends to
5 testify on behalf of Ms. Kelsey, he doesn't have a
6 claim or a defense just simply because it's a 1014
7 antiharassment order. And there's a petitioner and a
8 respondent. There's not -- there's not a lot of wiggle
9 room here as to what kind of claims and relief and
10 defenses can be made. So the factors for permissive
11 intervention are not met.

12 With regard to prejudice, it was filed in the
13 Municipal Court, and my response, of course, addressed
14 that.

15 What we had happen there is because if the
16 Court -- we had a pending case in Superior Court, the
17 Municipal Court loses jurisdiction if a party to the
18 antiharassment order and the petitioner have a pending
19 case in Superior Court.

20 And so our argument was after going through
21 publication for service and -- and numerous
22 continuances that it would prejudice them to have to
23 come back to Superior Court, because we would be here
24 with a visiting judge. Which those factors for
25 prejudice aren't applicable, anyway, anymore.

1 But they are still prejudiced and that it adds
2 another party to the hearing, of course. It increases
3 the length of hearing. And it is still unclear as to
4 what Mr. Longacre's participation in the hearing would
5 be, as he neither has the ability to make claims, nor
6 does he have the need to raise defenses.

7 And so his participation, as he's indicated,
8 that he's got records from every 911 call that's ever
9 been made and it tends to produce those and whatnot,
10 increases the length of the hearing and prejudices them
11 because it just drags it on even further than it's
12 already happened.

13 THE COURT: Okay. So -- that's okay. I just
14 have a specific question here.

15 Okay. In the harassment case, the petitioners
16 filed that against Ms. Kelsey. They did not name
17 Mr. Longacre as a respondent. They are not seeking an
18 antiharassment order from Mr. Longacre, and they didn't
19 make any claims against Mr. Longacre.

20 And whether or not Ms. Kelsey committed acts of
21 harassment would be determined at the hearing; whether
22 or not Mr. Longacre did acts of harassment is really
23 not relevant.

24 I mean, Ms. -- Ms. Kelsey cannot be found
25 presumably to have harassed the petitioners, unless

1 there's evidence showing that she harassed the
2 petitioners. And I don't know how the hearing is going
3 to unfold and what's going to be presented and what's
4 credible, what's not credible and all that.

5 But the petitioners have sought an antiharassment
6 order against Ms. Kelsey and not Mr. Longacre.

7 And an antiharassment proceeding is basically a
8 special type of proceeding set up or established for
9 that purpose, and so there are no counterclaims and so
10 forth and -- that are pertinent, and -- as there would
11 be in a civil suit that Mr. Longacre has filed or in
12 any other kind of regular civil suit that could be
13 filed by a party.

14 The -- I understand Mr. Longacre doesn't want an
15 antiharassment order entered against Ms. Kelsey.

16 However, in the Court's view, that's not a reason
17 to intervene as a party. You may or may not be called
18 as a witness, I guess. I don't know.

19 But none of the orders that are going to be
20 entered are going to be orders -- if any orders are
21 entered, they are not going to be orders against
22 Mr. Longacre, and so for the reasons -- just to
23 shortcut this, for the reasons that were set forth by
24 Ms. Purves, I don't believe that there's a situation
25 here where intervention is a right, and nor do I think

1 that permissive intervention applies.

2 And so I'm going to deny the motion for
3 intervention. So we have these four antiharassment
4 cases against Ms. Kelsey. Ms. Kelsey is represented by
5 a lawyer and the petitioners are represented by a
6 lawyer.

7 So are we ready to go forward with those? Or did
8 you want to deal with any motions on the civil case?

9 MS. PURVES: I know that the -- Ms. Wagner is
10 only here on the motion for a civil case.

11 THE COURT: Okay. Let's go forward with
12 the -- with the antiharassment cases.

13 MS. LaCROSS: I'm ready for the
14 antiharassment.

15 And that's the only matter that I'm here for, Your
16 Honor, too.

17 THE COURT: Right. Yeah.

18 MS. LaCROSS: I don't know how --

19 THE COURT: Wait, I'm sorry, you said --
20 Ms. Wagner is simply here on the civil suit.

21 MS. WAGNER: Correct, Your Honor.

22 MS. PURVES: And I suspect that will be a much
23 shorter hearing --

24 THE COURT: I see. I misunderstood what you
25 said. I thought you said -- okay. Yeah, the civil

1 suit, there's two motions. The motion to dismiss and
2 the motion to stay any discovery.

3 My first question is, did that -- do those motions
4 change now that the complaint has been amended?

5 MS. WAGNER: Your Honor, we're actually moving
6 to strike the amended complaint, a party under CR 15 --
7 we didn't have an opportunity to do this, of course, as
8 we only got it Friday. Under CR 15 a party only may
9 amend a pleading as a matter of right if no responsive
10 pleading has been served. Otherwise, the other party
11 must stipulate or the court must grant the request.

12 In this case, though, answers were not served.
13 12(b)(6) motions were filed in response to the
14 complaint, which is a responsive pleading to a
15 complaint as specifically articulated in Rule 12, which
16 states that a 12(b)(6) motion may be filed in lieu of a
17 complaint if the 12(b)(6) defenses are appropriately
18 invoked.

19 So we're moving to strike the amended complaint.
20 And if you would like me to kind of segue into our
21 defense on -- or on our motion to dismiss, that would
22 be a good flow.

23 THE COURT: Yeah, go ahead.

24 MS. WAGNER: With regard to the motion to
25 dismiss, Your Honor, since this was a 12(b)(6) motion

1 that did contemplate evidence outside of the pleadings,
2 albeit that evidence was simply another complaint in
3 another case and a county document, we'd ask the Court
4 to take judicial notice of which established that
5 Ms. Kelsey is the legal owner of the property at issue.

6 Because we cited evidence outside of the
7 pleading --

8 MR. LONGACRE: Your Honor, if I may object.

9 I have an objection to anything that was cited
10 outside the pleadings. And I believe if we're going to
11 consider that argument, that should be addressed first.

12 MS. WAGNER: Let me make it simple, Your
13 Honor. Whether this was considered a 28-day motion
14 because there was evidence outside the pleadings or a
15 five-day motion, Mr. Longacre did not timely respond.

16 If it were a five-day motion, non-dispositive, his
17 response would have been due two days before the
18 hearing, Thursday by noon.

19 We would have then had an opportunity to reply by
20 Friday at noon. If it were a 28-day motion, of course,
21 it would have been due 11 days ago. He got the
22 responsive pleadings to us Friday afternoon, thus we
23 had no opportunity to file a reply.

24 We would ask the Court to strike all responses
25 from him; grant the motion to dismiss on 12(b)(6), as

1 there's no response, which we cited in our reply
2 stating the rules that a party may not make arguments
3 not placed in the responsive pleading and let him file
4 his amended -- or his new complaint if he would like
5 to.

6 But we're asking the Court to dismiss the matter
7 that's currently before the Court because no responsive
8 pleadings were timely submitted to the motion to
9 dismiss, regardless of how it's construed as a five-day
10 or 28-day motion. And the amended complaint was not
11 properly filed, as Mr. Longacre has no right to do so
12 under CR 15.

13 THE COURT: Just a minute. Okay. So go
14 ahead, your motion to dismiss -- you're asking me not
15 to consider his responses, so I'll hear from him in a
16 moment.

17 Go ahead with your motion to dismiss.

18 MS. WAGNER: And, Your Honor, because
19 Mr. Longacre -- I mean, our two requests here go hand
20 in hand. We're arguing he hasn't met CR 15. He
21 doesn't have a right to amend. So bringing Ms. Kelsey
22 in should be stricken. That attempt. She is the legal
23 property owner.

24 However, as we established in our motion to
25 dismiss, thus he can't make a claim for trespass on her

1 property.

2 Mr. Longacre argues in response without citing any
3 authority that he can. But it's fundamental, Your
4 Honor, that one without a valid property interest
5 cannot make a claim. If he had a lease or was a tenant
6 established by contract of Ms. Kelsey's property or a
7 co-owner of that property, he would have a trespass
8 right.

9 But one does not have a trespass right over
10 property they have no property interest in.

11 So we'd ask for the motion to be dismissed for
12 lack of -- lack of any basis upon which to assert a
13 claim.

14 Second, even if the allegations in the original
15 complaint were taken to be true, they do not support a
16 harassment claim. Again, we're asking the Court not to
17 consider any responsive arguments, as none were timely
18 filed.

19 To dismiss this complaint, the Court may, of
20 course, do so with or without prejudice and then
21 Mr. Longacre may re-file his new claim with -- with
22 Ms. Kelsey as a co-plaintiff and alleging more cause of
23 actions. There's nothing stopping him from doing that,
24 if he wishes to do so. But we would ask the Court to
25 dispose of this case.

1 THE COURT: Okay. Ms. Purves.

2 MS. PURVES: Your Honor, our -- our motion to
3 dismiss did not include extra documentation. It was, I
4 guess, a traditional 12(b)(6) and was just on the
5 complaints.

6 Mr. Closson is barely mentioned at all in the
7 original complaint on which the motion was filed. He's
8 mentioned at the beginning as a party. And then in one
9 more section further down there's mention of him.

10 The facts that, say, are alleged against
11 Mr. Closson don't support any cause of action under the
12 law. It's unclear what cause of action plaintiff was
13 alleging against Mr. Closson, because the facts that
14 are alleged in the complaint as to him are essentially
15 that he said something unkind.

16 And so there's no basis in that for trespass, and
17 there's no basis in that for harassment.

18 And so -- as to -- for him, the facts that were in
19 the complaint didn't support any cause of action
20 whatsoever.

21 There was no evidence that he trespassed. So
22 while -- you know, we understand Ms. Ganowski's
23 argument, it's really not applicable to Mr. Closson's
24 motion to dismiss, because the facts as alleged against
25 him didn't include anything regarding a trespass.

1 And so on the first complaint, if that's the one
2 that we're going on, the motion to dismiss should be
3 granted.

4 With regard to the responsive pleadings, our
5 office didn't receive them until late Friday afternoon,
6 which is past the deadline.

7 MR. LONGACRE: I would object. They were
8 received before 11:45.

9 THE COURT: Just a minute. Go ahead.

10 MS. PURVES: Mr. Longacre sent an e-mail, but
11 we don't have an e-service agreement in the complaint
12 that I received by e-mail. I don't think it was
13 verified either.

14 But in any event, it was due Thursday by noon at
15 the latest. So we were not able to prepare a response.
16 So we'd ask the responses be stricken as untimely. And
17 the motion to dismiss granted.

18 THE COURT: Okay. Mr. Longacre, go ahead.

19 MR. LONGACRE: Your Honor, first of all, the
20 rules that I went by was the state rules that require
21 one day for the hearing and I had set -- that there's a
22 local rule required two days before the hearing.

23 And -- and I can say, because I'm the one that
24 delivered it by 11:45 there at Ms. Purves' office. And
25 I had someone deliver it before noon to the offices in

1 Seattle. Mr. Jimmigar and Mr. Durand's office.

2 The argument that everything should be stricken,
3 the Court cannot consider the argument. There is no
4 case law for that.

5 This court has juris -- arguments more akin to a
6 summary judgment motion, CR 56 motion, where the
7 argument goes forward but the -- the affidavit and
8 declarations in evidence that's offered with it can
9 sometimes be stricken in that regard.

10 In that regard, counsel is trying to follow a
11 federal court procedure, which doesn't exist in state
12 court in the state of Washington.

13 The amended complaint in my argument -- our
14 argument is nothing in that, other than argument
15 related to the amended complaint and the original
16 complaint.

17 And -- and the original complaint, and where we
18 are today, is all the facts in the original complaint
19 have to be taken at face value and believed.

20 We're not at a situation where there's an
21 evaluation of evidence there pretending to do.

22 Ms. Purves is saying there's not enough said about
23 Mr. Closson. But if you look at the original complaint
24 under parties in paragraph 2.03, all defendants acted
25 jointly in their personal capacities absent one were

1 for the other.

2 Part of the reason that motions are so disfavored
3 is a particular state. This kind of motion with item
4 in facts is because the courts consider that at this
5 stage it's the beginning of the lawsuit, you need
6 discovery.

7 As the Court has noted, they filed motions to
8 essentially subvert discovery until today.

9 Well, discovery needs to move forward. And in the
10 discovery is showed in the amended complaint which was
11 based on discovery. Some discovery that was done
12 outside of their refusal to provide any. There isn't
13 any more things alleged, and those things would come to
14 light.

15 The argument that the amended complaint cannot be
16 filed as a parties -- once they filed a 12(b)(6)
17 motion, belies the fact under the motion practices.

18 The motions in 12(b)(6), in 12(b) refer to motions
19 and they refer to pleadings. They are different
20 words -- different terminology.

21 If a defendant wants to file a motion rather than
22 an answer, then they are left with the fact if there's
23 been no amended pleading up to that point they can come
24 forward. Because the pleadings are the original
25 complaint, the answer to non-complaint, the

1 interpleading, prosecuting, those are pleadings.
2 Otherwise, the motion rule would not need to say
3 "motion" in lieu of pleading. They would talk about a
4 motion is a pleading. And -- and days gone by, we had
5 a pleading that was called "demure" and that was no
6 longer allowed in Washington.

7 So there is no pleadings that have been presented
8 by any of the defendants up to this date in an amended
9 complaint should be allowed to come forward. And if
10 not, the Court has the authority to prevent -- to allow
11 it forward and keep this case going forward rather
12 than -- as counsel suggests, simply dismissing and then
13 going back and starting all over.

14 But even with the original complaint, their
15 argument is that a person who does not have ownership
16 in a property cannot argue trespass.

17 Well, you've got a problem with that because
18 people who live in a property, it may not be in their
19 name, has a right to prevent other people from coming
20 on the property; whether it is a store owner, the store
21 manager, a store employee, they don't have to have a
22 lease agreement.

23 The property owner or lease agreement with the
24 store owner who has a lease agreement, they have the
25 right to say this is trespassing. They have a right to

1 say this person is trespassing, please come and take
2 them off the property. They have that right.

3 And the fact that the complaint speaks for the
4 fact that Mr. Longacre resides at that property, even
5 under residence rules in Washington.

6 A resident of a property has the right to say
7 "stay off."

8 And in this case, well, you have Mr. Longacre and
9 Ms. Kelsey who shared all their property for the last
10 ten years and been involved with all their property.
11 That is presumed in the complaint. This complaint has
12 been taken at face value. They can't argue. It's not
13 specifically worded in there.

14 Washington is a notice pleading state. It is not
15 a specific pleading state. As long as it gives notice
16 of what the plaintiff is seeking has enough to go
17 forward.

18 And for them to say, well, he doesn't have -- we
19 can show proof that he doesn't own the property, that
20 gave them notice to say "What's going on?" That's all
21 that's necessary.

22 In a summary judgment situation further down the
23 road, they may argue, well, he doesn't live there; he
24 doesn't reside there; he doesn't have an interest in
25 that particular property. That's not -- in a summary

1 judgment to bring in evidence. But at this point they
2 can't do that. Because if they had been forthcoming,
3 this court would also know that I have a
4 (indecipherable) on that property.

5 So -- over eight years. So then, in evidence --
6 in the 12(b)(6) motion is just -- and the way that they
7 did it -- sneaky way they did it, is upsetting.

8 Because each of them notes, they say this is a
9 motion for 12(b)(6). And when they did a re-note they
10 said 12(b)(6). They never said we converted it to a
11 summary judgment motion. And ownership on the property
12 again is irrelevant. Because you don't have to show
13 ownership in property to argue trespass.

14 You have to show an interest in dominion and
15 control of the property. And that's all the complaint
16 is set forth in the original complaint and then again
17 in the amended complaint.

18 Later on, we'd ask this court deny the motions to
19 dismiss. Because what happens here, at this particular
20 dismissal, is that if it is dismissed, it can only be
21 dismissed without prejudice. But, again -- and that's
22 not very good judicial economy.

23 I believe, Your Honor, there's enough here with
24 the amended complaint to go forward. If they feel they
25 need more time that they -- [indecipherable] stop it, I

1 would have no objection to them asking for more time so
2 they can do another responsive pleading. But not a
3 summary judgment motion when they're refusing to
4 provide discovery.

5 THE COURT: Reply, Ms. Wagner?

6 MS. WAGNER: Your Honor, I didn't argue
7 that -- unless I misspoke, which I don't recall, I
8 didn't argue that a trespass claim requires ownership
9 of property. It requires a legal interest in the
10 property.

11 Mr. Longacre states in his amended complaint, one
12 of them, that he often resides at the said location,
13 but owns a residence in Port Orchard. Bottom line is
14 you cannot have a trespass claim for property you don't
15 own.

16 If you could, I would trespass Mr. Longacre from
17 the courtroom, make this very simple, of which you
18 don't have an interest in.

19 Your Honor, again, regardless of how we view this,
20 there's nothing really sneaky about what the defense
21 did here.

22 Mr. Longacre was given 28-days notice for a motion
23 he argued should be a five-day motion. There's nothing
24 sneaky there. And regardless of how it's construed, he
25 didn't properly or timely respond.

1 We are asking the Court, again, simply to dismiss
2 this and allow Mr. Longacre to file his knew complaint
3 if he wishes.

4 In the alternative, Your Honor, because that
5 complaint should not have been filed because
6 Mr. Longacre does not have a right to file an amended
7 complaint at this point due to the motions that were
8 filed in lieu of an answer, we'd ask the Court to
9 strike the amended pleading, allow Mr. Longacre to file
10 a motion to amend his complaint, as he should have
11 done, allow the defendant's to respond to that, and in
12 that matter we may be able to dispose some of these
13 issues as to whether there is a legally viable cause of
14 action pertaining to certain claims or certain
15 defendants.

16 So, Your Honor, should you not wish to dismiss the
17 case as it currently stands, we'd ask you to strike the
18 amended complaint that was improperly filed and served
19 and direct Mr. Longacre to go about seeking to amend
20 his complaint in the appropriate form of moving to do
21 so, or requesting a stipulation by the parties.

22 THE COURT: Okay. Ms. Purves, any -- anything
23 else?

24 MS. PURVES: Your Honor, would you like us to
25 just address the motion to stay separately after a

1 ruling on the motions to dismiss, or do you want us to
2 do it now?

3 THE COURT: Let's deal with the motion to
4 dismiss. Go ahead.

5 MS. PURVES: Okay. I'd just reiterate that
6 on -- much of Mr. Longacre's response was directed at
7 Ms. Ganowski's claim.

8 All that's alleged for Mr. Closson is he went to
9 someone's door and he said something mean. There are
10 no other facts alleged in the complaint as to defendant
11 Closson.

12 So we ask that it be dismissed, because the
13 allegations as to him do not support any cause of
14 action.

15 THE COURT: Well, okay. The short answer here
16 is I'm going to take Ms. Wagner up on her alternative.

17 Okay. I'm not going to dismiss the complaint.
18 I'll talk about that very briefly in a moment. I'm not
19 going to dismiss the original complaint.

20 I will strike the amended complaint. If
21 Mr. Longacre wants to file an amended complaint at this
22 point, he can file a motion requesting leave to do
23 that. And so I'm just simply dealing with the original
24 complaint.

25 In deciding a motion to dismiss under 12(b)(6), I

1 mean, I basically have to look at the allegations that
2 the plaintiff has made and -- and read the complaint in
3 plaintiffs' favor, basically. And like I said, I'm not
4 going to waste the time going all the way through this.

5 But just, you know, I did read it and he alleges
6 at one point here that the -- just a minute. All the
7 defendants acted jointly in their personal capacities
8 and the acts of one were of the other; and then he
9 alleges that defendants Ganowski and Closson working in
10 concert with the harassment carried out by Shires
11 across the street, began harassing the plaintiff and
12 his fiancée by making false reports, et cetera,
13 et cetera.

14 He talks here at one point about Ganowski saying
15 she was going to fabricate stories. Defendant Closson
16 showed approval for her threats. And I mean, those are
17 just the obvious ones.

18 As far as the trespass goes -- well, yeah, I mean,
19 the trespass, it's not clear exactly what
20 Mr. Longacre's rights are in that property. He has
21 lived there for eight years or something or other with
22 Ms. Kelsey and as some type of cohabitant, so it
23 appears to the Court, for purposes of this motion, that
24 he has some interest in that property of some kind or
25 another.

1 And I'm not satisfied that he's not in a position
2 at all to allege trespass, given the relationship that
3 he apparently has with Kelsey and given all the other
4 facts that are set forth.

5 So anyway, I'm going to deny the motions to
6 dismiss and strike the amended complaint.

7 So as of right now, the original complaint is
8 pending and everybody can do what they want.

9 The motion to stay discovery does -- do you want
10 to argue that?

11 MS. PURVES: It was to stay discovery pending
12 the motion to dismiss. I think the Court just --

13 THE COURT: Okay. So I'm going to deny the
14 motion to stay discovery.

15 People can go forward and do whatever you're going
16 to do in connection with that.

17 So -- okay, so are we ready to get to the
18 antiharassment hearing? Or is there anything else on
19 the civil matter?

20 Okay. So the antiharassment proceeding, Ms. -- do
21 you want to give a brief opening, Ms. Purves?

22 MS. PURVES: Well, I guess, Your Honor, as a
23 preliminary matter, I would ask that the Court inquire
24 whether Mr. Longacre was going to be testifying as a
25 witness. Because if he is, we're going to ask that he

1 be excluded under ER 615.

2 THE COURT: Okay.

3 MS. LaCROSS: Your Honor, he's going to be
4 called as a witness. And I understand that the ability
5 to ask to have him excluded. But it seems that it
6 would be kind of unfair to have him excluded when all
7 of the other parties are going to be here in the
8 courtroom and he would be the only one that would be
9 outside of the courtroom.

10 And all the other parties are going to be present
11 here and hearing all of the testimony. So I would ask
12 that he be able to stay in the courtroom during the
13 proceedings.

14 THE COURT: Ms. Purves, your response?

15 MS. PURVES: Well, I think the operative word
16 there is "parties."

17 The Court has denied the motion to intervene.
18 He's not a party. Rule 615 states that prospective
19 witnesses may be sequestered, and that's what we're
20 requesting.

21 Certainly, you know, Ms. Kelsey is a party.
22 Mr. Closson and Ms. Ganowski are parties. The counsel
23 are here. Mr. Longacre is a witness. And the rule
24 allows for being sequestered in the hall.

25 MS. LaCROSS: And I do agree that the law

1 allows for it, Your Honor. And I agree that
2 Mr. Longacre is not a party. But the operative word is
3 that it is permissive.

4 And it seems like if you haven't been able to
5 figure out, this is a situation between these two sets
6 of people and these two sets of people.

7 And if everybody is in the courtroom, everybody
8 should to able to be present in the courtroom. Where
9 if they two sets of people are gonna both be able to be
10 present in the courtroom, but not these two sets, I
11 think it would be unfair and -- so, also, I do know
12 that I've got to use Mr. Longacre's -- or possibly
13 going to be using Mr. Longacre's computer to -- because
14 there's some photos on there that I may want to access.

15 So I do need the ability to do that. But I just
16 think in fairness, you know, the operative word to me
17 here is "may." This is a permissive request.

18 And since -- we may all be in here --

19 THE COURT: Okay. I'm going to deny the
20 motion to exclude Mr. Longacre.

21 Okay. Ms. Purves, do you have an opening?

22 MS. PURVES: I do.

23 THE COURT: Go ahead.

24 ///

25 OPENING STATEMENT

1 MS. PURVES: Your Honor, there's four
2 petitions for antiharassment order pending. And first
3 I just want to address the obvious oddity that there
4 are four petitions pending rather than two.

5 The petitioners initially filed the petitions at
6 the insistence -- or suggestion of Bremerton police
7 officers after they responded to a call for service
8 where -- and Ms. Kelsey threatened to kill Mr. Closson.

9 They appeared in court the next day and filed
10 petitions against her.

11 While that petition -- those petitions were
12 pending, there was difficulty serving Ms. Kelsey.

13 The Court made numerous continuances and in one of
14 those the Court exceeded the time for extensions under
15 the statute.

16 Mr. Longacre filed a brief in those matters
17 arguing that the orders had been extinguished.

18 And so at that point he had also filed the lawsuit
19 against Mr. Closson and Ms. Ganowski, and they retained
20 me. And so we started new petitions.

21 At that point there had been additional conduct
22 that was supportive of getting the antiharassment
23 orders. And Judge Docter continued with the original
24 petitions as well as the additional petitions.

25 But the conduct that's alleged in all of them is

1 the same.

2 And, essentially, what the petitioners are
3 alleging is that Ms. Kelsey is engaging in a pattern of
4 conduct that's knowing and willful and it's directed at
5 them.

6 And it's conduct that has caused them significant
7 emotional distress and it's conduct that serves no
8 lawful purpose.

9 The conduct started when the petitioners made
10 complaints to authorities about Ms. Kelsey's animals.
11 The animal control complaints seemed to set the
12 animosity off and they started to notice somewhat,
13 like, aggressive actions. Putting trash in their yard,
14 having mysterious things that were broken on the fence.
15 They're not sure they were attributed to her. But they
16 had kind of let those things slide.

17 It was not until the animals in control -- that
18 Ms. Kelsey has control over had been repeatedly
19 escaping, running at large and destroying their
20 property.

21 And Mr. Closson took the animal back to his
22 neighbor. That, you know, Ms. Kelsey threatened
23 violently that she was going kill him if she -- if he
24 ever came back onto the property.

25 That was the act that set in motion the petitions

1 that you're hearing today.

2 Thereafter, it became incredibly tense for the
3 petitioners to deal with the animals running at large
4 because they had no normal method of dealing with the
5 problem, like neighbors who don't have the harassing
6 conduct in place. They can't -- couldn't just call and
7 say, oh, they are over here because they have been told
8 if you came over here again we're going shoot you.
9 They reported to animal control. They continued to
10 experience the animals being allowed to run at large
11 and destroy the property.

12 And then on the 20th of July, they received a call
13 that it appeared that their house was on fire.

14 Video from the neighbor across the channel was
15 taken. They rushed home. And they will say through
16 testimony that they observed Ms. Kelsey taking actions
17 that led them to believe that she was lighting smoke
18 bombs. And it's not what Mr. Longacre intimated
19 earlier that it was him lighting the Chiminea. They
20 never saw him or heard him that evening at all.

21 So that incident was added to the petition. It
22 included that night Ms. Kelsey making a comment to them
23 across the fence that they took as a threat that they
24 shouldn't leave their dogs at home alone, and was added
25 to the petition -- was added in the -- the petitions

1 that were filed second.

2 Since the petitions have been filed and the
3 temporary orders have been in place, the -- the
4 situation that they have experienced with their house
5 continues to be tense.

6 The petitioners live next door to Ms. Kelsey.
7 Ms. Kelsey takes no responsibility in the animals that
8 she has in her control, run at large, they dig up their
9 yard, they defecate, they chew up shoes and other
10 property.

11 They have observed Ms. Kelsey chucking animal
12 feces into the channel and hitting their shed. And
13 they continue to have this pattern of harassment that
14 they feel is directed at them and caused them
15 substantial emotional distress, and it is all leading
16 to them having reported to animal control for the
17 animals running at large.

18 So the testimony will show that there is a course
19 of conduct; that it's directed at them. It's causing
20 them distress. And it is serves no lawful purpose.

21 THE COURT: Okay. Ms. LaCross.

22 OPENING STATEMENT

23 MS. LaCROSS: Thank you, Your Honor.

24 This matter is an issue between the neighbors and
25 another neighbor that this goes back previous to the --

1 this year where there's another neighbor in the
2 neighborhood with Ms. Kelsey who does not like
3 Ms. Kelsey and is -- has basically stated that wants --
4 gonna run Ms. Kelsey out.

5 Ms. Ganowski and Ms. Closson are part of that
6 neighborhood faction. So this is a dispute in this
7 neighborhood.

8 Ms. Kelsey denies that her dogs run loose. I
9 don't know of any animal control reports. The
10 allegations that are going to be put forward, they are
11 assumptions that Ms. Kelsey is doing the actions that
12 they are stating. There's -- not going to be able to
13 prove that it was her or identify her, or see that it
14 was her. I mean, at one point they even talk about a
15 shadow.

16 So -- so at the end of this hearing you are going
17 to see that this is a neighborhood dispute that
18 Ms. Kelsey -- they are not going to be able to meet
19 that burden of proof, that Ms. Kelsey is doing the
20 things that have alleged to have been done, and -- and
21 part of the activity that Ms. Kelsey did do is --
22 there's some constitutionally protected activity
23 involved in this case as well.

24 So after hearing all the testimony, I'll have
25 further argument about their ability to meet the

1 element to obtain this harassment order.

2 THE COURT: Okay. Ms. Purves, your first
3 witness?

4 MS. PURVES: Your Honor, the -- the -- the
5 evidence that we'd like to present includes video
6 evidence. And I could take a short recess just to get
7 the monitor set up so we can all see it.

8 THE COURT: Okay. How do we do that?

9 THE CLERK: So I will get ahold of Jessica
10 Robinson.

11 MS. PURVES: I have a monitor with me. I can
12 probably set it up pretty quick. But I just need a
13 chance -- or if you want to call Jessica, that's fine.

14 THE CLERK: I'll call Jessica, and then we'll
15 go from there.

16 MS. WAGNER: Your Honor, I prepared an order
17 denying our motion to dismiss. I'll make it defendants
18 plural and striking the amended complaint. And I've
19 already passed it to Mr. Longacre for review.

20 MS. PURVES: And I have an order denying the
21 motion to intervene.

22 THE COURT: Okay.

23 MS. LaCROSS: Is it going to take long enough
24 that I can run down to the restroom or not?

25 MS. PURVES: I think it might if someone is

1 coming.

2 THE COURT: Okay. Shall we just recess now
3 and you can get everything set up and we come back?

4 What time can we come back? After lunch.

5 THE CLERK: After lunch, we come back --

6 THE COURT: What time do you normally start
7 up?

8 THE CLERK: 1:30.

9 THE COURT: 1:30. If we start up at 1:30, is
10 this going to be finished today?

11 MS. PURVES: I think it will be.

12 THE COURT: A three hour -- we have to be done
13 before 4:30.

14 THE CLERK: Mm-hmm.

15 THE COURT: Is there any other witnesses or
16 anything you can do before twelve o'clock.

17 MS. PURVES: I need the video for both.

18 THE COURT: Okay. Let's take a recess now for
19 lunch and get everything set up so that we're ready to
20 start promptly at 1:30. Okay?

21 MS. PURVES: Okay.

22 THE COURT: And if there's anything else that
23 needs to be done with facilities or equipment or
24 something, get it done so that we don't have to break
25 for that again.

1 Thank you.

2 THE CLERK: All rise.

3 [Recess]

4 THE COURT: Are you ready?

5 MS. PURVES: I think we're both just looking
6 at our videos.

7 THE COURT: Are we ready to start?

8 MS. PURVES: Yes, sir. I believe we are, Your
9 Honor.

10 THE COURT: And just so you know, the visiting
11 judge trade schedules change. I'm -- I'm here today,
12 and that's it. We're not trading tomorrow or
13 Wednesday.

14 So I'm expecting this will be done this afternoon.
15 Okay. So first witness, Ms. Purves.

16 MS. PURVES: Sure. I call Lisa Ganowski.

17 THE COURT: Okay. If you would raise your
18 right hand, please.

19 Do you swear or affirm the testimony you are about
20 to give is the truth, the whole truth, and nothing but
21 the truth.

22 THE WITNESS: I do.

23 THE COURT: Have a seat there. And just make
24 sure you speak up towards the microphone. And state
25 your name and spell your last name for the record.

1 THE WITNESS: Lisa Ganowski, G-a-n-o-w-s-k-i.

2 THE COURT: Okay. Ms. Purves.

3 LISA GANOWSKI, witness herein, having been
4 first duly sworn on oath,
was examined and testified
5 as follows:

6 DIRECT EXAMINATION

7 BY MS. PURVES:

8 Q. Ms. Ganowski, you're the petitioner in this case
9 against Elizabeth Kelsey; correct?

10 A. Yes.

11 Q. And where do you live?

12 A. 2102 Madrona Point Drive. Right next door.

13 Q. Next door to whom?

14 A. To Elizabeth Kelsey.

15 Q. Can you describe the properties for us?

16 A. Well, it's Madrona Point. Our -- there's a fence
17 that divides our two properties specifically, but
18 wall to wall, I don't know that there's more than
19 25 feet between our houses. Really close community.

20 Q. And you mentioned a fence.

21 How were the properties separated from each
22 other and in relation to one another?

23 A. From the road all the way down to, I guess, where
24 the land starts to slope down to the water, there's
25 a wooden fence.

1 And then down beyond the water, I have ivy on
2 my side, and I think they have got a wooden
3 staircase that goes down to the water, and a lot of
4 baby gates and stuff that they have put up to keep
5 their dogs from coming into my yard.

6 Q. Okay. So you're describing it to me, the houses
7 have a fence between them. On which side is that?

8 A. On the north side of my property, so the south side
9 of their property.

10 Q. And is there -- can you describe the fence for us?

11 A. Wooden fence. I don't know if it's a painted stain
12 or if it's a stain. They have landscape lights that
13 sit on top of the post that I don't know that
14 they're stuck there. They regularly fall off into
15 my yard and I stick them back up.

16 A couple of the fence posts are rotten. And
17 I've got stakes on my side to hold the fence in from
18 falling into my property.

19 And several of the slats on their fence, their
20 dogs come through because the slats on the bottom
21 are broken or rotted. And so I put landscape bricks
22 up.

23 Q. How tall is the fence?

24 A. In the front yard to the house, I would say four
25 feet, maybe. And then it's six feet once you get to

1 the property of the house, down to where it ends by
2 the -- or before it goes to the ivy.

3 Q. Are the -- are the slats in the fence wide? Or is
4 it completely solid? Or what is the visual
5 situation when you're looking to Ms. Kelsey's
6 property?

7 A. On the ones that are not rotten, you can't see. But
8 the ones that are rotten, they are not completely
9 straight so you can see through the side, you know,
10 into there. Like, you can see a little bit of light
11 through there to their side of the property.

12 Q. And you mentioned water. The backs of the houses,
13 what are they like? Do you guys have patios or
14 decks?

15 A. Yeah, we have concrete patios.

16 Q. Okay.

17 A. And I have an upper deck.

18 Q. Do they have a deck?

19 A. They have a balcony upstairs.

20 Q. And so when you're on your concrete patio and you
21 look toward Ms. Kelsey's property, what do you see?

22 A. Depending on the time of day. I mean, if it's light
23 out, I can see through and, you know, see whatever
24 is walking.

25 I can see heads of people if they are -- you

1 know, if they are walking back there.

2 Q. And what about to her balcony? You mentioned that
3 as well.

4 A. You can see straight up into her balcony from my
5 patio.

6 Q. And then you mentioned that you had a deck in
7 addition to the patio.

8 How -- what is the difference between, like,
9 estimating feet-wise, like, how far up is your deck?

10 A. An entire story. I mean, so I have two levels of my
11 house. So it's the upper level. Ten feet, maybe,
12 twelve feet. I don't know exactly. I've never
13 measured it.

14 Q. And when you are on your deck, what is your ability
15 to look into Ms. Kelsey's property?

16 A. If I look over that way, I can see into, I would say
17 a good half of their -- their patio. I could
18 probably see. In roughly the same level as their
19 balcony.

20 Q. And then is your house two story or one story?

21 A. Well, the main floor and a walk-out basement. So
22 it's two stories. But it's on the -- the main floor
23 is on ground level.

24 Q. And is there anything upstairs from that?

25 A. No.

1 Q. And as far as from other vantage points within the
2 home, as far as windows and that kind of thing, are
3 you able to see into Ms. Kelsey's property?

4 A. From the master bedroom, I have two windows that
5 face their property. I mean, they are high windows,
6 but if I look out, I could see into their property
7 or see -- depending which window I'm looking out, I
8 can see into it.

9 The one bedroom window that faces the water, we
10 can see directly onto their deck, their patio.

11 Q. Okay. And how long have you lived at this property?

12 A. Two and a half years. A little over.

13 Q. Okay. And was Ms. Kelsey a resident, a neighbor
14 when you moved in?

15 A. Yes.

16 Q. And from the time that you moved in two and a half
17 years ago, what were your general interactions with
18 her?

19 A. Well, when I first moved in, it was January of --
20 2000 -- gosh, two and a half years ago, '17. So it
21 was not a lot of interaction the first few months,
22 because it was rainy and nobody was outside.

23 But there were several occurrences that I would
24 be woken up with her screaming profanities at
25 somebody or something outside and I would wake up

1 and go to the window and look. And she's screaming
2 at a young adult man, or screaming and cussing at
3 Clayton. And that was my first interaction with
4 her. My first experience with her.

5 Q. Did you introduce yourself or anything like that?

6 A. Not at that time, no. I kind of became a little
7 afraid of the outburst, and I wasn't ready to say
8 hello.

9 Q. And when did you first begin experiencing problems
10 yourself with Ms. Kelsey?

11 A. That -- that spring. Probably, March/April with the
12 screaming that continued and then the dogs coming
13 out and her driving down the street. She would
14 scream at people. And she would -- there was one
15 person that had blocked a car or blocked the road
16 and she screamed at them and kind of tried to get me
17 to agree that these people were being bad or
18 something, whoever the person was that parked wrong.

19 Q. So you just shared a bunch of information.

20 You said the dogs and stuff. What do you mean
21 by that?

22 A. Coming onto the yard, coming down into the bulkhead,
23 pooping on my lawn. I would -- when the dogs would
24 bark in the middle of the night, I would, you know,
25 kind of open my patio and just say please quiet your

1 dogs or yell stop barking or something like that.

2 Q. And how many dogs does Ms. Kelsey have, or that
3 you --

4 A. I've seen eight, plus the lab now. So there were
5 nine. I don't know how many are there now. They
6 are not all visible all the time anymore.

7 Q. What kind of dogs?

8 A. The black lab I know. And the other ones are
9 small -- I don't know, Terriers or Pekingese. I
10 have no idea what kind of dog they are.

11 Q. Okay. But they are smaller?

12 A. Mm-hmm.

13 Q. Okay. And you said that they would come onto your
14 property and would you say poop in your yard?

15 A. Mm-hmm. Poop. Pee. Dig holes under my fence.

16 Q. And when did all that start?

17 A. As soon as I noticed that spring when people were
18 coming -- well, when I first moved into the house,
19 my yard was covered in dog poop.

20 And so I don't know how long it had been vacant
21 before I actually moved in when it was sold. I
22 don't know if the dogs came regularly or not. But
23 I've seen them come through the slats under the
24 fence. So I don't know how much freedom they had to
25 do that when the house was vacant.

1 Q. Okay. So you're saying that that was -- you moved
2 in, you said, January -- that would have been --

3 A. January of 2017.

4 Q. -- January of 2017. And in the spring of 2017
5 that's when this started happening?

6 A. Becoming a problem because of the barking at night
7 and, you know, the -- the feces and the digging
8 holes under my fence.

9 Q. Okay. And what -- what did you do?

10 A. Nothing, other than the times that I would yell over
11 the fence to quiet the dogs. I would just clean up
12 the poop. I would fill the holes in. I would put
13 rocks back in front of the fence.

14 I put landscape bricks over the broken slats of
15 the fence and, you know, tried to keep the dogs from
16 coming into my yard.

17 Q. Was that effective?

18 A. No. They still found a way in.

19 Q. Okay. And -- so fast-forward -- I mean, you're
20 saying it's spring of 2017, and you didn't apply for
21 a protection order or antiharassment order until the
22 summer of 2019.

23 What kind of interactions did you have in
24 between that time?

25 A. Just the dogs and her screaming out her window

1 calling me an effing B, and telling me that I knew
2 my son threw snow and, you know, things like that.

3 There was no friendly conversation, other than
4 her screaming profanities at me if I was outside, or
5 just peaking out her window and just staring at me
6 as I pulled into my driveway.

7 Q. Okay. And you just mentioned something about snow.

8 Do you know what -- did you know what she was
9 talking about?

10 A. I knew only after they had said something. Clayton
11 had come over that night and said something to me.

12 Q. About what?

13 A. About snow being shoveled onto their yard. And I
14 had no clue what he was talking about. And I said,
15 I have no idea what's going on. I mean, I'll look
16 at my camera if I see anything. If we did anything,
17 you know, we'll take care of it. But I kept telling
18 him my son doesn't live here. He kept saying my son
19 did it. My son doesn't live here.

20 Q. Okay. And --

21 A. And she's screaming out her window at me calling me
22 names. Telling me I know that he did it.

23 Q. And how did that -- that make you feel?

24 A. Oh, it made me shake. It made me feel very
25 uncomfortable. And I shut the door, and I kind of

1 decided after I asked Clayton not to come on my
2 property again because he made me very
3 uncomfortable, that's the second time I felt like he
4 threatened me.

5 But I let all that go because of her. I wanted
6 just to shut the door. Find out how I was feeling.
7 Did I need to call police. Was I being ridiculous.

8 And he came back to my door five minutes later
9 and I got more scared.

10 Q. Okay. And this was in what month?

11 A. February 14th.

12 Q. It was Valentine's Day this year?

13 A. Mm-hmm.

14 Q. Okay. And you said during that time, Elizabeth was
15 also screaming at you?

16 A. Mm-hmm. Out her window upstairs.

17 Q. And what did you -- I'm sorry. So what was she
18 saying? Was she just saying what Clayton was
19 saying --

20 A. Clayton was saying that my son had done something.
21 And I said, I don't know what you're talking about.
22 And she was -- I don't know if she said I was a
23 liar. But she's like, you know he did. You're just
24 an effing B. And she actually said the words and
25 that my son was an asshole and that, you know, I

1 needed to get him to get over there and fix it.

2 Q. When you say "effing B" you mean --

3 A. Fucking bitch.

4 Q. -- fucking bitch. Okay.

5 So she was yelling out of her window calling
6 you a fucking bitch --

7 A. Yes.

8 Q. -- in February?

9 A. Yes.

10 Q. So what was the -- was the dog situation continuing
11 from the spring of 2017 up until that point?

12 A. The dog issue has never stopped, other than the
13 winter months when they are rainy, they are just out
14 less.

15 So I mean, it's -- it's been constant. But I
16 just -- I get exhausted, you know, trying to record
17 it for animal control or doing whatever. So if it's
18 just a couple of nights a week, I don't do anything,
19 because it's just -- it's really exhausting.

20 Q. Right. And you mentioned animal control.

21 Is that someone you've contacted for help with
22 the dog issue?

23 A. The first spring I was there after the first
24 incident with the dogs.

25 Q. So what action have they taken to help?

1 A. I mean, they have told me to log it and to send it,
2 and, you know, if I can have the dogs on my property
3 to contain them and call them and they will come
4 pick them up.

5 So I do everything they tell me to do and
6 they're submitting a case, or have submitted a
7 case -- I don't know the status of it -- to the
8 prosecutor.

9 Q. And you said that you -- you record videos of this
10 for animal control. Previously, the -- your
11 petition was supported in Bremerton Municipal Court
12 for the temporary order. You submitted numerous
13 videos, I believe it was 61 videos on a thumb drive
14 that came over to court.

15 A. Mm-hmm.

16 Q. Do you recall that?

17 A. Mm-hmm.

18 Q. I'm going to show you some of those. I'm not going
19 to go through every single one. But I want to start
20 with...

21 MS. LaCROSS: [Indecipherable] you can play it
22 here on this over here.

23 MS. PURVES: Sure. And I'm just going to go
24 through these in order, Jeniece, from what I sent you
25 on the selected.

1 MS. LaCROSS: Okay.

2 MS. PURVES: And I've also provided a thumb
3 drive to the Court for the record. But I wanted this
4 so that you could see it and hear it.

5 BY MS. PURVES

6 Q. So this video is called -- like it has a date here.
7 "2018-5-26, dogs shrieking?"

8 Does that file name mean anything to you?

9 A. It's the date that was recorded.

10 Q. Who recorded it?

11 A. What year was it?

12 Q. 2018.

13 A. Me.

14 Q. Okay.

15 (Video played)

16 THE WITNESS: And that's from inside my house.
17 That's how loud it is inside my house.

18 BY MS. PURVES:

19 Q. Okay. And is that a video you also provided to
20 animal control?

21 A. Yes.

22 Q. And this one is 2018-5-28.

23 (Video played)

24 BY MS. PURVES:

25 Q. Was that video also taken from your house?

1 A. Yes.

2 Q. Where were you when you took that video?

3 A. I can't quite tell from that. If I had walked to
4 the patio door and opened it, it looks like there
5 was some light. That might have been taken right
6 out the living room.

7 Q. So from inside the house?

8 A. Yes. Yes.

9 Q. So were these types of incidents what led you to
10 contact animal control?

11 A. Yes.

12 Q. And -- and about how many times have you -- do you
13 estimate -- contacted animal control about
14 Ms. Kelsey's residence and the dogs there?

15 A. From the beginning to now?

16 Q. To now.

17 A. Twenty or 30 times, maybe. I would have to go
18 through e-mails or my phone log. I don't recall
19 exactly.

20 Q. Okay. And have the complaints been of the nature
21 you just described, the noise and the dogs running
22 at large?

23 A. Yeah, the chasing at the beach. The pooping, yeah,
24 all of that. Running on the street.

25 Q. Okay. Have they ever attacked you or done anything

1 like that or come up at you aggressively or?

2 A. Two of the littler ones have come toward me. But I
3 don't let them get close enough to -- I mean, they
4 are small and I would just make myself bigger and,
5 you know, louder and shoo them away if they are at
6 the beach.

7 But they have chased me off the beach before
8 just because I don't want to deal with it. So the
9 two -- there's a dark black or dark gray one and
10 then a whiter one that seemed to be aggressive.

11 Q. And during this time that you were dealing with
12 animal control, did you ever deal with Ms. Kelsey?

13 A. No.

14 Q. And --

15 A. Nothing other than over the fence.

16 Q. And will you describe the "over the fence"?

17 A. Just yelling for them to keep their dogs quiet. You
18 know, please --

19 Q. What would be the response?

20 A. Not a noise. Like, they either weren't home or they
21 didn't hear me.

22 Q. Okay. And did animal control take any action that
23 you're aware of in response to your complaint?

24 A. The first complaint I filed in May of 2017 -- 2018,
25 they were given a citation, a ticket, I guess,

1 because of the report I filed.

2 MS. LaCROSS: Objection. Do you have any
3 knowledge of this? Personal knowledge or proof or
4 anything.

5 THE WITNESS: There's an e-mail from Chase
6 that he sent -- that they went and issued a citation.

7 BY MS. PURVES:

8 Q. And can you explain who Chase is?

9 A. Chase Conley [phonetic] is the animal control
10 supervisor.

11 MS. LaCROSS: Do we have a copy of that or
12 anything?

13 MS. PURVES: No, I don't. I'm just asking if
14 she knew if they took any action.

15 Sounds like at least in her testimony it is.

16 THE WITNESS: I saw -- when he e-mailed and
17 said that they had -- well, I don't know if you wanted
18 me to explain that now or not. The vandalism to my
19 property that day.

20 BY MS. PURVES:

21 Q. Sure. So -- so can you explain -- you made a
22 complaint to animal control. They took action and
23 then what happened?

24 A. I got an e-mail or phone call from Chase, and I
25 don't know which. I know I've gotten both, but I

1 don't know which came first, and said that they had
2 issued a citation because of that complaint I had
3 filed.

4 And I came home from work that day, so I think
5 I filed it on the 28th or 29th. Whatever was the
6 Tuesday after the holiday of Memorial Day.

7 Q. Of which year?

8 A. Of 2018. And Wednesday I was notified either phone
9 or e-mail by Chase that they were issuing a
10 citation.

11 And when I came home from work that day there
12 had been vandalism to my property and a hose was
13 turned on to flood my back -- one of my raised
14 flower beds that has nothing in it. It's just mulch
15 and dirt. Rocks were thrown at my door and on my
16 stairs and a landscape light had been ripped off of
17 my -- off the fence.

18 And so I called the police, because I thought
19 there had been vandalism to my property. Reviewed
20 the videotape and saw a shadow where the cameras had
21 been angled at the time, saw a shadow of somebody
22 walking along our fence line in my property right
23 along my house and then I came home to vandalism.

24 So I am assuming, but can't prove it.

25 Q. That it was related?

1 A. That it was related to the animal control. It was
2 within 30 minutes of the animal control van at the
3 front of their house that that happened on the
4 video.

5 Q. So what concerning events happened after that one?

6 A. I called the police. They came out. They saw
7 everything, took a report, and that was probably
8 6:30 or 7:00 that night. So a few hours after I had
9 gotten home by the time that happened.

10 And a little bit after nine o'clock that night,
11 Clayton had come over and verbally threatened me for
12 going to animal control.

13 Q. How so?

14 A. And I asked him repeatedly -- arms flailing over my
15 threshold and telling me that he was going to play
16 hardball because I did that. And that if I wanted
17 to do that, that they were going to do it. And it
18 scared me and I called the police again. And I
19 asked him repeatedly not to come to my property
20 again.

21 Q. And then -- so this is in May of 2018?

22 A. '18.

23 Q. So what happened -- what incident in your mind
24 happened that was related to Ms. Kelsey?

25 A. That the animal complaint -- that whatever they

1 issued a citation and made them angry and they came
2 over and did something to my property.

3 Q. And what was the next thing that happened?

4 A. I filed another complaint probably by August of that
5 same year because it had continued.

6 (Video played)

7 MS. LaCROSS: What date is that again?

8 MS. PURVES: That's the same date. All right.

9 MS. LaCROSS: Did you just replay one?

10 MS. PURVES: No, it was the third one.

11 MS. LaCROSS: From the --

12 MS. PURVES: 28th.

13 MS. LaCROSS: From the 28th.

14 BY MS. PURVES:

15 Q. So that was also a video from the 28th of May;
16 correct?

17 A. We put -- whenever I would record, I would look at
18 the date stamp on the video. And then when I saved
19 the file, I would save it with that date stamp.

20 Q. Okay. So it sounds like there was this ongoing
21 issue with the dogs. There was some fear related to
22 retaliation.

23 But what prompted you to seek an antiharassment
24 order against Ms. Kelsey?

25 A. The threats that she made when Jeffrey turned the

1 puppy in June of this year.

2 Q. Okay.

3 A. Took it as a direct threat to me as well.

4 Q. So I'm going to play a video. You can see from the
5 screen it's marked "2019/6/13 Elizabeth threatening
6 Jeff part 1."

7 So are you familiar with this video?

8 A. Yes.

9 Q. And are you the person who took it?

10 A. Yes.

11 MS. LaCROSS: Your Honor, I have some concerns
12 about this video. It's in three sections. And it
13 appears to be edited. So it doesn't appear to
14 represent the entirety of the interaction. So based on
15 that, I would ask that the Court not consider it,
16 because it's not one complete video. It's selections
17 of a video. And so it would be misleading to the Court
18 because it doesn't have the entirety of the
19 interactions on that video.

20 THE COURT: Okay. So for now establish a
21 foundation for this or these or whatever and see what
22 happens.

23 MS. PURVES: Sure.

24 BY MS. PURVES:

25 Q. So, Ms. Ganowski, you heard Ms. LaCross' objection

1 to the video.

2 Can you explain why there's a set of three
3 videos that we're going to show?

4 Can you explain why they are in chunks instead
5 of one continuous video?

6 A. When I first started taking videos of the dogs, when
7 I moved into the house, I would try to send them to
8 animal control. And they said that the files were
9 too big and they had to be shortened.

10 So I started taking shorter clips right
11 after -- one after another to capture what was
12 happening so I could easier transfer the information
13 to animal control.

14 And so when I was taking this video, that's
15 what my thought was is they are not going to be able
16 to see this video unless I give them my phone. And
17 so I wanted to capture in small snippets one right
18 after the other. And it was given to Bremerton
19 Police Department. They evaluated it and had no
20 issue with it being separated.

21 MS. LaCROSS: Objection to that, Your Honor.
22 What Bremerton did.

23 MS. PURVES: So can you --

24 MS. LaCROSS: Your Honor, I ask --

25 THE COURT: Okay. What the police said is

1 sustained. I won't consider that. Go ahead.

2 BY MS. PURVES:

3 Q. So with regard to you taking this video, can you
4 just explain for us what you just -- what you mean,
5 you stopped it and then started it again?

6 A. Right. So I would start the video and then I would
7 stop it and hit start again just so I would have a
8 second clip. And then I would stop it and start it
9 again.

10 Q. And in these three clips, does it accurately
11 represent what you witnessed the night of this
12 incident?

13 A. Yes, that's all that happened in that moment.

14 MS. PURVES: Do the first one.

15 (Video played)

16 MS. PURVES: And this is the third one.

17 (Video played)

18 BY MS. PURVES:

19 Q. So was there anything in that interaction that was
20 missing from what you witnessed?

21 A. No.

22 Q. Was there any word spoken or --

23 MS. LaCROSS: Did you play one or two?

24 MS. PURVES: I played two. I hit it one after
25 another.

1 Do you want me to break it into two?

2 MS. LaCROSS: I wanted to make sure. The
3 second one was how many seconds? It was short; right?

4 (Video played)

5 MS. PURVES: The first one is a minute and,
6 like, two seconds.

7 MS. LaCROSS: Okay. And the second one you
8 don't need to replay it.

9 (Video played)

10 MS. LaCROSS: How long was that one?

11 MS. PURVES: That was a minute and two
12 seconds. And the next one, part 2.

13 Oh, wait, sorry.

14 (Video played)

15 MS. LaCROSS: I'm not asking you to replay
16 them over and over. I'm just asking you the times of
17 each one.

18 MS. PURVES: So the first one is 36 seconds.

19 THE WITNESS: And the first one you didn't
20 play. That's just me explaining what he was doing.

21 MS. PURVES: Let's play that one then.

22 (Video played)

23 MS. PURVES: Okay. So that one stops. And I
24 guess while --

25 BY MS. PURVES:

1 Q. Why are you filming this?

2 A. Because of my experience with her. I mean, there
3 have been incidents where I'll talk to a neighbor on
4 the porch and she stands at her fence line
5 videotaping me. Telling me she's videotaping
6 everything I'm doing. And it just made me
7 uncomfortable. And so I wanted proof that we
8 weren't doing anything wrong.

9 Q. Okay. And so there's Jeff at the door. And then
10 one starts up.

11 (Video played)

12 BY MS. PURVES:

13 Q. He's still at the same spot.

14 A. Mm-hmm.

15 Q. And in between those two clips, did anything happen?

16 A. I mean, doorbell. You know, split second. It was
17 just stop and start.

18 Q. Okay. And of this one -- looks like your camera is
19 at the front door and it is still there.

20 (Video played)

21 BY MS. PURVES:

22 Q. So is there anything that happened during that
23 interaction that's not captured on the video?

24 A. No.

25 Q. Okay. Does --

1 MS. PURVES: Is the Court satisfied with the
2 foundation?

3 THE COURT: Yeah.

4 MS. LaCROSS: If I could ask a question, Your
5 Honor.

6 THE COURT: That's admitted. I'm going to
7 admit it. And I've heard it. So, no, you don't need
8 to ask a question now.

9 So go ahead with your examination.

10 MS. LaCROSS: It would go toward the
11 foundation, Your Honor.

12 THE COURT: You will be able to cross.

13 MS. LaCROSS: Okay.

14 THE COURT: No. I'm finding that there's
15 adequate foundation. You'll be able to cross her.

16 MS. LaCROSS: Thank you.

17 THE COURT: Go ahead.

18 BY MS. PURVES:

19 Q. Thank you.

20 So what happened after that?

21 What did you do?

22 A. We came back to the house and -- I mean, we're,
23 like, wide-eyed and got really scared and talked
24 over and over to ourselves. What do we need to do?
25 Are we supposed to call the police? This seems

1 really scary. Do you think she's really going to do
2 that?

3 And we decided to call the police.

4 Q. So you were very frightened by this incident?

5 A. Absolutely. It terrified me. They got that sign
6 over their garage that says they shoot on site.
7 They are faster than 911.

8 And I have no idea what they had for weapons.
9 What they do. But the way that she screams at
10 people and me, I didn't -- I was very afraid that
11 she would actually shoot us.

12 Q. So what action -- you said you called the police.

13 A. Right. And an officer came to the house 20 minutes
14 later, maybe, and took a report. Heard the video.

15 Q. And then what did -- what did you do yourself in
16 response to that?

17 A. Well, the officer said that he was going to submit
18 it to the prosecutor. And that he encouraged us to
19 go to the Court and file a harassment order, a
20 protection order.

21 Q. And did you do that?

22 A. We did that the next day.

23 Q. All right. And where did you -- this was in
24 Bremerton?

25 A. In Bremerton, yes.

1 Q. So I want to make sure I --

2 When this was Ms. Kelsey making this -- these
3 threats against Jeff, why did you perceive that as a
4 threat to you?

5 A. Because of the way she spoke in the video when she
6 was asking if he was coming from that neighbor over
7 there. And talking about how terrible I was.

8 And so it was a threat to me as well. At least
9 that's how I took it.

10 Q. All right. And when you made your -- your request
11 for the protection order, what harassing conduct did
12 you think made -- really gave you, I guess, the
13 driving force to go and get it?

14 A. Like, the final straw you mean?

15 Q. Yes.

16 A. Is the threat to shoot us. I mean, that was
17 terrifying to me. And I wanted it on record
18 somewhere that that had happened.

19 And because I wasn't sure if it would -- if I
20 would be there one day to tell somebody that she was
21 coming after me. It scared me.

22 Q. Okay. So the Court granted a temporary order. And
23 did -- did that help at all?

24 A. Things completely changed after that. Even
25 though -- I mean, for the next -- since -- until

1 now, things have been much quieter with the dogs in
2 terms of that. And the little dogs only a couple of
3 times have they got into our yard since then.

4 The black lab is daily, for hours since then.
5 So it's not really changed for that. But there has
6 been no cussing out the window.

7 She doesn't park in front of my driveway
8 anymore. I -- I don't see liter on my yard. So it
9 feels like it has made a difference. And that
10 behavior has all stopped. And I feel better. But
11 she walks on the street still and videotapes me
12 working in my yard even with the order.

13 Q. And so the -- a final order obviously hasn't been
14 granted yet.

15 Well, did more incidents happen while the
16 temporary order was in place?

17 A. Yes.

18 Q. So this is a video that says "7/11/19, black lab in
19 our yard, 911 call."

20 So this video has -- has good lighting. Just
21 while we're on this video, are you on your property
22 right now?

23 A. Yes, I'm on my upper deck.

24 Q. And is this Ms. Kelsey's property over here?

25 A. Correct.

1 Q. And let's play this one. So it's 56 seconds?

2 A. And, actually, I think it's a five-foot high fence
3 now when I look at it now.

4 (Video played)

5 BY MS. PURVES:

6 Q. So who's talking on that video?

7 A. That was Jeff talking to 911.

8 Q. And is -- is that the black lab that you were
9 mentioning earlier?

10 A. Yes.

11 Q. And is that the same black lab that Jeff took back
12 the night that Elizabeth made the threat to kill
13 him?

14 A. Yes.

15 Q. Here's one from 7/14. And what are we looking at
16 here?

17 A. The dog coming into our house.

18 Q. So this is your --

19 A. That's my living room.

20 Q. And what -- where does this video come from?

21 A. From our video camera up on the bedroom window.

22 Q. And who's this? Is that Jeff?

23 A. That's Jeff.

24 Q. Shooing the dog out?

25 A. Correct.

1 Q. I'm going to fast-forward it a little bit.

2 MS. PURVES: Jeniece, can you see? I'm sorry.

3 MS. LaCROSS: Yeah.

4 BY MS. PURVES:

5 Q. So has that -- has that happened before where the
6 dog gets in the house?

7 A. Yes. It's happened a couple of times.

8 Q. And what does it do when it's in there?

9 A. It's peed on our carpet. It -- I don't know -- we
10 were told by animal control it has mange. But I
11 don't know if it has fleas. But it scratches when
12 it gets in the house, and I just don't want that in
13 the house.

14 But it came in again. I think that was the
15 second time it had come in.

16 Q. Okay. So the next video is dated 2019/7/20.

17 At this point the order still had not been
18 served; is that correct?

19 A. Correct.

20 Q. And this video says, "Smoke bomb video from Cindy
21 1."

22 Can you tell me how you came to have this
23 video?

24 A. Jeff and I were out to dinner with some friends, and
25 I got a phone call from Cindy and she asked if I was

1 home and if we were okay.

2 Q. Who's Cindy?

3 A. A neighbor across the channel. So she's just part
4 of our neighborhood watch group. So I met her
5 through the neighborhood watch.

6 Q. And when you say "across the channel," she
7 doesn't -- she lives across the water from you and
8 Ms. Kelsey?

9 A. Correct. She lives on Marine Drive. I live on
10 Madrona.

11 Q. So how did Cindy get this video to you? Or what --
12 you said she --

13 A. Well, she called dinner -- when we were at dinner
14 and asked if we were okay. Because she couldn't
15 tell, but she wondered if my house was on fire.
16 And -- and I asked her what was going on? Did she
17 need to call the fire department or police? What
18 happened?

19 And we ended up leaving dinner to come home,
20 because we were a little uncomfortable about what
21 she had said. I asked her to send the video to me.
22 Or to send --

23 (Recording played)

24 "Sunday, and it looks like there's a smoke
25 bomb that's coming, obviously, from the house next to

1 Lisa's just on the other side of the fence.

2 It's been going on for about five minutes now.

3 And it's white smoke. And it's been consistent. I
4 suppose I could walk on the beach far enough down to
5 see who's doing it. But it's -- it is what it is. It
6 looks like white smoke bombs and it looks like it's not
7 a -- not a barbecue and not a fireplace. And something
8 that is ongoing and deliberate."

9 (End of recording)

10 BY MS. PURVES:

11 Q. So this next video is Cindy 2.

12 (Recording played)

13 "We're five minutes later. So this is
14 about -- about ten minutes now. Continuous white smoke
15 coming from the house next to Lisa's. I can see the
16 dogs in the yard and they have gone down on the beach a
17 couple times. I'm sure all of the houses over there,
18 including Lisa's, is less than happy, if they are home,
19 of having consistent smoke filtering over to their
20 deck. This is Sunday evening. All I can say from my
21 perspective is I'm glad they don't live next to me."

22 (End of recording)

23 BY MS. PURVES:

24 Q. So you got those videos from Cindy, and you said you
25 went home.

1 A. Mm-hmm.

2 Q. What did you see when you went home?

3 A. Well, we had all of our windows open because it is
4 hot. And when we got into the house, it was just --
5 it wasn't filled with smoke that we could see, but
6 it was all sulfur smelling like something had come
7 in through the windows and we opened all the doors
8 and let my dog out.

9 Q. Okay. When you say it was "sulfur smelling," can
10 you describe that?

11 A. Well, it didn't -- didn't smell like wood from a
12 fireplace. It smelled like fireworks or something.
13 It smelled like something -- all I -- all I think is
14 like sulfur. It just smelled rotten.

15 Q. But it reminded you of the smell of --

16 A. Of a fire --

17 Q. -- fireworks?

18 A. -- of a fireworks display.

19 Q. And did you hear anything going on next door?

20 A. Not when we came home. I mean, Jeff and I talked
21 again. It's like, oh my gosh, I think we need to
22 call the fire department. What's going on?

23 By that time, I think -- I don't know if we
24 did. I know we -- Jeff called fire department and I
25 think Cindy had called the fire department just out

1 of concern for what was going on.

2 But we -- we sat there -- we were on the deck
3 trying to let my dog sit on the deck and air out.

4 And it was kind of upsetting to me because I
5 was watching my old dog because my ex-husband was
6 out of town.

7 Q. So this isn't a pet you normally have?

8 A. No. I only watch him on occasion when my ex-husband
9 leaves town. So he happened to be at the house.

10 But she came out on her deck at one point --

11 Q. Who?

12 A. -- Elizabeth -- and just made a comment that seemed
13 very, very scary to me, and it seemed very
14 threatening. And she said you shouldn't leave --
15 something like you shouldn't leave that poor dog
16 alone or something. And it felt like a threat that
17 she knew I had a dog in the house and she knew the
18 windows were open and she could see them and it was
19 a deliberate attempt to hurt my dog.

20 It was very upsetting to me.

21 Q. So I want to back up a little bit.

22 When you came home, there was no active smoke?

23 A. Not in the house, no.

24 Q. Or along the fence line?

25 A. No.

1 Q. Okay. Did -- did that resume while you were there?

2 A. Yes. But there were two different fires or two
3 different smoke things happening.

4 Q. Okay. Can you -- let's start with the first one.

5 What happened?

6 A. The first one -- we sat outside on the deck, the air
7 kind of clear out the house, letting my dog sit
8 outside.

9 I think we had a glass of wine. We were
10 sitting there. We're like, you know what,
11 everything is going to be okay. It's all fine.

12 And then it looked like Elizabeth was coming
13 out and she was lighting a fire. And I have a
14 butterfly tree that kind of goes -- and a lot of the
15 branches go over the top of her fence, and it looked
16 like those branches were going catch on fire.

17 So we got very concerned because there were
18 flames. And then I don't -- you know, it was
19 actually so long ago, I don't remember what happened
20 first.

21 But there was another point where she peered
22 over the fence and looked at me or us sitting on the
23 deck. And Jeff had gone inside. She was staring at
24 me. And then she bent down and it was -- I don't
25 know, four or five feet closer to my house and then

1 that smoke bomb stuff started happening again away
2 from the fire -- where the flames were coming out of
3 that -- by the fire where the tree was. So I don't
4 know if that makes any sense.

5 Q. Sure. So let's -- the sulfurous-type --

6 A. Happened again.

7 Q. -- happened again --

8 A. After we had got home.

9 Q. -- while you were at home?

10 A. Correct.

11 Q. And it was after Elizabeth made eye contact with you
12 over the fence?

13 A. I don't think we made eye contact. But I saw her
14 head peering over looking and then duck down onto
15 the fence -- below the fence line. And then I saw
16 smoke coming up.

17 Q. And let's just use courtroom furniture for this
18 purpose.

19 So if you -- you said that they were -- that
20 the smoke from the sulfury-white smoke -- did it
21 look like the smoke that was in the video that Cindy
22 sent you?

23 A. Yes.

24 Q. Came from a different spot than the smoke -- or from
25 where you saw the flames?

1 A. Correct.

2 Q. Okay. And about how far apart? Because I'm
3 standing here at the end of the jury box.

4 A. Well, if you're where I saw the flames -- so let's
5 say this is the fence. I saw flames on that last
6 chair like right up over the tree right there.
7 Like, flames. Part of it through the broken slats
8 and part of it I could just see flames, like, light
9 of flame coming from where I was at the deck.

10 Q. Okay.

11 A. And then I saw smoke, like, this fourth or fifth
12 chair on this side of the fence, closer to my house.

13 Q. Okay. And so those were two different things?

14 A. Correct. But all the same night.

15 Q. But all the same night?

16 A. Right.

17 Q. But there was a definite --

18 A. And that was a different smell than that. That, I
19 could see puffy sulfur. I could smell the sulfur
20 and I could see puffy white smoke.

21 But the wind had changed so it wasn't blowing
22 straight into my windows anymore. It was kind of
23 going up and over my house. And then that was,
24 like, a camp fire.

25 Q. And this is where you saw the flames. And this is

1 what was close to your fence and your --

2 A. The tree.

3 Q. The tree.

4 A. Yeah.

5 Q. And this is where you saw the -- the billowing white
6 smoke, like, what you saw in the video?

7 A. Mm-hmm. Probably closer to that fourth chair.

8 Q. Okay.

9 A. Yeah, probably closer to there.

10 Q. And you said that you or Jeff -- someone called the
11 fire department.

12 A. Well, we saw the flames and then we saw more smoke
13 and we said this is not okay. She's going to start
14 the tree on fire, and then we're going to have a
15 fire in our house -- or our yard. So we called the
16 fire department.

17 Q. And did -- I guess, did she catch your fence on
18 fire?

19 A. No.

20 Q. Or the tree?

21 A. No.

22 Q. Okay. So did you -- did those events seem like they
23 were part of her harassment of you?

24 A. They felt like it to me. I mean, I've lived there
25 for two and a half years and they have never lit a

1 fire out there until all this recent stuff
2 happening.

3 So they have never been outside to have a fire.

4 Q. And when you say "they," was Mr. Longacre there that
5 you could tell that day?

6 A. No.

7 Q. Would you have been able to tell --

8 A. If he had come outside, yes.

9 Q. So you never saw him outside?

10 A. Never.

11 Q. Did you ever hear her talking to him?

12 A. No. Never heard his voice.

13 Q. So...

14 (Video played)

15 BY MS. PURVES:

16 Q. The incident with the smoke bombs along the fence
17 line and the fire near the fence line, you were in
18 court again and filed additional petitions for an
19 antiharassment order. And those were included as a
20 part of the harassing contact in your petition;
21 correct?

22 A. Correct.

23 Q. And I want to grab -- the petition says, "Elizabeth
24 Kelsey placed smoke bombs along the fence line
25 between our properties."

1 Do you -- do you believe that that is what
2 happened?

3 A. Yes.

4 Q. And that's based on what you observed on the 20th of
5 July?

6 A. Correct.

7 Q. And then you said, "She continued to light smoke
8 bombs and then began lighting a fire near our
9 fence."

10 A. Okay.

11 Q. And is that what you believe happened --

12 A. Yes.

13 Q. -- because of what you observed on that night?

14 A. Yes.

15 Q. The petition also mentions that Elizabeth Kelsey
16 puts garbage on your property.

17 A. Mm-hmm.

18 Q. Can you explain that?

19 A. She waved trash in front of my house surveillance
20 cam once and stepped onto my property and then bent
21 down and put trash on my fence -- on the fence line
22 between her properties on my side of the fence.

23 Q. Okay. And did you just happen to catch that, or
24 what made you see that?

25 A. I -- I don't remember how I saw the video. I don't

1 remember. Occasionally, I mean, the video loops
2 seven days. It runs 24 hours a day, and I just
3 happened to go through it.

4 Q. And we talked about the dogs and get to more of that
5 soon.

6 And there was the incident with Jeff. That was
7 the basis for your petition. And there were
8 temporary orders granted then.

9 A. Mm-hmm.

10 Q. And has -- what conduct has continued since the
11 orders have been in place?

12 A. The -- the dogs trespassing and destroying property.
13 And every time that dog comes on our property, I
14 feel more fear because of that threat. And if we
15 are seen with that dog, they are going to think that
16 we're doing something to get the dog over and they
17 are -- they are going to kill us. I mean, it might
18 sound crazy, but it scares me.

19 And I don't -- I park my car when I come home
20 from work, put my camera onto record. Walk straight
21 in my house. Shut my door. And if I'm in the house
22 alone, I don't come out.

23 Q. And the next video is 2019/8/30, and it says "dog
24 trespassing."

25 Where was this video taken?

1 A. My lower patio.

2 Q. Is this the same black lab from the incident with
3 Jeff?

4 A. Correct.

5 THE COURT: I'm sorry, what's the date?

6 MS. PURVES: 8/30/2019.

7 THE COURT: Okay.

8 (Video played)

9 "No, she's got to go. Go. Go. Got to go.
10 Can you hold my wine? She's got mange. No, huh-uh.
11 Come on. We've got to go.

12 "Where did she come from?

13 "Next-door neighbors. We have a harassment. They
14 threaten to kill. I don't -- just come inside.

15 "No. No. Go on. Go. Go. Go on. You need to
16 go. Go. Go on. Go. Go. Go. Go on. Go. Please
17 go. Go. Go. Go on. Go. Go home. Go on. Go. Go
18 on. Nope. No. No. Come on, let's go. Come on,
19 let's go. Let's go this way. Come on. Let go this
20 way. Let's go this way. Come on. Come on. Let's go.
21 Come on."

22 (Video ended)

23 BY MS. PURVES:

24 Q. So is that the type of thing that's been going on
25 with the black lab?

1 A. Yes.

2 Q. How often?

3 A. Daily. Sometimes several hours a day. And
4 sometimes two or three times a day.

5 Q. And have you made complaints to animal control?

6 A. Yes.

7 MS. PURVES: I have two complaints to animal
8 control I would like to put into evidence.

9 [Discussion off record]

10 MS. PURVES: The first complaint is dated
11 9/8/19, and it's Exhibit 6. And the next -- the next
12 one is dated 9/12/19.

13 So, I guess that one is going to be 7.

14 THE CLERK: Mm-hmm.

15 BY MS. PURVES:

16 Q. Ms. Ganowski, I'm going to hand you what's been
17 marked as Exhibit 6.

18 Can you tell me what that is?

19 A. It's the animal control form that you have to fill
20 out when you are filing a complaint about an animal;
21 and it lists the incidents, the dates and
22 approximate times that they occurred.

23 Q. And is -- did you sign that?

24 A. Yes.

25 Q. So this is your complaint?

1 A. Yes.

2 Q. And how many incidents are documented in that
3 complaint?

4 A. In this complaint? One, two, three, four, five,
5 six, seven on this one.

6 Q. Okay. And can you tell me the dates of those?

7 A. 8/31 --

8 Q. So what happened on 8/31?

9 A. There's dog poop on our sidewalks and in our flower
10 bed.

11 Q. Okay.

12 A. We took pictures and submitted them. The same day
13 this -- raw bones left rotting on our beach from the
14 dogs. And we have photos from that.

15 The 9/3, the black lab came onto our property,
16 destroyed some running shoes. Took one of the
17 shoes. We had video of that.

18 9/5, the black lab came on the property again,
19 took the other shoe. Chewed on it. Grabbed some
20 yard trash and threw it around our yard.

21 9/6, the next day, they came onto our property
22 again. Took one of Jeff's shoes this time and
23 chewed on it.

24 9/7, came onto our upper deck, took another
25 shoe. They left through the open gate and we saw it

1 roaming the street unleashed on Madrona Point,
2 because we had our gate open. We had no idea there
3 was a dog.

4 9/8. Came into our property. Came on our
5 upper deck. Somebody -- I have on here Clayton was
6 whistling for it, but the dog ignored him.

7 Do you want me to read it all?

8 Q. No. I'm just asking you to summarize each incident
9 and the type of incident going on.

10 A. Yeah.

11 Q. Okay. And then this one was filed 9/12.

12 Do you recognize that?

13 A. Yes. That's the same form, but with new incidents.

14 Q. And what are the new incidents?

15 THE COURT: Just. I'm sorry. What exhibit
16 number is this?

17 MS. PURVES: It's Exhibit No. 7.

18 THE COURT: I'm sorry. It was dated what day?

19 MS. PURVES: 9/12.

20 THE COURT: Okay. Yeah. Go ahead.

21 THE WITNESS: Just about the dog continuing to
22 come on the property destroying things up. Tearing up
23 our yard, flower beds, digging holes, destroying shoes,
24 defecating.

25 The neighbors have been informed ongoing. It's

1 increasing in the past several weeks. They are aware.
2 They whistle and call for the dog to return.

3 MS. PURVES: I ask that 6 and 7 be admitted.

4 THE COURT: Any objection?

5 MS. LaCROSS: No.

6 THE COURT: Exhibit 6 and 7 will be add
7 admitted.

8 [Exhibits 6 - 7 admitted.]

9 BY MS. PURVES:

10 Q. So, Ms. Ganowski, the -- the deal with the dogs --
11 or the [indecipherable] of the dogs coming onto your
12 property, how do you know that it's directed toward
13 you?

14 A. Well, they are aware -- I mean, I know Elizabeth
15 knows the dogs are coming onto the property. She
16 sees them on the property. She hears me or Jeff,
17 I'm sure, when we're shooin' a dog or the dogs away.

18 MS. LaCROSS: Objection to that, Your Honor.
19 She doesn't know what Ms. Kelsey sees or hears.

20 THE WITNESS: I know she knows that they are
21 there. Because when she hears me shooin', I hear her
22 yelling for the dogs to come home or to stop or
23 something.

24 THE COURT: The objection is overruled. Go
25 ahead.

1 BY MS. PURVES:

2 Q. And does the dogs being destructive to your property
3 seem intentional?

4 A. Yes. Because they know that it is happening and
5 there's nothing being done to stop it.

6 Q. Is animal control being effective in stopping?

7 A. I don't know how long their process takes. But up
8 until now, no.

9 Q. And how long has your process with animal control
10 been going on that?

11 A. First animal complaint, May of 2018. It's been
12 ongoing.

13 Q. So in over a year, nothing has happened from animal
14 control?

15 A. Correct. I mean, I just found out within the last
16 month or six weeks that they had forwarded a
17 complaint to the City prosecutor. But I haven't
18 heard the outcome.

19 Q. And what all has been damaged on your property?

20 A. Flower beds. Dug holes in the flower beds. Pooped
21 on my property. Destroyed three pairs of shoes at a
22 minimum. Grabbed trash and just ran it through the
23 yard. I mean, we just pick up the trash.

24 Q. And is that -- are those actions --

25 A. The rug inside when it peed on my rug.

1 Q. Are those actions distressing to you?

2 A. Absolutely.

3 Q. How?

4 A. I don't have a dog, and I'm constantly having to
5 police my property. I'm going through a remodel
6 right now and my property is not a very safe place
7 to be. And that is a nice dog, and I'm afraid it's
8 going to get hurt.

9 But I'm very stressed out that I can't leave
10 anything -- my shoes outside to -- you know, under
11 the awning because the dog is going to come get
12 them. I can't leave anything anywhere because I'm
13 afraid the dog will destroy it.

14 Q. And in the video you made a comment that -- not to
15 touch the dog or anything like that.

16 What is going through your mind when you are
17 interacting with this dog?

18 A. That they are going to be videotaping me across the
19 fence and seeing that I'm touching their dog and
20 somehow say that I'm responsible for their dog
21 coming into my yard again.

22 So I don't want to touch it. I don't know
23 what -- if it's got fleas or what the mange is. I
24 don't know what's going on with the dog. But it's
25 seemingly looking more unhealthy as it keeps coming

1 in my yard, and I just don't want to touch it.

2 Q. And are you afraid that something will happen to
3 you?

4 A. Yes. I'm afraid they are going to hurt me. I'm
5 afraid she -- she will carry out that threat.

6 Q. Do you want a war --

7 A. To shoot --

8 Q. -- you've got a war?

9 A. Yes.

10 Q. And don't ever touch my dog again?

11 A. Uh-huh. Can't keep my windows open. Can't keep my
12 doors open.

13 MS. PURVES: All right. I have no further
14 questions.

15 THE COURT: Any cross-exam?

16 MS. PURVES: Are you going to use that or are
17 you going to use something else?

18 MS. LaCROSS: I might use that.

19 MS. PURVES: I don't think it plugs in with
20 his computer, though.

21 MS. LaCROSS: What's that?

22 MS. PURVES: I don't think it plugs in with
23 that computer.

24 MS. LaCROSS: [Indecipherable].

25 MS. PURVES: I was going to say, I can set

1 mine aside if you are going to be putting that one up
2 here.

3 CROSS-EXAMINATION

4 BY MS. LaCROSS:

5 Q. So is it Ms. "Gan-owski" or "Gran-owski"?

6 A. Ganowski.

7 Q. Ganowski. Okay.

8 Now, you have talked about quite a bit of
9 information here -- this -- or yeah, this afternoon,
10 and I just want to go over some of that. Okay?

11 A. Okay.

12 [Off-record discussion.]

13 BY MS. LaCROSS:

14 Q. You have resided at this place since 2017?

15 A. Correct.

16 Q. Okay. Now, during that time -- let's see. You've
17 talked about problems with the dogs.

18 A. Mm-hmm.

19 Q. And were subsequent steps taking -- taken to fix up
20 some areas on the fence that the dogs happened to be
21 able to get through?

22 A. On my side? I put landscape bricks on my side so
23 that the slats wouldn't push through.

24 Q. Okay. And do you know that either Mr. Longacre or
25 Ms. Kelsey ever took any steps?

1 A. No. If I took away -- I have two green stakes
2 holding up their posts from falling onto my house.
3 If I took those away, the fence would hit --
4 probably close to hit my house.

5 Q. How about -- you had talked about some baby gates
6 that --

7 A. They have that.

8 Q. They had put some baby gates up; correct?

9 A. Uh-huh.

10 Q. I just want to...

11 [Off-record discussion.]

12 BY MS. LaCROSS:

13 Q. I have some pictures I want to show you of the gate
14 or the fence.

15 It would be on Exhibit 3, here.

16 [Off-record discussion.]

17 BY MS. LaCROSS:

18 Q. I just want to tab it so it's clear here that we
19 have an opportunity to see the fence. And I know
20 that it was in some of your other videos.

21 A. Can I scoot a little closer?

22 Q. Yes.

23 A. There's just a glare.

24 It looks like their side of the fence, I'm
25 guessing.

1 Q. Okay. So that looks -- that's the fence between you
2 and Ms. Kelsey --

3 A. Mm-hmm.

4 Q. -- and Mr. Longacre?

5 A. Mm-hmm.

6 Q. I've got to figure out how to go to the next one.

7 And is this as well -- do you recognize this
8 fence? This here in the picture.

9 A. That looks like the fence -- the four-foot high one
10 in the front yard.

11 Q. Okay. Should I bring that closer?

12 A. It's just the glare on here, the way the screen is.
13 If you tilt the screen forward a little bit, the
14 glare. Yeah. That's better.

15 Q. And this is the fence in question?

16 A. Mm-hmm. Yeah, I guess.

17 Q. So it's a pretty well-built fence; correct?

18 A. Along that area, yes.

19 Q. Okay. And now, do you see -- can you see on top of
20 the fence here a light?

21 A. Correct.

22 Q. Okay. And you had talked about lights falling off?

23 A. Mm-hmm.

24 Q. Are those the lights that fall off?

25 A. Mm-hmm. Yeah, they fall off.

1 Q. And now -- Mr. Longacre placed those lights up
2 there; is that correct?

3 A. They were there before I bought the house. I have
4 no idea.

5 Q. So they are not your lights?

6 A. No.

7 Q. And they -- how frequently have they fallen off?

8 A. I don't know. I mean, there's one in my yard right
9 now.

10 Q. Okay. And is that a common --

11 A. Yeah.

12 Q. Like, how frequently?

13 A. Five, six times a year.

14 Q. Five, six times a year?

15 A. I don't know.

16 Q. Okay. And do they get replaced?

17 A. I pick them up and I'll put them back up there.

18 Q. Okay. Let's see.

19 A. But they don't fall off on that area. They only
20 fall off on the other side.

21 Q. And at the end, is this the fence that we're talking
22 about?

23 A. Mm-hmm.

24 Q. Okay. So that looks like a pretty well-built fence;
25 correct?

1 A. That section.

2 Q. Okay. All right.

3 And is that the fence as well? Can you see
4 part of that?

5 A. That looks like the end of their fence.

6 Q. Okay. And now -- I think -- we looked at that.

7 That is part of the fence as well; correct?

8 A. Mm-hmm.

9 Q. All right. So I just wanted to make it clear that
10 this is the fence in question that we're talking
11 about.

12 A. Mm-hmm.

13 Q. Okay. Have you ever seen Mr. Longacre out there
14 doing any repairs to the fence?

15 A. No.

16 Q. Never?

17 A. I mean, I go out every now and then there's an extra
18 baby gate down by the water, but not to the fence.

19 Q. So you've seen devices put up to address the dog --

20 A. Just seen the baby gates and now they put like an
21 old -- or an old outside couch or something -- and
22 looks like a bunch of -- looks like garbage on
23 the -- between our two bulkheads down by the water
24 up against my shed.

25 Q. Okay. And... the fire department you talked about

- 1 on July 20th where you called the fire department --
- 2 A. Mm-hmm.
- 3 Q. -- related to some smoke that you had seen.
- 4 A. Mm-hmm.
- 5 Q. Okay. And the fire department arrived; correct?
- 6 A. Yes.
- 7 Q. Did you speak with them?
- 8 A. They came to the door after they went to her house.
- 9 Q. Okay. All right. And you had -- the fire
10 department arrived approximately how long after you
11 called?
- 12 A. I could not tell you. I don't know.
- 13 Q. Was it --
- 14 A. It was pretty quick.
- 15 Q. Pretty quick?
- 16 A. Yeah.
- 17 Q. You called at about 8:30 in the evening?
- 18 A. I -- Jeff made the phone call. I mean, it was
19 getting dark, so I know it was starting to get hard
20 to see outside.
- 21 Q. Okay. And they had responded; correct?
- 22 A. Mm-hmm. Yes.
- 23 Q. In a -- you know, we expect fire to show up pretty
24 fast; right?
- 25 A. Sure.

1 Q. And they met that expectation by their response;
2 correct?

3 A. I guess.

4 Q. You were happy with their response; correct?

5 A. I don't have an opinion. I mean, I don't know.

6 Q. Well, you weren't dishappy?

7 A. No, I guess not.

8 Q. Now, they spoke to you -- you spoke to the fire
9 department on that day?

10 A. Yes.

11 Q. And did you tell them about any sort of -- the smoke
12 bombs?

13 A. Yes. We told them that there were smoke bombs and
14 then there were flames.

15 Q. Mm-hmm. Okay.

16 So... let's see. Had you spoken with -- so
17 when you were talking about the smoke bombs when you
18 called the fire department, were you talking about
19 the information that you had received from your
20 friend previously or were you talking about a
21 different incident?

22 A. I honestly don't know. I would have to hear the
23 911. I don't remember if we included both of them,
24 or if we did just one or the other.

25 Q. You don't recall?

1 A. No.

2 Q. But if you have concerns that they are setting off,
3 lighting a fire, and lighting smoke bombs --

4 A. Mm-hmm.

5 Q. -- which would be distinct from the earlier
6 information about the smoke bombs?

7 A. Mm-hmm.

8 Q. You would have noted that when you called the fire
9 department, would you have not?

10 A. I would think maybe. I just don't remember.

11 Q. And you would have -- I would think -- discussed it
12 with the fire department as well; correct?

13 A. Discussed that there were smoke bombs and flames?

14 Q. Correct.

15 A. I would assume we did.

16 Q. Okay.

17 A. Honestly, we have called 911 so frequently, I don't
18 know which day is which unless I'm looking at a
19 calendar and listening to the tape.

20 [Off-record discussion.]

21 BY MS. LaCROSS:

22 Q. So I'm going to play the phone call to the 911 that
23 brought the fire department to your house.

24 A. Okay.

25 MS. WAGNER: What exhibit number is that?

1 MS. LaCROSS: That would be Exhibit No. 2.

2

3 BY MS. LaCROSS:

4 Q. So on that phone call to -- there was no discussion
5 about calling for any smoke bomb?

6 A. There was, actually.

7 Q. There was a reference to it -- he called earlier
8 about it; correct?

9 A. Right.

10 Q. So let's play that one.

11 So that --

12 (Recording played)

13 BY MS. LaCROSS:

14 Q. So on that 911 call there was references to smoke
15 bomb but it was referring to the neighbors. You
16 guys wanted to report what the neighbors had told
17 you; correct?

18 A. Mm-hmm.

19 Q. And I played those backwards. The one we just
20 listened to was the first phone call that was made;
21 correct?

22 A. Yeah.

23 Q. And then a little while later another phone call was
24 made on the same day; correct?

25 A. Mm-hmm. Yes.

1 Q. And although the later phone call talked about
2 mentioning the smoke bomb, we hear on the first one
3 that what he was mentioning was just wanting to
4 report what had previously been reported by your
5 neighbor?

6 A. Mm-hmm.

7 Q. So from listening to those two phone calls, it's
8 clear that the reason why you guys called the fire
9 department that night was because of a fire that was
10 being -- that had been done by anybody else wouldn't
11 raise any concern to you at all.

12 A. I mean, yes, but it was in conjunction with the
13 smoke we saw that was separate from that fire. So
14 putting those together scared us more.

15 Q. Okay. Well, I may have misunderstood, but it seems
16 like your testimony was there was smoke bombs that
17 your neighbor across the channel reported.

18 A. Mm-hmm.

19 Q. And then you got home, and then after you were home,
20 there was lighting a fire and lighting more smoke
21 bombs?

22 A. But it was the opposite. So it was the smoke bombs
23 from dinner. That's when I first said I don't
24 remember the order. I have to think when we were
25 there, because it happened a while ago. Then there

1 were smoke bombs, and it didn't blow toward us. So
2 the effect wasn't as bad when we came in. It didn't
3 smell in our house as bad. Then the lighting of the
4 fire.

5 Q. Okay. So your testimony today is that there were
6 two separate smoke bomb incidents that night?

7 A. Yes.

8 Q. Even though from listening to the 911 tapes, the
9 only -- there's only one reference to it -- one
10 incident of smoke bombs?

11 A. Yes.

12 Q. But it's your testimony now that all of a sudden
13 there were two incidents?

14 A. It's not changed. It's what I've said from the
15 beginning. We were home for that second smoke bomb.

16 But the wind would change and it didn't come
17 straight into our house. But it was in the same,
18 like, that area, like, the fourth chair.

19 Q. But you didn't let 911 know that when you called?
20 You only discussed the -- the fire was the only
21 thing that was discussed?

22 A. I -- I can't answer that.

23 Q. And when you went -- spoke with the fire department
24 when they arrived, you told them about the smoke
25 bomb?

1 A. I don't remember. I -- I don't remember
2 specifically what I said to the police officer or
3 the fire department.

4 Q. Well, wouldn't you have told the fire department
5 that?

6 A. I'm sure we probably would have. I don't know.

7 Q. So -- now, you got a phone call at dinner; correct?

8 A. Mm-hmm.

9 Q. Where were you eating dinner at?

10 A. La Fermata in Manette.

11 Q. Okay. So how far is that from your house?

12 A. Thirty minutes, maybe.

13 Q. And at what time did you receive the phone call?

14 A. I don't remember. I'd have to look at my phone.

15 Q. Do you have any idea?

16 Do you have your phone?

17 A. 7:15, 7:30. I don't know.

18 Q. What time did you get home?

19 A. Again, I'd have to look at when we called. I would
20 say within an hour.

21 Q. So you didn't leave straight away?

22 A. We left as quickly as we could. Closing out,
23 paying, getting in our car, dropping our friends
24 off.

25 Q. So from the time that you were notified, you -- it

1 would have been about an hour until you got back to
2 your house?

3 A. I can only guess. I mean, I would have to look at
4 my phone and look at when we called 911.

5 Q. So I don't want you to guess. I'm trying to
6 establish how long. So I guess if you can't recall.

7 Do you have your phone that you could look at?

8 A. In my purse.

9 Do you want me to go get it?

10 Q. Sure.

11 [Pause]

12 THE WITNESS: The log doesn't go back that
13 far. I don't know what -- quite what to do.

14 MS. PURVES: And I think she's answered that
15 she doesn't recall. And so continuing to ask her
16 about --

17 MS. LaCROSS: I was just going see if we could
18 establish it. But obviously we can't.

19 THE COURT: Okay. Let's move on.

20 MS. LaCROSS: Yes.

21 BY MS. LaCROSS:

22 Q. So -- and now, did you -- when you got home, you
23 guys were sitting on your deck; correct?

24 A. At one point. At some point, yeah.

25 Q. And did you see the individual light the fire?

1 A. I saw Elizabeth out there.

2 Q. Mm-hmm.

3 Did you see her light a fire?

4 A. From the vantage point I was sitting at, all I saw
5 was her bending down and then flames.

6 Q. Right.

7 A. So I didn't see her touch anything.

8 Q. Right. Right near where she was at?

9 A. I'm sorry.

10 Q. The flames were right where she was at?

11 A. Yes.

12 Q. So you assumed it was her lighting the fire?

13 A. Yes.

14 Q. Now, Mr. Closson is the one that called 911 and made
15 the report, and he had stated that if it had been
16 anybody else, he wouldn't have been worried about
17 it.

18 So does that mean there was nothing -- how does
19 that -- you weren't worried about -- your testimony
20 was that you were worried that this was a fire that
21 was going to burn your house down.

22 A. Mm-hmm.

23 Q. Because it was going to --

24 A. Well, I thought it was going to catch the tree, not
25 my house.

1 Q. Because it was going to catch the tree.

2 A. Mm-hmm.

3 Q. But at the time Mr. Closson said that had it been
4 somebody else you wouldn't have even worried about
5 that.

6 Now, did you have a discussion about that?

7 A. What do you mean "a discussion"?

8 Q. Before you called. Was this a situation where --
9 well, we're really not worried about this, this is
10 just a normal fire but because it's her lighting it,
11 I'm concerned?

12 A. I think it's more the sense that there is a very
13 uncomfortable relationship between the neighbors.
14 And if it were a neighbor that we were not afraid
15 of, we would probably say, whoa, we need to trim
16 that bush back or we might have had a dialogue about
17 it. That's what -- that's what I'm guessing, is we
18 might have just said, hey, that looks a little
19 close.

20 But because of what's going on in this
21 situation, it is. It felt very threatening.

22 Q. That they were making a fire near your property
23 line?

24 A. Mm-hmm.

25 Q. By a tree?

1 A. Mm-hmm.

2 Q. Okay. All right. As far as -- let's see...

3 [Off-record discussion.]

4 MS. LaCROSS: Could I -- may I approach, Your
5 Honor?

6 THE COURT: Yeah.

7 BY MS. LaCROSS:

8 Q. I have what's marked as Exhibit No. 8. Can you look
9 at that?

10 A. Mm-hmm.

11 Q. And are you able to identify what that is after
12 you've taken a moment to look at it?

13 A. A report.

14 MS. PURVES: Objection, Your Honor. I don't
15 think this is -- she would be the right witness to lay
16 the foundation for a report from the fire department.
17 She's never even seen it.

18 THE COURT: Yeah, I don't know where this is
19 going, but hold your objection and see what happens.

20 Go ahead.

21 MS. LaCROSS: I'm asking if she could review
22 that report, and based on her review of the report, if
23 she's able to see if that's a fire report that related
24 to the incident at her house on the day she called the
25 police -- called 911 and the fire department arrived.

1 MS. PURVES: Once again, Your Honor. She's
2 the wrong person to say whether this is a Bremerton
3 Fire Department fire report. That would be someone
4 from the Bremerton Fire Department.

5 MS. LaCROSS: Well, Your Honor, these are also
6 hearings where the rules of evidence are also lessened,
7 Your Honor.

8 THE COURT: Okay. So the objection for now is
9 overruled. Go ahead and look at it. And ask her a
10 question about what it is.

11 BY MS. LaCROSS:

12 Q. So on this report, can you tell what date this
13 report is written?

14 A. July 20th.

15 Q. Okay. And, um --

16 MS. PURVES: I'm sorry, my copy says the 21st.
17 Do I have the same one? Mine says July 21st on the
18 second page.

19 THE COURT: Page on the very top says
20 7/20/2019 for the incident date. I don't know.

21 MS. LaCROSS: And on each of the four pages it
22 has the same incident number and the -- the substance
23 of the report, though, is dated July 21st that it was
24 written, but each of the four pages have the same
25 incident number that references -- there's July 20th,

1 and dispatched to a smoke investigation, and it states
2 the alarm times.

3 BY MS. LaCROSS:

4 Q. Could you see where it says in subsection (e) on the
5 first page where it states the date and time of the
6 alarm?

7 A. Yes.

8 Q. Could you state what that time is and date?

9 A. 7/20/2019, the alarm at 2124. Arrival 2132. And it
10 looks like departure 2138.

11 Q. And on section F, what was the primary action?

12 A. To investigate.

13 Q. Okay. Now, on the second page in subsection L, can
14 you read what the fire department -- what the result
15 of that investigation was?

16 A. Dispatched to smoke investigation. Arrived to
17 person having a safe controlled fire -- recreational
18 fire in a Chiminea. Little smoke may have exhausted
19 in the air. We continued to let the residents enjoy
20 their rec fire. E2 went available. I don't know
21 what that means. Call generated due to neighbor
22 dispute.

23 Q. Is that what you wanted?

24 A. Yes.

25 MS. LaCROSS: I just need one moment, Your

1 Honor. I apologize.

2 [Pause]

3 MS. LaCROSS: Your Honor, I need a moment. I
4 can come back to this before I --

5 THE COURT: We need to move along. Okay. I
6 tried to say it as nicely as I could. And I'm saying
7 it as nicely as I can again.

8 Now, come on, haven't you looked at any of this
9 stuff before you walked in here?

10 MS. LaCROSS: Yes, I have.

11 THE COURT: We need to move this along.

12 MS. LaCROSS: And I would like to come back to
13 that before I ask to admit that at this time.

14 BY MS. LaCROSS:

15 Q. Now, has Ms. Kelsey ever come on to your property?

16 A. Not that I can prove.

17 Q. Okay. Have -- on the day that you recorded
18 Ms. Kelsey -- Mr. Closson going -- returning the
19 dog.

20 Now, you intentionally were going out there to
21 record that interaction; correct?

22 A. Correct.

23 Q. Okay. Were you present during that interaction in
24 Ms. Kelsey's yard?

25 A. While it was happening?

- 1 Q. Yes.
- 2 A. I was at my fence line on my property recording.
- 3 Q. On your side of the fence; correct?
- 4 A. Mm-hmm. Yes.
- 5 Q. Behind your side of the fence?
- 6 A. Yes.
- 7 Q. And Ms. Kelsey was speaking to you; correct?
- 8 A. Speaking to Jeff.
- 9 Q. I'm sorry. Was speaking to Mr. Closson?
- 10 A. Mm-hmm.
- 11 Q. Now, are there times where you guys have called
- 12 these dogs over at all?
- 13 A. Called their dogs to my yard?
- 14 Q. Yeah.
- 15 A. No, never.
- 16 Q. At any time have you ever been friendly with the
- 17 dogs?
- 18 A. I think the first spring, when the dogs would come
- 19 at me or chase me at the beach, I would try to be
- 20 nice to them so maybe they wouldn't be so barky.
- 21 Q. Okay.
- 22 A. They would just start growling and barking more, so
- 23 I quit even trying to talk to them.
- 24 Q. And these were little dogs; correct?
- 25 A. Yes.

1 Q. Okay. And they didn't cause you any harm; correct?

2 A. Define "harm"? I would leave my beach. I would
3 make sure the dogs were -- they would stick their
4 heads through the gate where our properties joined
5 going down to the switchback to the bulkhead. They
6 would stand out there and just bark.

7 So I mean, harm --

8 Q. They were annoying?

9 A. Yeah. Very.

10 Q. Okay. Now, you had mentioned about an issue with
11 the snow; correct?

12 A. I mentioned it or --

13 Q. In your testimony?

14 A. Okay.

15 Q. You guys talked about the snow.

16 And that was a conversation that you had
17 between you and Mr. Longacre; correct?

18 A. When he came to my property, yes.

19 Q. Uh-huh.

20 So you didn't have any conversation with
21 Ms. Kelsey about that?

22 A. Other than her screaming at me out the window with
23 profanity.

24 Q. She yelled something to you?

25 A. Mm-hmm.

1 Q. Okay. And when she yelled at you, it wasn't very
2 polite, possibly, but it wasn't threatening or she
3 wasn't --

4 A. She was very aggressive.

5 Q. Saying that she wasn't going to do any harm or words
6 did not contain any threats of harm or anything like
7 that; correct?

8 A. She's very aggressive. And it's very loud and it's
9 very scary. So it is very threatening when she
10 yells like that at me.

11 Q. But her words are not threatening when she says
12 anything to you, correct, on that --

13 A. But I take them -- they are threatening to me. They
14 are very.

15 Q. I understand that.

16 But I'm asking the specific words that she says
17 to you?

18 A. She did not say she was going to kill me. She just
19 called me a fucking bitch a few times.

20 Q. She didn't say she was going to harm you or kill you
21 or destroy your property or do anything like that on
22 this day that --

23 A. Not on that day, no.

24 Q. -- you're talking about when she's stepping outside
25 to smoke? Okay.

1 Now, you've talked about where you have had
2 incidents where your hose -- the hose had flooded on
3 your flower bed --

4 A. Mm-hmm.

5 Q. -- correct?

6 Now, did you see the person do that?

7 A. No.

8 Q. And rocks you've had on your steps.

9 A. Thrown at my door. My back patio door. Dents in my
10 door. Rocks on my furniture.

11 Q. And have you provided any sort of documentation of
12 those for that?

13 A. I submitted videos to our attorney.

14 Q. Of --

15 A. Pictures of rocks and the dent in the door.

16 Q. Okay. So pictures of rocks.

17 And where are these rocks at that you've shown
18 pictures of?

19 A. Where are they?

20 Q. Yeah.

21 A. We've moved them.

22 Q. Well, when you took the picture?

23 A. They are on the stairs and they are on the patio
24 furniture.

25 Q. So there was rocks there.

1 Did you see who placed those there?

2 A. No.

3 Q. Okay. Did you see how they got there?

4 A. No.

5 Q. Do you -- okay.

6 Now, you made a report to animal control, you
7 stated, and that you based -- after you had that
8 report, you had a conversation and that conversation
9 was with Mr. Longacre, correct, when you made your
10 first report in May of 2018?

11 A. The day that the citation -- from what I understand,
12 the day the citation had been issued he came over
13 again.

14 Q. And that was with Mr. Longacre; correct?

15 A. Correct.

16 Q. There was no interaction between yourself and
17 Ms. Kelsey related to that; correct?

18 A. Not that evening.

19 Q. Okay. Now, has the incidents lessened with the
20 little dogs?

21 A. Uh, yeah, I think the barking is less -- less
22 frequent.

23 Q. Okay.

24 A. And they are not. I've only seen one or two of them
25 on our property.

1 Q. So after -- and that was after this order was
2 initiated; correct?

3 A. Correct.

4 Q. Okay. You've noticed that the dogs are quieter and
5 that you're really not having issues about the
6 little dogs, but it's still with the black lab?

7 A. Well, no. The little dogs are still coming on our
8 property and still pooping on our property. But not
9 as often.

10 Q. Not as often. Okay. And the incidents that you
11 have provided since then are all of the black lab;
12 correct?

13 A. No, there's a video of one of the small dogs on our
14 property within the last couple of weeks. And
15 there's little dog poop -- I mean, that sounds -- I
16 can't clarify it. But I'm an owner of a big dog and
17 the size of their poop is different, and it was
18 little dog poop.

19 Q. So when you were testifying today, you were talking
20 about -- and showing more incidents with the black
21 lab?

22 A. In the animal control, there is also an incident in
23 there with the small dogs too.

24 Q. And the videos that we saw were with the black lab?

25 A. Those videos that you saw today, yeah.

1 Q. Now, it's true that -- well, I'll strike that.

2 So you had incidents beginning in June of this
3 year with this black lab; is that correct?

4 A. The first one, yes.

5 Q. So prior to that, you didn't have any incidents with
6 the black lab?

7 A. Didn't know they had one.

8 Q. Okay. You've also raised issue of broken glass
9 being near your patio?

10 A. Mm-hmm.

11 Q. Now, have you seen Ms. Kelsey put broken glass on
12 your patio?

13 A. No.

14 Q. Okay. You raise up issues in your petition about a
15 shadow.

16 Now, is -- are you able to identify that that
17 shadow was an individual shadow --

18 A. It was a human.

19 Q. Specifically?

20 A. I couldn't tell you who.

21 Q. Was it Ms. Kelsey's shadow?

22 A. Just based on the incidents that had happened and
23 where the shadow came from, that's my belief. But I
24 can't prove it.

25 Q. So that -- you're assuming that, but you have no

1 idea whether that was Ms. Kelsey's. You didn't see
2 Ms. Kelsey in the area? You didn't see that;
3 correct?

4 A. Not on my property, no.

5 [Off-record discussion]

6 BY MS. LaCROSS:

7 Q. Did you present any evidence of any flooding from
8 the -- your flower beds?

9 A. I think by the time I turned the hose off and by the
10 time the police came, it had soaked down.

11 Q. Because you've done a pretty good job of taking
12 pictures, of documenting things, but you didn't take
13 any pictures of the flower bed?

14 A. Huh-uh. Because the timing was different for that
15 when I got home from work. I turned it off. Went
16 around. Talked to my neighbor. Did they see
17 anybody on my property? Called the police.

18 By the police came, I took all the -- I don't
19 even know if I took the pictures of rocks that day.
20 I might have taken them the next day. I don't --
21 maybe the officer did. I don't know.

22 Q. I want to show you a picture here. Now, is -- can
23 you identify this? What we're looking at here.

24 A. Yeah, that's one of the dings in my door from a
25 rock.

1 Q. Okay. And that's from the rock?

2 A. Mm-hmm.

3 Q. Okay. Now, that ding looks like it's mostly painted
4 over?

5 A. What do you mean "painted over"?

6 Q. I would think if the rock hit the door there would
7 be damage to the paint?

8 A. No. It's -- it's -- if -- that's maybe not a very
9 good description then of that. Because I had
10 painted the doors recently that -- probably a few
11 months earlier.

12 Q. Uh-huh.

13 A. So it's a rock that hit. The gouge is when you look
14 up. So it -- I can't see it from here, from that
15 angle. But it is not painted over. It's still open
16 door.

17 Q. Now, you had talked about the video of her throwing
18 trash into your yard.

19 Have you provided that video?

20 A. I believe it's on something that we gave -- or at
21 least a photo of it. Because the video system was
22 new when all of this started happening.

23 After the threat, playing hardball with me,
24 after the first animal control thing I had video
25 cameras installed. And so I was still learning how

1 it recorded. And I was able to snap a picture in
2 sequence. But I don't think I have video of that
3 moment.

4 Q. So you testified too there was one incident of her
5 doing that; correct?

6 A. Mm-hmm.

7 Q. And was that back in 2018?

8 A. Is that the picture? Yeah, that's it.

9 Q. Okay. And on that picture there, you're saying
10 Ms. -- she's standing at the corner; correct of a
11 fence?

12 A. Mm-hmm. Yes.

13 Q. Okay. So on the side of her where the fence is no
14 longer is --

15 A. Madrona Point. That's the road.

16 Q. And on the other side of the -- where you can see
17 her, is that --

18 A. My property.

19 Q. Right here is your property?

20 A. Mm-hmm.

21 Q. And on the other side of the fence is?

22 A. Her property.

23 Q. Okay. And are you -- can you see what she's doing
24 there?

25 A. She -- when I looked at the video, she was waiving

1 something plastic. And then came on to -- stepped
2 on to my property, bent down and laid it on the
3 fence line to my property.

4 Q. Okay. And did you collect that?

5 A. No, I left it there. And it blew into -- if the
6 fence eventually blew down.

7 Q. And this was in 2018?

8 A. I would have to look at the date it was snapped, but
9 probably, yeah.

10 MS. PURVES: It's on the video.

11 [Off-record discussion]

12 MS. LaCROSS: I'm almost done, Your Honor.
13 I'm just making sure I've covered everything that I
14 wanted to.

15 BY MS. LaCROSS:

16 Q. So I just want to be clear. Is it your position
17 that there was smoke bombs that were set off after
18 you guys had got home from your dinner?

19 A. Yes.

20 MS. LaCROSS: I don't have any other
21 questions.

22 THE COURT: Redirect?

23 MS. PURVES: Sure.

24 REDIRECT EXAMINATION

25 BY MS. PURVES:

1 Q. Ms. Ganowski, when you submitted your petition, you
2 provided the Court with around 60-something videos
3 and photos; is that correct?

4 A. Correct.

5 Q. And for today's purposes, for the hearing, we
6 selected some that we thought would help the Court
7 see the types of behavior that you were talking
8 about, and didn't talk about the other ones; is that
9 correct?

10 A. Correct.

11 Q. So that included the things -- some that Ms. LaCross
12 brought up?

13 A. Yes.

14 Q. This trash, these rocks, that sort of thing. And
15 that was in the interest of --

16 A. Time.

17 Q. -- time.

18 A. The cars parked in front of my driveway, yeah.

19 Q. One more incident I just wanted to ask you about.

20 There was something mentioned about Elizabeth
21 throwing dog poop.

22 A. Mm-hmm.

23 Q. What happened with that and when was that?

24 A. The video that you saw with the black lab jumping on
25 me and my friends. We had walked down to the

1 bulkhead and we were standing at the bulkhead and we
2 were just looking at the water. And she threw
3 what -- it was starting to get dusk. So it was hard
4 to see. But she threw something over our heads into
5 the water and there was like a knock or something on
6 my shed.

7 And the next day -- and one of the people that
8 was there with me looked up and kind of, you know,
9 hollered and said, "That was kind of close there."

10 And she peered down over us at the ivy. And
11 then went back. And the next day when I went out
12 when it was light out, I saw it was dog poop. And
13 it sitting -- I sent a picture of that to animal
14 control.

15 MS. PURVES: I don't have any other questions.
16 We can move on to Mr. Closson.

17 RE-CROSS-EXAMINATION

18 BY MS. LaCROSS:

19 Q. Who was the friend that was with you that day?

20 A. His name or?

21 Q. Yeah?

22 A. Tim and Lisa Calnan.

23 MS. PURVES: I don't have any other questions.

24 THE COURT: Do you have any re- -- recross?

25 MS. LaCROSS: No.

1 THE COURT: Okay. So you can have a seat.
2 Your next witness.

3 MS. PURVES: Mr. Closson. Jeff Closson.

4 THE COURT: If you would raise your right
5 hand, please.

6 Do you swear or affirm the testimony you are about
7 to give is the truth, the whole truth, and nothing but
8 the truth?

9 THE WITNESS: I do.

10 THE COURT: Have a seat.

11 For the record, state your name and spell your
12 last name.

13 THE WITNESS: Jeffrey T. Closson,
14 C-l-o-s-s-o-n.

15 THE COURT: Ms. Purves.

16 MS. PURVES: Sure.

17 And, Your Honor, just so I can be clear, they are
18 both petitioners, is the Court accepting the evidence
19 that has been presented so far for both petitions, so I
20 don't need to go back through all the individuals.

21 THE COURT: We're trying all four of these at
22 once. But I understand there's different plaintiffs
23 and everything, and yeah.

24
25

1 JEFFREY CLOSSON, witness herein, having been first.
2 duly sworn on oath, was examined
and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. PURVES:

5 Q. Okay. So Jeff, where do you live?

6 A. 2102 Madrona Point Drive, Bremerton.

7 Q. So you live next to Lisa -- or you live with Lisa --

8 A. I live with Lisa --

9 Q. -- who lives next to Ms. Kelsey?

10 A. Correct.

11 Q. And how long have you lived there?

12 A. I've lived there since early April of this year.

13 Q. So much of what Lisa just testified to, you were not
14 a part of?

15 A. That's correct.

16 Q. So let's just start with -- when did you first have
17 a problem with Elizabeth Kelsey?

18 A. Well, specifically, it was on the 13th of June when
19 I returned their dog. It was the second time their
20 lab had gotten into our yard.

21 By then we knew it was their dog. So we did
22 what we thought was the right thing to return the
23 dog. And when I returned it to her, her response
24 was to threaten to shoot me.

25 Q. Okay. And that's the video that we watched earlier.

1 Did that video accurately reflect what you
2 could hear? Could you hear it back where you were?

3 A. Yes.

4 Q. Did it accurately reflect what you recall happening
5 that evening?

6 A. It does.

7 Q. And that was submitted when you applied for this
8 petition at the outset?

9 A. That's correct.

10 Q. And has it changed in any way?

11 A. Not in any way.

12 Q. And it captured your entire interaction with
13 Ms. Kelsey?

14 A. It did.

15 Q. Okay. How did that interaction make you feel?

16 A. I mean, it -- it really scared me. It really
17 rattled me, considering I had never spoken to her
18 before and haven't spoken to her since. That the
19 only conversation I had with her when I was
20 returning her dog, you know, in my mind doing her a
21 favor was basically to threaten to shoot me multiple
22 times.

23 Q. Okay. Was there anything about what you were doing
24 that seemed like that was deserved?

25 A. Not at all. As a matter of fact -- like I said, I

1 think I was, you know, trying to do her a favor by
2 returning her dog to her. It was -- it was a little
3 puppy at the time, so we were worried.

4 Q. So the threat was directed to you. But -- was
5 there -- as it was communicated, did it make -- did
6 it make you think it was also directed at Lisa?

7 A. Yeah, absolutely. I mean, the way she -- she put
8 it, she asked -- I said, "I'm your neighbor." She
9 said, "Which neighbor?"

10 I pointed to our house and she began to say bad
11 things about oh, those are terrible neighbors -- or
12 I'm paraphrasing.

13 Q. Did she mention other incidents?

14 A. Yes. She mentioned the lumping of the snow. Which
15 I wasn't there when that happened.

16 Q. So she was talking about things involving Lisa?

17 A. Right. To me, she grouped it altogether.

18 Everything that was going on and everything about
19 being part of that neighbor -- she started out the
20 conversation saying oh, you are a part of them and
21 then went on to threaten me.

22 So as far as I'm concerned, I considered it a
23 threat to the entire household, our household.

24 Q. So after that happened, what did you do next?

25 A. So we went back -- I mean, I was shocked. I -- I

1 think it shows on the tape that I was, you know,
2 kind of taken aback and we went back in the house
3 and I think immediately, you know, said we need to
4 call the police. I never had anybody threaten my
5 life before.

6 So I believe that's the first time I've ever
7 called 911 was on that day. Because of how scared I
8 was.

9 Q. And the next day you went in and got a temporary
10 antiharassment order; correct?

11 A. Yes, the officer that night had suggested, based on
12 what we said had happened, said that should be our
13 next course of action. So --

14 Q. Okay. And that petition was filed on the 14th of
15 June?

16 A. Fourteenth, yes.

17 Q. And that's the petition that we're here on today as
18 well as another one?

19 A. Yes.

20 Q. Okay. So what happened between the -- the first
21 petition and the second petition?

22 A. Well, so as we talked before and there's the
23 incident -- and I actually don't know exactly the
24 time, but there's -- since the first order there's
25 been the incident with the smoke bombs and the fire.

1 Q. Right. So before we get to the smoke bombs. Back
2 up.

3 So after you filed your petition for a
4 protection order, did -- I guess then you got served
5 with a lawsuit; correct?

6 A. Right. That's correct.

7 Q. And then your petition -- when you would show up for
8 the hearings, why didn't you have this hearing back
9 in June?

10 A. Well, we continued to have hearings because they
11 were unable to serve her. There was at least three
12 different police departments or law enforcement
13 departments that tried to serve her the orders.

14 I believe there's 17 or 19 different attempts.
15 We also had a private server engaged to serve her
16 and that was also -- they weren't able to serve her.

17 Even though we continued to -- to witness that
18 she was at the house, there's actually a couple
19 times I called 911.

20 By the suggestion of the police to call if we
21 saw that she was there and we did call and -- by the
22 time they responded if they responded there was no
23 answer to the door. So they were unable to serve
24 the -- the order.

25 Q. Okay. And you ended up doing service by

1 publication?

2 A. Correct.

3 Q. And that's how we end up where we are.

4 So after the first petition, then you started
5 talking about the smoke bomb incident.

6 So I want to get into that. And also --
7 fast-forward to the part where you guys get home
8 from La Framata.

9 A. Right.

10 Q. So tell me what you saw first. Let's go with your
11 eyes in that sense.

12 A. Right.

13 Q. What did you see when you first got home?

14 A. So we came in. We didn't see a lot of smoke. But
15 you could definitely smell the smoke in the house.

16 Q. Okay. So you couldn't see it. But could you see
17 some smoke?

18 A. You know, I don't recall seeing a lot of smoke. But
19 it was -- it was obvious that it had happened. It
20 had been stopped for a while. It wasn't an ongoing
21 thing by the time we got home.

22 Q. Okay. And you just mentioned smell.

23 What did you smell?

24 A. I smelled -- you know, it's the kind of burning --
25 actually, I'm familiar with what smoke bombs are

1 from when I was a kid. It was definitely the smell
2 of a smoke bomb or something similar to it. And --
3 and later when the fire was sent -- set, there was a
4 distinct difference in how it smells.

5 Q. Okay. So when you got home, did you immediately
6 call the fire department?

7 A. I think we -- I believe we did. We didn't know if
8 the neighbors who had contacted us if they had
9 called or not.

10 I believe when I called that first time,
11 although I didn't hear it on the tape. But I
12 believe at one point they told me that somebody had
13 already called it in and that they had come and
14 checked it out.

15 And as you heard on the tape, I was basically
16 saying I just want it on the record. I just want to
17 be sure it's on the record.

18 And so that was basically talking about the
19 first smoke bomb incident.

20 Q. Let me stop you right there before we move on.

21 A. Okay.

22 Q. So you and Lisa and Lisa's dog went out on the deck?

23 A. Right.

24 Q. Did you have contact with Elizabeth or any
25 communication from her while you were out there?

1 A. The only contact is -- we went out, and we were
2 sitting on our deck and, you know, trying to get
3 fresh air and making sure the dog was okay. And we
4 could hear her -- I could hear her from her balcony
5 kind of a -- almost a whisper and it wasn't
6 directed -- it wasn't as if it was directed right to
7 me. But it was just kind of out in the air, oh, you
8 better be careful about that poor dog being there.

9 You know, and I took it distinctly as a threat
10 based on the only other conversation I had ever had
11 with her was a threat to my life. I mean, I took it
12 as a threat. Kind of threatening, like you better
13 not leave your house or bad things will happen.

14 Q. And you know it was Elizabeth?

15 A. Absolutely.

16 Q. Okay. When you're out there, did you hear her have
17 any other conversations with anyone?

18 A. Not until the fire department arrived.

19 Q. So she wasn't actively talking to someone. You
20 heard her make that comment that you believe was
21 directed at her?

22 A. Right.

23 Q. Lisa -- but you didn't hear her say anything else?

24 A. No. I didn't -- I didn't see anybody else there
25 that night at all with -- with all the rest of the

1 subsequent events. I didn't see anybody else there.

2 Q. And you didn't hear her talking and didn't see
3 anyone but her moving around over there?

4 A. Nope. Well, I saw her moving around.

5 Q. No, anyone but her?

6 A. Yes.

7 Q. So after you had -- you heard Ms. Kelsey make that
8 comment -- so there's a later smoke bomb incident.

9 Can you explain that?

10 A. Right. Right. So a few moments after that, we
11 witness her kind of through the fence moving around
12 looking over the fence and then -- and then saw some
13 more smoke coming up.

14 And, again, it was at that area of the fence
15 that was nearer to our house as opposed to where the
16 fire was later started which was at the end of the
17 house.

18 Q. Okay. So we've been using the jury box with Lisa.

19 A. Right.

20 Q. Did you agree with where --

21 A. I did.

22 Q. -- Lisa put it?

23 Which was around the fourth or fifth chair
24 right there?

25 A. Right.

1 Q. And so that happened before the -- the flames?

2 A. Right.

3 Q. Okay. So tell me about that incident. Exactly what
4 happened.

5 And how do you know it was a smoke bomb?

6 A. So we could -- I could see the smoke coming straight
7 up. And it's -- it's kind of a -- acidic smoke. I
8 mean, it smells different. It looks different.

9 Q. How does it look different?

10 A. It's -- not as big as when she started the fire.
11 It's more a -- a direct smoke coming up.

12 It wasn't blowing over into our yard a whole
13 lot. It was kind of going straight up. But as soon
14 as that started, I went into the house -- leaving
15 Lisa and the dog on the deck. And I went into the
16 house, into the bedroom, to see if I could see what
17 was going on better.

18 And that's when I witnessed her starting the
19 fire.

20 And from my vantage point I could clearly see
21 that it was Elizabeth. I couldn't see where she was
22 lighting the fire. I could see the fire, but I
23 couldn't see -- later it turned out to be in a
24 Chiminea. But from my vantage point it looked like
25 it was about this far from the fence.

1 And based on the -- on the other events that
2 had been happening, based on what she said to me or
3 said to us when -- when she came out to her balcony,
4 and based on the smoke bombs, my only assumption
5 was -- and I think that's related when I called the
6 second -- again, to the 911 was that she was
7 lighting the fence on fire. That's what I said and
8 I think that's what I was saying in the tape. I
9 thought she was lighting on fire, but turns out that
10 wasn't the case.

11 Q. From where you could see, that's what it looked
12 like?

13 A. From where I could see.

14 Q. And I'm trying to understand this, that you can't
15 see it's a Chiminea but you can see it's Elizabeth
16 lighting the fire.

17 A. Yes.

18 Q. How is that possible?

19 A. Because when she was walking back and forth on her
20 patio, the way the light would hit her, it was -- it
21 was apparent that it was her.

22 So she would get a piece of wood and kind of go
23 get a piece of wood on it and come back and pick up
24 a piece of wood.

25 So I -- it's -- it's clear to me that it was

1 Elizabeth.

2 Q. And you said that the -- the flames were concerning?

3 A. Yes.

4 Q. That it was not -- were the flames exceeding the
5 Chiminea --

6 A. Once you first lit them, they seemed to be just kind
7 of coming up and -- and, you know --

8 Q. Could you see them over the fence?

9 A. Yeah. I mean, where I was from, I could kind of see
10 both sides of the fence. But they were definitely
11 kind of coming up over the fence.

12 Q. You just couldn't see the very, very bottom of where
13 she was putting the wood?

14 A. It was just -- where that sat, is kind of at the
15 edge of the property before it goes down to the
16 water.

17 And so it was kind of dark. I think if I -- in
18 subsequent times, a couple times they have lit a
19 fire since then. I can -- you know, you can --
20 knowing it is a Chiminea, you can kind of see it's a
21 Chiminea. Not knowing that it just looked like an
22 open fire to me.

23 Q. And did -- but it was still pretty light at this
24 point. This was July 20th; right?

25 A. Right.

1 Q. So you had a pretty good -- I mean, it was light
2 enough that you knew it was your neighbor?

3 A. Yes.

4 Q. Okay. And you mentioned earlier that the smoke
5 smelled different.

6 Had the smoke bomb smoke cleared out before
7 the -- like, the fire?

8 A. Yeah. I mean, I don't recall. But the smell of the
9 fire in the Chiminea was a lot -- you know, it's a
10 completely different smell. And it was kind of, I
11 think, by that point would have been overwhelming
12 anyway, if there was some residual -- smoke bombs
13 kind of dissipate pretty quick. The fire was -- you
14 know, there was a lot of smoke coming from it at
15 first.

16 Q. Okay. And going to the things that have been going
17 on since the orders have been in place, Lisa talked
18 about that the issues with the dogs seemed like part
19 of the harassment.

20 Is that something you agree with?

21 A. Absolutely.

22 Q. And why is that?

23 A. Because -- because she's not containing her dogs.
24 She knows that it's been an issue. You know, we
25 brought the dog back twice, and we don't do that any

1 more after the second time.

2 We -- I -- I don't see any way that they could
3 not know or that she could not know that her dogs
4 are continuing to get out and to get into our yard
5 and yet it continues to happen. So...

6 Q. You also signed off on the Exhibit 6 and 7 that have
7 been admitted, the animal control reports.

8 A. Yes.

9 Q. The incidents in these -- are -- are very recent.
10 They are within the last two weeks.

11 The one that I wanted to bring to your
12 attention is signed by you. And it's, I believe,
13 Exhibit 7. And I wanted you to take a look at -- I
14 think it is page 4.

15 So is this your statement?

16 A. It is.

17 Q. You wrote this out yourself?

18 A. I did.

19 Q. Okay. So toward the bottom of your paragraph, you
20 said "been going on since June of 2019."

21 A. And I was referring specifically to the black lab.

22 Q. Okay. And you said, "The occurrences have been
23 increasing in the past several weeks."

24 So what -- this is -- this is last Thursday, I
25 guess?

1 A. Yeah, and they continued since then.

2 So the -- after the protection order, for a
3 while, there was less issues with the dogs. I don't
4 think she had as many of the dogs at the house, it
5 didn't seem like it.

6 But then over the course of the last two or
7 three weeks, it started to increase where I think
8 these reports will show that almost on a daily basis
9 there may be -- in the last 15 days, I'd say there
10 may be two days that we haven't been able to see on
11 the tape that the dog was there every other day at
12 least one time, the dog has come over.

13 I mean, it's just become a routine that we come
14 home and look at the videotape and see that the dog
15 has been there again. So it's escalated as far as
16 I'm concerned.

17 Q. So this says, "When the neighbor sees that we are
18 aware, they whistle and call for the dog to return."

19 A. Right.

20 Q. What do you mean by that?

21 A. So -- so -- so if we come out and are talking or,
22 you know, saying, hey, the dog is here again, or
23 chasing the dog around or something, we'll hear --
24 we'll hear them calling the dogs or whistling for
25 the dogs.

1 And when I say "dogs," it's typically this
2 black lab recently. He'll go running back and find
3 his way back to their yard.

4 Or I think is the one video that we saw, Lisa
5 finally took him around the front and opened the
6 gate so that he would get out, because he was -- he
7 was interrupting her, uh, uh, visiting with her
8 friends.

9 And so, actually, in that video you can hear
10 Clayton whistling to call the dog back in.

11 So it's -- they may be doing that when we're
12 not there, but we definitely hear that when we're
13 there.

14 Q. But when you're not there, is that when the property
15 damage is happening?

16 A. Well, yeah. I mean, if we're there, we -- we -- you
17 know, chase the dog off or try to get the dog off
18 our property.

19 So typically it's when we're not there and
20 we're looking at -- at the -- going back and looking
21 through videos and seeing the dog -- I mean,
22 multiple times, almost every day going up to the
23 porch and picking out another shoe and taking it
24 down and chewing on it. And some of the shoes, you
25 know, there will be one shoe left. The other one is

1 missing.

2 Sometimes we find it down towards the bulkhead
3 where all the baby gates are. Where I assume the
4 dog is getting in and out somewhere down there
5 through the ground cover.

6 But, yeah, I mean, it's just -- it's -- it's
7 almost every day that this is happening.

8 Q. And how does this conduct make you feel?

9 A. You know, violated. I mean, it's -- it's -- I'm not
10 scared of the dog, per se. I'm a dog person. I've
11 always had dogs. It seems like a sweet puppy.

12 So I don't fear because of the puppy, the dog.
13 But considering the kinds of threats that I've
14 received and that we've received based on the dogs,
15 it kind of scares me to death. I don't know what to
16 do.

17 You know, that's why we call law enforcement
18 any time -- especially if we're there and the dog is
19 there, we call law enforcement and we call animal
20 control.

21 I'm calling 911 because in Kitsap County if you
22 want to contact animal control, you have to do it
23 calling 911.

24 Q. So do you believe that the dog running loose and
25 destroying the property is intentional on their

1 part?

2 A. It's at least neglectful. I mean, I don't know that
3 they are teaching the dog to come over and do that,
4 but they know that the dog is doing this and they
5 continue to let it happen.

6 Q. Is there -- is there -- I guess, could they contain
7 the dog?

8 A. Absolutely. It's -- as a matter of fact, I believe
9 it's a law in this county and most counties that you
10 are able to contain your dogs.

11 I would say if you can't contain your dogs, you
12 shouldn't have dogs. I've had dogs up until the
13 last couple of years. I've had dogs for 30 years
14 and -- and, you know, it's always been my
15 responsibility to contain the dogs within my yard
16 and within my house.

17 Q. And I suppose, perhaps, you don't know, but based on
18 your interactions with Ms. Kelsey and the "do you
19 want a war" comment; is this part of the harassment?

20 A. Yes, absolutely.

21 Q. And why is that?

22 A. Because I'm in a situation where I've been
23 specifically threatened because of this dog. And
24 then the dog continues to come over.

25 So as far as I'm concerned, it's continual

1 harassment because -- because there's been a direct
2 threat on my life based on this dog.

3 MS. PURVES: I don't have any other questions.

4 THE COURT: Cross-examine?

5 ///

6 ///

7 CROSS-EXAMINATION

8 BY MS. LaCROSS:

9 Q. Mr. Closson, have you seen Ms. Kelsey do anything to
10 teach this dog or instruct this dog to go over to
11 your house?

12 A. I have not.

13 Q. Okay. Now, you're a dog person; right?

14 A. I am.

15 Q. Okay. So was there ever a time you were friendly to
16 the dog and you called the dog over and played with
17 the dog?

18 A. Never.

19 Q. Never.

20 A. No. To answer your question, specifically, have I
21 been friendly with the dog. Yes, because I'm not
22 going to be mean to the dog.

23 But I had never and would never call the dog
24 over to my property.

25 Q. Have you ever pet the dog and -- how?

1 A. Not really. I've tried to contain the dog and tried
2 to get the dog out of my yard. But I wouldn't say
3 that I've coddled the dog as I would my own.

4 Q. Okay. And now, when you took the dog back on that
5 one night, that Ms. Ganowski videotaped, you were
6 doing that to do Ms. Kelsey a favor?

7 A. That's correct.

8 Q. Okay. So -- and it was dark out at that time?

9 A. It was dusk, yes.

10 Q. At that time. Okay. And let's see -- okay.

11 Now, I'm still confused -- were you able to
12 hear the two 911 calls that I played that you had
13 made to --

14 A. I made multiple calls to 911. I don't know which
15 ones you're talking to specifically.

16 Q. Does that mean you weren't able to hear them? I
17 played two here when Ms. Ganowski was on the stand.

18 A. The two to the -- about the fire?

19 Q. Yeah.

20 A. Yeah, I heard those.

21 Q. Did you hear those?

22 A. Yes.

23 Q. Okay. And so when you called first, you told 911
24 that you just wanted to make it part of the record
25 that your neighbor had told you about the smoke

1 bombs?

2 A. Right.

3 Q. Okay. And then -- and you didn't say anything about
4 any current smoke bombs or the purpose of that phone
5 call was to put on the record about what you had
6 learned from your neighbor?

7 A. Right. We did smell the smoke bombs when we got
8 there.

9 Q. So the purpose of that first 911 call was to put on
10 the record of what you knew; correct?

11 A. Correct.

12 Q. And then you called 911 again. And during that 911
13 call, all you talk about is their burning. You
14 don't talk about --

15 A. I believe I mentioned the smoke bombs.

16 MS. PURVES: Yeah.

17 THE WITNESS: I'm mentioning that as something
18 that's has already happened and now -- now there's a
19 fire.

20 BY MS. LaCROSS:

21 Q. Could we play that one more time, just so that we
22 can clarify that.

23 So when you -- it's your testimony that during
24 that second phone call when you state, "earlier I
25 called and reported."

- 1 A. Right.
- 2 Q. That you were -- you're referring to what?
- 3 A. The first time I called.
- 4 Q. Okay.
- 5 A. And the second call, I referred to the first call.
- 6 Q. Okay. And the purpose of the first call was to talk
7 about what had happened -- at least an hour, because
8 it took you guys at least an hour to get home prior;
9 correct?
- 10 A. That's probably about right.
- 11 Q. So the purpose of the first call was merely to talk
12 about what had happened a prior -- at least a
13 prior -- an hour prior until you guys got home?
- 14 A. It was to call about what our neighbors had informed
15 us of and the evidence of the smoke when we got
16 home.
- 17 Q. Okay.
- 18 A. We could tell something had happened.
- 19 Q. Okay. And then the second phone call is you're only
20 speaking about calling to report a fire?
- 21 A. I'm calling -- and I mention the smoke bombs. But
22 to be honest with you, I was so afraid of the fire
23 that at that moment the smoke bombs didn't seem like
24 it was -- you know, I -- you know, I think I was
25 upset enough about the fire that I wasn't going, oh,

1 they have just lit off some more smoke bombs and
2 she's lit a fire.

3 I mean, I was talking about what to me was the
4 immediate danger.

5 Q. A fire that had -- if anybody else lit, and that you
6 later learned was in a Chiminea; right?

7 A. Right.

8 Q. Okay. That if anybody else had lit, you would not
9 have been worried about it?

10 A. I would say that if -- if somebody else had lit it,
11 for example, the neighbors on the other side, who --
12 who we haven't had any of this history with, that I
13 would have felt comfortable in asking them what was
14 going on.

15 Q. And it was a fire that was in a Chiminea?

16 A. It turns out it was in a Chiminea.

17 Q. And the flames that came up were just at the
18 beginning; correct? It wasn't a consistent --

19 A. Right.

20 Q. -- fire of flames up?

21 A. Right.

22 Q. Right. Kind of like when somebody first starts a
23 fire and then it went down to a normal fire;
24 correct?

25 A. Correct.

1 Q. So for the amount of time that those flames went up
2 had been seconds? I mean --

3 A. Actually, it kind of came and went as she was
4 putting more fire on it. She would put a piece of
5 wood on it, I would kind of flame up.

6 Q. And then flame right back down; right?

7 A. I would imagine so. After the fire started, my
8 first reaction was -- when I saw it flaming up was
9 to call 911.

10 Q. But it's -- basically, it was just a normal fire in
11 a Chiminea; correct?

12 A. As it turns out; that's correct.

13 Q. Okay.

14 (Recording played)

15 "Kitsap 911, what are you reporting? " This is a
16 nonemergency.

17 "Okay. How can I help you?

18 "Actually, we have an ongoing conflict with our
19 neighbor. And she now has an open fire going right next
20 to our fence.

21 "Okay. What's the address?

22 "And putting wood on it. 2108.

23 "The street?

24 "I don't know if that's legal or not, but it's
25 an open fire and she's been putting off smoke bombs this

1 afternoon.

2 "Okay. Sir. 2108. What was the street?"

3 (Recording ended)

4 BY MS. LaCROSS:

5 Q. So right there you state she had been putting off
6 smoke bombs this afternoon.

7 Okay. So you're referencing the information
8 you heard from your neighbor that brought you guys
9 home from dinner; correct?

10 A. I was referencing all of the smoke bombs that had
11 been lit off.

12 Q. Well, when you stated she has been putting off smoke
13 bombs this afternoon, you didn't -- what time was it
14 when you made this phone -- this 911 call?

15 A. I don't recall right now.

16 Q. Was it in the afternoon?

17 A. It was after we got home.

18 No, it was in the evening.

19 Q. Later in the evening?

20 A. Yeah.

21 Q. Okay.

22 (Video played).

23 "Oh, I'm sorry.

24 "That's okay.

25 "Madrona Point Drive.

1 "In Bremerton? And what is -- what is that is
2 on fire? Garbage? Wood.

3 "I don't know -- I have no idea. It's hard to
4 tell, but she -- but earlier I called and
5 reported --

6 "Yeah."

7 BY MS. LaCROSS:

8 Q. So the "earlier I called and reported" is what we've
9 already established --

10 A. Right.

11 Q. -- was just about the neighbor.

12 "It was about the smoke bomb.

13 "I reported the smoke bomb.

14 "Yes, sir.

15 "So now she's out burning stuff.

16 "Okay. And do you think that she's --

17 "She's throwing wood on it --

18 " -- doing this to bother you?

19 " -- so it it's a -- yes, it's bothering us.

20 And she --

21 "No, do you think it's intentional to bother
22 you.

23 " -- probably peaking through the fence between
24 us.

25 "Okay.

1 "It's -- I believe it's harassment.

2 "Okay.

3 "And she -- we've been trying to serve a
4 harassment order against her. So I would like a
5 police officer to come out and stop this.

6 "Okay. Do you think that the fire department
7 needs to respond for the burning issue? Or do you
8 think that just police are needed?

9 "Well, I don't know if -- are open fires legal
10 here?

11 "Well, it depends onto the burn conditions sir
12 so I have to let fire department know if there is a
13 concern with the fire.

14 "Okay. I have no idea. But --

15 "If your concern is more the harassment --

16 " -- she's been setting off smoke bombs. I
17 mean, I'm afraid for our safety. " Hang on a second.
18 Okay.

19 "[Indecipherable].

20 "Is that your address or hers, the 2108.

21 "That's hers. Ours is the 2102.

22 "Okay.

23 "2102 Madrona Point.

24 "And the phone number for you?

25 "816-598-3345.

1 "And remind me of your name?

2 "Jim Closson, Closson.

3 "Thank you.

4 "And I'll tell you, if this was any other
5 situation I would think it was probably okay. But
6 I'm afraid of this woman.

7 "No, I understand that. Hold on that just a
8 second. Okay.

9 "She's been -- she's been saying stuff over the
10 fence too.

11 "Okay. What I'm going to do, sir, is enter a
12 call for both agencies. So hold on a minute. I've
13 already entered the fire one. I need to notify the
14 police as well. Okay?

15 "Thank you."

16 BY MS. LaCROSS:

17 Q. So now, you had mentioned there at the end that
18 she's been setting off smoke bombs and that --

19 "Okay. Just keep yourself a safe distance
20 away, sir. Some type of change in the meantime, I
21 need you to give us a call back okay.

22 "Thank you.

23 "Thank you."

24 BY MS. LaCROSS:

25 Q. So is it your testimony that that was about a

1 different smoke bomb? Or that's about the same
2 time -- same incident with the neighbor?

3 A. No. It's my testimony that when I mentioned smoke
4 bombs in the 911 call, I was referring to all the
5 smoke bombs that had been lit off. The ones we had
6 witnessed as well as the ones that had been conveyed
7 to us in a phone call from the neighbor.

8 Q. And did you talk to the fire department about those
9 smoke bombs?

10 A. I did.

11 Q. And did the fire department find any evidence of
12 smoke bombs?

13 A. They did not. They -- I believe what they said is
14 when they -- when they came out the first time, that
15 by the time they came out there was no evidence of
16 smoke. So -- so I believe they came out maybe even
17 before we had gotten home, they -- the -- they said
18 when they came out the second time, that's they had
19 a conversation with her that it was in a Chiminea
20 and that it was a legal fire.

21 Q. And they let them continue burning their fire;
22 correct?

23 A. They let her continue burning her fire.

24 Q. Now, you had stated that -- here you testified you
25 heard her say you better be careful of that poor dog

1 being there alone because bad things will happen.

2 Is that correct?

3 A. Something to that order.

4 Q. Now, in your petition, you wrote she mumbled --
5 shouldn't leave that poor dog alone; correct?

6 A. Correct.

7 Q. Okay. And in your petition, you don't include
8 anything about her going on to say that bad things
9 would happen. That's not included in your petition,
10 is it?

11 A. No, it's not.

12 Q. Had you ever met Ms. Kelsey prior to going to her
13 door that night?

14 A. I had not.

15 Q. Okay. And you had just recently moved in to that
16 house; correct? A couple months prior.

17 A. That's right.

18 Q. Okay. And you have witnessed many times where
19 Mr. Longacre has whistled for the dog; correct?

20 A. I witnessed both of them calling for the dogs.

21 Q. Many times?

22 A. He's usually whistling but I've heard her calling
23 for the dogs.

24 Q. Okay. Trying to get the dogs to come back in?

25 A. Right.

1 Q. Okay. Now, were you arguing at the end of that tape
2 with -- with Ms. Kelsey that day you came over to
3 return the dog?

4 A. Was I arguing?

5 Q. Yeah.

6 A. I don't believe I was arguing. I think I was
7 stating -- first of all I was stating that, you
8 know, the dog is -- had gotten into our yard a
9 couple of times. And then I think I went on to say,
10 as she was threatening to shoot me that their dogs
11 kept coming on our property.

12 Q. Okay.

13 A. So I don't think that's an argument. I think it was
14 a statement.

15 Q. Did it get a pretty heated discussion between the
16 two of you?

17 A. I felt like she was just threatening me and I was
18 leaving. So I wouldn't call it heated. I would
19 call it one sided.

20 THE COURT: I'm sorry. Is that all?

21 MS. LaCROSS: I'm just checking one thing and
22 then I'm done.

23 BY MS. LaCROSS:

24 Q. Now, do you recall -- when you called 911 that you
25 stated that this was not an emergency; is that

1 correct? That's what you stated?

2 A. Which call are you referring to?

3 Q. On all of your calls.

4 A. Correct. It's -- it's -- my understanding when you
5 call 911 -- and sometimes they even ask you if it's,
6 you know --

7 Q. And you state that it's not an emergency; correct?

8 A. I think I did several times.

9 Q. Have you ever stated to them that it was?

10 A. I believe when I was talking about the fire that I
11 said that I wanted somebody to come out.

12 Q. Okay.

13 A. And several times I've asked for an officer to come
14 out.

15 MS. LaCROSS: I don't have any other
16 questions.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION

19 BY MS. PURVES:

20 Q. Mr. Closson, does you saying at the beginning of a
21 call, this is nonemergency, mean that you don't
22 think it's a serious situation?

23 A. Not at all. It means that I -- I don't want to go
24 in front of a call that's, you know, somebody dying
25 or life-threatening. But it doesn't mean -- it

1 doesn't mean that I'm not scared.

2 Q. Okay. And did this -- did the conduct Ms. Kelsey
3 has done against you by threatening your life and --
4 that the things that we've talked here today, did
5 that cause substantial emotional distress?

6 A. It did and it does. It continues to every day.

7 Q. Okay.

8 MS. PURVES: And that's it. I don't have any
9 other questions.

10 THE COURT: Any recross?

11 RECROSS-EXAMINATION

12 BY MS. LaCROSS:

13 Q. When you called 911 to report Ms. Kelsey threatened
14 to shoot you, you specifically stated that was not
15 an emergency; correct?

16 A. I -- correct.

17 MS. LaCROSS: Okay. I don't have any other
18 questions.

19 THE COURT: Any redirect?

20 MS. PURVES: No, Your Honor, we're out of
21 time.

22 THE COURT: Do you have any other witnesses?

23 MS. PURVES: I do not.

24 THE COURT: Okay. Ms. LaCross, your first
25 witness?

1 MS. LaCROSS: Your Honor. I don't know how
2 we're going to get through this by 4:30. Because
3 I'm --

4 THE COURT: We're going to keep trying. So
5 just call your next witness. I should have started
6 this before lunchtime. Anyway, call your next witness.

7 MS. LaCROSS: Well, I was expecting another
8 witness to be called and Ms. Hjelmaa. Hjelmaa and
9 she's present. And I would just like to call her. I
10 just have a question. So if I could call Ms. Hjelmaa
11 to the stand.

12 I was expecting the petitioners to call.

13 MS. PURVES: But we didn't.

14 MS. LaCROSS: But they didn't. But I want to
15 call --

16 THE COURT: That's fine. Okay. Come on up.
17 If you would raise your right hand, please.

18 Do you swear or affirm the testimony you are about
19 to give is the truth, the whole truth, and nothing but
20 the truth?

21 THE WITNESS: Yes.

22 THE COURT: Okay. Have a seat. Make sure you
23 speak up. And if you could state your full name and
24 spell your last name for the record.

25 THE WITNESS: My name is Cindy -- I'm sorry, I

1 have laryngitis.

2 Cindy Hjelmaa. Cindy Jean Hjelmaa. H, as in
3 "house," j-e-l-m-a-a.

4 THE COURT: I'm sorry. L-m-a-?

5 THE WITNESS: A. Two As.

6 THE COURT: Okay.

7 THE WITNESS: H-j-e-l-m-a-a.

8 THE COURT: Okay.

9 MS. LaCROSS: How do you pronounce that?

10 THE WITNESS: "Jel-maa." It's Norweigan.

11 MS. LaCROSS: "Jel-maa."

12 CINDEY HJELMAA, witness herein, having been first
13 duly sworn on oath, was examined
and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. LaCROSS:

16 Q. I have a quick question.

17 Now, you are the individual that called because
18 you saw smoke; correct?

19 A. Yes.

20 Q. Okay. And you've been here in the courtroom and you
21 recollect what I'm talking about the day about the
22 smoke bombs that you stayed that you saw and you
23 called 911; correct?

24 A. Yes.

25 Q. Okay. And so you saw those and it was daylight

1 out --

2 A. Yes.

3 Q. -- correct?

4 A. Mm-hmm.

5 Q. And around -- do you know what time that was?

6 A. I'm guessing, at this point, early evening.

7 Q. Okay. And then you called Ms. Ganowski; correct?

8 A. Yes.

9 Q. Okay. So that incident, did you see any other
10 incidents with smoke after that?

11 A. The smoke went on collectively for about 20 minutes.
12 But then it dissipated because the smoke changed
13 direction and went back to another direction.

14 And I don't know if my husband and I stayed out
15 on the deck or not after that.

16 So I don't know if there was anything after.

17 Q. Okay. So you didn't have any other sighting after
18 that one; correct?

19 A. No. But I don't -- I don't recall if we stayed out
20 on the deck or not.

21 Q. Okay.

22 MS. PURVES: Are you done?

23 MS. LaCROSS: Yes, I'm done.

24 THE COURT: Cross.

25 CROSS-EXAMINATION

1 BY MS. PURVES:

2 Q. Yeah.

3 Ms. Hjelmaa you mentioned that the smoke
4 changed direction and then it stopped.

5 What did you mean by that?

6 A. When we originally -- when my husband and I
7 originally saw the smoke, it was going in the
8 direction of Lisa's home. And all the
9 repetitive [verbatim] homes. And it would dissipate
10 and then we would see another flare-up of light
11 smoke and it would float down. And that continued
12 for about 20 minutes.

13 The last time that I saw the smoke go up, the
14 wind had changed. And so it went into -- towards
15 Mr. Longacre's home. And then we didn't see it
16 anymore.

17 Q. So it stopped when the wind changed --

18 A. Yes.

19 Q. -- and it wasn't blowing it into Lisa's house
20 anymore --

21 A. From what --

22 Q. -- from what you could see?

23 A. -- I observed, yes.

24 Q. But you couldn't see who was lighting the smoke
25 bombs. You just saw where they were coming from;

1 right?

2 A. Yes. Just saw where they were coming from, yes.

3 MS. PURVES: Thanks. No questions.

4 THE COURT: Redirect?

5 MS. LaCROSS: I don't have any.

6 THE COURT: Okay. This witness may be
7 excused.

8 Okay. Next witness.

9 MS. LaCROSS: I would like to call Ms. Kelsey.

10 THE COURT: Okay. If you would raise your
11 right hand, please.

12 Do you swear or affirm that everything you are
13 about to tell us is the truth, the whole truth, and
14 nothing but the truth?

15 THE WITNESS: I sure do, Your Honor.

16 THE COURT: Okay. Yeah. Have a seat.

17 For the record, state your full name and spell
18 your last name is?

19 THE WITNESS: My name is Elizabeth Jane
20 Kelsey. And it's K-e-l-s-e-y. And Jane is J-a-n-e.

21 THE COURT: Okay. Ms. LaCross?

22 ELIZABETH KELSEY, witness herein, having been first.
23 duly sworn on oath, was examined
and testified as follows:

24 DIRECT EXAMINATION

25 BY MS. LaCROSS:

1 Q. Ms. Kelsey, okay, so -- now, where do you live?

2 A. 2108 Madrona Point Drive, Bremerton, Washington
3 98312.

4 Q. Okay. And how long have you lived there?

5 A. Since November, 1998.

6 Q. Since 1998.

7 A. November 11th, 1998.

8 Q. Okay. And so did -- can -- do you recall the day
9 that you moved in?

10 A. I sure do. I was 35 years of age. I worked really,
11 really hard to buy a home on my own. Most girls I
12 knew were getting married and -- to be able to get a
13 home. I was very proud of myself. I had worked
14 since I was 16 years of age. And I saw the house in
15 Bremerton. I fell in love with it.

16 And then within six hours of seeing it, I
17 called a realtor and made an offer on the house.
18 It's my very first house I ever bought.

19 Q. Okay. And now, you've had some problems with some
20 neighbors in this area; correct?

21 A. Yes, ma'am. The day after I made the offer and they
22 accepted it, we drove -- I drove to --

23 THE COURT: Just a minute. That's not
24 responsive and we're not going to talk about 1998.

25 MS. LaCROSS: I didn't mean to get -- okay.

1 THE WITNESS: Okay. Sorry.

2 THE COURT: Get control of the examination,
3 please. So go ahead.

4 BY MS. LaCROSS:

5 Q. So, well -- as far as let's talk about these
6 allegations that are against you right now?

7 A. Sure.

8 Q. So how many dogs do you have?

9 A. Three.

10 Q. Three dogs. Okay. Have you ever had eight dogs?

11 A. Never.

12 Q. Okay. And what type of dogs do you have?

13 A. I have three Lhasa Apsos.

14 Q. Three Lhasa Apsos?

15 A. Yes.

16 Q. Okay. And what color are they?

17 A. I have a tan one, a white one, and a tan and white
18 one.

19 Q. Okay. Do you have a small black and white dog?

20 A. No, I don't. Clayton does.

21 Q. All right. So you only own three dogs; correct?

22 A. Yes, ma'am.

23 Q. And how long have you had those dogs?

24 A. One of them is 20.

25 Q. Okay.

1 A. And the youngest one is four so within that amount
2 of time frame.

3 Q. All right. Now, have your dogs ever gotten out of
4 their yard?

5 A. My small dogs do not leave my yard. My three dogs
6 are actually afraid to go anywhere near the water.
7 Those are my dogs.

8 Q. Okay.

9 A. And they don't want to go near the water. They are
10 Lhasa Apsos. They don't do beaches and they don't
11 do water.

12 Q. So they don't even go down to the beach?

13 A. No, they don't. They poop in my backyard and we put
14 it into our --

15 Q. Okay. And one is 20 --

16 A. Yes.

17 Q. -- years old.

18 And how old are the other two?

19 A. My youngest is four. So the one in the middle is
20 about seven.

21 Q. Okay. All right. Are you home with them regularly?

22 A. I am now.

23 Q. Okay. All right. Let's see.

24 Now, so you do your best and you're responsible
25 to your three dogs; correct? That you keep

1 contained within the fence and within your house.

2 A. My dogs actually go in the car with me when I go
3 places. It's been that way since I was about 18.

4 Q. Okay. Now, I want to talk about this night where
5 Mr. Closson came over to your house. All right. Do
6 you recall that?

7 A. You bet.

8 Q. All right. Now, first of all, that he was returning
9 a black lab; correct?

10 A. I was in the shower when I heard someone yelling
11 through the front door.

12 Q. Okay. So -- but -- all right. So you were in the
13 shower?

14 A. And I heard someone yelling through the front door.
15 You need to leave. You need to leave the
16 neighborhood now and swearing.

17 Q. Okay --

18 A. The beginning of the tape is when I came downstairs.

19 Q. Okay. So you're hearing yelling?

20 A. Mm-hmm.

21 Q. All right. And through -- while your shower is
22 going on you are able to hear this?

23 A. Yeah. We have a front door that is split, so the
24 top of the front door was already open. It's a
25 French split door.

1 Q. Okay.

2 A. It's a two-thirds, one-thirds. So the one-third of
3 that top door was open.

4 Q. Okay. All right. And you could hear -- okay.

5 So what do you do?

6 A. I don't know who it is. I don't recognize the voice
7 and I don't understand why I'm being yelled at to
8 leave. So I put a towel around me. And I realize
9 that's not enough, I throw a robe around me and I
10 come down the stairs.

11 Q. Okay. And -- and what do you see when you come down
12 the stairs?

13 A. This person in the courtroom, Jeff Closson. I've
14 never spoken to or talked to before. I don't know
15 him as Jeff Closson. I don't know him at all.

16 Q. Had you seen him before?

17 A. No, I hadn't seen him.

18 Q. Okay.

19 A. Like, I didn't recognize the face.

20 Q. Okay.

21 A. And he had been yelling while I was in the bathroom.
22 I was trying to figure out what was being yelled and
23 as I came down the stairs, he lifted this dog over
24 the -- the -- the two-thirds of my doorway.

25 Q. Okay. And --

1 A. That's when you hear the tape come on and he says,
2 Jeff -- I'm Jeff your neighbor. But that's not all
3 that was said.

4 Q. Okay. So you listened to that tape here in court;
5 correct?

6 A. Correct.

7 Q. And it's your testimony that there was prior
8 interaction before that tape came on?

9 A. Yes. And then when it cuts off, there's a whole
10 bunch of interaction where I told him what she had
11 been doing to us --

12 Q. Uh-huh.

13 A. And none of that's on that tape.

14 Q. Okay. So were you yelling at him, or --

15 A. Oh, no, I was trying to talk to him --

16 Q. Uh-huh.

17 A. -- once I figured out he wasn't the guy with the
18 white car --

19 Q. Uh-huh.

20 A. -- I was trying to express to him how harassed we
21 had been by this person who I've never spoken to,
22 never met. Never been friends with. I don't even
23 know her.

24 Q. Okay. All right. And that didn't go well?

25 A. No. He started yelling back and -- your tapes broke

1 it off. Because I tell him, what she's doing to us,
2 he better be careful because she'll do the same
3 thing to him. And that's not on the tape.

4 Q. Okay. And so you tell -- you make the statement
5 that you are going to shoot him. What's that about?

6 A. Well, I'm scared. I really I apologize for saying
7 that. I was scared. I was in my home by myself.
8 And as I came down the stairs I didn't even
9 recognize this man. I know everyone in the
10 neighborhood and everyone knows me. They wave all
11 the time.

12 Q. Uh-huh.

13 A. And I was scared.

14 Q. Okay.

15 A. So when I tried to explain to him, in the tape part
16 that you don't hear, what had been happening. I
17 asked him, "Are you the guy in the white car?"

18 Because the guy in the white car put all the
19 snow on our lawn. If he was the guy in the white
20 car, I wasn't ever going to speak to him. I would
21 just stop talking.

22 Q. And that was back in February?

23 A. February 14th, on Valentine's Day.

24 Q. Okay. All right.

25 A. And then he said I'm not the guy in the white car.

1 So I assumed he was the guy in the burgundy car. I
2 called him a bad name.

3 Q. All right?

4 A. I think I called him a jerk or an asshole at that
5 point. Because of what I heard as I'm up in the
6 shower, someone is yelling eff this, eff that, this
7 effing dog, effing you, effing this, effing that.

8 So we were sort of in the effing mode already
9 before I even knew there was a person at my front
10 door. I just knew that someone was yelling in my
11 home.

12 Q. Okay.

13 A. But yet there was no one in my home but me.

14 Q. Okay. All right. And now through the course of
15 this interaction, you're -- you're scared yourself;
16 correct?

17 A. Yes.

18 Q. All right.

19 A. I'm physically shaking.

20 Q. And it didn't go well between and you Mr. Closson;
21 correct?

22 A. No, not at all.

23 Q. And you weren't exactly nice yourself; correct?

24 A. No. I have felt completely harassed by the new
25 neighbor.

1 Q. And so then you made the statement about threatening
2 to shoot him?

3 A. In the context of coming back over onto my property
4 and doing what he just did. That's the context.

5 Q. So the purpose of that was -- this is your property,
6 don't come onto my property; correct?

7 A. And he has been -- they have been told that three or
8 four times before with the snow and the sewer stuff
9 coming into our house and them overflowing their
10 toilets. They were told back then. So this is not
11 the first time.

12 Q. Okay.

13 A. And so now I'm frustrated, scared, and he's at my
14 door and his body is leaning in my door.

15 Q. Okay. And this is the first time that he's been at
16 your door that late at night; correct?

17 A. The first time I've ever seen him.

18 Q. Okay.

19 A. At all. First time any man has come to my door and
20 leaned in or anything like that. That doesn't
21 happen.

22 Q. So the -- the harassment that you've experienced was
23 from Ms. Ganowski, or comes from Ms. Ganowski's
24 house?

25 A. The house, yeah. But I don't -- from the house.

1 From anyone that's over there for some reason they
2 feel they need to be doing things to me or my
3 property. And I don't know them. I've never met
4 them.

5 Q. So tell me about the snow.

6 A. February 14th, Clayton was stuck up at the shop
7 because of the terrible snow. He couldn't get down.
8 We were trying to spend a Valentine's dinner with
9 each other. My dogs barked quite a bit. Small one
10 was barking inside because they are protective. And
11 I looked out and her son, who I know to be her son,
12 because I've seen his picture on the internet since
13 then, and the roommate that was living there was
14 shoveling snow onto -- over a six-foot fence.
15 Shoveling huge shovels over the six-foot fence onto
16 our lawn so much, I have pictures of it that it's
17 six feet high, a huge mound, and their yard is
18 completely clear.

19 Q. Okay.

20 A. So I don't do anything about it at all. I'm afraid
21 to contact or do anything.

22 Q. Okay.

23 A. I just stay inside the house when he comes home. He
24 sees it.

25 Q. Uh-huh.

1 A. And I go, oh, my gosh yeah, that's what happened. I
2 wasn't going to go out there and do anything.

3 And so he just walked over there and tried to
4 talk to her.

5 Q. Okay.

6 A. Clayton, as everyone knows, is really calm.

7 Q. So did -- now, were there any incidents -- here. Is
8 there any better picture. Let's see.

9 A. Yeah. It's the snow. It's huge.

10 Q. So I'm going to show you --

11 A. Yes, ma'am. That's it.

12 Q. Can you see it with the glare?

13 A. Yes.

14 Q. Can you tell me what you are looking at?

15 A. I'm looking at the snow that a young man that drives
16 a white Prius that used to live at her house, and
17 her son who drives a red Subaru with gray along the
18 bottom are -- those are the two that put the snow
19 there.

20 Q. So, now, is this here -- I'm pointing to a fence;
21 correct?

22 A. That's my fence.

23 Q. And is this your side of the property?

24 A. Yes, ma'am. And they put the snow over the fence.

25 Q. And that snow is on your side of the property on

1 your yard; correct?

2 A. Yes. And my lawn is destroyed because of it.

3 Q. Okay. So -- and you saw individuals doing that;
4 correct?

5 A. Yes.

6 Q. All right. Now -- and also, can you see from this
7 picture right here that there's a car parked right
8 there; is that correct?

9 A. Yeah. Could you -- yes, that's -- that's our car.

10 Q. Okay. All right. So have you had any other
11 incidents with issues at Ms. Ganowski's house
12 towards your house?

13 A. I did call her a fucking bitch. The complete
14 statement was: What kind of woman teaches her sons
15 to do that to another human being?

16 Because later on in life they'll have lots of
17 problems if you don't catch it now. And I called
18 her a "fucking bitch." And that is completely
19 accurate of what I said.

20 Q. And that was about --

21 A. February 14th, about the snow, because Clayton was
22 over there was at the door, and as he was at the
23 door she was standing there telling him, she didn't
24 have any idea how it got there; that there was no
25 son in her house. And it was lies. They were

- 1 standing in the window. You could see them.
- 2 Q. Okay. You could see --
- 3 A. The boys laughing and pointing at Clayton.
- 4 Q. Okay. So in this picture here, do you see the car?
- 5 A. That's his white car, the person that put the snow
6 on the property with her son.
- 7 Q. Okay. And -- all right. So you did make -- you did
8 call her a name during that interaction as she was
9 talking with Clayton; correct?
- 10 A. No. She got done talking with Clayton. Claimed
11 that it didn't happen. Clayton was almost
12 two-thirds of the way back onto our property. And
13 she still had her head out there. I as a woman
14 really wanted another woman to know you've got to
15 teach young men better.
- 16 Q. So now, after that incident -- tell me about the
17 sewage incident.
- 18 A. So I wasn't really aware that they were living
19 there. I would like to say when they moved in that
20 sign -- and when they looked at their house, that
21 sign was on my house.
- 22 Q. Okay. Well, I'm asking you about the sewage.
- 23 A. The sewage. It's the same time.
- 24 Q. Okay.
- 25 A. So they moved in. And Thanksgiving came and sewage

1 just started pouring in our house. Our bathroom.
2 Our whole side wall there. It has destroyed our
3 whole wood floor.

4 MS. PURVES: Your Honor. Objection.
5 Relevance.

6 MS. LaCROSS: Okay.

7 THE WITNESS: And when I looked out there were
8 plumbers.

9 THE COURT: Just a minute. What?

10 MS. PURVES: The -- first of all, we don't
11 know when this happened. And we've already -- the
12 Court's already instructed them not to go back to --

13 THE WITNESS: This isn't 1998. This is just
14 two years ago.

15 BY MS. LaCROSS:

16 Q. Well, when --

17 THE COURT: Okay. What's the sewage incident?
18 I know that's in the lawsuit. What's that have to do
19 with this harassment case?

20 MS. LaCROSS: Well, because it's -- petitioner
21 is trying to paint a picture that my client is
22 harassing them.

23 And I'm trying -- and that they are just kind of
24 sitting back and not responding to any of this, or --
25 as if they are -- and I'm trying to show that this is

1 actually a more of a dispute, that they are more
2 active -- involved in.

3 THE COURT: Okay. Overruled. Go ahead.

4 BY MS. LaCROSS:

5 Q. So tell me about -- okay.

6 So the sewage incident was in -- around
7 Thanksgiving?

8 A. It was on Thanksgiving. Thanksgiving and the day
9 after.

10 Q. Of 2017 or 2018?

11 A. '18.

12 Q. Okay. So --

13 A. And they had three plumbing cars in the driveway all
14 day long and they were down in the hill trying to
15 figure out what was wrong.

16 Q. Okay. And so what came from that? What did that
17 lead to? What did that cause?

18 A. We wrote a note to them and asked them to please
19 provide their insurance information so we could get
20 our floors fixed. They are completely black from
21 this.

22 Q. Okay.

23 A. And they have never responded at all. Their
24 response was to file a -- an antiharassment thing on
25 me.

1 Q. So the sewage that happened, did damage to your
2 house; correct?

3 A. Yes. Big damage. We have black mold and the floors
4 are destroyed.

5 Q. And you've attempted to contact them about that;
6 correct?

7 A. We wrote a letter to them and gave it to them. Put
8 it on their doorstep.

9 Q. All right. And you didn't get any response?

10 A. Ma'am, in the letter is about the sewage and about
11 their shed that they put on our property line.

12 Q. Uh-huh.

13 A. They read the letter and moved the shed and never
14 responded to anything about the sewage.

15 Q. Okay. All right.

16 A. Moved the shed by four feet, because we said that
17 the county law was four feet off our property line,
18 please. So they moved it four feet back and never
19 responded to the sewage.

20 Q. Okay. So there are ongoing issues between -- that
21 you have with Ms. Ganowski; correct?

22 A. Yes, ma'am.

23 Q. Okay. And how her actions have affected your house;
24 correct?

25 A. Yeah. And my peace living at my home.

1 Q. So --

2 A. So much that I'm selling my house.

3 Q. So I want to talk about the smoke bombs. Okay?

4 Did -- did you light off any smoke bombs?

5 A. When my sister was six she got her face burned with
6 smoke bombs and she still has scars and I've never
7 touched a smoke bomb since I was five. Ever.

8 Q. Okay. Have you -- so you don't have anything to do
9 with fireworks?

10 A. I don't do fireworks period. I never have since I
11 was a kid. I never did when I was a kid, because I
12 saw my sister almost die. My whole family can
13 attest to this. And I've never even bought a fire
14 work. My restaurant is on a reservation where
15 there's fireworks stand right next to my restaurant
16 and I've never bought one.

17 Q. Okay. All right. So is that your testimony that
18 you did not light any smoke bombs off on --

19 A. I've never lit any smoke bombs off in my yard. I
20 never even lit a fire in the Chiminea that night.

21 Q. Okay. So tell me about that night with the
22 Chiminea. Tell me what happened there?

23 A. I asked Clayton if he would light the Chiminea, and
24 he came out and lit it. And I sat next to it. And
25 that's all that happened. And then all of a sudden

1 this police car and this huge fire truck -- not a
2 little fire truck, huge, hook and ladder -- comes
3 roaring in front of my house.

4 When I saw it, I had tears in my eyes, and I
5 said, oh, great, here's the neighbors again.

6 Q. Okay.

7 A. So the fireman came up to the fence and stuck his
8 head over and said may I come in? And I said: Am I
9 doing anything wrong? And I went over and grabbed,
10 like, a picture of water like that and held it up.
11 I said officer if I'm doing anything wrong, I would
12 be glad to poor it on my little Chiminea right now.

13 And he laughed and said, ma'am you are not
14 doing anything wrong at all. Looks like you are
15 enjoying a nice fire.

16 I said my husband just lit it and he left. And
17 that's it. And that's all -- and there was one
18 piece of wood in that Chiminea. There wasn't wood
19 being constantly put in, or anything like that.

20 Someone says I haven't been doing fires until
21 now, I worked 20 hours a day for 11 months, and I
22 never was home.

23 So that's why I didn't do fires, because I was
24 working 20 hours a day for 11 months and I was never
25 home.

1 Q. Okay. And at this time were you still working those
2 hours?

3 A. This is right near the end of those hours.

4 Q. Okay. So I am going to show you a picture here,
5 from I believe Exhibit 3. Can you see that?

6 A. If you just -- that's the Chiminea. I bought at
7 Lowe's, like, five years ago.

8 Q. So is that the Chiminea that you were having the
9 fire in?

10 A. Yeah. Can he see it. Yeah, that's the Chiminea
11 that I had a fire in.

12 And earlier someone testified that I kept going
13 over and getting wood. Could you please look at the
14 right there. That little container is where the
15 wood is and there's one piece left in it and there's
16 one in the Chiminea. I don't -- I don't go walking
17 over to get wood. It's just right there and there's
18 one piece.

19 Q. Okay.

20 A. I found that interesting. Because it wasn't
21 accurate.

22 Q. Do you own a black lab?

23 A. Clayton owns a black lab. And he's only had it for
24 a few months.

25 Q. Okay. That's not your dog?

1 A. No, ma'am.

2 Q. Okay. You have three dogs?

3 A. Yes.

4 Q. And?

5 THE COURT: Just -- when do we have to quit?

6 THE CLERK: I was just letting -- letting
7 security know that we were still going. So I don't
8 know. That's up to you.

9 THE COURT: What's your normal end time.

10 THE CLERK: 4:30.

11 THE COURT: Okay. And you have to go back to
12 your office and do things there and stuff?

13 THE CLERK: Yes.

14 THE COURT: Okay. Okay. Unfortunately we're
15 going to have to recess, are we able to started this up
16 at 9:00 in the morning.

17 THE CLERK: With you? Okay. I will --

18 THE COURT: Okay. Is everybody -- everybody
19 is able to be here at 9:00 tomorrow morning.

20 MS. PURVES: The petitioners can't be here.
21 Let me check with them.

22 They both have commitments tomorrow. And the
23 Court's already heard their testimony. And it's civil
24 motion. I mean, does -- are the petitioners required
25 to be here?

1 THE COURT: If you don't want them here or
2 don't need them here, I guess that's ultimately up to
3 you. That's fine.

4 MS. PURVES: Ms. LaCross. Do you have any
5 other witnesses?

6 MS. LaCROSS: Mr. Longacre.

7 MS. PURVES: Okay.

8 THE COURT: It's up to you.

9 MS. PURVES: Okay. I would rather get the
10 hearing done than --

11 THE COURT: Okay. If you don't -- if you
12 don't need rebuttal evidence or anything like that,
13 then that's fine.

14 THE CLERK: How long is it going to take for
15 today. If we were to go further?

16 MS. LaCROSS: I'm not going to have --

17 THE COURT: Okay. That's all I need to know.

18 MS. LaCROSS: I know this -- I know they won't
19 go past like five. That's way stretching it to let us
20 stay here until five. And I just don't see direct,
21 cross -- direct and cross to be able to be accomplished
22 by that time. I'm willing to stay here until however
23 how long, but I know the Court --

24 THE COURT: Yeah, I agree. But I don't see
25 how -- okay. So can we plan on starting up at

1 nine o'clock in the morning.

2 MS. PURVES: Yes.

3 MS. LaCROSS: Yes.

4 MS. PURVES: And will the Court issue --
5 reissue the temporaries, because I think they expire
6 today.

7 THE COURT: Yes. However quickly you can
8 write those up and give them to me.

9 THE CLERK: I don't have anything. Those
10 aren't -- let me talk to Ms. Robison to figure out --

11 THE COURT: I mean, it's possible. It seems
12 to me like those temporary orders are still in effect
13 because the hearing is still going on.

14 MR. LONGACRE: And we will certainly abide by
15 them, Your Honor.

16 THE COURT: All right.

17 MS. PURVES: How about I just do a blank order
18 with all that say the order is -- extend through
19 September 17th.

20 THE COURT: So can we continue at nine o'clock
21 in the morning.

22 MS. ROBISON: Well, I need to know if they
23 need you up north, because Judge Bassett needs to be
24 here.

25 THE COURT: No, I'm pretty sure they are not

1 going to need me.

2 THE CLERK: Let me see what you have on your
3 calendar real quick.

4 THE COURT: I'm sorry.

5 THE CLERK: Yeah, he doesn't have anything
6 tomorrow.

7 THE COURT: Yeah, if you can e-mail Sophie and
8 tell her I have to come back here in the morning and
9 she will need to get a commissioner if they need
10 anything.

11 So we can be here tomorrow at 9:00.

12 THE CLERK: And I will be your clerk tomorrow.

13 THE COURT: Okay. I'll be nice.

14 THE CLERK: And you guys can go ahead and
15 leave the stuff in here. I'll lock it all up. And
16 shut it down.

17 THE COURT: You can go ahead and step down.

18 THE WITNESS: Thank you, Your Honor.

19 THE CLERK: Okay. And we are now off.

20

21 [End of transcription.]

22

23

24

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
Court of Appeals
Division II
 IN **State of Washington** COUNTY OF KITSAP
9/2/2021 4:12 PM

LISA GANOWSKI and JEFFREY)
 CLOSSON,)
)
 Petitioners,) No. 19-2-02402-18
) COA No. 54148-3-II
 v.)
)
 ELIZABETH KELSEY,)
)
 Respondent.)

TRANSCRIPT OF PROCEEDINGS

[Stenographically Transcribed via Digital Recording]

VOLUME II OF II

HONORABLE KEITH HARPER
 Pro Tempore
 Kitsap County Superior Court

APPEARANCES

FOR THE PETITIONERS: KYLIE J. PURVES
 Attorney at Law

FOR THE RESPONDENT: JENIECE LACROSS
 Attorney at Law

Date of Hearing: September 17, 2019

Transcribed by: Crystal R. McAuliffe, RPR, CCR #2121

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1 THE COURT: Thank you. Please be seated.
2 Okay. We're back for the second day of hearings in
3 connection with the antiharassment cases involving
4 Ganowski and Kelsey/Closson. Okay.

5 So we left off with Ms. Kelsey was testifying.

6 THE WITNESS: Right here.

7 THE COURT: So, Ms. Kelsey, if you'd come up.
8 Do you swear or affirm that the testimony you're about
9 the give is the truth, the whole truth, and nothing but
10 the truth?

11 THE WITNESS: Yes, Your Honor, I do.

12 THE COURT: Okay. Yeah, have a seat. And
13 just for the record, again, state your name and spell
14 your last name.

15 THE WITNESS: Elizabeth Jane Kelsey,
16 K-e-l-s-e-y.

17 THE COURT: Ms. LaCross.

18 MS. LaCROSS: Thank you, Your Honor.

19 ELIZABETH KELSEY, witness herein, being first duly.
20 sworn on oath, was examined and
21 testified as follows:

22 DIRECT EXAMINATION (Resumed)

23 BY MS. LaCROSS:

24 Q. So -- now, I just -- we talked yesterday about your
25 behavior on -- when Mr. Closson came to your door.

1 When listening to the tape, your voice sounds
2 close and farther away.

3 So can you explain that?

4 A. At one point I went down towards the kitchen --

5 Q. Uh-huh.

6 A. -- because I was afraid. I was looking for my
7 phone. I -- I realized my phone was upstairs.

8 Q. Uh-huh.

9 A. And you can tell in the tape where I'm further away.

10 Q. Uh-huh.

11 A. But he would leave the door area where there's a big
12 cement area.

13 Q. Uh-huh.

14 A. And then he'd say -- we're arguing. And then he'd
15 say something, and then he'd run back to the door,
16 which scared me, and made me go back down towards
17 the kitchen.

18 Q. Uh-huh.

19 A. And then he'd go back up. And that's when I said
20 things, like, they were -- they'd been harassing us
21 for years.

22 Q. Uh-huh.

23 A. And -- and then he'd run back again. So you'll hear
24 my voice fade and be closer because I'm at different
25 parts of the house.

1 Q. Okay. All right. Now --

2 MS. LaCROSS: Your Honor, may I approach?

3 THE COURT: Yeah.

4 BY MS. LaCROSS:

5 Q. I'm going to hand you an -- an item that's marked
6 Exhibit No. 9.

7 Can you look at that?

8 A. Yes.

9 Q. Okay. And can you identify that?

10 A. That is the front view of both our homes that you
11 can see from the street.

12 Q. Okay. So now, on that exhibit, which home is yours?

13 Can you point --

14 A. Mine is --

15 Q. -- it out?

16 A. -- the brown and white home. Right here.

17 Q. Okay. And on that exhibit, can you show your
18 bedroom?

19 A. My bedroom -- my bedroom is here.

20 Q. Okay. And that's your bedroom window? Okay.

21 And --

22 A. All the way over here.

23 Q. Okay. Now, I want to ask a couple questions about
24 the snow incident.

25 A. Sure.

1 Q. Can you -- on that exhibit there, can you show where
2 the snow was at?

3 A. The snow was taken --

4 Q. Piled up.

5 A. -- taken from this driveway by shovel and put over
6 the fence onto this green lawn, which you see in the
7 pictures.

8 Q. Okay. And so -- now, Clayton was shoveling the snow
9 back; correct?

10 A. Clayton asked if the person -- people who put it
11 there would take it away. She said no. So he
12 started taking the snow --

13 Q. Okay.

14 A. -- away.

15 Q. And when he was doing that, you -- you were in your
16 bedroom window?

17 A. All the way over here.

18 Q. Okay. And did you notice -- did you see
19 Ms. Ganowski while Clayton was --

20 A. He went to the door --

21 Q. -- putting the snow back?

22 A. -- I'm sorry -- went to the door to talk to her.

23 Q. Uh-huh.

24 A. And he walked away. I didn't hear voices --

25 Q. Right.

1 A. -- until he was about right here and she had chased
2 him, followed him, yelling, calling him an "asshole"
3 an effing asshole.

4 Q. Okay.

5 A. And that's when I stuck my head out and said what I
6 said yesterday about we, as mothers, should raise
7 boys better.

8 Q. All right. So you were -- you were in your bedroom
9 watching Clayton and you saw an interaction between
10 him and Ms. Ganowski; correct?

11 A. Correct.

12 Q. And that wasn't a friendly interaction; correct?

13 A. From her to him --

14 Q. Right.

15 A. -- but he ignored her and kept walking.

16 Q. Right. Okay. And that's what prompted you to make
17 the statement that you did?

18 A. Yes.

19 Q. Okay. And now, I'm just going to show you what I
20 marked as Exhibit No. 10 and Exhibit No. 11.

21 And do you recognize that?

22 A. Yes, I do. It's the same kind of picture showing
23 more of the front yard of 2102 and less, because it
24 looks like the camera can only capture a certain
25 amount.

1 Q. Okay. So that shows Ms. Ganowski's front --

2 A. Ms. Ganowski's --

3 Q. -- drive area?

4 A. -- home, yes.

5 Q. Okay. And how about Exhibit No. 11, is that
6 basically the same picture?

7 A. Same. Except now you have all Ganowski's home.

8 Q. Okay.

9 A. None of mine.

10 Q. All right.

11 MS. LaCROSS: Your Honor, I would ask to move
12 to admit Exhibits Nos. 9, 10, and 11.

13 THE COURT: Any objection?

14 MS. PURVES: I guess as part of foundation,
15 we -- we didn't hear when these photos were taken.

16 BY MS. LaCROSS:

17 Q. When were those photos taken?

18 A. This morning at 6:00 a.m.

19 Q. Okay.

20 MS. PURVES: No objection.

21 THE COURT: Exhibits 9, 10, and 11 will be
22 admitted.

23 (Exhibits 9 - 11 admitted.)

24 BY MS. LaCROSS:

25 Q. Now, your dogs had gotten out of your yard; correct?

1 A. My three, in the time I've had them, go down -- my
2 three don't.

3 Q. Okay.

4 A. Clayton's -- Clayton's have.

5 Q. Clayton's has?

6 A. Yeah.

7 Q. So Clayton has how many dogs?

8 A. Three.

9 Q. Three dogs?

10 A. Yes.

11 Q. And is that counting the black lab?

12 A. No.

13 Q. Okay. And well -- well, let's explain the black
14 lab.

15 Do you at this time -- is the black lab
16 residing at your house at this time?

17 A. No.

18 Q. Okay. The black lab has been taken -- it's at
19 animal control as we speak; correct?

20 A. We came home last night, and it had been taken
21 during court.

22 Q. Okay. And did you have a conversation with animal
23 control about what you were going to do with the
24 black lab?

25 A. Clayton called last night. And he's following up

1 with a conversation today. So it can go to a -- a
2 family that can train it better.

3 Q. Okay. Do you have any -- so you don't have any
4 plans of having this black lab back in your house?

5 A. No, it's never coming back to our house.

6 Q. Okay. So the three dogs that Clayton has that you
7 stated earlier, what type of dogs are those?

8 A. He has Pekingese.

9 Q. And what -- can you describe their color?

10 A. Yeah. He has a dark -- small dark one.

11 Q. Dark. Which --

12 A. She's chocolate and white, I would say.

13 Q. Okay.

14 A. And she's a little teeny Pekingese.

15 Q. Okay.

16 A. And he has a black and white one.

17 Q. Okay.

18 A. A little black and white one. And the other color
19 is tan.

20 Q. Okay. So can you explain how it is that you have
21 your dogs and Clayton has his dogs and they're not
22 all of your dogs?

23 A. I -- my 20-year-old dog I've had for 20 years.

24 Q. Uh-huh.

25 A. And I had the mother of that dog for 18 years.

1 Q. Okay.

2 A. And my seven-year-old is the daughter of the
3 20-year-old.

4 Q. Uh-huh.

5 A. And my four-year-old is the daughter of the
6 seven-year-old. My dogs are family interrelated.

7 Q. Okay.

8 A. And I've had them since I was about 18 years of age.

9 Q. Okay. And you consider them your dogs; correct?

10 A. They're my dogs.

11 Q. Okay. Now, how come you don't consider Clayton's
12 dogs your dogs? How come they're just Clayton's
13 dogs?

14 A. Because he had them before we met and I had mine
15 before we met.

16 Q. Okay. All right. Now, I am going to --

17 MS. LaCROSS: May I approach again, Your
18 Honor?

19 THE COURT: Yes.

20 BY MS. LaCROSS:

21 Q. I'm going to hand you what's been marked as Exhibits
22 Nos. 12, 13, and 14.

23 A. Okay.

24 Q. Can you identify those pictures? Can you identify
25 Exhibit No. 12?

1 A. Number 12 is a picture of -- the bulkhead goes along
2 here. This is a fire pit right here. This is my
3 bulkhead. That is their bulkhead. This is a fire
4 pit that when I bought the house that was labeled as
5 a fire pit.

6 Q. Uh-huh.

7 A. And they have put a shed on -- right on my fire pit.

8 So the reason why I'm burning wood in my
9 Chiminea up here is because I have -- my rights to
10 use my fire pit have been taken away by someone
11 putting a shed on it.

12 Q. Okay. So you don't -- no longer use your fire pit?

13 A. I can't. Or the shed would catch on fire.

14 Q. So you have a Chiminea now?

15 A. So now I had a Chiminea up at the top that I used.

16 Q. Okay. Now, are there any gates on that -- let's
17 see --

18 A. This is what -- Clayton put a gate there.

19 Q. Okay. And --

20 A. And a gate right behind this, and this is what was
21 referred to as trash yesterday to hold that one gate
22 up, and this gate, so that any time the black lab
23 was trying to -- it would go down and swim, and we'd
24 be called over, so she'd try to come over. The
25 black lab thought the whole backyard, both our

1 backyards were her home.

2 Q. Okay.

3 A. Because she was treated well in both yards.

4 Q. So when did you take that picture, or when was that
5 picture taken?

6 A. This morning at 6:00 a.m.

7 Q. Okay. And were those fences -- when did those
8 fences that you pointed and the -- can you see the
9 couch kind of in there?

10 A. Yes.

11 Q. When were those placed there?

12 A. Clayton's been working on this ever since that dog
13 came. He's clicking training, trying to teach the
14 dog and putting things up every single day.

15 Q. Okay.

16 A. Many times throughout the day.

17 Q. Okay.

18 A. These have been here for weeks, if not a month.

19 Q. Okay. Now, can you look at the Exhibit No. 14?

20 A. Yes, ma'am.

21 Q. Okay. And, again, when was this picture taken?

22 A. This morning at 6:00 a.m.

23 Q. Okay. And what does it reflect?

24 A. This is the upper part of the stairs. You can see
25 what we were just talking about there. Here's the

1 upper part where he's attached gates, chairs --
2 gates here. He's tied them in. Taken all the ropes
3 out of the garage, tied everything in. So there's
4 no way, shape, or form any animal can go over there
5 at all. And he's been doing this for about 60 days.

6 Q. Okay. And --

7 A. It causes a lot of stress.

8 Q. Okay. All right.

9 And then you're -- the next exhibit number --

10 THE COURT: And, I'm sorry. Let me just ask.
11 Where's the shed? On that photo, where's the shed?

12 THE WITNESS: Sure, Your Honor. The shed is
13 this black top that you see right here. That's the
14 fire pit, and that's the shed right there.

15 THE COURT: Okay.

16 BY MS. LaCROSS:

17 Q. Now, Exhibit No. 13.

18 A. Yes, ma'am.

19 Q. When was that taken?

20 A. 6:00 a.m. this morning.

21 Q. Okay. And what does that --

22 A. This --

23 Q. -- depict?

24 A. This is an up-close picture of where Clayton has
25 attached several baby gates. This is one, two,

1 three, four, five, six, seven baby gates there. We
2 went up to our shop, got them from the shop, two
3 hours away, drove back, and we've been attaching
4 them anywhere there's any kind of a -- we think
5 there's an issue.

6 Q. Now, are those the same baby gates that were in
7 Exhibit No. 14?

8 A. No, they're different baby gates.

9 Q. Different?

10 A. There's a whole set of baby gates at the bottom and
11 a whole set of baby gates up here, and they're \$148
12 a set, for four.

13 Q. Okay. So -- and how long had those baby gates been
14 there?

15 A. About 60 days.

16 Q. All right.

17 A. He adds -- within 60 days he's been adding, adding,
18 adding.

19 Q. So 60 days ago he started the process of trying to
20 add barriers; correct?

21 A. Yes.

22 Q. Okay.

23 A. And he's been really diligent.

24 Q. Okay.

25 MS. LaCROSS: I move to admit Exhibit Nos. 13,

1 14, and 12.

2 THE COURT: Any objection?

3 MS. PURVES: No objection.

4 THE COURT: Exhibits 12, 13, and 14 will all
5 be admitted.

6 (Exhibits 12 - 14 admitted.)

7 BY MS. LaCROSS:

8 Q. Now, are there -- do you hear dogs barking in the
9 neighborhood?

10 A. I've lived on Madrona Point 22 years and dogs cruise
11 around on Madrona Point.

12 Q. Okay.

13 A. I have pictures and videos. They -- they cruise
14 around on the beach. They walk up and they say hi.
15 We have a guy at the end of the street named
16 "Hudson," he belongs to the Hudsons. He's like 16,
17 and he cruises up and says hi.

18 And I say, hi, Hudson, you should probably head
19 home. And that's sort of what everyone does on
20 Madrona Point Drive when it comes to dogs. They try
21 to be friendly and send the dog home.

22 Q. Okay. Okay. So it's not uncommon to see dog --
23 dogs walking on the beach?

24 A. Not at all. On Madrona Point Drive they walk on the
25 beach.

1 Q. Okay. Do they -- do other dogs bark?

2 A. There's constant barking across the bay where
3 Ms. Hjelmaa -- Hjelmaa, and her husband live. And
4 there have been -- for the 22 years I've lived
5 there, I've never called the police because of a dog
6 barking.

7 Q. Now, we saw videos yesterday of the dogs in question
8 barking.

9 Do you know -- is there any -- do the dogs bark
10 like that all the time? All day long?

11 What's the story with that?

12 A. Yeah. So when Clayton pulls up, they hear his car.

13 Q. Okay.

14 A. And that (demonstrating) -- that you heard
15 yesterday --

16 Q. Uh-huh.

17 A. -- Is them saying hello to him --

18 Q. Uh-huh.

19 A. -- Because they hear him home. And if you look at
20 the video closely --

21 Q. Uh-huh.

22 A. -- it lasts between 30 and 95 seconds.

23 Q. Uh-huh.

24 A. This doesn't go on for hours or minutes, maybe over
25 a minute, but 30 to 95 seconds. And you can --

1 anyone can verify that by looking at the videos.

2 Q. Okay. So the dogs greet Clayton when he comes home?

3 A. His three do the "whoo-whoo," and it's a little
4 louder now because the black lab joined.

5 Q. Okay. What about when the dog goes poop in the
6 yard, have you ever thrown dog poop?

7 A. Okay. So I'm really glad to address that.

8 We have a compost and the dogs have a little
9 garden area that they actually go in. My dogs have
10 been with me a long time.

11 Q. Uh-huh.

12 A. And I have never flung poop.

13 Q. Okay.

14 A. Ever.

15 Q. Okay.

16 A. Not in my life.

17 So Clayton cleans it up. And he has a scooper,
18 like, one of those little scoopers the city guys
19 uses.

20 Q. Uh-huh.

21 A. And he puts it into the compost thing.

22 Q. Okay.

23 A. The neighbors next door, before they moved, had two
24 dogs.

25 Q. Okay.

1 A. Yesterday it was brought up, poop in their yard.

2 Q. Uh-huh.

3 A. They had two dogs. Ones name was Jack.

4 Q. Uh-huh.

5 A. This little black guy with big huge ears, and
6 another guys name was Rudy. And the people that
7 lived in their prior house had two dogs.

8 Q. Okay. And that was right before Ms. Ganowski moved
9 in?

10 A. Yes.

11 Q. Okay. Now, there was testimony about you making a
12 statement the night of the incident when the fire
13 department got called about Ms. Ganowski's dog.

14 A. I -- I was -- I heard in court yesterday that I said
15 something other than what I said.

16 Q. Okay. So were you on that evening talking with
17 Clayton?

18 A. Yes.

19 Q. Okay. And where were you at?

20 A. On the back patio.

21 Q. Okay. And were you guys talking loudly?

22 A. No.

23 Q. And what --

24 A. We were just sitting right next to each other.

25 Q. Having a private conversation?

1 A. Correct.

2 Q. Okay. And in that conversation, did anything come
3 up about the neighbor's dog?

4 A. He was sitting and I had my legs over his leg --
5 legs, you know, like we're sitting together.

6 And the dog that was at their house, or is at
7 their house, actually, on and off, barks all the
8 time when they're not there from inside the house.

9 Q. Yeah.

10 A. And all we were talking about is the dog barking
11 inside the house.

12 Q. Uh-huh. Did you make any threats or anything about
13 the dog?

14 A. Never. I love animals. And I would never hurt an
15 animal. I don't even fish for that reason.

16 Q. Now, we've heard testimony about rocks back in May
17 of 2018 being located on Ms. Ganowski's porch.

18 Did you ever place any rocks up there?

19 A. Never have thrown, placed, or done anything with any
20 rocks. I found it interesting that in the pictures
21 the rock looked like the exact same rock.

22 Q. So you didn't place any rocks on there?

23 A. Never.

24 Q. Or throw rocks at her house?

25 A. Never.

1 Q. Okay. How about turn on her hose and flood her --

2 A. I've never --

3 Q. -- flower garden?

4 A. -- been in her yard.

5 Q. Okay. Now, the -- the lights on the fence.

6 Is that your fence?

7 A. It is my fence. I had to build it.

8 Q. Okay. And is it your lights on the fence?

9 A. They are our lights. And they're not solar lights.

10 They're lights that are electrical --

11 Q. Okay.

12 A. -- through each post. I had an electrician come put

13 them through each post.

14 Q. Okay. And you knock off those lights into -- into

15 your neighbor's yard?

16 A. No. The lights have started to fall off --

17 Q. Uh-huh.

18 A. -- because they rented the back part of their house

19 and turned it into a multi-family unit --

20 Q. Uh-huh.

21 A. -- and the people living under -- in the back, were

22 using the side gate as an entrance.

23 Q. Okay.

24 A. So the prior neighbors, that gate would open four

25 times a year.

1 Q. Uh-huh.

2 A. With them, it would open four to six times a day.

3 So they'd be swinging it, moving it back and forth.

4 The young man that lived back there had
5 numerous other young men coming in and out during
6 the night. So that gate would open and close, like,
7 eight to ten times a night.

8 And the dogs would bark. This is actually
9 where it started. She complained about the dogs
10 barking and we tried to say, but they're just
11 protecting our property because there's people there
12 going in and out all night long.

13 Q. Okay.

14 A. So lights would fall off because the -- the gate --
15 the fence would shake because of the slapping back
16 and forth of the gate.

17 Q. Okay. But you're not purposely trying to knock your
18 own lights off of your own gate; correct?

19 A. No. They cost me \$89 to replace and they have a
20 little pile of three of them next to their back
21 door, and I've not been able to get them back to put
22 them on.

23 Q. Now, as far as the trash, we talked yesterday about
24 a picture of you where she says that you placed some
25 trash on her yard.

1 A. Yes, ma'am.

2 Q. Can you tell me about that?

3 A. It's not me.

4 Q. What's that?

5 A. It's not me. It looks like Clayton's picking
6 something up. It looks like he's picking up a light
7 cap that might have fallen off the gate.

8 But I don't know anyone in the world that puts
9 trash in someone's yard by bending over and placing
10 it on the ground.

11 And if the Judge is going to be told that I
12 waved trash and I put it on the ground, I think he
13 should see a video of me doing that because it never
14 happened.

15 Q. Just trying to pull something up here. I'll try and
16 find that here in a moment.

17 There's a -- a picture, correct, that shows the
18 tops of your lights on -- in the neighbor's yard;
19 correct?

20 A. That's the pile of lights I'm referring to. They're
21 actually there. There's a picture of them.

22 Q. Okay. And I will see if I can find that here in a
23 bit.

24 Now, you have a sign on your door, correct, on
25 your house?

1 A. I sure do.

2 Q. Okay. Tell me about that.

3 A. I had a friend send that sign to me because they
4 live in a different state and different county, and
5 they have heard what's going on in Bremerton.

6 Q. Uh-huh.

7 A. And specifically in Bremerton, we've had a family
8 that -- gang members went into a couple years ago.
9 Everyone knows them. They own a restaurant.
10 They're called the "Careagas," and they were all
11 murdered.

12 Q. Uh-huh.

13 A. Three children, a father, and a mother.

14 Q. Uh-huh.

15 A. And they happened to own a restaurant at the time
16 that that happened. The Kitsap Sun published
17 numerous articles stating that people who own
18 restaurants tend to keep large amounts of cash in
19 their home.

20 Q. Uh-huh.

21 A. And I own a restaurant, it's call "Kelsey's." My
22 name is Kelsey. And that scared the bejeebers out
23 of me.

24 Q. All right.

25 A. That sign had -- had -- was there when she looked at

1 her home. She was there -- it was there when she
2 bought her home.

3 Q. Uh-huh.

4 A. And it has been there ever since. And it is
5 merely -- so that if a group of people looking to do
6 nefarious things, go down Madrona Point Drive,
7 they'd pick a house other than ours. It is to let
8 them know that if they try to do that to us --

9 Q. Okay.

10 A. Yeah.

11 Q. So that sign's been there for --

12 A. A long time.

13 Q. -- a long time?

14 A. Yes.

15 Q. Now, I'm going to show you another photo here --

16 MS. LaCROSS: And it's probably clearer --

17 THE COURT: Thank you very much.

18 BY MS. LaCROSS:

19 Q. Is the glare there? Can you see that?

20 A. Yes, I can see that.

21 Q. Okay. Could you tell me, what is this right here?

22 A. That's the top of my fence --

23 Q. Okay.

24 A. -- where somebody says I put smoke bombs.

25 Q. Okay. And is -- is this your property? Or is this

1 your property?

2 A. The first one you said.

3 Q. This is your property?

4 A. Yes, ma'am.

5 Q. This is your side?

6 A. Yes.

7 MS. PURVES: So what --

8 MS. LaCROSS: Okay. And --

9 MS. PURVES: I'm sorry. Is this an exhibit,
10 like, already or no?

11 MS. LaCROSS: It is -- yes, it's already an
12 exhibit. We have marked it as Exhibit No. -- I believe
13 it's Exhibit No. 3.

14 MS. PURVES: Okay. And it looks like it's
15 photo 19 on Exhibit 3.

16 MS. LaCROSS: Yes.

17 MS. PURVES: Okay. And I'm sorry, which --
18 was it the northern -- the top or the bottom of the
19 picture that you said?

20 MS. LaCROSS: Let me get rid of this.

21 BY MS. LaCROSS:

22 Q. Right here, the bottom of the picture, is that your
23 side of the fence or is that Ms. Ganowski's side of
24 the fence?

25 A. That is my side of the fence.

1 Q. Okay. So the top of the picture is Ms. Ganowski's
2 side of the fence?

3 A. Yes, ma'am.

4 Q. Okay. And up in the right corner of the top corner,
5 can you see any objects there?

6 A. Yes. Those are lights that belong on the top of the
7 fence that are just sitting in a pile.

8 Q. Okay.

9 A. There's another pile up near her door.

10 Q. Okay.

11 MS. PURVES: Jeniece, can we just flip it
12 around so my clients can see the exhibits as well?

13 BY MS. LaCROSS:

14 Q. Let's see.

15 Now, that day that Mr. Closson came over to
16 your house, it was late at night; correct?

17 A. It was late in the evening.

18 Q. Dark outside?

19 A. It was dark.

20 Q. Never seen Mr. Closson --

21 A. Never seen him.

22 Q. Interacted with him before?

23 A. No. Never.

24 Q. Okay. So you were -- you were scared, were you not?

25 A. Yes.

1 Q. Okay.

2 A. And I felt really stupid that I left my -- left that
3 top part of my door open.

4 Q. Okay. Now, you had worked long hours and so you
5 didn't normally have a fire; correct?

6 A. Correct.

7 Q. And it was just coming to the end of the long hours
8 that you were working.

9 And so on this particular day when there was
10 the fire in the Chiminea, was that the first time
11 that you had a fire in quite a long -- quite a
12 while?

13 A. I had worked 20 hours a day for four years, taking
14 one day off a month.

15 Q. Okay. So is that a "yes"?

16 A. Yes.

17 Q. Okay.

18 MS. LaCROSS: I don't have -- I don't have any
19 other questions.

20 THE COURT: Okay. Cross-examine?

21 MS. PURVES: Sure. Thank you.

22 CROSS-EXAMINATION

23 BY MS. PURVES:

24 Q. Ms. Kelsey, we looked at some videos yesterday and I
25 want to look at those again with you. Because

1 you've said that they don't say everything that you
2 heard that day; is that correct?

3 Is that your testimony?

4 A. On what video are we talking about?

5 Q. The videos of the interaction with Mr. Closson at
6 your doorstep on the 13th of June.

7 A. Correct.

8 Q. Okay. Yesterday I had a big monitor set up, but
9 we've all seen the videos.

10 So instead of taking the time to do that, I'm
11 just going to get right into them?

12 MS. LaCROSS: I can bring them up on mine if
13 you need to.

14 THE WITNESS: Yeah. That's awfully small.

15 MS. PURVES: I'm going to bring it right up to
16 you.

17 THE WITNESS: Okay. Thank you.

18 MS. PURVES: I want to get the volume working.

19 BY MS. PURVES:

20 Q. Okay. I'm looking at what's already been admitted
21 as the video that's 19613 part one.

22 MS. LaCROSS: Is it audio or video or both?

23 MS. PURVES: It should be audio and video.

24 MS. LaCROSS: Okay.

25 MS. PURVES: That's the plan.

1 MS. LaCROSS: Okay.

2 (Video played.)

3 BY MS. PURVES:

4 Q. Okay. I'm going to stop it right there?

5 So what do you see in that video?

6 A. Jeff standing with a dog. That's all I see.

7 Q. Okay. And at this point, this is your house right
8 here; right?

9 A. Yeah. He's at my front door.

10 Q. Okay. And the audio, obviously, didn't play.

11 MS. PURVES: Jeniece, can you pull them up on
12 yours?

13 It would make it easier, because for some reason
14 it's not working without the monitor.

15 MS. LaCROSS: All right. Oh, I've got to turn
16 the volume up.

17 (Video played.)

18 MS. PURVES: How do you you make it bigger?

19 MS. LaCROSS: The green.

20 MS. PURVES: Can you see that?

21 THE WITNESS: If you bring it here, I may be
22 able to. It's sort of dark.

23 FEMALE SPEAKER: Does it get bigger?

24 MS. PURVES: Does it get bigger?

25 MS. LaCROSS: Yes. You can do it louder.

1 FEMALE SPEAKER: Turn it to where he can see
2 it.

3 MS. LaCROSS: So where's the volume at? So
4 the volume is all the way up.

5 MS. PURVES: Okay.

6 (Video played.)

7 BY MS. PURVES:

8 Q. So that's the first video. And then the second
9 one --

10 MS. LaCROSS: Go up to the top and there's
11 a -- you didn't -- and now, click on the -- you just
12 click on that. Right there. This is where it picks
13 up.

14 (Video played.)

15 BY MS. PURVES:

16 Q. So there's Mr. Closson, again, on your front porch
17 is where the second one picks up.

18 Is that your front porch?

19 A. That's my front porch. And that's his leg. Yes, I
20 can see him there.

21 Q. Okay. So at that point he still has the dog in his
22 hand; right?

23 A. Well, in this video, yes.

24 Q. Okay. So the first video he had the dog in his
25 hand, and on the second video he starts with the dog

1 in his hand.

2 A. Correct. That's what you see in the video.

3 Q. Right.

4 A. But that's not everything that's going on.

5 Q. Okay.

6 A. It's -- this is video is just, like, broken up in
7 pieces. It's, like, when you watch -- when you see
8 a commercial for a movie --

9 Q. So and --

10 A. -- on TV and they're --

11 Q. And so what are you saying --

12 A. -- just giving you snippets.

13 Q. Right.

14 What are you saying didn't happen -- or that
15 isn't shown in the --

16 A. Well, go ahead and play the third one. Because this
17 is at 12 minutes -- it was like, 12 to 15 minutes he
18 was at my door and we're getting 30 seconds.

19 Q. Okay.

20 A. So how are we sharing with Your Honor the truth of
21 what happened if we're giving him 30 second
22 snippets?

23 Q. Okay.

24 (Video played.)

25 BY MS. PURVES:

1 Q. So he's handing you the dog right there; correct?
2 And he's starting to walk away?

3 A. Yeah. And -- uh-huh.

4 Q. Okay.

5 A. That's exactly what he's doing.

6 Q. So that was you that reached into --

7 A. And we're talking.

8 Q. Yeah. And that was you that reached out and grabbed
9 the dog?

10 A. I didn't see any hand reach out at all. The dog was
11 lifted in.

12 Q. Okay. But you -- he didn't throw it on the floor or
13 something?

14 A. I never ever said he did.

15 Q. No. But he --

16 A. No.

17 Q. -- handed you the dog over the door?

18 A. He reached in over the door with the dog. He didn't
19 drop it on the floor or anything. I never said
20 that.

21 (Video played.)

22 BY MS. PURVES:

23 Q. Okay. So at that point he's walking away having
24 given you the dog and you start in --

25 A. No. No. I didn't start in. We were already

1 talking. He was talking to me, and I was talking
2 back.

3 Q. Okay. But he's leaving. His back is to you.

4 A. And we're still talking. He's talking as he's
5 walking away and I'm still talking to him.

6 Q. No. Let's look at this again.

7 (Video played.)

8 THE WITNESS: What do you mean, no?

9 BY MS. PURVES:

10 Q. So right there he's leaving?

11 A. And he's talking.

12 Q. Okay.

13 A. As he's leaving, Can you hear his voice?

14 Q. Because he's -- you're asking him a question about
15 lumping snow in his yard.

16 A. He asked me a question. I made a statement. I
17 asked him a question. He made a statement. We are
18 conversing, which then turns into an argument.

19 Q. Okay. Let's hear this again.

20 A. But this isn't the whole time.

21 Q. But this is the whole time right here.

22 A. No, it's not the whole time at all. He went back
23 and ran up to the door back and forth. She didn't
24 record what the Court -- what she doesn't want the
25 Court to see. These are just, like, snippets, like,

1 when you do a --

2 Q. Okay. Let's listen.

3 A. -- commercial for a movie and you just get little
4 pieces.

5 (Video played.)

6 THE WITNESS: He's arguing with me. He's up
7 there walking back and arguing with me, walking away,
8 walking back, walking away, and walking back. That's
9 why she's moving the camera back and forth. She's got
10 the camera going back and forth because he's walking
11 back and forth arguing with me.

12 It isn't just me speaking here. It's both of us
13 arguing. I probably shouldn't have argued with him,
14 but he probably shouldn't have argued with me, so.

15 And I'm telling him how I've been harassed for
16 two-and-a-half years from the people next door. That's
17 how -- that's what's happening there. And I'm afraid
18 and I don't know the guy.

19 And I was taught when someone's scaring you, to
20 try to be bigger so that you don't get attacked. But
21 in no way, shape, or form is that to try to make the
22 neighbors afraid for their life. They're at my front
23 door. I'm not at their front door.

24 (Video played.)

25 THE WITNESS: And you can play it as many

1 times as you want.

2 THE COURT: If you want me to hear the --
3 you've got to let me hear it.

4 THE WITNESS: Okay.

5 THE COURT: If you want me to listen to her,
6 then I'll listen to her.

7 I don't want them running at the same time. So
8 make up your mind what I'm supposed to be listening to
9 right now.

10 THE WITNESS: Sorry, if I did something wrong.

11 BY MS. PURVES:

12 Q. Ms. Kelsey, this is the third clip.

13 A. And I've heard it and we're arguing.

14 Q. And this one starts with your tone of voice at the
15 same level as the second clip. You were yelling at
16 the end of the second clip and this is the beginning
17 of the third clip.

18 Is that you?

19 (Video played.)

20 THE WITNESS: Jeff and I were having an
21 argument at the front door. It isn't just me. Jeff
22 and I are having an argument.

23 And you can hear him and see him walk away.

24 BY MS. PURVES:

25 Q. The question was: Is that your voice starting at

1 the beginning yelling?

2 A. That is my voice and Jeff's voice together arguing.

3 Q. So your testimony is that you were afraid this
4 night; is that correct?

5 A. Yes. Very afraid.

6 Q. And did you call the police?

7 A. I've lived there 22 years and I've called the police
8 one time. And that's when I saw people going
9 through --

10 Q. Okay. But the question was, did you call the
11 police?

12 A. No. I've lived there 22 years and I've only called
13 the police one --

14 Q. It's a yes-or-no --

15 A. -- time.

16 Q. -- question.

17 A. I answered it.

18 Q. So you did not call the police?

19 A. No, I did not call the police.

20 Q. Okay. And it's your testimony that the evidence
21 that the police -- that was submitted to the police
22 is inaccurate?

23 A. I haven't seen any testimony that was submitted to
24 the police. All I've seen is the videos, three
25 videos.

1 Q. Okay. Is -- did -- was a record request made by
2 Mr. Longacre that --

3 A. You'd have to --

4 Q. -- was --

5 A. -- ask Mr. Longacre that. I don't know what
6 Mr. Longacre does.

7 How would I know that?

8 Q. Okay. Have you ever reviewed the police report from
9 the incident at your house?

10 A. No.

11 Q. You haven't?

12 A. No.

13 Q. Okay. Here's a copy of it.

14 MS. PURVES: I'd ask that this be marked as an
15 exhibit.

16 THE CLERK: It's going to be -- it's going to
17 be No. 15.

18 MS. PURVES: It's going to be -- what was
19 that? Fifteen?

20 THE CLERK: Fifteen.

21 BY MS. PURVES:

22 Q. So the police report identifies people that are
23 involved as well as includes a narrative prepared by
24 an officer.

25 And it also includes a photo of the front of

1 your house. And it also includes evidence that was
2 collected by the Bremerton Police Department.

3 Is that what you see? And what's in front of
4 you?

5 A. Yes, ma'am. I see one, two, three, four, five
6 pages. The very first starts with "Bremerton Police
7 Department Incident Investigation Report."

8 Q. Okay. And have you -- you -- on the suspects and
9 offenders portion, who is being described there?

10 A. That has my name on the top.

11 Q. Okay. Is that your address?

12 A. That's my address.

13 Q. And your identifying information, like your date of
14 birth and --

15 A. That's my birth.

16 Q. -- height, weight, and then phone numbers; is that
17 correct?

18 A. The phone numbers aren't correct. But that is an
19 area that they have phone numbers in, yes.

20 Q. The -- page 4 shows a photo.

21 Is that of your -- the front of your house?

22 A. It says Clayton Longacre on this page also.

23 Q. It does.

24 A. Um-hmm.

25 Q. But not as the suspect or offender?

1 A. Other persons involved, Clayton Longacre.

2 Q. Yeah. (Indecipherable) mentioned --

3 A. Same address. Same date.

4 Q. So on --

5 A. And his birth date.

6 Do you want me to go to this one --

7 Q. -- the fourth page -- this --

8 A. -- of the picture? Sure.

9 Q. -- is this of the front of your house?

10 A. That is the front of my garage.

11 Q. Okay. And in the narrative on the report, it
12 indicated that the officer tried to contact you.

13 A. You want me to go back to a certain --

14 Q. To page 3 of 3.

15 A. Okay. And look at where?

16 Q. The fifth -- fourth paragraph down.

17 MS. LaCROSS: Your Honor, I object to this
18 line of questioning. It's not relevant to the
19 antiharassment petition.

20 THE COURT: Overruled.

21 THE WITNESS: What do you want me to say about
22 that? Or respond?

23 What's the question?

24 BY MS. PURVES:

25 Q. My question is there's a mention in here that the

1 officer indicated that they tried to contact you but
2 they were not able to because the number that was in
3 your I/LEADS account or I/LEADS profile was for
4 Peninsula Work Release.

5 A. Where does it say any of this?

6 Q. Last sentence.

7 A. Well, that's never been my phone number. I've never
8 had that phone number.

9 MS. LaCROSS: I object, Your Honor. I mean
10 this is prejudicial. It's not relevant at all.

11 MS. PURVES: I'm just curious why the -- the
12 number was provided if it's not her number.

13 THE WITNESS: It's never been my number and
14 it's not my number --

15 THE COURT: Wait. I --

16 THE WITNESS: -- and I didn't provide it.

17 THE COURT: We don't know how that got that
18 number. I don't know how they got it. If they got it
19 from her, if they got it from the black lab or
20 something.

21 So objection is sustained.

22 MS. PURVES: Okay. We'll move on.

23 THE COURT: I don't know where this is going.

24 BY MS. PURVES:

25 Q. The officer -- but at the -- the officers indicated

1 in the report as well that they attempted to serve
2 the temporary orders on you?

3 A. Where does it say that, ma'am? Can you tell me --

4 Q. June 14th --

5 A. Can we match up here?

6 Q. Right --

7 A. It says, On June 14th, Lisa and Jeff obtained
8 temporary protection orders against Kelsey. The --
9 the -- they arranged to have BPD attempt to serve
10 the orders, myself and another officer attempted to
11 serve the order, 15th and 16th. I worked 20 hours a
12 day.

13 Q. Okay. And you indicated, though, that you were
14 frightened of your neighbor; that there was this
15 incident, but -- and you made no effort to contact
16 the police or -- or let them know that your neighbor
17 had threatened you?

18 A. In 22 years I've called the police one time on
19 Madrona Point Drive and it's because I saw people
20 going through mailboxes.

21 I yelled out the window, "Hey, that's illegal."
22 They yelled the back F-0.

23 And I said, "Okay," and I called 911.

24 In 22 years, I've only called the police that
25 time, and that's because I believe police are

1 supposed to be called when your life is threatened.
2 I was scared. I didn't -- I have never stated that
3 he's threatened my life.

4 I'm not crazy, okay? I know that he scared me,
5 but he didn't threaten my life. So when you're
6 scared, you don't call the police unless you feel
7 like it's going further.

8 When he came to the door a few times really
9 fast running at it, if he had come through that door
10 I would have called 911. And that's why I walked
11 down the hallway and you hear my voice fading,
12 because I'm looking for my cell phone. I realized
13 it's in the bathroom upstairs, and I'm not going to
14 be able to get it. So --

15 Q. Ms. Kelsey --

16 A. -- I never ever thought he threatened my life, ever.

17 Q. So the videos you're saying -- these videos, if you
18 look on the fourth page, also indicate that they
19 were put into evidence.

20 A. The snippets of broken up video that doesn't show
21 the exact confrontation; correct? I'm sure they
22 were put into evidence.

23 Q. Okay. Are you familiar with metadata?

24 A. Never heard of it in my life. I don't know what
25 that means.

1 Q. Okay.

2 A. Metadata?

3 Q. Data about data. It's encrypted information on
4 files that show when the file was taken, as far as
5 like a time and date stamp.

6 A. I'm not a computer expert. I know nothing about
7 computers. I -- I run a restaurant. So I don't
8 know what you're even speaking of. Sorry.

9 Q. Okay.

10 MS. PURVES: I ask that 15 be admitted.

11 THE COURT: Any objection?

12 MS. LaCROSS: Well, I object. That it's --
13 don't know that it's necessarily -- I just object to
14 the information containing the phone number issue and
15 stuff.

16 THE COURT: Well, okay. I don't care if
17 somebody's on probation, or whatever that supposedly
18 suggests. I don't understand that. So that's not
19 relevant. I'm not going to consider that. Just --

20 MS. LaCROSS: Just --

21 THE COURT: What did you call this agency?

22 MS. PURVES: Bremerton Police Department.

23 THE WITNESS: I'm not on probation.

24 THE COURT: No, the phone number --

25 MS. PURVES: Oh.

1 THE COURT: -- belonged to who? To what?

2 MS. PURVES: Peninsula Work Release.

3 THE COURT: Work release? Yeah. Okay. I
4 don't care if somebody's on work release and that's the
5 phone number -- I'm going to ignore that. So -- okay.
6 I will admit Exhibit 15.

7 (Exhibit 15 admitted.)

8 MS. LaCROSS: Um --

9 MS. PURVES: Do you have an objection?

10 BY MS. PURVES:

11 Q. You had mentioned earlier that when -- that when --
12 that you'd had a conversation with Mr. Closson and
13 Ms. Ganowski about the dogs.

14 Do you not recall that?

15 A. When did I say I had a conversation with Mr. Closson
16 and Ms. Ganowski about the dog?

17 Q. When you were testifying on direct, you had said
18 that there was a conversation about how they
19 complained about the dogs barking and you told them
20 that the reason that they were barking is because
21 there were people coming in and out of the house.

22 A. I'm going to ask for the testimony to be pulled back
23 up. I'm sorry. I stated that the reason why the
24 dogs were barking about the traffic -- Clayton got a
25 report, and the report says that they're claiming

1 that the dogs were barking every time the gate was
2 opened. I'm here to say I've lived in the house 22
3 years and that the dogs will bark when someone gets
4 right up next to their fence, because that's their
5 job.

6 Q. But you didn't --

7 A. And --

8 Q. Okay. But you didn't have a conversation with them
9 about that?

10 A. I have never in my entire life had a conversation
11 with either of the two people at your table. Never
12 have I even -- I don't know them. I've never had a
13 relationship, a conversation, or anything with them.
14 They don't know me.

15 Q. Okay. So earlier, when you said that you talked to
16 them about -- the reason that the dogs were barking,
17 was because people were coming in and out.

18 A. I --

19 Q. That wasn't a conversation you had with them?

20 A. -- did not say I talked to them. That did not -- I
21 did not say that at all.

22 I said the reason why they're barking. But I
23 never ever said I spoke to them. I wouldn't portray
24 that. It's not true.

25 Q. Okay. And your testimony is that they -- earlier

1 yesterday was that they did not pay a claim that you
2 submitted to them in 2018, correct? A letter for
3 damage to your house related to a sewer.

4 A. Can you restate the question? You're asking me
5 if --

6 Q. Yesterday you said you sent a letter to them
7 demanding money for your house.

8 A. No, ma'am, I did not state that.

9 What I said was we wrote a letter to them
10 explaining that their sewage during Thanksgiving --
11 because they must have put fat into their -- like
12 everybody does --

13 Q. Did you make a claim -- did you send them a letter?

14 A. I never said I made a claim. I said we wrote a
15 letter.

16 You can, again, pull up the testimony. We
17 wrote a letter that said, please take your shed off
18 of the property line that is right next the fire
19 pit, and please provide information of your
20 insurance company so that we may contact them about
21 the sewage that came into our house during
22 Thanksgiving when you had numerous plumbers over
23 there and your thing had overflowed. And that is
24 what it said. No one made a claim. I never used
25 the word "claim."

1 Q. Okay. But you wrote --

2 A. And I never used the word that I talked to them. So
3 those are misleading.

4 Q. Okay. And so the sewage thing is part of your
5 lawsuit. You're seeking money damages as related to
6 sewage thing from them that goes back two years ago.

7 A. We're -- we're seeking the floors to be fixed so
8 that I can sell the house, because they are damaged
9 from their sewage.

10 Q. So you're -- so that's one incident.

11 And then you also claim that not one of these
12 people, but other people, put snow on your side of
13 the property?

14 And that's a yes-or-no question. That is a
15 claim that you've made. That these --

16 A. I am claiming that her son did it right in front of
17 her and she saw it.

18 Q. Okay. And you've also testified that you called her
19 a "fucking bitch."

20 A. Those were the last two words of a sentence that
21 had about 16 words in it.

22 Q. Okay. And in the video we heard you tell
23 Mr. Closson "If you want a war, you've got a war."

24 A. I said that in the video. Yes, I did.

25 Q. And what does that mean?

1 A. I -- we had been living in hell since she moved in.
2 And -- and I hadn't fought bad -- back at all. I
3 hadn't asked for anything except for them to please
4 move their shed and to please provide insurance
5 information.

6 You can only let someone push you so far before
7 you have to stand up for your rights.

8 Q. But up until that point, they'd also made complaints
9 to animal control about the animals at your house;
10 right?

11 A. I've never received a ticket from anyone at animal
12 control. No one in my house has.

13 Q. Have you ever had a call from animal control?

14 A. A call? No, they've never called me.

15 Q. Have they ever put a notice on your door?

16 A. They put a yellow thing on my door asking me to
17 communicate back to them.

18 Q. Okay. Did you --

19 A. And that's all I did. And I've never had a ticket.
20 We've never been given a ticket. And no one in my
21 home has ever been given a ticket from animal
22 control.

23 Q. But they have contacted you?

24 A. They have left one yellow thing in 22 years on my
25 door. And that was because Ms. Ganowski called

1 them. They've never been called prior to that from
2 any neighbor or anybody has never called on my dogs
3 for 22 years, other than Ms. Ganowski. And that I
4 found out from Freedom of Information Acts.

5 Q. So you did do some public records request?

6 A. You bet.

7 Q. Did you do them or Mr. Longacre do them?

8 A. We both did.

9 Q. Who -- who was the person than put in the request
10 for the record request?

11 A. He did.

12 Q. But earlier when we were talking about the BPD
13 record that was also produced in your records
14 request, you said that was him and not you.

15 A. I just -- again -- again, claimed it was him. He
16 put that in.

17 Q. Okay. So is it safe to say that you don't like my
18 clients?

19 A. No, it's not at all. I don't know them. And I
20 would never state I don't like someone that I don't
21 know.

22 Q. Okay. Do you think -- are they harassing you?

23 A. I feel that -- that I've seen them coming over from
24 Paul's house drinking and having dinner over at
25 Paul's house.

1 And in the time -- the last time they came
2 over, they walked right in front of my house. They
3 had had alcohol. Obviously, Clayton wasn't home.

4 And she loudly said, "Well, that's it. If I
5 have to make shit up I'll do whatever I do -- have
6 to get that woman out of that house."

7 So from that day, hearing that, I then realized
8 that I have a live wire next door who was actively
9 harassing me, along with Paul and Mary Shire, who
10 never wanted my house built in the first place.

11 I'm just a buyer from Seattle that bought a
12 house that they never wanted built because it
13 blocked their view.

14 Q. So the harassing conduct is the comment that you
15 heard in the street? That's what your testimony is?

16 A. The actions and behavior --

17 Q. Of what?

18 A. That we've had to endure from the two people next
19 door, that we've had to go through for
20 two-and-a-half years is --

21 Q. Okay. So what has Mr. Closson --

22 A. -- harassment level.

23 Q. Okay. Never mind.

24 Okay. Ms. Kelsey, you own the house; right?

25 A. Yes, I do.

1 Q. And so if you wanted to put up fences to contain the
2 animals that are residing at your house, you could
3 do that; right?

4 A. I have -- we have put up fences. They go all the
5 way down to the water.

6 Q. Okay.

7 A. We showed pictures of them today.

8 Q. The baby gates?

9 A. Yeah. They keep the dogs in the yard.

10 Q. So there haven't -- so you saw the exhibits that
11 were entered yesterday. They talk about the dogs
12 being out, it looks like, the 28th of August, the
13 30th of August, the 31st, the 3rd, the 5th, the 6th,
14 the 7th, the 8th, the 9th, the 10th, and the 11th.
15 And it sounds like the dog was out again, because
16 animal control picked it up and it's been impounded;
17 is that correct?

18 A. The lab is who you're speaking of, yes.

19 Q. Okay. So is it safe to say, then, that whatever
20 measures you've taken to contain the animals on your
21 property have not been effective?

22 A. Not effective when you have people on the other
23 property calling the dog over --

24 Q. Do you have --

25 A. -- and feeding it treats. No, it doesn't end up --

1 Q. Do you have evidence --

2 A. -- being very effective.

3 Q. -- that that's happened?

4 A. Yes. I've seen it. My dog walker has seen it.

5 Q. Okay. Are they --

6 A. Clayton has seen it. We've all seen it and heard
7 it.

8 Four days ago I'm at the kitchen sink washing
9 dishes and the lab went down the stairs, went in the
10 water, turned around to come straight back up, and
11 you can hear Ms. Ganowski -- Mr. Closson's not
12 there, and you can hear her coaxing the dog over as
13 she's trying to come up to my house. And the dog
14 looks over, ignores her, and comes up.

15 Q. Okay. So this is the person who we've seen video
16 evidence of actively shooing the dog away?

17 A. We've seen one video. I found it very interesting
18 that it was -- we were told that it was a recent
19 video. But the dog is about 10 pounds -- 15 pounds
20 heavier now. So I -- I have a problem with that
21 video. I -- I believe the dog thinks it lives in
22 both our backyards, because it's been treated
23 friendly in both our backyards.

24 Q. Okay. And so you said that that was four days ago
25 that you witnessed that?

1 A. Which one did I --

2 Q. What you just said, Ms. Ganowski coaxing the dog.

3 A. Yes. From the kitchen sink.

4 Q. Okay.

5 A. And the dog walker saw it also.

6 MS. PURVES: No further questions.

7 THE COURT: Any redirect?

8 MS. LaCROSS: Your Honor, on the cross it was
9 gotten into about Ms. Kelsey feeling like she is
10 harassed; and then Ms. Kelsey provided testimony about
11 her neighbor Paul and conversations and interactions
12 between Ms. Ganowski and -- and her neighbor, Paul, and
13 her house -- them not wanting her house there.

14 So I have a 911 call that the neighbor, Paul, made
15 to -- and I believe it was last year, where he actually
16 states on the 911 call that he doesn't want the house
17 there.

18 So I'm asking at this time, since this issue was
19 raised on cross, to be able to play that 911 call.

20 MS. PURVES: Your Honor, it wasn't raised on
21 cross. I object. It's irrelevant. We need to move
22 on. Ms. Kelsey brought up something regarding the
23 neighbors across the street. I don't see how whether a
24 call from the neighbor across the street --

25 THE COURT: Objection is sustained. We're not

1 going to listen to that. I don't -- I don't see
2 what -- how that's relevant at all. And whether or not
3 some neighbor either wants her gone or has said he
4 wants her gone. I mean, I don't care. That's not
5 relevant to anything here.

6 MS. LaCROSS: Okay. Just -- just for the
7 record, my argument that made it relevant was when she
8 was asked on cross that she felt she was harassed and
9 it goes towards her -- it's part of her feeling of
10 harassment --

11 MS. PURVES: And I meant as to my clients --

12 MS. LaCROSS: -- [indiscernible.]

13 MS. PURVES: -- not other people in the
14 neighborhood.

15 THE COURT: Yeah. It had to do with -- yeah.
16 It -- the question -- well, okay.

17 The question pertained to the petitioners in this
18 action. Ms. Kelsey has added a whole lot to many of
19 her answers that are nonresponsive to the question. So
20 she brought that up. She wasn't asked about it. So,
21 anyway -- so the objection is sustained.

22 We're not going to listen to that. Go ahead.

23 MS. LaCROSS: Well, I don't have any other
24 questions.

25 THE COURT: Okay. Ms. Kelsey, you can have a

1 seat.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Okay. You're your next witness,
4 Ms. LaCross.

5 MS. LaCROSS: I call Clayton Longacre.

6 THE COURT: If you could raise your right
7 hand, please.

8 Do you swear or affirm the testimony you're about
9 to give is the truth, the whole truth, and nothing but
10 the truth.

11 THE WITNESS: I do, Your Honor.

12 THE COURT: For the record, state your name
13 and spell your last name.

14 THE WITNESS: My name is Clayton Ernest
15 Longacre. My name is spelled L-o-n-g-a-c-r-e.

16 THE COURT: Ms. LaCross.

17 MS. LaCROSS: Thank you, Your Honor.

18 One moment here.

19 CLAYTON LONGACRE, witness herein, having been first.
20 duly sworn on oath, was examined
and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. LaCROSS:

23 Q. So there was some issues here that I want to hit
24 that -- the black lab, is that your dog?

25 A. It is. And I have a -- have him implanted with a

1 microchip, verified to me, so.

2 Q. And do you currently -- is that the -- the black lab
3 is not living with you; correct?

4 A. It's not. I've made the decision, because of the
5 problems that we've been having with the black lab
6 and the fact that -- what happened four days ago,
7 made it -- to be honest, no matter what -- obvious,
8 whatever I do, it's not going to make any
9 difference.

10 Q. Okay. So you had a discussion with animal control
11 and you let them know that you're going to place the
12 animal in another home; correct?

13 A. I've called them previously to talk about doing
14 that. And when I get out of court, I will go down
15 and finalize the paperwork.

16 Q. Okay. Did you talk to them about that yesterday?

17 A. No. I actually talked -- began talking to them
18 about a week or so ago.

19 Q. So now, there's been some talk about snow.

20 A. Yes.

21 Q. All right. Now, I want to draw your attention to
22 some photos that were part of -- we were already
23 looking at them and I believe it was Exhibit No. 3.
24 Exhibit No. 3.

25 A. Correct.

- 1 Q. And --
- 2 A. I took the photos. They're about --
- 3 Q. I want to see what -- let's see here.
- 4 A. Right here. Get that plugged in. It's an old
- 5 computer.
- 6 Q. I have the same thumb drive that you have.
- 7 A. Okay.
- 8 Q. So I'm going to reference -- it would be the first
- 9 photo.
- 10 A. This photo --
- 11 Q. Could you pull that up and let me make sure we're --
- 12 since you have --
- 13 A. Picture of the white car?
- 14 Q. Yes. Yes, white car.
- 15 A. Okay.
- 16 Q. And so that's the first photo in Exhibit No. 3.
- 17 Could you -- is that -- do you recognize that
- 18 photo?
- 19 A. I do. I took it when I got home. I was stuck up at
- 20 the shop because I was snowed in.
- 21 Q. Well, first of all, just answer the question.
- 22 You do recognize that photo; correct?
- 23 A. Yes, I do.
- 24 Q. And when did you take that?
- 25 A. I took it on Valentine's Day --

1 Q. Okay.

2 A. -- of this year --

3 Q. Okay. And --

4 A. -- at nighttime when I got home.

5 Q. And what was the purpose of you taking -- well, can
6 you identify the white vehicle in that photo?

7 A. The white vehicle is -- I'm not sure which boy
8 drives a white vehicle, but one of the two boys that
9 lived downstairs -- in the downstairs apartment
10 drove that white vehicle.

11 Q. Of Ms. Ganowski's house?

12 A. Of Ms. Ganowski's house, yes.

13 Q. Okay. And then there's another vehicle.

14 Can you identify whose vehicle that is?

15 A. That vehicle is Ms. Ganowski's vehicle, the black
16 one.

17 Q. Okay. And that house, is that Ms. Ganowski's house?

18 A. Yes.

19 Q. Okay. And so what's the significance of this
20 video -- or I mean this picture?

21 A. Well, I didn't take the pictures until I got done
22 talking with her and she refused to do anything
23 about it.

24 So I took the pictures to verify where the snow
25 was. That it was her snow. And so as I started

1 getting it off my lawn, if anybody came around that
2 I would be able to -- be able to show them why I did
3 what I did.

4 This is a picture of her front parking lot.
5 And I call it a parking lot because it's -- in -- in
6 Bremerton you're only supposed to have a 40 feet
7 maximum for a driveway. She's got -- excuse me,
8 20 feet maximum for driveway, she's got 37. She's
9 about 17 feet over. So they've turned the whole
10 front yard into a driveway. And so it's completely
11 clear.

12 Q. Okay.

13 A. It has no snow on it whatsoever.

14 Q. Okay.

15 A. So that's why I took it.

16 Q. And so -- now, next picture on that is just again
17 showing --

18 A. Showing -- showing to the end of their parking lot
19 there's no snow. And then as you get down there
20 past their house and their garbage cans, you see
21 snow piled up very high along the street.

22 Q. Okay. And then the third picture there, what is --

23 A. Well, can you -- you see these all right?

24 THE COURT: I think so, yeah.

25 THE WITNESS: Okay.

1 BY MS. LaCROSS:

2 Q. What is that a picture of?

3 A. That's a picture of the snow that they piled on our
4 side behind the fence. The car -- you see the
5 little tail end of -- it's my BMW. It was parked
6 out there.

7 Q. And had you drove your BMW that day?

8 A. No. The BMW was actually sealed in by the snow.

9 Q. Okay.

10 A. It had snow on all four sides of it.

11 Q. Okay. And so then you see a pile of snow in your
12 yard; correct?

13 A. Correct. I had driven my four-wheel drive truck
14 home.

15 Q. Okay. So the next picture is, again, a picture of
16 the pile of snow.

17 A. The pile of snow looking from our yard back towards
18 the fence. That's how much snow it was. It's quite
19 a bit of snow, because it came from that whole
20 parking lot.

21 Q. Okay. And the next picture, which is quite blurry,
22 is that just shows --

23 A. Same.

24 Q. -- the driveway.

25 A. The backside of it. It shows where our -- our level

1 of the grass is back there.

2 Q. Okay. And now the next picture shows a car in a
3 driveway.

4 And is that your driveway?

5 A. That's our driveway.

6 Q. Okay.

7 A. Because one of the things that I told Ms. Ganowski
8 at the door -- she said, well, I don't know how that
9 you know that was my snow that got put over there.
10 I said because my driveway has not been touched and
11 my car is still plowed in.

12 And so this shows that the driveway -- there's
13 a car in the driveway and it's completely snowed in.
14 It hasn't been touched, other than someone tracking
15 through -- walking through it.

16 Q. So your driveway is full of snow, but her driveway
17 is clear of snow?

18 A. Correct.

19 Q. Okay. So the next picture?

20 THE COURT: Just a minute. I'm sorry. Whose
21 car is that on --

22 THE WITNESS: Oh, that's mine.

23 THE COURT: -- on that last -- on that last
24 picture?

25 THE WITNESS: The car on the last picture is

1 the same car that's in the next picture. Is a BMW that
2 sits down in there in the driveway.

3 THE COURT: And is that yours? Or --

4 THE WITNESS: Yeah, that's my vehicle.

5 THE COURT: Okay.

6 THE WITNESS: Yes. And that's our driveway
7 and that's our garage. You can barely see the little
8 yellow sign up there.

9 And, again, I did this to show that the only thing
10 you see is the -- the tracks that -- of people walking
11 through. Okay.

12 BY MS. LaCROSS:

13 Q. Okay. So it shows that your driveway was not
14 cleared?

15 A. Yeah.

16 Q. So then the next picture.

17 Could you go to the next picture?

18 A. Next picture shows my BMW. Is -- is socked in
19 because I haven't driven it. It had been there
20 since the whole snow. Snow had melted some. Snow
21 had melted off the car, but you see this -- there's
22 a ridge of snow along the road, and that's what the
23 snow plow did --

24 Q. Okay.

25 A. -- for everybody that parks in there, just -- in

1 driveways, just socked them in with a ridge of snow.

2 And I wanted to show that the reason there's so
3 much snow in my yard from their parking lot is --
4 was because they also took that ridge of snow and
5 put it over onto my property.

6 Q. So now is this picture taken the same night?

7 A. Same time.

8 Q. All these pictures --

9 A. All pictures --

10 Q. -- taken at the same time?

11 A. -- taken one right after the other.

12 Q. So is this a separate BMW, then, the one that was in
13 the previous picture?

14 A. No. There's one in the driveway, which is an older
15 one.

16 Q. Right.

17 A. And then this is a newer one that's parked on the
18 street.

19 Q. Okay. So there's two BMWs?

20 A. Two BMWs.

21 Q. Okay. And that shows that the snowplow came in and
22 plowed the snow up into the cars; correct?

23 A. Correct.

24 Q. It's -- there's no snow behind the car.

25 A. That's because the car comes up to the -- to the

1 area between the two houses -- to the lot line.

2 Q. Uh-huh.

3 A. And they snowplowed everything up to the lot line,
4 which included right to the back of the car.

5 Q. And the next picture shows the same; correct?

6 A. Correct. That shows the front of the BMW in the
7 driveway again, showing that it's socked in.

8 There's snow against the tires and stuff. So it's
9 not been moved.

10 Q. Okay. And, then, could you go back to the next
11 picture?

12 A. Yep. And the final picture is where I put the snow
13 up over there. They were still able to get the
14 white car out. It's just that was that pile of
15 snow.

16 Q. So you actually took the time to shovel the snow
17 back?

18 A. I did. I come home to -- so we could finally be
19 able to spend some time, because I had to shovel out
20 to get out of -- out to the street when I left the
21 shop. And I thought we had some time.

22 Q. So you shoveled snow at your shop to get out and you
23 came home and you shoveled another pile of snow
24 back?

25 A. Back. And my -- my great frustration was this --

1 was that, you know, I went up to the door and I
2 knocked on the door. Ms. Ganowski came to the door.
3 And -- and I said, listen -- I said, you -- your
4 kids had done this. So I didn't presume she was
5 shoveling snow.

6 Q. Um-hmm.

7 A. I said, your kids done this and it came from your
8 lot. These were your people for your lot.

9 Can you have them come out and get it off my
10 lawn? Because the snow coming out of the street and
11 it's being piled so high, it's not good for my lawn.

12 Q. Um-hmm.

13 A. And her response was, How do you know the snow came
14 from us?

15 I said, well, if you look out here your lot is
16 completely -- the ridge is gone.

17 If you want to step out and look over here
18 you'll notice that my lot -- the drive has not been
19 shoveled. The car is still socked in by the ridge.

20 And she just goes, Oh, I'm not coming out.

21 And then she started getting weird and saying
22 stuff. And then she started saying she was getting
23 afraid of me. I just turned around and just ignored
24 her and walked away.

25 Q. Okay.

1 A. And she started doing this "I'm a victim" thing.

2 And I just said, "Listen, your kids did this."

3 Q. So it didn't -- it didn't go very well.

4 A. It didn't go very well. She said her kids were not
5 there to help.

6 I said maybe they can come out and help me do
7 this.

8 Oh, they're not there. They were right in the
9 window watching.

10 Q. Okay.

11 A. And I could see them in the window.

12 Q. Can you bring up the next picture?

13 A. Yep.

14 Q. Now, this picture is where the snow is gone;
15 correct?

16 A. Snow is gone.

17 Q. Okay. And when did you take this picture?

18 A. I took this picture come springtime to show what the
19 damage did to the lawn.

20 Q. So right there where the front of the lawn is dead,
21 that's where the snow had been?

22 A. That's the worst part of it.

23 Q. Okay.

24 A. And a little bit further back there. And she
25 replanted everything. She's a very good gardener.

1 Elizabeth replanted everything. Reseeded it. Put
2 new soil down. Everything like that.

3 And then it also shows the lot line, which is
4 that ridge of -- that ridge of asphalt that you see
5 on the other side of the fence.

6 Q. Okay. Now, could you go to the next picture.

7 A. Um-hmm. Sure.

8 Q. And on that picture you see some grass.

9 Is that your grass?

10 A. That's my grass.

11 Q. Okay.

12 A. And that's actually after we've been treating the
13 grass and it's actually coming back there.

14 Q. Okay. And you see a fence; correct?

15 A. And that's the fence.

16 Q. Okay.

17 A. But the main reason I took this picture -- this was
18 after I found out about their antiharassment orders
19 and they're saying how scared they were --

20 Q. All right.

21 A. -- and I got a copy of their -- I listened to what
22 they said in court --

23 Q. Uh-huh.

24 A. -- in Bremerton. How scared they were. I did this
25 to show that Mr. -- Mr. Closson -- Closson, he

1 parked his vehicle right there, which is normally
2 our parking space.

3 And that was done just to upset us because he
4 has plenty of room over at his place.

5 Q. So his place is the other side of that fence;
6 correct?

7 A. He has a -- he can park four cars side by side over
8 there, no problem.

9 Q. Okay.

10 A. And he did that for a couple days. And him and the
11 neighbor across the street, they've -- there's
12 another place where I would park over there across
13 the street where there's bushes.

14 Q. Um-hmm.

15 A. And he brought his car that had been parked in his
16 garage and he just left it out there for -- for
17 weeks at a time.

18 Q. So let's --

19 A. And this made it hard for us to park.

20 Q. Okay.

21 MS. PURVES: And can I -- we can't see it --
22 you know, what's being shown over there.

23 MS. LaCROSS: I could show -- well, if you
24 wanted to look at it exactly, let me see.

25 THE WITNESS: And I thought it was interesting

1 that he's claiming he's so afraid. And if he's so
2 fear. Why would he do something to try to provoke
3 something? I just ignored it.

4 BY MS. LaCROSS:

5 Q. Um --

6 A. In the next photo --

7 Q. Hold on for a second.

8 A. Sure.

9 Q. I'm skipping over the movies. So --

10 A. If you could go to the next photo that we have
11 there.

12 Q. Yeah, the picture. Let me see where you're at.

13 A. Right here. Let me put them in quickly.

14 Yeah, it's an old computer.

15 Q. So that's a picture; correct?

16 A. That's a picture of Mr. Closson's vehicle again.

17 Q. Okay. And that shows his vehicle on his -- on
18 the --

19 A. On his property.

20 But what's so important about it is he never --
21 always parked closer to that black car.

22 And then when Ms. Kelsey was out there trying
23 to get the lawn fixed, putting soil down, putting
24 fertilizer down and had a sprinkler going -- the
25 sprinkler would go over the fence a little bit. So

1 he parked against the fence so she couldn't do the
2 sprinkler.

3 Q. Okay.

4 A. And it was just, you know, more -- he's claiming
5 he's so afraid.

6 Q. And the next picture is the same thing; correct?
7 Now, all of a sudden, he's parking very close to
8 that fence.

9 A. Yes. And he did -- he did that.

10 Q. And during that time, Ms. Kelsey was trying to run
11 the sprinkler to grow the lawn.

12 A. Run the sprinkler to grow the lawn to -- to repair
13 the lawn.

14 Q. I'm going to -- let's see. I'm going to skip the
15 next two. And I want you to open the one that is
16 called Chiminea -- Chiminea.

17 A. Okay. There's a Chiminea right there.

18 Q. Okay. Now, did you -- were you present when -- or
19 aware when the fire department came to the house?

20 A. I was present when the fire department came.

21 Q. Okay. And that day had you started a fire in the
22 Chiminea?

23 A. I'm the one that started the fire.

24 Q. Okay.

25 A. It was the first fire of the year.

1 Q. Okay.

2 A. And I start the fires. And what I should have done
3 was clean out the Chiminea before I started the
4 fire, because I brought down wood from the shop that
5 I had split that had sat out for over a year.

6 Q. Uh-huh.

7 A. And if you look in the little part, very low
8 left-hand conner, you'll see the top of what looks
9 like a handle. That's the wood carrier. All the
10 wood that we were burning was in that wood carrier
11 right next to the Chiminea.

12 Q. That metal-looking thing?

13 A. That metal-looking thing.

14 Q. Okay.

15 A. It actually has a flat --

16 Q. Okay.

17 A. -- kind of a flat bottom thing.

18 Q. So the fire hadn't -- hadn't been started in the
19 Chiminea this year at all; correct?

20 A. No, that was the first time.

21 Q. The first time. And there was debris in it;
22 correct?

23 A. There's debris in it. But it had been dry a number
24 of days. I thought it wouldn't burn.

25 Q. Okay. So you lit the fire with the debris in there.

- 1 A. I did.
- 2 Q. And did that cause smoke?
- 3 A. It caused someone to chew my ear off.
- 4 Q. Okay. So there was a lot of smoke that came --
- 5 A. A lot of smoke.
- 6 Q. Okay.
- 7 A. A lot of smoke came up. It lasted for about -- I --
- 8 I didn't think more than ten minutes or so. It
- 9 could have gone on for 15 or 20.
- 10 Q. Okay.
- 11 A. But it was going up.
- 12 Q. Okay.
- 13 A. And we didn't know -- and it was not smelling, like,
- 14 sulphur. It smelled, like, old leaves kind of a
- 15 thing.
- 16 Q. Okay. And -- and then you -- that fire went
- 17 throughout -- for a few hours, correct, throughout
- 18 the evening?
- 19 A. And then there was a fire going in that fireplace
- 20 all the way until the fireman came --
- 21 Q. Okay. And did --
- 22 A. -- and then a little bit longer than that.
- 23 Q. And did the firemen -- they let you keep the fire
- 24 going; correct?
- 25 A. They had no problem. Kelsey was right there with

1 them. She was worried that maybe there was fire ban
2 or something.

3 Q. Okay.

4 A. So she ran, got a picture of water. And when she
5 saw the fire truck come up, she said "Am I supposed
6 to" -- "Are we doing something wrong here?"

7 He said, "No, you're not doing anything wrong.
8 It's a perfectly legal fire."

9 It's also --

10 Q. So the fire is safe; correct?

11 A. Fire is safe.

12 Q. And periodically -- from the time you started the
13 fire you'd periodically -- you or Ms. Kelsey --
14 somebody would go and put a piece of wood in to keep
15 the fire going; correct?

16 A. You'd have to go -- we're sitting in chairs -- you
17 seen the pink chair that I was in --

18 Q. Uh-huh.

19 A. -- on the right side. And her pink chair was close
20 to mine. And she would just lean forward, get
21 another stick of wood and put it in.

22 Q. Okay. So now, the next picture -- so these pictures
23 are of your fence; correct?

24 A. And I took this in a view that would show us -- so
25 if you go -- in the middle -- if you go through --

1 drive through over there, Ms. Gemma's property is
2 across the bay. You can't see anything from her
3 property. You can't see anything from ours, other
4 than the smoke going up above the trees.

5 Q. Okay. And the next one is the top of your fence;
6 correct?

7 A. Top of the fence. When I first read when they were
8 claiming, I was under the impression that they were
9 thinking that we were putting smoke bombs along the
10 top of the fence somehow.

11 Q. Okay. And do you have that there -- so you took a
12 picture of that to show that there are -- there's no
13 scarring from smoke bombs --

14 A. Yep.

15 Q. -- because we know smoke bombs leave scars.

16 A. Yep. That's why I was doing it.

17 Q. Okay. All right. Now --

18 A. The next two pictures are about the same thing.

19 Q. Correct.

20 So I want to now talk to you just -- and you
21 were having conversations with Ms. Kelsey. She had
22 testified that you guys were talking about -- on the
23 night of this fire about -- amongst yourselves
24 and --

25 A. We were conversing amongst ourselves. I was seated

1 there. She was seated there. And we were talking
2 before the fireman came.

3 We didn't even know they were home. And we
4 were talking about how the dog had been barking all
5 afternoon and the evening, as it were, and it was
6 ironic that they were complaining about our dogs
7 barking when their dogs were barking. But it didn't
8 bother us. We didn't have a problem with that.

9 So I mean we just -- we're just talking back
10 and forth, you know, just nothing.

11 Q. Okay. So --

12 A. And then after the fireman came, we figured they
13 were there. We looked up and they were -- about
14 five minutes after the fireman came, we looked up
15 and they were in the back room, kind of, spying on
16 us. I don't know what they were doing --

17 Q. So you --

18 A. -- but they were both had --

19 Q. But during that conversation, the topic of their dog
20 came up, but not in any sense of threatening the
21 dog; correct?

22 A. No way.

23 Q. Okay.

24 A. I mean, what for?

25 Q. Let's see here.

1 Now, have -- with the -- the black lab, did
2 you -- you took steps to try and contain the black
3 lab; correct?

4 A. I took steps. And it is what you showed with the
5 gates lined up and going from -- again, it started
6 out low when he was a puppy.

7 Q. Uh-huh.

8 A. And it started getting higher and higher as -- as he
9 was able to -- when I learned that he could jump
10 over the gates.

11 And then I completely shut his ability to go
12 down to the beach off. And their claims of it
13 happening as much as they -- it happened because any
14 time I would find out about it or anything, I would
15 be right on it.

16 And I've been home since somewhere in the
17 middle of June, by about the first of July. And I
18 would monitor him by the hour. And I would try to
19 make sure she was where she was supposed to be.

20 We got a kennel on the side of the house, and I
21 would try to train her that if she goes out of the
22 yard without permission she goes in the kennel.

23 And I would take her on walks and try to teach
24 her how to walk next to me. And I would go down and
25 show her the perimeters of her yard and that kind of

1 thing.

2 But for some reason she was -- you know, they
3 had -- it's hard to untrain a dog and tell them that
4 where you thought you were able to go, because they
5 were nice and they spent time with you, you can't go
6 there anymore. I just couldn't get her to get past
7 that.

8 But the last few days I know she hasn't been
9 out because I completely shut it down. But that was
10 the day when Ms. Ganowski tried to coax her over,
11 but there's no way for her to get over.

12 Q. Okay.

13 A. It was just a problem. And my goal was -- has been
14 with that dog that -- that we were going to take her
15 when we moved to a bigger land.

16 Q. Uh-huh.

17 A. But at that point, with the problems we've had, it
18 wouldn't be possible.

19 So my talking with animal control was to try to
20 get her to someone who needed a companion dog.
21 Because it's a fantastic companion dog. It's just
22 wonderful.

23 I taught it not to jump. Puppies all the time
24 try to bite at you, you know, and I taught it not to
25 bite, all those kind of things, you know.

1 Q. So you guys are planning on moving?

2 A. Yes. Well, there's no point in staying there now,
3 so.

4 Q. Now, have you talked to other neighbors?

5 Have you had any other neighbor issues with the
6 dogs?

7 A. I did two things.

8 Q. Uh-huh.

9 A. I did a Freedom of Information Request for animal
10 control.

11 Q. Um-hmm.

12 A. And I talked to every neighbor on Madrona Point.

13 Q. Okay.

14 A. That -- that I could talk to about the issue.

15 Q. Uh-huh.

16 A. You know, first of all --

17 MS. PURVES: Objection. Hearsay, as to what
18 he's talked about with other neighbors.

19 THE COURT: Response?

20 MS. LaCROSS: Well, I'm just trying to show
21 that he's taken the steps, you know. That he's been
22 doing the effort to address the issue with the dog.
23 And part of that is him talking to the neighbors about
24 the dog.

25 MS. PURVES: But it also allows him to just

1 say what they said and thereby get in their statements
2 without them being here and us being able to see if the
3 statements hold up.

4 THE COURT: Okay. He -- he can only talk --
5 he can only testify to what he talked to the neighbors
6 about, specifically about the dog.

7 MS. LaCROSS: What he talked about; correct?

8 THE COURT: And their response about the dog.
9 Not about whether they like him or want them to stay or
10 want them to leave. None -- none of that. All -- all
11 he can testify to is any discussions about --
12 specifically about the dog.

13 BY MS. LaCROSS:

14 Q. So how many neighbors did you speak to about the --
15 about the dog?

16 A. The ones in the closest proximity, about five or six
17 other than Paul Shire.

18 Q. Okay. And during your conversations, did you -- did
19 they have a problem with your dog?

20 A. I came to the understanding that the only problem I
21 had was with Ganowski and Closson.

22 Q. Okay.

23 A. And the same thing with animal control, no one else
24 had ever made a complaint about our dogs.

25 Q. Okay.

1 A. And I went back two years on animal control.

2 Q. And so -- I mean, we've seen where the dog has
3 gotten out of the yard and you have taken steps to
4 keep the dog in yard; correct? To do the best that
5 you could; correct?

6 A. I have. But my fear is that in -- the baby gates
7 was just for now, anyways. But my fear was that
8 when there's so -- so much going on between us and
9 the fact of them trying to coax him over so they
10 could get videos, I felt that it wasn't the right
11 place for him to be.

12 Q. Okay. And you have three dogs, other than the black
13 lab; correct?

14 A. Yeah, I have three dogs.

15 Q. And could you describe those dogs.

16 A. Well, they're not papered dogs. I just call them --

17 Q. Just their colors.

18 A. They're little dogs. And there's -- I got a white
19 one. It's got -- it's got black in it too, but I'll
20 call it white. And then I've got a black one --
21 it's not black, but it's more like a brownish, dark
22 brown --

23 Q. Um-hmm.

24 A. -- in it, and some other colors in it. And then
25 I've got a tan one.

1 Q. Okay. And you would come home late at night; is
2 that correct?

3 A. When I would get done at work, I would come home and
4 I would pull any truck in, usually that spot out
5 there where you saw the BMW out there with the snow.

6 And when they would hear my truck, they would
7 just go wild. And I was trying my hardest to get
8 them to stop doing that. I would hurry into the
9 house as quick as I can. The time it took me to
10 walk from the door to the house. Once I went in the
11 house, I calmed them down and that was pretty much
12 it.

13 You notice on one of her videos that she did,
14 she took a sample from that video to make it look
15 that's all there was in the noise, but there's
16 another in there where it starts at the beginning
17 when there's no noise. It's just quite. To begin
18 with, there's no noise. And it always would start
19 with one dog barking telling the others I was home
20 and then they'd all start their thing.

21 And I do want to say with the animal control,
22 things I found, on some of the days that she claimed
23 that the dogs were barking, that she wrote in these
24 notations, there were no dogs there at all.

25 Q. On those days?

1 A. On those days. They were up with us. I had a
2 property up at Lake Cushman. I have property in
3 Hoodspert. On some of those days that I could go
4 back and verify.

5 Q. On some of the days on the -- on the animal -- on
6 the complaint --

7 A. Animal control.

8 Q. -- you had the dogs out at Lake Cushman?

9 A. Not just mine, but hers.

10 Q. Okay.

11 A. Elizabeth's as well.

12 Q. Okay. You did a Freedom of Information Act and
13 Public Disclosure Request to animal control?

14 A. I did. I went back two years.

15 Q. Okay. Did you get any videos or anything from
16 animal control?

17 A. They had no videos. They gave me no videos
18 whatsoever. So when she said yesterday that she did
19 that because the video she sent to animal control --

20 Q. So they weren't --

21 A. No.

22 Q. They weren't provided to you in your request?

23 A. No. That was editing.

24 MS. LaCROSS: I don't have any other
25 questions. I would like to, before I rest, move to

1 admit these. So I don't know if you want me to do that
2 now or at --

3 THE COURT: Sure. Well, go ahead.

4 MS. LaCROSS: So I would move to admit the
5 9-1 -- well, what I have marked here. Let's see.

6 So Exhibit 3, which is what we've just been going
7 through.

8 THE COURT: Any objection?

9 MS. PURVES: I don't have any objections. If
10 you're going through the whole list, I don't have any
11 objection to any of them.

12 THE COURT: Okay. So there's -- according to
13 my list Exhibit 2, Exhibit 3, 4, 5 --

14 MS. PURVES: And 8.

15 THE COURT: -- and 8 had not been admitted
16 yet.

17 You asking to admit all of those?

18 MS. LaCROSS: If -- yes.

19 MS. PURVES: I think -- if those are the ones
20 we've been looking at, are they not? I'm sorry. Maybe
21 I --

22 MS. LaCROSS: Yes.

23 MS. PURVES: -- misunderstood.

24 MS. LaCROSS: Yes.

25 MS. PURVES: So those were the photos --

1 MS. LaCROSS: Well, Exhibit 3 are the photos
2 we've been looking at.

3 MS. PURVES: Okay. Well, what are 2 and 4 and
4 5, then?

5 MS. LaCROSS: Exhibit 2 is the -- is the 911
6 calls.

7 MS. PURVES: Okay. Maybe I thought -- what
8 are 3 and 4? I thought those were what we were looking
9 at.

10 MS. LaCROSS: Those --

11 MS. PURVES: Or not 3 and 4 -- 4 and 5.

12 Sorry.

13 MS. LaCROSS: Let's see. We did not do those.

14 THE COURT: Four and five are your videos.

15 MS. LaCROSS: Yes, that's yours so we don't --

16 THE COURT: Put numbers on them.

17 MS. LaCROSS: -- so you already did.

18 MS. PURVES: Mine are --

19 MS. LaCROSS: That's petitioner's thumb drive,
20 1 and 2.

21 MS. PURVES: No, no, no. Mine are 6 -- mine
22 are --

23 THE COURT: Four and five.

24 MS. PURVES: I have those. Mine is 1 -- the
25 video -- Number 1 is my thumb drive. That's this one.

1 MS. LaCROSS: Okay. So this is just a
2 duplicate? Four and five are duplicates of your one.

3 MS. PURVES: Okay. So maybe we don't need --

4 THE WITNESS: But each of the videos are --
5 each of the videos, those are marked by 1, 2, 3, 4 was
6 your thumb drive. That's -- (indiscernible) that's the
7 only reason why they're there.

8 MS. PURVES: Okay. So I don't think 4 and 5
9 need to be admitted.

10 MS. LaCROSS: And then Exhibit No. 8.

11 MS. PURVES: I object at this point. I think
12 came in or -- I'm not sure.

13 THE COURT: Eight will be admitted. And then
14 there was some numbered after that.

15 Are they all already admitted?

16 (Exhibit 8 admitted.)

17 MS. LaCROSS: (Indiscernible) had been
18 admitted after that. I just want to make sure, Because
19 I moved to admit the pictures already that we looked at
20 here. So 8 -- so 9, 10, 11, 12, 13, 14 were mine and
21 that was admitted, and then 15 --

22 THE CLERK: Was admitted.

23 MS. LaCROSS: And I think that's where we're
24 at; is that correct?

25 THE CLERK: So 2, 3, and 8 are admitted?

1 MS. PURVES: No, I think --

2 MS. LaCROSS: Two, three -- so right now
3 currently 1, 2, 3, 6, 7, 8, through 15 are admitted.

4 THE COURT: The only ones that are not are 4
5 and 5.

6 MS. LaCROSS: Correct.

7 THE COURT: Okay.

8 Okay. Cross-exam?

9 MS. PURVES: Sure.

10 THE COURT: Ms. Purves.

11 CROSS-EXAMINATION

12 BY MS. PURVES:

13 Q. Mr. Longacre, have you noticed any work going on
14 next to your -- next door at the neighbor's house?

15 A. There's lot to tunnel work going on over there.

16 Q. And how can you tell?

17 A. Can hear it all day and also see trucks coming in
18 and out.

19 Q. Okay. So there's been work trucks parked in what
20 you call their parking area?

21 A. Correct.

22 Q. But you said earlier that you thought Mr. Closson
23 was parking where he was as a form of harassment?

24 A. Because those had to do with days where they had no
25 work trucking coming, had nothing there the whole

1 day.

2 Q. Okay.

3 A. Here we --

4 Q. And so --

5 A. Plus even with work trucks, there's plenty of room
6 to be a little bit over so we could run our
7 sprinkler.

8 Q. And you also said that you spoke to other neighbors.
9 Who did you talk to?

10 A. I'm terrible on names. But you go down -- you've
11 got Steve on the one side, you've got Helen on the
12 other side. You got Dave two doors down, you got
13 Chris his wife right next door to us, and then you
14 have the prior neighbors that were there. And,
15 then, going down the street -- I'm terrible on
16 names. So but two or three houses down the street
17 on our side.

18 Because I was concerned about people being
19 concerned if our dogs were running down the beach,
20 you know. If they had a problem with that. Because
21 -- because I see lots of dogs come up on the beach.

22 One neighbor down the beach, he has no problem.
23 He has -- I know his dog's name. His dog's name is
24 Jack, because Jack comes up and visits our dogs,
25 comes up the stairs.

1 Q. But you're talking --

2 A. Because the beach is such -- like, you only have a
3 -- you got a three-foot drop on everybody's lawn to
4 the beach, and we're one of the only ones with
5 steps.

6 Q. Slow down for a second, please. I just asked who
7 you talked to, Mr. Longacre.

8 A. Yep.

9 Q. And you don't remember names, but you just described
10 some people that --

11 A. I talked to.

12 Q. -- are locationally related to your house?

13 A. Yeah.

14 Q. Okay. That's fine.

15 A. And them folks that had just moved in, young couple.
16 And then Jack and his owner and then --

17 Q. And you testified earlier that --

18 THE COURT: I'm sorry. I have to interrupt
19 you. I overlooked this note and I should have acted
20 quicker. We need to take a 15-minute recess.

21 MS. PURVES: Okay. Thank you.

22 THE COURT: So we'll do that.

23 THE CLERK: All rise.

24 (Court is in recess.)

25 THE COURT: Okay. Continue with the

1 examination -- cross-examination of Mr. Longacre.

2 BY MS. LaCROSS:

3 Q. Okay. Mr. Longacre, on the 20th of July, that's the
4 day that the fire department came to your house, a
5 video was submitted in support of petition that
6 shows Ms. Kelsey talking to the fire department.
7 Have you seen that video?

8 A. I -- I remember seeing it. I don't remember it in
9 detail.

10 Q. Okay. I'm going to play it again. I think I got
11 the video working now.

12 A. On what --

13 (Video played.)

14 BY MS. LaCROSS:

15 Q. Can you see that okay? Or I can hold it up?

16 A. I can't see hardly anything at all on that one.

17 Q. Okay. So it's pretty blurry.

18 A. Yeah, quit a bit.

19 Q. So here it is.

20 A. Okay.

21 MS. PURVES: And, your Honor, can you see it?

22 THE COURT: Yeah.

23 (Video played.)

24 MS. PURVES: I'm sorry. My mouse doesn't like
25 being --

1 BY MS. LaCROSS:

2 Q. Okay. So who's that speaking? Do you recognize the
3 voice?

4 A. It's Elizabeth.

5 MS. PURVES: Okay. And, Your Honor, could you
6 hear that? I can move it this way.

7 THE COURT: I wasn't able to understand what
8 she was saying.

9 MS. PURVES: Is this better?

10 THE COURT: Okay.

11 (Video played.)

12 BY MS. LaCROSS:

13 Q. So that was Ms. Kelsey's voice that we heard?

14 A. It's her voice, yeah.

15 Q. And we didn't hear your voice on there, did we?

16 A. No, you didn't.

17 Q. But you said you were outside.

18 A. He's -- when the fireman came to the fence by the
19 front yard -- at the front yard, if you come up to
20 the fence that separates the front from the back.
21 You can -- it comes up to about chest high maybe.
22 The fireman came up to that and she got up and went
23 -- was talking to him from the edge of the garden.
24 There's a separation from there about 10, 15 feet.
25 So she was doing the talking. I wasn't talking at

1 all.

2 Q. So I'm sorry. You weren't --

3 A. I weren't -- I wasn't talking at all.

4 Q. Okay. You didn't talk to the fire department when
5 they came?

6 A. No reason for me to. He came, looked at it. She
7 talked to him, asked him if it was an okay fire, and
8 he said okay. And, then, you heard the end of the
9 video. You didn't play the start of it where she
10 talked about putting the fire out if he needed her
11 to.

12 Q. Okay.

13 A. The fire -- even though we knew the fire trucks were
14 out, because the lights came flashing. We seen
15 lights. It was just about turning dark. We seen
16 that there was something out there and they came up.

17 Q. I'm sorry. What?

18 A. And he came up to --

19 Q. Okay. But -- but you're not on that video? Your
20 voice isn't on the video? That's all I was asking.

21 A. My voice wasn't on the video.

22 Q. So you said that no neighbors made complaints
23 earlier, before we took a break, about the dogs; is
24 that correct?

25 A. That's correct. Animal control stuff that I got

1 back, none of our neighbors on Madrona made a
2 complaint. The only neighbor that got to help them
3 out was Ms. Hjelmaa. And -- and she did a thing
4 coexistence with them, which was -- that was it.

5 Q. That was what?

6 A. Have a coexistence thing with them, to try to make
7 them look like they --

8 Q. So I'm sorry. So this --

9 A. Try to give support to them to make it look like
10 there's more than one person complaining. But
11 nobody else on Madrona, no.

12 Q. So -- so other neighbor -- people in the neighbor --
13 people across the water complained?

14 A. No. Nobody but Ms. Hjelmaa --

15 Q. Ms. Hjelmaa across the water --

16 A. -- Ms. Hjelmaa --

17 Q. -- complained?

18 A. -- was the only one. And they two were working
19 together on that.

20 Q. Okay. And -- and you deposed Ms. Hjelmaa --

21 A. I did.

22 Q. -- when you issued the CR 45 Subpoena in your
23 lawsuit about her complaints to animal control?

24 A. I did.

25 Q. Okay. And in those complaints you also -- you

1 showed her some videos that you had received?

2 A. Yes, I did.

3 Q. Okay. And where did you get the videos?

4 A. I can't remember which videos I showed her. I
5 apologize. But the videos that I got were the ones
6 that I got from the court in Bremerton from -- thumb
7 drive that was submitted for their complaint, which
8 is the thumb drive that was submitted here as well.

9 Q. Okay. And so -- and you went over those videos with
10 Ms. Hjelmaa about the dogs being on the beach?

11 A. I went over them with more than just them.

12 Q. Right. But you --

13 A. I went over --

14 Q. -- went over those videos?

15 A. I went over with the claims of the dogs on the
16 beach. The fact that -- that, you know, all the
17 videos that Ms. Hjelmaa made you cannot hear or
18 in -- the court -- in the 911 recording you can
19 never hear dogs barking, evening though at one point
20 she was right outside our door proposing to call 911
21 to make -- to join her in making an animal noise
22 complaint.

23 Q. And you were not present on July -- on June 13th;
24 correct?

25 A. I was not there. I got there later, but I was at

1 work.

2 Q. And it's your testimony that you were at the house
3 though on the 20th of July?

4 A. Twentieth of July?

5 Q. That's the fire.

6 A. The day -- the fire, yeah, I was there all day --

7 Q. Okay.

8 A. -- on the 20th of July. In the middle of June I
9 stopped working at the shop. I was pretty much home
10 everyday for all hours.

11 Q. Okay.

12 MS. PURVES: Thank you. No further questions.

13 THE COURT: Any redirect?

14 REDIRECT EXAMINATION

15 BY MS. LaCROSS:

16 Q. Let's see. I just wanted to ask you, did you have
17 any holes in your fence?

18 A. No, there were no holes. The only holes in -- big
19 enough to see in the little picture is a dog that
20 was doing it on their side to try to get over to our
21 side. When that happened, I put blocks up there.

22 Q. Okay.

23 A. So bottom part of the fence where the garden is, is
24 beginning -- the slats are beginning to rot out.

25 Q. Okay. All right. Did you ever throw any food?

1 A. No. No. And I remember the day. She had people
2 down there by the property line. Did not know
3 people were down there. We found out that lab had
4 beef -- he was allergic to beef.

5 Q. Uh-huh.

6 A. So I gathered all the beef bones and I threw them
7 down the beach for the other dogs that came down the
8 beach. It didn't go down on her beach, but it hit
9 close enough where they -- it didn't hit her shed
10 like she claims. It hit close enough that somebody
11 said, hey, you're getting too close. That was a dog
12 bone. They were dog bones, because we have -- she
13 knows that -- we had one Jack and -- I always forget
14 the name of the other one that comes down, a big lab
15 that comes down. Not a lab, but a golden retriever
16 type dog.

17 Q. Okay.

18 MS. LaCROSS: No other questions.

19 THE COURT: Any recross?

20 MS. PURVES: No, Your Honor.

21 THE COURT: Okay. Mr. Longacre, you can have
22 a seat.

23 THE WITNESS: Thank you.

24 THE COURT: Any other witnesses, Ms. LaCross?

25 MS. LaCROSS: No, Your Honor.

1 THE COURT: Ms. Purves any rebuttal?

2 MS. PURVES: Just a quick rebuttal and a few
3 points, Your Honor.

4 I'll call Mr. Jeff Closson, again.

5 THE COURT: Okay. Mr. Closson, do you swear
6 or affirm the testimony you're about to give is the
7 truth, the whole truth, and nothing but the truth?

8 THE WITNESS: I do.

9 THE COURT: Okay. You can have a seat.
10 And for the record state your name and spell your
11 last name.

12 THE WITNESS: Jeffrey T. Closson,
13 C-l-o-s-s-o-n.

14 THE COURT: Ms. Purves.

15 JEFFREY CLOSSON, witness herein, being first duly
16 sworn on oath, was examined and
testified as follows:

17 DIRECT EXAMINATION

18 BY MS. PURVES:

19 Q. Mr. Closson, where were you and Ms. Ganowski four
20 days ago?

21 A. We were in Minnesota visiting her parents.

22 Q. Okay. So -- so you weren't at home?

23 A. We were not.

24 Q. And you heard earlier that Ms. Kelsey and
25 Mr. Longacre believe that you're parking your car

1 close to the fence to -- to harass them, so they
2 can't water their lawn. Do you recall that
3 testimony?

4 A. I do.

5 Q. And why do you park your car there?

6 A. I mainly park it there because we have a lot of
7 people coming to work on the house, and they need to
8 park closer to the front door. And so I'm leaving
9 space for the work trucks to come in.

10 Q. Okay. And there was a picture of you parked
11 particularly close to a fence. And it -- actually a
12 couple of pictures, and are those times where you're
13 parking close to the fence because trucks are
14 coming?

15 A. Yes.

16 Q. Okay. And we covered this yesterday in your
17 testimony, but there's been a lot of testimony about
18 -- about snow in February. When did you move into
19 this residence?

20 A. I didn't move in until early April.

21 Q. So --

22 A. And I wasn't there when any of that happened.

23 Q. Okay. And are you aware of other neighbors that
24 have had similar problems that -- that you have had?

25 MS. LaCROSS: Objection, Your Honor.

1 MS. PURVES: Actually, you know what, I'll
2 strike it. I don't need to get into it.

3 BY MS. PURVES:

4 Q. Mr. Longacre indicated that he threw, it sounds like
5 maybe some beef -- beef bones. Did -- did you see
6 that?

7 A. I saw the result of that. I saw the raw bones on
8 our beach.

9 Q. Okay. And, then --

10 A. We have photos, I believe, we submitted of -- of
11 that.

12 Q. So did you find something -- I mean, was there poop,
13 too, in addition to the bones?

14 A. Yeah. I actually was -- was not there that day that
15 happened, but I did see the poop on top of the shed
16 when we got back.

17 MS. PURVES: Okay. All right.

18 I don't have any other questions.

19 THE COURT: Any cross?

20 MS. LaCROSS: No, Your Honor.

21 THE COURT: You can have a seat.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: Anything else, Ms. Purves?

24 MS. PURVES: I think we're done, Your Honor.

25 Thank you.

1 THE COURT: Anything else, Ms. LaCross?

2 MS. LaCROSS: No, Your Honor.

3 THE COURT: Okay. Closing arguments.

4 Ms. Purves.

5 CLOSING ARGUMENTS

6 MS. PURVES: Thank you, Your Honor.

7 The petitioners have met the elements for RCW
8 10.14, and should be granted petitions for
9 antiharassment orders against their neighbors,
10 Elizabeth Kelsey.

11 The respondent has tried to frame this as a
12 neighbor dispute, and it's more than that, in that the
13 order is specifically against Ms. Kelsey and it's for
14 the acts that she's only committed against the
15 petitioners.

16 Specifically, and most concerning, is the video.
17 That threat -- the threat that was caught on video.
18 The Court can determine the credibility of the claim
19 that that video has a lot more left out than what is
20 left in. When you watch it in succession the -- the
21 tone of the parties in the video, the spacing of where
22 they are where No. 1 ends and where the other clip
23 comes on, are consistent with it being a continuous
24 recording of the interaction.

25 Additionally, you see Mr. Closson trying to get

1 out of the situation while Ms. Kelsey continues to lob
2 threats at him. And the threats are not just at him.
3 The first part of the video makes it clear that her ire
4 and the threats are directed towards the household next
5 to her.

6 She said that she only became enraged whenever she
7 saw -- when he started make threats to her, but none of
8 those are the video. And his demeanor is very
9 different than what her's is in the video. She's
10 incredibly loud, she's profane, and she's violent,
11 re-threatening him. And he is trying to bring her dog
12 over.

13 The -- the next incident with the smoke bombs is
14 similarly -- it's unpersuasive that, one, that
15 Mr. Longacre was the culprit in that; and, two, that
16 there was not two separate things going on. The video
17 that -- that was taken by Ms. Hjelmaa shows plums of
18 white smoke going up. And she talks about how it was
19 intermittent. That it would start and then it would
20 dissipate, and then it would stop.

21 What was also interesting about Ms. Hellma's
22 testimony is that she said that it continued while the
23 wind was pushing the smoke toward Ms. Ganowski's house,
24 but then when the wind shifted and it started pushing
25 back it back toward Ms. Kelsey house, the smoke

1 stopped.

2 So she observed smoke being and intermittently,
3 you know, created and pushed toward the Ganowski house
4 and yet that ceased whenever the wind shifted.

5 So then you get whenever Closson and Ganowski come
6 home, they smell evidence of some smoke in the house
7 that's different than wood smoke or fireplace smoke.
8 It smelled sulphuris. They described it as being like
9 a firework.

10 As they state -- you know, then they observe
11 Ms. Kelsey peek over the fence, and then they see a
12 plume of white smoke coming up from where she was. And
13 what they described is that this is in different places
14 along the fence. They describe that the plume of the
15 sulfur had like firework type of smoke, that they
16 associated with smoke bombs, happened roughly in this
17 chair and then distance-wise -- I'm sorry. That chair
18 and then distance-wise the Chiminea -- or what they
19 later found to be a Chiminea, was several feet away in
20 a different location.

21 The respondents claim that it's all fire, it was
22 dirty leaves in the Chiminea. But that's not what's
23 shown in the video and it's also not what's shown by
24 the testimony that the smoke was coming from the
25 different place than the flames.

1 Combine that with the comment that they heard from
2 Ms. Kelsey, that they shouldn't leave their dog alone
3 like that, indicate a course of conduct meant to harass
4 them.

5 No time during the 20th of July did they see
6 Mr. Longacre, did they hear Mr. Longacre, or did they
7 even see two people moving around on that side of the
8 house. They testified that from their bedroom window
9 they can see into the yard. That they didn't see him.
10 And, then, we know that he is not mentioned or heard on
11 the video of the conversation that Ms. Kelsey had with
12 the fire department when they came to the house.

13 The testimony that you've heard that he was there
14 was from him, and you know from his motion to intervene
15 that he doesn't really want a protection order against
16 Ms. Kelsey. He claimed that he had a right to be a
17 party so that he didn't have to have that.

18 And finally, you've got the issues with the dogs.
19 The antiharassment order statute allows there to be a
20 pattern of conduct that's meant to intimidate and
21 harass and causes emotional distress to the petitioner.
22 In a normal circumstance, a neighbor dispute over loose
23 dogs might not rise to that level.

24 However, if taken into concert with how -- the
25 other conduct in this case, it does rise to the level.

1 Because Ms. Kelsey has threatened to kill Mr. Closson
2 if he touches the dog. It brazes the conduct when she
3 allows the dog the run free.

4 Now, they've shown some baby gates and stuff but
5 it's absolutely ineffective. The animal control
6 reports, and now the seizure of the animal, indicate
7 that whatever efforts they were doing were ineffective
8 and continuing to allow the dog to leave her property,
9 after she's threatened to kill him if he touches the
10 dog, constitutes harassment.

11 The dog destroys property. It digs up holes. It
12 jumps on people. And it's not -- the problem is not
13 just with the lab. Ms. Closson -- Mr. Closson and
14 Ms. Ganowski both testified that some of the animal
15 control reports were not just about the lab. Some of
16 them were about these smaller dogs that were coming
17 into the yard. And that's recent conduct.

18 And while they've mentioned that things have
19 improved in the last 60 days, unlike most protection
20 orders, this one has been in place since July -- or
21 June 14th, as a temporary order.

22 So to the extent that the harassment has lessened
23 during this period of time indicates that it's being
24 effective, to some extent. Obviously, the July
25 incident happened after the temporary order.

1 But the issues have been ongoing and directed at
2 the petitioner specifically. The threats were directed
3 to them, the smoke bombs were directed to them, and the
4 property damage caused by their animals were directed
5 to them.

6 Throwing dog poop on their shed, leaving dog bones
7 on their beach, throwing trash on their property or
8 leaving trash on their property, are all meant to harass
9 and intimidate them.

10 And have caused them stress. They've both
11 discussed how they don't feel they can even go outside
12 anymore, because they're worried.

13 Ms. Ganowski said that she hurries into her house
14 every night, because she's afraid she's going to have
15 some sort of interaction with them. And there's no
16 indication in any of this that any of it serves a
17 lawful purpose.

18 So Mr. Closson and Ms. Ganowski have met the
19 elements under RCW 10.14 and should be granted their
20 antiharassment orders against their neighbor, Elizabeth
21 Kelsey.

22 THE COURT: Okay. Ms. LaCross.

23 CLOSING ARGUMENTS

24 MS. LaCROSS: Thank you, Your Honor.

25 We've heard a lot and there's definitely issues.

1 Problems amongst the neighbors, problems with the
2 animals. But, Your Honor, you haven't heard
3 anything -- enough to arise to where an order has --
4 the burden has been met.

5 Let me move this so I don't trip over it.

6 Now, for unlawful harassment, the petitioners have
7 to show that there is a knowing and willful course of
8 conduct. Okay? The willful part is where we
9 immediately trip up in that. A lot of this information
10 is based on -- on the dogs. Okay? And there's been
11 evidence that -- and you've seen where Mr. Longacre has
12 made attempts to set up fences and block holes and
13 prevent the dogs from -- from going. You've heard
14 evidence that the dog mainly in question here, the
15 black lab, doesn't even belong to Ms. Kelsey. And
16 these orders are seek a protection order against
17 Ms. Kelsey. That black lab is Mr. Longacre's.

18 But there's no willfulness being shown where
19 there's -- there was testimony that they set up video
20 on their home, so they have a lot of video, but you
21 don't have any video of Ms. Kelsey doing any actions of
22 enticing these dogs to do what they're doing. They may
23 not be well mannered. They may need to have more
24 training. There's issues with that. She testified
25 that, you know, sometimes it's -- the dogs feel that

1 that's a part of their home, the neighbor's yard.

2 But what we do have as far as actions are, steps
3 that Mr. Longacre has taken to try and set up some
4 barriers for this. So that's our first issue with this
5 against Ms. Kelsey, is showing the willfulness when it
6 relates to the dogs.

7 It has to show a course of conduct. And the
8 factors to look at for a course of conduct are, it's a
9 pattern of conduct composed of a series of acts, which,
10 again goes towards the issues with the dogs.

11 It is not even -- Mr. Closson testified that, you
12 know, he basically said that they were negligent.
13 Okay.

14 Negligence isn't willful as well as it's not an
15 act. Not doing something is not an act. And there
16 hasn't been presented any evidence or testimony that
17 Ms. Kelsey has taken any acts towards these dogs going
18 onto the neighbor property.

19 The -- so over a period of time in evidencing a
20 continuing -- continuity of purpose.

21 Now, that is -- there's been a lot information, I
22 mean, there's a lot of exhibits and some exhibits going
23 back to May of 2018, the issues regarding the rocks,
24 the flooding of the flower garden, there was a couple
25 other ones, the lights being knocked off, there were a

1 couple other issues that were brought up there. And
2 that -- the shadow that she saw.

3 Well, if you take Ms. Ganowski's testimony, that
4 was in response -- that came as a direct response to
5 her being notified that they had received a citation
6 from animal control and that Mr. Longacre came over to
7 her. And if you take Ms. Ganowski's testimony, said,
8 something along the lines of, play hardball -- or it
9 was a conflict that was -- she had with Mr. Longacre,
10 not Ms. Kelsey.

11 There are no -- she wasn't able to -- she does not
12 know if, in fact, these rocks were thrown onto her
13 property, if that's a finding that you make. There was
14 no testimony that was provided who threw those --

15 THE COURT: I'm sorry. No evidence of what?

16 MS. LaCROSS: I said, if, in fact, you make
17 the finding that the rocks were thrown onto her -- the
18 property, there hasn't been any evidence of who threw
19 those rocks. Okay?

20 There hasn't been any evidence of whose shadow
21 that was. And that testimony was that that shadow was,
22 I think, 30 minutes after animal control arrived. And
23 this is in May, I don't -- I don't believe you get
24 shadows until it gets darker. And I don't know that
25 animal control works late at night, but there's a

1 shadow. There's no testimony that that is Ms. Kelsey.

2 There's no testimony about who turned the hose on,
3 if, in fact, that happened, and flooded.

4 If you want to make an inference what -- the
5 inference we would have would be that, and taking the
6 testimony of Ms. Ganowski, is that that all was
7 subsequent to Mr. Longacre having a confrontation with
8 her and making statements. They're seeking petition
9 against Ms. Kelsey, not Mr. Longacre.

10 And so that also goes towards the continuity of
11 purpose. Because they're trying to use all of this
12 evidence to show that the Ms. Kelsey over -- since May
13 of 2018, has taken these actions with this continuity
14 of purpose to harass them.

15 Well, that -- we have it broken -- that issue, the
16 trash, the -- all of that that I've talked about was in
17 2018, the summer of 2018, and broken up with then we
18 have the snow incident in February of this year, and
19 then we have issues again starting in June with the
20 black lab.

21 And so each of these incidents are not one
22 continual purpose. They are each separate conflicts
23 related to separate occurrences. So as well -- I'll
24 keep saying, there hasn't been any evidence provided
25 that Ms. Kelsey partook in the occurrences back in

1 2018.

2 So these -- all of this can't be lumped together.
3 They need to be looked at separately in the May --
4 summer 2018 chunk, the snow, and the June 2019 chunk.

5 And as well, when you're determining this course
6 of conduct, you can't include in that constitutionally
7 protected speech. Okay?

8 So that goes -- the sign that there wasn't a lot
9 of discussion, but there was some testimony about that,
10 but it's also part of the evidence. That sign is First
11 Amendment protected speech. You're allowed to have a
12 sign like that on your property. It's legal. It's
13 legitimate, and it's protected under Ms. Kelsey's
14 and/or Mr. Longacre, whoever's sign that is, is
15 constitutional rights.

16 So that cannot be included in the determination of
17 the course of conduct or in the, you know, the
18 determination of the unlawful harassment.

19 Furthermore, and, yes, that incident in July -- no
20 excuse me. The -- the June incident where Mr. Closson
21 came to Ms. Kelsey's door, yes, that's not a good
22 incident. Ms. Kelsey made some statements there and
23 may have behaved in a way that is understandably --
24 drew some concern.

25 But also what's important is this conduct, first

1 of all. Okay? How this is important is it was
2 directed towards Mr. Closson. Ms. Kelsey did not know
3 that Ms. Ganowski was hiding behind the fence recording
4 it. Ms. Kelsey didn't say anything in those statements
5 to Ms. Ganowski. It was directed towards Mr. Closson,
6 not Ms. Ganowski. There's two separate petitions here.

7 Mr. Closson has to show -- it has to be a series
8 of acts. It can't just be one act. And the only act
9 that is being alleged -- directed towards Mr. Closson
10 is, you know, this isn't his home, he didn't even live
11 there until -- until June. So Mr. Closson is -- is
12 asking for a petition based on one act. So that in and
13 of itself fails.

14 But furthermore, when you're doing the analysis of
15 whether or not unlawful harassment is proven -- and I'm
16 skipping down a bit, is that another element that needs
17 to prove, is that it didn't serve no legitimate or
18 lawful purpose. Okay.

19 And when we're looking at determining whether it
20 was a legitimate or lawful purpose, we're looking at
21 was the action done to protect property or liberty
22 interest. Okay? Was it doing -- was the respondent
23 acting pursuant to any statutory authority to regard --
24 including acts, which reasonably are necessary to
25 protect property or liberty interest.

1 And also another factor to consider when you're
2 looking at whether it serves a legitimate or lawful
3 purpose is who initiated it. Okay? Now, Ms. Kelsey
4 did not initiate this contact. There's been zero
5 testimony that Ms. Kelsey has ever initiated any sort
6 of contact with Ms. Ganowski or Mr. Closson.
7 Absolutely zero.

8 She did not initiate the contact on June 13th.
9 Mr. Closson came to her door, late at night, Ms. Kelsey
10 had never -- did not know who this person was. This is
11 June 13th. His testimony is he didn't live there until
12 June. So Ms. Kelsey didn't know who this person was at
13 her door and she was taken aback, and she was scared,
14 and there was a discussion that turned into an argument
15 and she lost her temper, because she was afraid. And
16 you can hear her trying -- when you listen to that, her
17 voice -- the level of her voice changes. She's moving
18 away and then she's coming back. And she ultimately
19 made the statements that you've heard.

20 And, again, we're asking that when you're looking
21 at that, that it's not even -- it doesn't even capture
22 the entirety of the interaction between the two of
23 them. But this was Ms. Kelsey in her home, not
24 initiating contact with anybody, but being approached
25 late at night, while she's home alone, by an individual

1 how she's never seen before and who she doesn't know
2 who it is. And it turns into an argument and she is
3 saying to -- what she feels she needs to say to protect
4 herself at that time.

5 And so that isn't even -- that incident doesn't
6 even rise to the level of being used by Your Honor in
7 making a finds of unlawful harassment. It was
8 constitutionally protected free speech. I'm protecting
9 my property. I'm telling you this is what's going to
10 happen if you come on my property. Okay? We have a
11 right to protect our property. We have a right to tell
12 people what's going to happen. It's served a
13 legitimate, lawful purpose. She was fearful. It was
14 to protect her property her liberty interests.

15 And aside from that, even if you do consider it,
16 which there's multiple reasons why you can't consider
17 it under the statute, it's one incident directed at
18 Mr. Closson, not directed at Ms. Ganowski. So it
19 certainly can't be part of an analysis of whether or
20 not unlawful harassment has been shown for
21 Ms. Ganowski.

22 So now -- so we've talked about knowing and
23 willful course of conduct, the elements of determining
24 whether it's a course of conduct, evidencing a
25 continuity of purpose, does it included

1 constitutionally protected speech, it has to be
2 directed at a specific person.

3 Again, the June 13th, incident was not directed at
4 Ms. Ganowski.

5 Seriously alarms, annoys, or harasses or is
6 detrimental to such person, serves no legitimate or
7 lawful purpose. We've discussed that.

8 And such that would cause a reasonable person to
9 suffer substantial emotional distress and, in fact,
10 does cause substantial emotional distress.

11 I think it's clear from this testimony here that
12 Ms. Ganowski has felt emotional distress. But we're
13 not just -- that's not the requirement. That's not
14 sufficient. It has to be substantial emotional
15 distress. Otherwise, we'd have lots of neighbor
16 conflicts in these courtrooms over animals or planting
17 this tree here or doing this to our yard or they're
18 doing this that are -- that cause each neighbor's
19 conflict and each neighbor's problems.

20 To get a restraining order, an unlawful harassment
21 order, it has to be more than that. It has to be
22 substantial. And that has not been shown either.

23 Now, on Ms. Ganowski's petition, the basis for her
24 petition is the dogs in the yard. Okay. I talked to
25 you about how that is not the basis to make a finding

1 for unlawful harassment. There was no evidence of
2 willful, no evidence of acts of Ms. Kelsey. Evidence
3 of actions of Mr. Longacre making attempts to prevent
4 the dogs from going.

5 Now, I've discussed the video. Ms. Ganowski has
6 raised that as a basis for her petition. Again, that
7 was not directed at her as well as all the other issues
8 I talked about with that. It requires that it has to
9 be directed at a specific person. So that fails.

10 The snow, okay. Now, that's the -- the February
11 incident. Well, it's free speech. It may not be
12 preferable, may not like it. Ms. Kelsey said a bunch
13 of things. "You fucking bitch." That was in context
14 of a dispute over how this snow got put on to their
15 property.

16 Mr. Longacre went through the pictures that shows
17 the Ganowski driveway completely clear of snow, and the
18 Kelsey driveway had not even been snowed at all -- the
19 plow -- there was a complication. Mr. Longacre
20 silently just shoveling it away and Ms. Kelsey says
21 what she said out the window.

22 That doesn't show any continuity of purpose
23 towards any sort of harassment. That was a moment in
24 time, neighbors not getting along, and that statement
25 was made.

1 But there's -- as well, you know, you can't rise
2 to substantial emotional distress because somebody
3 calls you that name. Okay? It's -- it's upsetting.
4 You don't like it. But, again, that's not a rise to
5 the level of substantial emotional distress; otherwise,
6 we'd have a lot of people in this room with substantial
7 emotional distress. Okay?

8 Now, the shadow. I just don't really. I don't
9 know what to say about that?

10 THE COURT: You don't need to say anything
11 about the shadow.

12 MS. LaCROSS: All right. I'll just go on
13 through each of the basis that she has put forward. So
14 I've already covered the rocks, the hose, the lights
15 being knocked off. You know, no testimony that
16 Ms. Kelsey did that. If you want to draw an inference
17 you'd have to draw the inference that it was
18 Mr. Longacre because, according to Ms. Ganowski, it
19 proceeded right after, 30 minutes or so -- or right
20 after they had a conflict at about the animal citation
21 and Mr. Longacre approached her.

22 The lights, they're -- they belong to Ms. Kelsey.
23 She put that fence up, she paid to put electricity on
24 it. She put these lights up. They're expensive.

25 The screaming at a young male and Clayton

1 Longacre. Well, that's not a basis to get an unlawful
2 harassment order, that your neighbors yell at each
3 other.

4 Trash. It's not clear from that picture in that
5 is -- who that is or if it's even trash. That's not
6 clear at all. Anybody -- let's just say it is, if
7 there's one incident in two years, okay, of any
8 allegation of trash.

9 The sign, that's protected by the First Amendment.
10 You can't even consider that. It's clearly protected.

11 The smoke bombs. Okay. That's a big one.
12 That's -- we have the June 13th incident, which was
13 just directed at Mr. Closson, and now we have the
14 July 20th, incident. And so in this block of time it's
15 -- those are the two incidents. And then incidents
16 with the dogs.

17 So the smoke bombs, well, Mr. Longacre testified
18 and even Ms. Ganowski said they never lit a fire. It's
19 not like they go out and have fires. They never lit
20 them. But this particular night they lit a fire.
21 Well, Mr. Longacre agreed, yes, that was the first fire
22 of the year that we lit and I didn't clean the Chiminea
23 out, and it was full of leaves and debris and all that.
24 And when you light that on fire that smokes. That's
25 what happens. There's no testimony that it was

1 Ms. Kelsey who lit that.

2 It was seen from afar and I find it -- well, there
3 was testimony because -- it's -- it's Ms. Ganowski and
4 Mr. Closson's position that there are two smoke bomb
5 incidents, on the same day albeit. The one that the
6 neighbor reported, and then after they got home another
7 one. And, Your Honor, I'd ask you to review those 911
8 tapes. I think that's our best evidence of trying to
9 determine that.

10 And so we have the 911 call -- we have two 911
11 calls that Mr. Closson made when he first got home, and
12 it was to report the smoke bomb that his neighbor had
13 told him about and he wanted to make a record of that.
14 He wasn't -- so he's calling 911 to get facts out and
15 to make records.

16 And then we have another phone call, and it's to
17 report a fire. Nothing is said about there's currently
18 or they're also doing smoke bombs again. There's
19 references to the smoke bombs in the afternoon, meaning
20 way prior to this particular phone call.

21 And these two phone calls are made within an hour
22 of each other. Made the first one right when he got
23 home. So on that second phone call he's calling to
24 report a fire, not another smoke bomb. There's no
25 evidence of them having spoke with the fire department

1 about smoke bombs or there's nothing in the fire
2 department report about smoke bombs. There's no
3 pictures of smoke bombs.

4 And there is video -- I believe there was
5 testimony that Ms. Ganowski said they went out and
6 bought surveillance video and put it up around their
7 house. There's no video -- there's nothing of this.

8 And we put it to you that they lit that fire in
9 Chiminea. Which Mr. Closson even said on 911 if it
10 would have been anybody else, it's really not a big
11 deal, but because it's them I'm calling. And so the
12 fire department is, like, people were just having a
13 safe fire. They let them have the fire continue.

14 So having a fire in your backyard cannot be the
15 basis for an unlawful harassment order. These smoke
16 bomb -- I put forward to Your Honor that there was only
17 once incident of smoke and that, one, there's no
18 testimony or evidence of who caused that smoke to go up
19 other than Mr. Longacre saying I went out and started
20 the first fire and we had debris and it caused all this
21 smoke, so.

22 Your Honor, Ms. Ganowski's petition for an
23 unlawful harassment fails. Her -- I think her matters
24 can be taken care of through animal control. It seems
25 like they're starting to already, by the black lab is

1 no longer there.

2 She testified that she was told that the
3 information has been forwarded to the prosecutor's
4 office or, you know, dog-at-large. So if we take
5 Ms. Ganowski's testimony and Closson and, in fact,
6 these dogs are horribly at lose it doesn't rise to --
7 it's not a situation for an unlawful harassment. It's
8 a situation for the animal control with the
9 prosecutors.

10 So, Your Honor, as to Ms. Ganowski's petition, she
11 fails to show willful -- well, first of all, she fails
12 to show acts by Ms. Kelsey. She fails to show willful
13 acts by Ms. Kelsey. She fails to show a continuity of
14 purpose. She has brought forward some evidence that is
15 protected by the First Amendment that the Court cannot
16 consider, and some evidence that Ms. Kelsey did that
17 served a legitimate lawful purpose of protecting her
18 property in an encounter in which Ms. Kelsey did not
19 initiate.

20 As to Ms. Ganowski, her petition fails.

21 Now, as to Mr. Closson his petition, again, the
22 dogs, same argument not going to repeat it. The video,
23 same argument not going to repeat it. The sign, smoke
24 bombs, lit fire near fence, the comments shouldn't
25 leave poor dog alone. So those are the basis of his

1 petition.

2 I've addressed all of those expect for the
3 shouldn't leave the poor dog alone. And that story
4 grew from his petition to his testimony, there was more
5 added to it, something about something's bad going to
6 come to the dog or -- you know, there was more threats
7 that was added during his testimony that wasn't
8 contained in the petition. And even Ms. Ganowski
9 didn't even testify to that additional threat part.

10 And so the dog -- the video, that's the big basis
11 of Mr. Closson's petition. And he wasn't a home --
12 he's not a homeowner. He just moved there since June,
13 so the threats that -- of the smoke bomb, if you took
14 that or the dogs on the property that's Ms. Ganowski,
15 but Mr. Closson has the video.

16 And, Your Honor, you have to have a series of acts
17 not just one act. And the fact that video is broken up
18 into three different sessions doesn't rise to a level
19 of a series of acts, because it was one continuous
20 conversation. There's no testimony that it was three
21 separate conversations.

22 So they have not proven a course of conduct
23 against Mr. Closson on his petition for Ms. Kelsey.
24 So, as well as, what I've already argued about the
25 factors that the Court has to consider in determining

1 whether or not it would serve a legitimate or lawful
2 purpose.

3 And the biggest one is that Mr. Closson initiated.
4 There's no testimony that you have heard that
5 Ms. Kelsey is going out and taking any actions to
6 harass Ms. Ganowski or Mr. Closson. She's never talked
7 to them, never been on their property. They have video
8 surveillance, nothing was provided.

9 So respectively, Your Honor, it's our position
10 that, although, obviously there are issues here, and
11 some bad behavior and some problems, it doesn't rise to
12 the level of an unlawful harassment.

13 THE COURT: Thank you.

14 Ms. Purves, reply.

15 MS. PURVES: Point of clarification. The
16 testimony is that Mr. Closson has lived there since
17 April, not June. And the video that has Ms. Kelsey
18 saying she's declaring a war, all of these acts are a
19 continuance of that war, and that war is the harassment
20 of her neighbors.

21 MS. LaCROSS: And just in response to that --

22 THE COURT: No. I let you go way too long and
23 you repeated yourself a number of times.

24 So go ahead, Ms. Purves.

25 MS. PURVES: I'm done, Your Honor. Thank you.

1 THE COURT: Okay. Just a minute.

2 Okay. Normally, I'd go through all my notes and
3 explain on the record the testimony and how I
4 interpreted it. And I'm not going to do that. The
5 notes are lengthy. I take a lot of notes when people
6 testify, and in the interest of time I'm not going to
7 go through all that. I'm just going to try to hit the
8 high points here.

9 And I may miss something, but I'm going to do the
10 best I can.

11 Okay. These cases often are he said she said type
12 of situations, where the Court has to determine
13 what's -- what's most credible and what's less
14 credible, and so on. And in doing that I take into
15 account a whole lot of things.

16 So as -- first of all, as far as -- well, let me
17 see if I can make sense of this.

18 I'm going to talk about the dogs last. But the --
19 okay. The threats that were made to Mr. Closson on the
20 video. Mr. Closson, first of all, I -- find
21 Mr. Closson on -- on this issue to be extremely
22 credible. I find that Ms. Kelsey is -- is not. She
23 suggests that there's a whole bunch of stuff that was
24 said that's not on the video, and that, basically,
25 Mr. Closson was sort the aggressor so to speak and I

1 don't believe that for a minute.

2 Mr. Closson, relatively new to the house. He did
3 move in early April. This was in June. He peaceably
4 tries to take this black lab puppy back over to the
5 neighbor. And so Ms. Kelsey is there and hadn't met
6 Mr. Closson, but Mr. Closson did nothing whatsoever to
7 instill any fear or anything else in Ms. Kelsey or
8 anyone.

9 Ms. Kelsey said she was afraid of him and scared.
10 I don't believe that. There was -- there was no
11 evidence suggesting that was any basis for that. All
12 he was trying to do was return their dog.

13 And Ms. Kelsey immediately lit into him and --
14 and, well, sort of accused him and inquired and
15 everything else about are you from the house next door,
16 which brings Ms. Ganowski into the situation and
17 whoever lives there. And, then, she went on tirade.
18 And went on absolute tirade, complaining about
19 everybody in the house next door.

20 She knows that Mr. Closson now is living there or
21 from that house next door, and complained about the
22 snow, complained about a couple things. And -- and
23 then -- and, then, threatened to shoot Mr. Closson's
24 mother-fucking ass if he ever sets foot on her property
25 again.

1 And that wasn't enough. I think she said -- said
2 it three more times. That I'm going to shoot you,
3 bitch, or something to that effect or I will shoot you,
4 bitch. I think she repeated that three times. She was
5 totally out of control. And this is a guy who was just
6 simply trying to return their puppy.

7 And so those comments were directed to -- they
8 were directed right there in person to Mr. Closson, but
9 in the Court's view they were directed to Ms. Ganowski
10 and anybody else that was living in the Ganowski house.

11 And -- and none of that's constitutionally
12 protected speech. Fighting words and threats and
13 all -- and particularly these kind of threats were --
14 are not protected under any circumstances.

15 I'm not taking into account the sign on the garage
16 about shooting on site. I'm not taking that into
17 account at all. I understand that's constitutional
18 protected speech.

19 I -- when my daughter was in Ventura, we used to
20 go for walks and the house down on beach had a sign on
21 the side that said something to the effect that their
22 dog can run from the door to the gate faster than you
23 can. So you better stay out of here.

24 Anyway, you know, people put up signs. They put
25 up signs to deter trespassers, burglars, or whatever.

1 So I'm not taking into account the sign at all.

2 And I don't have to. I mean, the -- the threats
3 and her tone and -- and aggression and violence, and
4 profanity was quite -- quite remarkable. Obviously, on
5 the tape Mr. Closson was completely stunned by it. And
6 he's testified to that. He's testified that he's been
7 in fear as a result of that. It's been on their mind,
8 and Ms. Ganowski did also.

9 And so if I have to come back to this incident I
10 will, but I think that sufficiently covers it.

11 Okay. As far as the smoke bombs go, there's two
12 kinds of evidence, there's direct evidence and
13 circumstantial evidence, and neither type is given more
14 weight or considered to be better than the other. And
15 with respect to the smoke bombs, the circumstantial
16 evidence, in my mind, establishes that that did happen,
17 the first incident.

18 The neighbor -- the person across the channel
19 noticed this white -- these white plumes of smoke
20 coming up. They seemed to be going in the direction of
21 the Ganowski house and she was concerned, you know, was
22 there a fire over there or something like that. She
23 videoed it, ultimately called 911. Call the -- called
24 Ganowski and Closson. And they were described as
25 starting and stopping and appeared to coincide with the

1 wind direction towards the -- towards the Ganowski
2 house. And -- and would cease -- were intermittent,
3 would cease when the wind appeared to either stop or
4 shift.

5 And when the -- when Closson and Ganowski got
6 home, they went into the house and it was filled with
7 this odor that they recognize, seems like they
8 recognized it fairly readily, as being some kind of
9 sulfuric smoke type odor, not like a wood fireplace or
10 a barbecue. And it was throughout the house. They had
11 left this dog that they were babysitting there in the
12 house, their windows were open. It was in July, so
13 middle of the summer. And airing out the house, and
14 the stuff went into the house.

15 And -- and then when Ms. Kelsey had an
16 opportunity, the testimony from Closson the Ganowski
17 were that at one point after this happened and after
18 they returned, she stared at them and made the
19 comment -- and I wrote it down, it was to the effect
20 that, gee, you shouldn't -- you shouldn't leave your
21 poor dog home alone like that.

22 And so taking all this together -- taking all that
23 together, it appears to me that something in the way of
24 smoke bombs or something similar to that was, in fact,
25 done and was, in fact, done by -- by or with the aid of

1 Ms. Kelsey.

2 And the -- and granted nobody's sat there right on
3 the property and watched her light a match to
4 something, but when I take all the evidence together,
5 and I probably didn't cover all of it, circumstances
6 that existed at the time, I find that there's
7 circumstantial evidence that that was done. And that
8 was done against both Mr. Closson and Ms. Ganowski.

9 The -- the later fire -- I mean, from their
10 standpoint the later fire appeared to them to be close
11 to the fence. They didn't know there was a Chiminea
12 there. They were concerned about the fence and about
13 this tree that was nearby. And the smoke bombs at that
14 point weren't a big deal because they simply just went
15 straight up in the air, was their testimony, if there
16 were any.

17 So they weren't disturbed by that in connection
18 with second incident. But it turns out that they
19 innocently had a fire that they set up then in the
20 Chiminea, and that's fine. But something happened
21 prior to that and my findings on that is as I just
22 described.

23 Mr. Longacre said he was there at intermittent
24 times, either there or not there -- or the fire
25 department when they came he was there, but he

1 apparently didn't say anything and nothing -- and he's
2 not shown on the video.

3 So, anyway, it -- and that doesn't make a whole
4 lot of difference to me. I'm -- Mr. Longacre is not a
5 defendant and I'm not making any determination of
6 whether he did any of this stuff or participated in it
7 or -- or anything.

8 Okay. The simple ones, I mean, the shadow we have
9 no idea who it is. The rocks being thrown at the door,
10 we have no idea who -- who did that.

11 The -- the trash being thrown on the -- on the
12 ground, I'm not convinced that that happened and it was
13 trash. It was -- at one point it was described as
14 perhaps Mr. Longacre bending down and picking up one of
15 the light fixtures or something like that or picking
16 something up. And it doesn't make sense to me that
17 somebody would kneel down and gently set trash down on
18 somebody's yard. Anyway, so the trash thing I'm not
19 making any finding in connection with that.

20 The garden hose, also there's no evidence as to
21 who did that. And so I think that get us to the dog.

22 Well, let me back up. Just based on the -- based
23 on the threats that were made June 13th to Mr. Closson,
24 and the smoke that was done on July 20th, I would find
25 that Ms. Kelsey committed unlawful harassment just

1 based on those two incidents. The conduct was knowing
2 and willful.

3 Well, and an important part of this is that a
4 course of conduct means any pattern of conduct composed
5 of a series of acts over a period of time, however
6 short. And so a period of time. I've heard these
7 cases and -- and so on, a number of times. And so
8 there can be series of conduct and it can be in a very
9 short period of time.

10 And so with respect to the threats, they were
11 knowing -- it was knowing and willful on her part as to
12 the threats and what she said. It was directed
13 immediately to Mr. Closson, but in the context of the
14 whole event it was directed towards -- also towards
15 Ms. Ganowski and the house next door, the residence
16 next door to the Ganowski house.

17 There's no doubt that it seriously alarmed,
18 annoyed, harassed, and was detrimental to both of them
19 and they've both been on pins and needles and egg
20 shells since then. They have not wanted to touch the
21 dog and get involved with the dog or anything because
22 they're afraid of what the consequences could be. And
23 there was no need -- no legitimate or lawful reason or
24 purpose as to why those threats had to be made.

25 As an aside, I mean, people have an implied right

1 to go up on somebody's front porch, knock on the door,
2 and conduct normal business. You know, to say hello or
3 to deliver a package or whatever. And unless there's,
4 you know, no solicitors or some other odd thing -- and
5 here that's all these people were doing -- that's all
6 Mr. Closson was doing was he went up, knocked on the
7 door, and simply wanted to return their dog which was
8 wrongfully in their yard.

9 And the threats would cause any reasonable person
10 substantial emotional distress. And, in fact, it did
11 cause both of them substantial emotional distress. And
12 the course of conduct was the entire tirade that took
13 place there on the porch. And -- and multiple -- like
14 I say, I think she said four times that she was going
15 to -- that she would shoot Mr. Closson.

16 And -- okay. And, then, the smoke bombs and the
17 smoke into their house is basically all the same,
18 expect that it wasn't as violent, as threatening, but
19 it -- it -- it meets the elements of unlawful
20 harassment together with the threats of June 13th.

21 So just for that -- just for those two things, I
22 would -- as I said, I would find Ms. Kelsey committed
23 unlawful harassment. And as a consequence of those two
24 things, the most recent petition of both Ms. Ganowski
25 and Mr. Closson would be granted.

1 Having said that, this is sort of as an aside, I
2 mean -- well, sort of as an aside. As far as the dogs
3 go, the -- if it was necessary for this case, but I
4 don't think it is, but if it was necessary -- just to
5 clear up where I stand as far as where the dogs go.

6 The small dogs and yipping when Mr. Longacre comes
7 home or whatever the case may be and whatever and late
8 at night, the yipping and the barking I would not find
9 that to rise to level of unlawful harassment. But the
10 black lab coming over to the house continuously, over
11 and over and over again, and digging holes, chewing up
12 shoes, pooping in the yard, and all that over a period
13 of time, I -- it's an unusual situation, this is a --
14 and unique. But the depth the breadth of that, I would
15 consider that to be harassment.

16 The -- I understand Mr. Longacre took some steps
17 to try to restrain the dog onto their own property.
18 It's brain -- it's not brain surgery to keep your dog
19 -- your dog on your own property and to keep it off of
20 the neighbor's property. And the fence, apparently,
21 didn't work. The baby gates didn't work.

22 It could have been a more confined kennel made.
23 The dog could have spent more time inside the house.
24 On some occasions the dog could be put on a rope or a
25 chain. I know that's not a preferred way for any

1 length of time to restrain a dog, but in the
2 circumstances there were other steps that could have
3 been made. There was reference to a kennel. A kennel,
4 a genuine kennel, can be pretty effective and should be
5 pretty effective to restrain a dog.

6 And -- but here -- here the evidence to me is that
7 this -- this dog was just allowed to -- allowed to go
8 out and not a whole lot of attention was paid to him,
9 and was allowed to go out basically any time he wanted
10 and nobody -- nobody took any efforts to stop it, any
11 meaningful efforts to stop it. Because as I say, I
12 think it could have been stopped if somebody was
13 serious about it.

14 And it annoyed, harassed, and was detrimental to
15 Ganowski and Closson. And -- in conjunction with the
16 threat, was alarming. Because here you have these
17 people that as far as they know they may get shot if
18 they touch this animal, let alone try to bring it home.
19 And so they -- they didn't do that anymore. They
20 called 911 or animal control. And said we're not
21 touching this -- this animal, but it keeps coming onto
22 our yard.

23 It was a course of conduct over a period of time.
24 And neighborhood disputes -- in typical neighborhood
25 disputes, in my view, they can cause a lot of emotional

1 distress. And here -- this is a neighborhood dispute
2 that went above and beyond just simply a neighborhood
3 dispute.

4 And so from the Court's standpoint it appears to
5 me that ultimately the -- the defendant -- the
6 defendant just simply didn't care about whether or not
7 this dog was going over there.

8 Now, an issue's being made, well, it's not
9 Ms. Kelsey's dog. Well, it lives in her residence.
10 She's in a long-term relationship with Mr. Longacre,
11 and they testified about that, and they both live in
12 that house. They both have dogs. And they both live
13 next to a neighbor who doesn't want a dog in their yard
14 doing what this dog was doing.

15 And so Mr. Longacre's not a party to these cases,
16 Ms. Kelsey is. And I believe that as a homeowner and a
17 landowner, where this dog lives, in the context of the
18 relationship that exist and them living together and so
19 forth, I -- I would -- I would also find that the
20 series of events with the black lab was unlawful
21 harassment by Ms. Kelsey.

22 So if you feel like adding that to anything you
23 can. Because that would be another basis to find
24 unlawful harassment here. But to me the more -- more
25 serious events were the threat and the -- the threats

1 and the smoke bomb, but the dog situation exists also.

2 Okay. That's -- I've covered it. And we are
3 already past an hour or so.

4 Do you have a proposed order or orders at this
5 point, Ms. Purves?

6 MS. PURVES: I think -- well, I have two --
7 well, I have -- the petitions also included a request
8 that the Court award attorney's fees for this matter.
9 And, I believe, under the new statute the Court also
10 has to make a determination in the findings of fact
11 related to whether there was a firearm involved or a
12 threat to use a firearm in the commission of a felony.
13 If the Court's ordering the orders.

14 THE COURT: I'm sorry. The what?

15 MS. PURVES: If the Court is entering an order
16 under 10.14 -- and I'm sorry, usually the Court has the
17 orders for antiharassment at the bench.

18 I do have the order for attorney's fees, but I --
19 I don't have the order -- the anti-harassment order
20 here. They're typically stocked forms that -- I think
21 it's right in there.

22 THE COURT: So service was done in these by
23 publication?

24 MS. PURVES: That's correct. This is the 9th
25 hearing on these orders, and service was done by

1 publication of the most recently filed orders that
2 were -- that petitions were filed on -- well, actually
3 service by publication was done on all of them.

4 THE COURT: Okay.

5 MS. PURVES: But the ones that included the
6 allegation of the smoke bombs were the ones that were
7 filed on July 23rd.

8 THE COURT: Yeah. The only -- well, okay.
9 The second petition of each of them incorporated
10 everything in the first?

11 MS. PURVES: That's correct.

12 THE COURT: I'm just entering an order on the
13 second petition of each of them, because in my mind
14 that encompasses everything. Does that make sense?

15 MS. PURVES: It does make sense.

16 THE COURT: As far as staying away from the
17 residence, what kind of distance -- or how are you
18 proposing to do that?

19 MS. PURVES: Well, Your Honor, there's a
20 shared property line. My request would not be that
21 Ms. Kelsey be restricted from any use of enjoyment of
22 her own property. I don't think that the statute
23 allows that. And so my request would be she not cross
24 the shared boundary line on the -- is that the north
25 side? Yeah, it would be Ms. Kelsey's south side or

1 your north side. Just the boundary line. We're not
2 requesting that she --

3 THE COURT: I'm just putting respondents
4 restrained from entering petitioner's residence, place
5 of employment, or within petitioner's real property.
6 Does that cover it? Within petitioner's real property.

7 THE WITNESS: We don't know where they work,
8 so.

9 MS. PURVES: And it's in the police report
10 if -- I can hand that forward if you want. It's an
11 exhibit at this point.

12 THE COURT: And I'm sorry, the address again
13 was what -- your address?

14 MS. GANOWSKI: 2102 Madrona Point Drive.

15 THE COURT: Bremerton?

16 MS. GANOWSKI: Yes.

17 THE COURT: Do you know what your fees are,
18 Ms. Purves?

19 MS. PURVES: Yes. I have a declaration, Your
20 Honor.

21 MS. LaCROSS: Well, Your Honor, I'd want to be
22 heard on that.

23 THE COURT: Okay. Go ahead.

24 MS. LaCROSS: So since this matter was started
25 in June, I came aboard at the -- not the -- at the

1 previous hearing. Correct? At the previous hearing?
2 But Mr. -- there was discovery that was being done by
3 Mr. Longacre throughout the process and Ms. Kelsey
4 contacted me and I appeared at the last hearing, and
5 then we -- we reset it to today based upon
6 Mr. Longacre's motion.

7 So I think there has to be some showing that has
8 to be made for the Court to award attorney fees. And I
9 know there's an issue with service. I haven't
10 discussed that with Ms. Kelsey, but she did talk here
11 about that, you know, she worked very lengthy hours and
12 wasn't present for that service.

13 So I'm not sure the basis for the request for
14 attorney's fees. This was a -- a complex issue. I
15 mean, it's taken a day and a half because there was so
16 much evidence that was provided and so much evidence
17 that had to be reviewed, and counteracted. So I would
18 ask more for -- I don't believe they have the basis for
19 the attorney's fees.

20 THE COURT: Ms. Purves.

21 MS. PURVES: Sure. Your Honor, the attorney's
22 fees in the case are substantial. I'm not going to
23 sugar coat that. The -- the hourly fee rate that I
24 charge is \$275 an hour. Mr. Closson and Ms. Ganowski
25 came to me after they had filed the petitions pro se.

1 And the first appearance that I had on the petitions
2 was on the 22nd of July. So I have been involved in
3 the case on -- on the 22nd of July through today. And
4 I believe that makes it that I didn't -- I attended
5 seven different court hearings, often times taking
6 several hours.

7 The attorney's fees are \$11,375. There's
8 additional fees for costs in the amount of \$552.
9 The -- as Mr. -- there's been a substantial amount of
10 briefing involved in this case, there's been a
11 substantial amount of court time, and those costs have
12 been borne by the petitioner.

13 There's no requirement under the statute that the
14 Court make some sort of finding before they award
15 attorney's fees for the petitioners. It simply says
16 that the petitioners can be awarded their attorney's
17 fees for pursuing the petition.

18 In this case --

19 THE COURT: In what section is that? Because
20 I'm looking at the statute and I'm not --

21 MS. PURVES: It's toward the back. I think
22 it's .080.

23 THE COURT: Okay. This --

24 MS. PURVES: It's -- I'm pretty sure it's
25 10.14.080. I'm sorry. It might not be in that

1 section.

2 THE COURT: .09 -- .090.

3 MS. PURVES: I'm sorry. It's .090.

4 MS. LaCROSS: Your Honor, and so the multiple
5 hearings that are being referenced I believe are based
6 upon Mr. Longacre's actions to motion to intervene,
7 which Ms. Kelsey was not part of. And that was
8 Mr. Longacre's actions, so that can't be attributed
9 to --

10 MS. PURVES: Yeah.

11 MS. LaCROSS: Because Ms. Purves talked about
12 the substantial briefing. As far as the actual
13 substance of the civil antiharassment petitions, there
14 hasn't been any briefing related to anything that
15 Ms. Kelsey has -- has done. The briefing was related
16 to Mr. Longacre's actions.

17 MS. PURVES: And I disagree.

18 MS. LaCROSS: And --

19 MS. PURVES: Yesterday the Court inquired
20 whether Ms. Kelsey was in support of Mr. Longacre's
21 motion to intervene and counsel answered in the
22 affirmative.

23 Additionally, Mr. Longacre didn't file his motion
24 to intervene until the hearing at the end of July -- of
25 August. So all of the hearings that took place between

1 July and August were -- Ms. Kelsey was evading
2 service or -- frankly, on her.

3 While I don't have it transcribed, I do have the
4 record from Bremerton Municipal Court on August 23rd
5 where Ms. Kelsey said on the record that the reason
6 they didn't come to Court earlier was because they were
7 waiting to get public records requests in before she
8 appeared.

9 And so the numerous hearings were related to the
10 petitioners not being able to get service and the --
11 frankly, the briefing was also in response or at least
12 the legal research in response to many of the issues
13 that were raised by that necessity to publish the --
14 the notice of the hearing by publication rather than
15 personal service.

16 MS. LaCROSS: And I just -- for the record and
17 for notice to Ms. Purves, its -- Ms. Kelsey has just
18 told me she's in bankruptcy proceedings. But, so
19 there's that information.

20 As far as evading service, there's no proof that
21 she was evading service for nefarious purposes. This
22 took -- there were a the lot of alligations and a lot
23 of public records that had to be obtained, 911 calls,
24 fire department report, animal control, a lot of
25 information contained there.

1 And just because Ms. Kelsey didn't oppose and
2 supported Mr. Longacre's motion to intervene, she
3 didn't bring the motion. She didn't cause the motion.
4 And it -- she is would not have brought it.
5 Mr. Longacre brought that motion.

6 And we weren't part of that argument.

7 THE COURT: Okay. So let me ask the clerk,
8 can you just white that out for me?

9 THE CLERK: Um-hmm.

10 THE COURT: Thank you.

11 Okay. That's okay. Go ahead and have a seat.
12 I -- I already know what I'm going to do here.

13 Okay. I've signed two orders here and they're
14 identical. And here's what they say: One's in Lisa
15 Ganowski's case, 19-2-02402-1, that's her most recent
16 filing, the other one is Jeffrey T. Closson, his case
17 19-2-02404-8. That should be his most recent filing.

18 Okay. "Notice there was service by publication.
19 No contact: Respondent is restrained from making any
20 attempts to contact Petitioner and any minors named in
21 the table above." There are no minors named.

22 "Surveillance: Respondent is restrained from
23 making any attempts to keep under surveillance,
24 petitioner and any minors named in the table above."

25 "Stay away: Respondent is restrained from

1 entering Petitioner's residence, place employment,
2 or -- or within Petitioner's real property at the
3 address below," and the address is 2102 Madrona Point
4 Drive, Bremerton.

5 MS. PURVES: Ms. Kelsey's asked that they
6 provide where they work, so she will know where to stay
7 away from. So that is Mr. -- what is Mr. Closson's
8 address of his employment?

9 THE COURT: Do I need to write that in here?

10 MS. PURVES: I can do it if you'd like.

11 THE COURT: No. I mean, do you need that in
12 order?

13 MS. PURVES: Yeah.

14 THE COURT: A lot of times people don't know
15 where somebody works and so we just let it go and if he
16 shows up there --

17 MS. PURVES: I think the -- the concern is
18 that respondents sometimes have is they don't know
19 where they have to stay away from, so we ask that it be
20 in the order.

21 MS. LaCROSS: Ms. Kelsey needs to know where
22 she has -- if she's being --

23 THE COURT: Okay. Fine.

24 MS. LaCROSS: -- and know where.

25 THE COURT: This is Mr. Closson's --

1 MS. PURVES: Employment.

2 THE COURT: How do I -- what's the word?

3 Try --

4 MR. CLOSSON: Treinen.

5 MS. PURVES: How do you --

6 THE COURT: T-r --

7 MR. CLOSSON: T-r-e-i-n-e-n. Treinen &
8 Associates.

9 MS. LaCROSS: Is there an address?

10 THE COURT: 204 Pear Street Northeast,
11 Olympia.

12 Does Ms. Ganowski have a place of employment.

13 MS. PURVES: Yes. U.S. Navy Fleet & Family
14 Support. It's listed on this police report that's an
15 exhibit.

16 THE COURT: Okay. So "Stay away: Respondent
17 is restrained" -- this is to Jeffrey Closson's order,
18 "Respondent is restrained from entering Petitioner's
19 residence, place of employment, or within the
20 Petitioner's real property at the address below."

21 The address is 2102 Madrona Point Drive,
22 Bremerton, Washington. And that's on both orders.

23 Then on Jeffrey Closson's order under "other" I've
24 also added "Treinen and Associates, 204 Pear Street
25 Northeast Olympia, Washington."

1 Lisa Ganowski's order I've added as "other, U.S.
2 Fleet & Family Support in Kitsap, 1099 Tautog Circle,
3 Silverdale, Washington."

4 Okay. As far as fees and costs, I've included in
5 each case -- well, make a note of this so you can
6 correct -- you're going to have to fill out a judgment
7 form, so you need to make it right, but in each case.

8 I've put the cost allowed to the petitioner \$552.
9 That's \$552 total. In other words, you need to break
10 it in half. It would be, you know, half to each, but
11 I'm just putting that amount on each order at this
12 point.

13 And the same with attorney's fees, on each order
14 I'm awarding the petitioner \$5,000 attorney's fees.
15 Reasonable attorney's fees confined to these cases as
16 oppose to the separate civil suit. And I'm not going
17 to try to break it down any further than that. Based
18 on the time that's went into these, the time of trial,
19 and everything else, I think 5,000 is reasonable. And
20 so that's the total for the two cases. I've put those
21 amounts in each. So if you need to make it half and
22 half in each case you can do that if you decide to when
23 you enter a judgment.

24 MS. PURVES: And so if I'm understanding, 552
25 for costs and 5,000 for fees in total?

1 THE COURT: In total. That covers both cases.
2 Do you want me to just break it in half.

3 MS. PURVES: No. No. No. I just wanted to
4 make sure I understand it correctly.

5 THE COURT: Yeah. The total is 5,000
6 attorney's fees for both cases, and \$552 both cases for
7 costs. Okay.

8 So on the "prohibit weapons and court order --
9 court surrender," I'm just putting not applicable on
10 both orders. I'm not going to get into a firearm
11 prohibition based on -- well, just based on what I
12 heard and the circumstances of this case, and so forth.
13 I don't think that's necessary.

14 Okay. So each of those orders, they need to each
15 be signed by Ms. Kelsey on the last page and by
16 Mr. Closson and Lisa Ganowski. You got the first page
17 on top of these.

18 Are we -- we're all set on that.

19 MS. LaCROSS: Yeah. We're making copy.

20 THE COURT: I'm sorry.

21 THE CLERK: We're making copies.

22 THE COURT: Okay. So if you need to present a
23 judgment in connection with the financial stuff, you
24 can note that up or you can do an agreed deal or
25 something, and it can be forwarded to me and I will

1 sign it.

2 Let me -- let me just say -- let me just say,
3 these -- these are difficult cases. At the very
4 outset, after I read all the documents and everything
5 else, I was almost prompted to ask if there was any way
6 that this matter can be settled or resolved. I didn't
7 suggest that, because after I read through everything
8 it seems to me that was not going to be possible. And
9 after I heard all the evidence I -- I was convinced it
10 was not going to be possible.

11 All I wanted to say in that regard was it's
12 unfortunate, fighting between neighbors is very
13 difficult and very unfortunate. And -- and on the one
14 hand, Ms. Kelsey's felt like she's been harassed for
15 two-and-a-half years. On the other hand, Ms. Ganowski
16 and Mr. Closson have felt that way for a period of
17 time, and it's left for me to decide what happened.

18 And so I know that both sides are probably not
19 going to be happy. I understand Ms. Kelsey and
20 Mr. Longacre are particularly not going to be happy.
21 But I hope somehow or another everything works out for
22 all of you that are involved in this, and I mean that
23 for whatever it's worth.

24 Okay. Thank you. Good luck.

25 MS. PURVES: Thank you, Your Honor.

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MS. LaCROSS: Thank you.

THE CLERK: All rise.

(Transcription concluded)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss
COUNTY OF KITSAP)

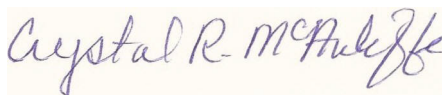
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That the foregoing transcript was transcribed by
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That the foregoing transcript is a verbatim report
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I further certify that I am in no way related to
any party to this matter nor to any of Counsel, nor do I
have any interest in the matter.

DATED this 6th day of March, 2020.



CRYSTAL R. McAULIFFE, RPR, CCR
Washington License No. 2121

D: Kitsap 911, what are you reporting?

C: Yes, this is not an emergency.

D: Okay, how may I help you.

C: But I want to report an incident with my neighbor.

D: Okay. When did this incident happen?

C: Just now.

D: Okay.

C: So, we've had continuing problems with our neighbor and their, neighbor and their dogs.

D: Okay.

C: I called, I called two days ago because a dog they were watching has got into our yard, it's a little puppy.

D: Okay.

C: And we returned him. Today it happened again,

D: Okay.

C: And I just returned it to them directly and she threatened to shoot me if I ever come on her property again.

D: Okay, and –

C: And we have it on video.

D: Okay.

C: And we've been reporting problems with this person for two years.

D: Okay. That long?

C: Yes. And animal control, I'm in touch with animal control now. And my girlfriend's been in touch with animal control for two years. But I just returned their, probably three or four month old puppy and she threatened to kill me if I came on her property again.

D: Okay. Now, I have to ask just because she said it. Did you see a weapon?

C: I did not see a weapon.

D: Okay.

C: But they do have a sign on the front of their house, that's gone to the city prosecutor that, Joe Sexton, that says, if, if you come on their property they will shoot you, or I don't know, it's a very threatening sign.

D: Okay.

C: But this is the first personal contact I've had with them. But my girlfriend's been having problems with them for over two years.

D: Okay. And you guys are like safely, safely separated. Nothing else is going to escalate at this time.

C: Well, I don't know. She said, bring it on, she said if you want a war, you've got a war, um . . .

D: Okay. Is she – (talked over by C)

C: It was very threatening.

D: – staying away from your property right now.

C: She is right now. But she said if I ever came on her property she'd shoot me and I, so forth and so on. So, we . . .

D: (Talking over C) So, what's your name sir?
C: . . . 've got it all on video. My name is Jeff Closson.
D: Can you spell you last name?
C: CLO, CLOSSON.
D: And what's your address?
C: 2102 Madrona Point Drive.
D: Do you know her address?
C: Her address, what's her address (speaking to someone in back ground)? 2108 Madrona Point.
D: Okay.
C: Her name is Elizabeth Kelsey and Clayton Longacre.
D: Elizabeth Kelsey and Clayton, what was that last name?
C: Longacre.
D: Okay. Is that spelled just how it sounds?
C: I don't know, (asking someone behind him). Is that spelled how it sounds? L, yes.
D: Okay.
C: But I'm going to be putting up a fence because there's, we don't have any animals or anything, but there's a . . .
D: Sure.
C: . . . spot where I think, think they're jumping through, and there's, yeah there's feces in our yard from their dogs and, but I'm concerned about the welfare of this puppy, cuz this isn't one of the eight dogs that they already have.
D: Okay.
C: Its one that I guess they're watching for somebody else. But it's a, a sweet little puppy that we're worried about. And, and I'm afraid that next time dogs get in my yard I'm gonna have to take 'em to animal control directly.
D: Okay. So did the dog look unhealthy, or?
C: The dog looked fine. The little puppy looked fine. But their dogs, their eight dogs, will get down on the beach. They run up and down the beach. They'll be running up and down the streets.
D: Okay.
C: They're you know, they're a general nuisance and they're several other people in the neighborhood I think that have filed a report.
D: Okay.
C: Including the people across the channel because they bark so much, they bother the people across the channel. But I've now been physically threatened, so.
D: Alright, well I will go ahead and get that put in and ask that law enforcement will come out and talk to you. Okay?
C: Okay.
D: Alright.
C: Are they gonna come out tonight?
D: Yes they would.
C: Okay. Good.
D: Is that okay? Okay.

C: Sure, that's fine.

D: Alright perfect. Okay I'll go ahead and get that put in for you, Jeff.

C: Thank you.

D: Um, um. Bye Bye.

C: Bye.

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Court of Appeals
Division II
7 20 20 36 Closson 911 transcript Smoke bombs allegation
State of Washington
9/2/2021 4:23 PM

D: Kitsap 911, what are your reporting?

C: This is a non-emergency.

D: Okay. How can I assist you?

C: So, we've had ongoing issues with our neighbors.

D: Okay.

C: And ah, we had reports while we were out to dinner that our neighbor was setting off smoke bombs right at the property line, and when we got home our house was full of smoke and our dog was here, and –

D: Okay.

C: I mainly want to get it on record (talking over dispatch)

D: When did, when did you arrive home?

C: We just arrived home, 8:30 . . .

D: Okay. What's your address?

C: but our – it's, ah, 2102 Madrona Point Drive,

D: Okay. Bremerton, is that a house or an apartment, or a duplex.

C: It's a house.

D: Okay. Does anybody (talking over Closson) need any medical attention?

C: And – No.

D: Okay. Is your dog okay?

C: He's okay. He's scared. He's okay.

D: Okay.

C: But our neighbors across the channel filmed it.

D: Okay.

C: And they're the ones that called us, while we were at dinner.

D: I do, um, I (interrupted by Closson)

C: (Talking over Dispatch) And

D: I may be familiar with the situation, sir, so I'm gonna ask an officer to get in touch with you. Okay? What's your first

C: Okay.

D: . . . and last name?

C: Jeff Closson.

D: Hold on one moment for me, if you don't mind. Oh it looks like my partner grabbed it. Your last name is CLAUSON?

C: It's C, it's CLO

D: Okay.

C: SSON.

D: Oh, I apologize, . . . And a phone number . . . tonight, the best one . . .

C: (Drowning out dispatch) And our neighbor across the channel, I believe – the number is 816 598 3345.

D: Alright.

C: Our neighbors across the channel said that they, I think maybe they called 911 too, but I just

want to be sure to file a report.

D: Yeah, I think that's why I am familiar (talking over Closson). Hold on just one moment for a different emergency call, Okay?

C: Thank

D: Sir, are you with me?

C: (Talking to dog) . . . Yes.

D: I apologize, my partner was able to grab it. I'm gonna have an officer, I'm gonna ask them to get in touch with you by phone to start. Okay? It shows up as a blocked private number . . .

C: Okay.

D: . . . when they call. It won't have a phone number on caller id. If there's any change or problem in the meantime or if anybody needs any medical attention give us a call back. Okay.

C: Okay. Thank you.

D: Alright, thanks. Bye, Bye.

ELIZABETH KELSEY - FILING PRO SE

September 02, 2021 - 4:23 PM

Transmittal Information

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Appellate Court Case Number: 54031-2
Appellate Court Case Title: Jeffrey T. Closson, et al, Respondents v. Elizabeth J. Kelsey, Appellant
Superior Court Case Number: 19-2-02404-8

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Other - appendix j for petition for review
The Original File Name was Appendix J ex 2-6c 7 20 20 36 Closson 911 trans smoke.pdf

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- brennan@kitsaplawgroup.com
- ossenkop@wscd.com
- tracey@kitsaplawgroup.com

Comments:

I'm sorry if I created a problem here. Not sure what was wrong but had ten appendix files and five were video files that it said it could not up load. then it couldn't upload 5 pdf files at a time so uploaded them one at a time. this is the last pdf file.

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September 02, 2021 - 4:17 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54031-2
Appellate Court Case Title: Jeffrey T. Closson, et al, Respondents v. Elizabeth J. Kelsey, Appellant
Superior Court Case Number: 19-2-02404-8

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- 540312_Petition_for_Review_20210902161634D2084278_2184.pdf
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Petition for Review
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Comments:

having trouble getting appendixes filed. Keeps rejecting if I try more than one. am sending this one and one more.

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Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54148-3
Appellate Court Case Title: Lisa L. Ganowski, Respondent v. Elizabeth J. Kelsey, et al, Appellant
Superior Court Case Number: 19-2-02402-1

The following documents have been uploaded:

- 541483_Report_of_Proceedings - Volume 1_20200306173538D2207751_2432.pdf
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Report of Proceedings - Volume 1, Pages 1 to 189, Hearing Date(s): 09/16/2019 *Report of Proceedings*
Total Number of Pages: 339

The Original File Name was 541483.kelsey.091619Vol1.pdf
- 541483_Report_of_Proceedings - Volume 2_20200306173538D2207751_0679.pdf
This File Contains:
Report of Proceedings - Volume 2, Pages 190 to 339, Hearing Date(s): 09/17/2019 *Report of Proceedings*
Total Number of Pages: 339

The Original File Name was 541483.kelsey.091719Vol2.pdf

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Comments:

Corrected the header dates on both transcripts

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Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54031-2
Appellate Court Case Title: Jeffrey T. Closson, et al, Respondents v. Elizabeth J. Kelsey, Appellant
Superior Court Case Number: 19-2-02404-8

The following documents have been uploaded:

- 540312_Petition_for_Review_20210902161017D2302026_4722.pdf
This File Contains:
Petition for Review
The Original File Name was Appendix C VRP Vol 2.pdf

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Address:

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March 06, 2020 - 5:40 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54148-3
Appellate Court Case Title: Lisa L. Ganowski, Respondent v. Elizabeth J. Kelsey, et al, Appellant
Superior Court Case Number: 19-2-02402-1

The following documents have been uploaded:

- 541483_Report_of_Proceedings - Volume 1_20200306173538D2207751_2432.pdf
This File Contains:
Report of Proceedings - Volume 1, Pages 1 to 189, Hearing Date(s): 09/16/2019 *Report of Proceedings*
Total Number of Pages: 339

The Original File Name was 541483.kelsey.091619Vol1.pdf
- 541483_Report_of_Proceedings - Volume 2_20200306173538D2207751_0679.pdf
This File Contains:
Report of Proceedings - Volume 2, Pages 190 to 339, Hearing Date(s): 09/17/2019 *Report of Proceedings*
Total Number of Pages: 339

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Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54031-2
Appellate Court Case Title: Jeffrey T. Closson, et al, Respondents v. Elizabeth J. Kelsey, Appellant
Superior Court Case Number: 19-2-02404-8

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- 540312_Petition_for_Review_20210902160832D2039112_7810.pdf
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Petition for Review
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Comments:

Sorry but would not let me load 5 files at once so am sending them one at a time.

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Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54031-2
Appellate Court Case Title: Jeffrey T. Closson, et al, Respondents v. Elizabeth J. Kelsey, Appellant
Superior Court Case Number: 19-2-02404-8

The following documents have been uploaded:

- 540312_Petition_for_Review_20210902155542D2832336_9102.pdf
This File Contains:
Petition for Review
The Original File Name was Appendix A Div II Decision.pdf

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- tracey@kitsaplawgroup.com

Comments:

these are the appendixes for Petition for Review, couldn't figure out how to put them all in one file , but too large anyway. It would not accept the video appendixes so I am mailing them on a thumb drive.

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Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54031-2
Appellate Court Case Title: Jeffrey T. Closson, et al, Respondents v. Elizabeth J. Kelsey, Appellant
Superior Court Case Number: 19-2-02404-8

The following documents have been uploaded:

- 540312_Petition_for_Review_20210902153128D2960114_8683.pdf
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Petition for Review
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Comments:

Filing fee of 200 sent to Supreme court clerk's office per directions by Div 2 clerk's office.

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