

FILED
Court of Appeals
Division II
State of Washington
3/16/2018 1:45 PM
NO. 50350-6

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

ERIN HAWTIN

Appellant

v.

JENNIFER HART

Respondent

Brief of Respondent

Jacquelyn High-Edward
WSBA #37065
Co-Counsel for Respondent

Northwest Justice Project
1702 W. Broadway
Spokane, WA 99201
(509) 324-9128

Jennifer Summerville
WSBA #39442
Co-Counsel for Respondent

Northwest Justice Project
711 Capitol Way S., #704
Olympia, WA 98501
(206) 707-0843

TABLE OF CONTENTS

	Pages Cited
I. INTRODUCTION -----	1
II. COUNTER STATEMENT OF ISSUES -----	2
III. STATEMENT OF FACTS -----	4
IV. ARGUMENT -----	12
A. CHALLENGES TO APRIL 6, 2017, ORDER ARE MOOT BECAUSE THE COURT CANNOT PROVIDE ANY EFFECTIVE RELIEF AND EXCEPTIONS TO THE MOOTNESS DOCTRINE DO NOT APPLY -----	16
B. THE TRIAL COURT DID NOT ERR IN ENTERING THE APRIL 6, 2017, ORDERS. IT HAD AUTHORITY TO DO SO UNDER STATUTE AND COURT RULES -----	18
C. THE COURT'S ORDERS DID NOT SERVE AS A PRIOR RESTRAINT WHERE MR. HAWTIN FAILED TO TIMELY FILE A MOTION FOR RECONSIDERATION OR REVISION ON THE ORIGINAL ORDER, AND WHERE HE FAILED TO TIMELY FILE A MOTION FOR REVISION ON TRO TEM COMMISSIONER KRANTZ'S JUNE 28, 2017, ORDER -----	21
D. MR. HAWTIN WAS NOT DENIED DUE PROCESS WHERE HE RECEIVED ACTUAL NOTICE AND AN OPPORTUNITY TO BE HEARD -----	25
1. April 6, 2017, Order Did Not Violate Due Process Where Mr. Hawtin Received Actual Notice, the Risk to Ms. Hart and Society was Great, and the Deprivation was Extraordinarily Short -----	28

2. The April 14, 2017, Order Did Not Violate Due Process Where Mr. Hawtin was Provided Notice; an Opportunity to be Heard, and Where the Deprivation was Temporary -----	30
E. THE COURT’S ORDERS DID NOT RENDER THE DVPA UNCONSTITUTIONAL AS APPLIED WHERE MR. HAWTIN RECEIVED ACTUAL NOTICE AND AN OPPORTUNITY TO BE HEARD -----	33
F. MR. HAWTIN WAS NOT DENIED EQUAL PROTECTION WHERE THE COURT’S ORDER WAS RATIONALLY RELATED TO THE STATES’ INTEREST IN PREVENTING DOMESTIC VIOLENCE AND PROTECTING HUMAN LIFE -----	37
1. Mr. Hawtin was Not Denied Equal Protection Where He Has Failed to Prove that He Belongs to any Protected Class and the Court’s Order was Rationally Related to the State’s Interest of Preventing Domestic Violence and Preservation of Human Life -----	38
2. Mr. Hawtin was Not Denied Equal Protection. He Failed to Identify any Appropriate Level of Scrutiny Based on Traditional Understanding of the Right and the Court’s Order was Rationally Related to the State’s Interest of Preventing Domestic Violence and Preserving Human Life -----	39
G. THE TRIAL COURT DID NOT ERR IN DENYING MR. HAWTIN’S AFFIDAVIT OF PREJUDICE SINCE THE COURT HAD ALREADY ENTERED DISCRETIONARY RULINGS -----	41

1. Mr. Hawtin's Affidavit of Prejudice is Untimely Because a Formal Motion is Not a Prerequisite to a Discretionary Ruling and Mr. Hawtin's Oral Motion Resulted in a Discretionary Ruling Before the Affidavit was Filed -----	42
2. The Court's Decision to Stay the Return of Mr. Hawtin's Firearms was a Discretionary Decision Where The Court had the Authority to Enter the Stay or Not and Where Mr. Hawtin Urged Against It ---	43
H. JUDGE HIRSCH DID NOT VIOLATE THE CODE OF JUDICIAL CONDUCT BY RULING AGAINST MR. HAWTIN -----	45
I. IF SUCCESSFUL, MS. HART IS ENTITLED TO ATTORNEY FEES PURSUANT TO RCW 26.50.060(g) AND RAP 18.1 -----	47
V. CONCLUSION -----	48

TABLE OF AUTHORITIES

**Pages
Cited**

U.S. SUPREME COURT CASES

<i>Alexander v. U.S.</i> , 509 U.S. 544, 550, 113 S.Ct. 2766, 125 L.Ed.2d 441(1993) -----	22
<i>Dist. of Columbia v. Heller</i> , 554 U.S. 570, 626-627, 634-635, 128 S.Ct. 2783, 171 L.Ed.2d 637(2008) -----	39, 40, 41
<i>Mathews v. Eldridge</i> , 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976) -----	25
<i>Mississippi Univ. for Women v. Hogan</i> , 458 U.S. 718, 729-730, 102 S.Ct. 3331, 73 L.Ed.2d 1090 (1982) -----	37, 38
<i>U.S. v. Baker</i> , 197 F3d 211, 216 (6 th Cir. 1999) -----	39, 41
<i>U.S. v. Castleman</i> , 134 S.Ct. 1405, 1409, 188 L.Ed.2d 426 (2014) -----	12
<i>U.S. v. Hayes</i> , 555 U.S. 415, 427, 129 S.Ct. 1079, 1087, 172 L. Ed. 2d 816 (2009) -----	12

WASHINGTON CASES

<i>4518 S. 256th, LLC. v. Karen L. Gibson, P.S.</i> , 195 Wn. App. 423, 433, 382 P.3d 1 (2016) -----	16
<i>Aiken v. Aiken</i> , 187 Wn.2d 491, 501-502, 505, 387 P.3d 680 (2017) -----	16, 26, 27, 28, 33, 34, 39
<i>Blackmon v. Blackmon</i> , 155 Wn. App. 715, 721, 230 P.3d 233 (2010) -----	20
<i>Gardner v. Loomis Armored Inc.</i> , 128 Wn.2d 931, 944, 913 P.2d 377 (1996) -----	28
<i>Gourley v. Gourley</i> , 158 Wn.2d 460, 469-470, 145 P.3d 1185 (2006) -----	26
<i>Hart v. Dep't of Soc. & Health Servs.</i> , 111 Wn.2d 445, 449-450, 759 P.2d 1206 (1988) -----	17
<i>Hough v. Stockbridge</i> , 150 Wn.2d 234, 236, 76 P.3d 216 (2003) -----	19, 20
<i>In re the Estate of Shaughnessy</i> , 104 Wn.2d 89, 92, 702 P.2d 132 (1985) -----	42, 43
<i>In re the Marriage of Farr</i> , 87 Wn. App. 177, 188, 940 P.2d 679 (1997), <i>rev. denied</i> , 134 Wn.2d 1014 (1998) -----	42
<i>In re Marriage of Meredith</i> , 148 Wn. App. 887, 896-897, 902, 201 P.3d 1056 (2009) -----	22
<i>In re Marriage of Suggs</i> , 152 Wn.2d 74, 81, 93 P.3d 161 (2004) -----	22

<i>Metz v. Sarandos</i> , 91 Wn. App. 357, 360, 957 P.2d 795 (1998) -----	23
<i>Presidential Estates Apartments Assoc. v. Barrett</i> , 129 Wn. 2d 320, 326, 917 P.2d 100 (1996) -----	46
<i>Rhinehart v. Seattle Times Co.</i> , 51 Wn. App. 561, 578, 754 P.2d 1243 (1988) -----	42
<i>Robertson v. Robertson</i> , 113 Wn. App. 711, 714, 54 P.3d 708 (2002) -----	23
<i>Scheib v. Crosby</i> , 160 Wn. App. 345, 353, 249 P.3d 184 (2011) -----	47
<i>State v. Beaver</i> , 184 Wn.2d 321, 330-331, 358 P.3d 385 (2015) -----	16, 17
<i>State v. Ibrahim</i> , 164 Wn. App. 503, 514, 269 P.3d 292 (2011) -----	40
<i>State v. Lile</i> , 188 Wn.2d 766, 776-778, 398 P.3d 1052 (2017) -----	43
<i>State v. Loux</i> , 69 Wn.2d 855, 858, 420 P.2d 693 (1966), <i>cert. denied</i> , 386 U.S. 997 (1967), <i>overturned in part on</i> <i>other grounds by State v. Moen</i> , 129 Wn.2d 535, 919 P.2d 69 (1996) -----	19, 28
<i>State v. O'Neill</i> , 148 Wn.2d 564, 571, 62 P.3d 489 (2003) -----	30
<i>State v. Osman</i> , 157 Wn.2d 474, 484-485, 139 P.3d 334 (2006) -----	37, 38

<i>State v. Parra</i> , 122 Wn.2d 590, 859 P.2d 1231 (1993)	44
<i>State v. Schaaf</i> , 109 Wn.2d 1, 18, 743 P.2d 240 (1987)	37
<i>State v. Shawn P.</i> 122 Wn.2d 553, 561, 859 P.2d 1220 (1993)	38
<i>State v. Sieyes</i> , 168 Wn.2d 276, 292, 294-295, 225 P.3d 995 (2010)	40
<i>State v. Torres</i> , 85 Wn. App. 231, 234, 932 P.2d 186 (1997), <i>rev. denied</i> , 132 Wn.2d 1012 (1997)	42, 43

CONSTITUTIONS

U.S. Const. amend. II	40
U.S. Const. amend. XIV	37

WASHINGTON COURT RULES

CJC 1.2, cmt. 5	46
CJC 2.2, cmt. 2	45, 46
CJC 2.2, cmt. 3	46
CJC 2.9(A)(3)	47
CJC 2.9(c), cmt. 5	47
CR 59(b)	23, 24
CR 59(d)	18, 19, 21, 34

CR 59(g)	20, 34
CR 60(a)	18, 19, 34
CR 60(b)	19, 34, 46
CR 62(b)	18, 19, 21, 29
RAP 18.1	47
RAP 18.1(d)	48

STATUES AND REGULATIONS

18 U.S.C. § 925	14, 27
18 U.S.C. § 922(g)(8)	12, 13, 14, 15, 30, 33, 44
RCW 2.24.050	23, 24, 25, 35
RCW 4.12.050	42, 43
RCW 4.12.050(1) (2009)	42
RCW 26.50.025(1)	15
RCW 26.50.035(1)	15
RCW 26.50.060(g)	47, 48
RCW 26.50.070(1)(f)	15, 21
RCW 26.50.130	35
RCW 26.50.130(2)	35
RCW 9.41 <i>et. seq.</i>	14

RCW 9.41.800	12, 13
RCW 9.41.800(3)	13, 14
RCW 9.41.800(4)	15, 21, 29
RCW 9.41.800(5)	15, 29
RCW 9.94.800(3)	13

SESSION LAWS

Laws of 1992, ch. 111	39
Laws of 2017, ch. 42, § 2	42

I. INTRODUCTION

The issue before the Court is, what powers the trial court possesses to correct both clerical errors and an order, that on its face, violated federal law, and whether, use of such power violated Mr. Hawtin's constitutional rights. In this case, Erin Hawtin was found to have committed acts of domestic violence against his former intimate partner, Jennifer Hart, with whom he lived. Despite the finding of domestic violence, the Court declined to enter a finding that Mr. Hawtin posed a credible threat to Ms. Hart's physical safety, and therefore did not restrict his right to possess firearms under Washington law. When drafting the order, the Court failed to indicate that the parties had resided together as intimate partners. It did however; restrict Mr. Hawtin from causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening or stalking Ms. Hart. It also returned Mr. Hawtin's firearms to him.

When the clerical error in the order was discovered by court staff, Judge Hirsch, called an emergency hearing where Ms. Hart and Mr. Hawtin, through counsel, appeared. The Court expressed its concern, that if the clerical error was corrected, and Ms. Hart was a former intimate partner as a cohabitant, then federal law would

prohibit Mr. Hawtin's possession of firearms. Based on this concern, the Court stayed the return of Mr. Hawtin's firearms pending a full hearing on the matter a week later. At the return hearing, the Court corrected the clerical error and struck the provision returning Mr. Hawtin's firearms, since such a provision violated federal law.

Mr. Hawtin's appeal alleges that the Court's actions, pursuant to its own motions, violated his statutory and constitutional rights. These arguments are without merit and any denial of Mr. Hawtin's statutory rights to revision or reconsideration were caused by his failure to act in a timely manner.

II. COUNTER STATEMENT OF ISSUES

- A. CHALLENGES TO APRIL 6, 2017, ORDER ARE MOOT BECAUSE THE COURT CANNOT PROVIDE ANY EFFECTIVE RELIEF AND EXCEPTIONS TO THE MOOTNESS DOCTRINE DO NOT APPLY.
- B. THE TRIAL COURT DID NOT ERR IN ENTERING THE APRIL 6, 2017, AND APRIL 14, 2017, ORDERS. IT HAD AUTHORITY TO DO SO UNDER STATUTE AND COURT RULES.
- C. THE COURT'S ORDERS DID NOT SERVE AS A PRIOR RESTRAINT WHERE MR. HAWTIN FAILED TO TIMELY FILE A MOTION FOR RECONSIDERATION OR REVISION ON THE ORIGINAL ORDER, AND WHERE HE FAILED TO TIMELY FILE A MOTION FOR REVISION ON PRO TEM COMMISSIONER KRATZ'S JUNE 28, 2017, ORDER.

- D. MR. HAWTIN WAS NOT DENIED DUE PROCESS WHERE HE RECEIVED ACTUAL NOTICE AND AN OPPORTUNITY TO BE HEARD.
1. April 6, 2017, Order Did Not Violate Due Process Where Mr. Hawtin Received Actual Notice, the Risk to Ms. Hart and Society was Great, and the Deprivation was Extraordinarily Short.
 2. The April 14, 2017, Order Did Not Violate Due Process Where Mr. Hawtin was Provided Notice; an Opportunity to be Heard, and Where the Deprivation was Temporary.
- E. THE COURT'S ORDERS DID NOT RENDER THE DVPA UNCONSTITUTIONAL AS APPLIED, WHERE MR. HAWTIN RECEIVED ACTUAL NOTICE AND AN OPPORTUNITY TO BE HEARD.
- F. MR. HAWTIN WAS NOT DENIED EQUAL PROTECTION WHERE THE COURT'S ORDER WAS RATIONALLY RELATED TO THE STATE'S INTEREST IN PREVENTING DOMESTIC VIOLENCE AND PROTECTING HUMAN LIFE.
1. Mr. Hawtin was Not Denied Equal Protection Where He Has Failed to Prove that He Belongs to any Protected Class, and the Court's Order was Rationally Related to the State's Interest of Preventing Domestic Violence and Preservation of Human Life.
 2. Mr. Hawtin was Not Denied Equal Protection. He Failed to Identify any Appropriate Level of Scrutiny Based on Traditional Understanding of the Right, and the Court's Order was Rationally Related to the State's Interest of Preventing Domestic Violence and Preserving Human Life.
- G. THE TRIAL COURT DID NOT ERR IN DENYING MR. HAWTIN'S AFFIDAVIT OF PREJUDICE SINCE THE COURT HAD ALREADY ENTERED DISCRETIONARY RULINGS.

1. Mr. Hawtin's Affidavit of Prejudice is Untimely Because a Formal Motion is Not a Prerequisite to a Discretionary Ruling and Mr. Hawtin's Oral Motion Resulted in a Discretionary Ruling Before the Affidavit was Filed.
 2. The Court's Decision to Stay the Return of Mr. Hawtin's Firearms was a Discretionary Decision Where the Court had the Authority to Enter the Stay or Not, and Where Mr. Hawtin Urged Against It.
- H. JUDGE HIRSCH DID NOT VIOLATE THE CODE OF JUDICIAL CONDUCT BY RULING AGAINST MR. HAWTIN.
- I. IF SUCCESSFUL, MS. HART IS ENTITLED TO ATTORNEY FEES PURSUANT TO RCW 26.50.060(g) AND RAP 18.1.

III. STATEMENT OF FACTS

On January 30, 2017, Jennifer Hart filed a petition for a domestic violence protection order against her boyfriend, Erin Hawtin. CP 5-11. In the petition, Ms. Hart indicated that her relationship to Mr. Hawtin was, "current or former cohabitant as part of a dating relationship." CP 5. Based on her petition, the Court entered a temporary order for protection and order to surrender weapons without notice to Mr. Hawtin. CP 12-17.

In response to the petition, Mr. Hawtin filed a motion to realign the parties, asking the Court to find that Ms. Hart had committed acts of domestic violence against him, and award attorney fees and costs as a sanction for bringing a frivolous petition. CP 44-76. Both parties submitted substantial evidence to the court. 4/5/17 RP 3.

The hearing took place over the course of two days and both parties testified. 4/5/17 RP 15. In closing, counsel for Mr. Hawtin argued that Mr. Hawtin did not pose a credible risk to Ms. Hart with firearms. 4/5/17 RP 111-112. He also argued that entering an order against Mr. Hawtin, could pose a risk to his eight-year military career. 4/5/17 RP 111-11.

After considering all of the evidence, the Court granted the protection order. CP 85-89. In making its finding, Pro Tem Commissioner Kratz, found, "that there is credibility to Ms. Hart and her assertions made against Mr. Hawtin" and that she, "was credible to the fact that here has been domestic violence perpetrated by Mr. Hawtin." 4/5/17 RP 121. The Court denied Mr. Hawtin's motion to realign the parties, and refused to make any findings of domestic violence against Ms. Hart. 4/5/17 RP 123.

Mr. Hawtin's attorney requested the Court tailor the order in such a manner as to ensure that he could continue his military career and be allowed to have possession of a firearm while at work. 4/5/17 RP 124. Specifically, counsel for Mr. Hawtin argued, "...that it can be tailored so that he can only have gun rights when he's on active duty. ... He doesn't need to have one [firearm] at home." 4/5/17 RP 124-125.

The Court found there was not, "... a credible risk found to Ms. Hart because of firearm usage." 4/5/17 RP 125. The Court told counsel, "I don't believe that is going to have impact on your client's employment, but that is a federal issue" and declined to put any restriction on Mr. Hawtin's right to possess firearms under Washington law. 4/5/17 RP 125-127.

In entering the protection order, the Court inadvertently indicated the relationship between Ms. Hart and Mr. Hawtin was that of, "current or former dating relationship." CP 85. It also found that Mr. Hawtin, "represents a credible threat to the physical safety of petitioner ..." but ordered, "firearms returned to respondent." CP 85-89.

The next day, on April 6, 2017, Judge Hirsch called an emergency hearing. CP 90. Both Ms. Hart and Mr. Hawtin's counsel were informed of the hearing and appeared. 4/6/17 RP 3-8. Judge Hirsch indicated it had come to her attention through court staff, that there appeared to be a discrepancy between the petition and the order, concerning the relationship between Ms. Hart and Mr. Hawtin. 4/6/17 RP 3-8; 4/14/17 RP 13. The Court was concerned about this discrepancy and its impact on Mr. Hawtin's ability to possess firearms under federal law. 4/6/17 RP 3-8.

Given this probable clerical error, the Court then stayed the return of Mr. Hawtin's firearms to him pending a full hearing on the matter. 4/6/17 RP 4, 7; CP 93-94. Specifically, the Court found, "... given that the federal law doesn't allow there to be firearms once a protection order is issued in certain circumstances ... the court felt that it was necessary for community safety purposes to be able to address it in this way." 4/6/17 RP 4-5. A full hearing on the issue was set for April 14, 2017. CP 93-94. Both Ms. Hart and counsel for Mr. Hawtin were provided with notice of this hearing. CP 95.

On April 10, 2017, Mr. Hawtin, through counsel, filed a motion to correct a clerical mistake, or in the alternative, a motion to reconsider before Pro Tem Commissioner Kratz. CP 98-100. The motion requested the Court find it mistakenly checked box one on page two of the order restraining Mr. Hawtin from "causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking" Ms. Hart. CP 86, 99. Mr. Hawtin also argued that if the Court found this was not a clerical mistake then the Court should reconsider this provision given the Court's intent to return Mr. Hawtin's firearms to him. CP 99-100. Mr. Hawtin argued, "[t]his correction will not result in any violation of federal or state law and is entirely proper." CP 100. Counsel's

declaration in support of this motion similarly stated, “[t]his box should not have been checked, and removing the check mark effectuates the commissioner’s intent in the order and removes any ambiguity in the order.” CP 96-97.

The same day, Mr. Hawtin filed an affidavit of prejudice against Judge Hirsch. CP 101-102. He also filed a memorandum objecting to the hearing and to Judge Hirsch hearing the matter. CP 103-108. The court denied this affidavit of prejudice. CP 109-110.

On April 14, 2017, Mr. Hawtin renewed his objections to Judge Hirsch hearing the case, arguing that the April 6, 2017, order was not discretionary because it was required by federal law. 4/14/17 RP 4. However, later in his argument, counsel for Mr. Hawtin admitted, “... if this court finds that it had to issue a stay – that’s Your Honor’s *discretionary* ruling” 4/14/17 RP 8 (emphasis added).

Counsel for Mr. Hawtin also, orally noted his motion to correct a clerical error and urged Judge Hirsch to allow Pro Tem Commissioner Kratz to consider this motion. 4/14/17 RP 13-15. When the Court indicated this was not the clerical error it was concerned with at this hearing - it was concerned with the relationship box, counsel stated, “[w]ell, I understand that” 4/14/17 RP 13.

The Court corrected the clerical error regarding the relationship between Ms. Hart and Mr. Hawtin. 4/14/17 RP 17-20. The Court then found, "I don't believe that the Court has the authority or the ability to order somebody's firearms to be returned to them when federal law clearly..." prohibits it. 4/14/17 RP 20. The Court further stated, "[t]he Court has concerns that the Court does not have the ability to address Mr. Hawtin's firearms rights because by virtue of federal law he doesn't have any." 12/14/17 RP 20.

The Court continued the stay of the provision returning Mr. Hawtin's firearms, and entered an amended protection order. 4/14/17 RP 21-22; CP 111-116. The Court also informed the parties that they could set additional matters in front of the commissioner. 4/14/17 RP 21-22.

The amended order of protection indicated that the relationship between Ms. Hart and Mr. Hawtin was that of a current or former cohabitant as part of a dating relationship." CP 111. It included Ms. Hart's children in a table, but did not include provisions restricting Mr. Hawtin's contact with them. CP 111-116. The order also did not make a finding that Mr. Hawtin represents a credible threat to the physical safety of the protected persons. CP 111.

Finally, the order required Mr. Hawtin to surrender his weapons. CP 114.

On April 24, 2017, Pro Tem Commissioner Kratz heard Mr. Hawtin's April 10, 2017, motion to correct clerical error or reconsider related to whether box one on page two should have been checked. 4/24/17 RP 3-19. Pro Tem Commissioner Kratz initially ruled that he did not have the authority to amend or change an order entered by a superior court judge. 4/24/17 RP 15. However, upon Mr. Hawtin's insistence that Judge Hirsch's ruling specifically allowed the commissioner to hear additional motions, the Court continued the hearing so it could review the transcript from the April 14, 2017, hearing. 4/24/17 RP 15-16, 18. The Court stated, "... if in fact, the transcript shows that Judge Hirsch in her ruling said that this could go back before me for review or reconsideration, then I will certainly be glad to do that." 4/24/17 RP 18.

On May 11, 2017, Mr. Hawtin filed this Notice of Appeal challenging the orders entered on April 5, 2017, April 6, 2017, April 7, 2017, and April 14, 2017. CP 119-205. On May 12, 2017, Mr. Hawtin filed a motion to allow military findings and conclusions to enter the record on revision. CP 206. On May 17, 2017, Judge Hirsch entered an order of assignment directing all motions requiring

a judge, to be heard by Judge Hirsch and all motions, "that would generally be heard by a court commissioner shall continue to be heard by a court commissioner." CP 215.

On June 28, 2017, the Court heard the continued motion to correct a clerical error or reconsider from April 10, 2017.¹ 6/28/17 RP 3. Again, Pro Tem Commissioner Kratz ruled, that he did not have the authority to change an order entered by a superior court judge. 6/28/17 RP 6-7. The Court stated "...when I saw your motion I reviewed the transcript. I personally talked with Judge Hirsch, and Judge Hirsch said that there's no basis for me to go back and change anything on that order because it is the law of the case for the amended protection order." 6/28/17 RP 9. After hearing Mr. Hawtin's objections, the Court stated again, "I read the transcript and because I read the transcript and read your motion, I confirmed with Judge Hirsch as to whether or not this was valid for me to even hear today. And the answer is no." 6/28/17 RP 11.

On August 8, 2017, after receiving permission from this Court, Mr. Hawtin renoted his motion to correct clerical error or in the alternative reconsider as well as his motion to allow military findings.

¹ Mr. Hawtin withdrew his motion to allow military findings into the record. 6/28/17 RP 10.

Attachment A, p. 2-3². At the hearing on September 21, 2017, Pro Tem Commissioner Kratz once again found that he did not have the authority to rule on the motion. 9/21/17 RP 20; CP 261-262. The Court instructed the parties, “if there were any issues to be brought back to this Court, the only appropriate judicial officer to hear them would be Judge Hirsch.” 9/21/17 RP 20.

IV. ARGUMENT

In recognition that “[f]irearms and domestic strife are a potentially deadly combination nationwide,” the federal and state governments have taken affirmative steps to remove firearms from individuals who have been found to commit acts of domestic violence against an intimate partner. *U.S. v. Hayes*, 555 U.S. 415, 427, 129 S.Ct. 1079, 1087, 172 L. Ed. 2d 816 (2009); *U.S. v. Castleman*, 134 S.Ct. 1405, 1409, 188 L.Ed.2d 426 (2014); 18 U.S.C. § 922(g)(8); RCW 9.41.800. When a gun is in the home, an abused woman is six times more likely to be killed. *Castleman*, 143 S.Ct. at 1409. “[A]ll too often the only difference between a battered woman and a dead woman is the presence of a gun.” *Id.* citing, 142 CONG. REC. 22986 (1996) (statement of Sen. Wellstone).

² Attachment A contains documents included in Ms. Hart’s Designation of Supplemental Clerk’s Papers.

In addition to other affirmative steps to restrict firearm possession by perpetrators of domestic violence, both the United States Congress and the Washington State Legislature have passed laws removing firearms from an individual subject to a current restraining order protecting an intimate partner. 18 U.S.C. § 922(g)(8); RCW 9.41.800(3). Under federal law, a person is restricted from owning or possessing a firearm where, after actual notice, and an opportunity to be heard, a restraining order is issued prohibiting the person from, “stalking, harassing, threatening an intimate partner ... or engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury,” and either makes a finding that the person poses a credible threat to the physical safety of the intimate partner, *or* “explicitly prohibits use, attempted use, or threatened use of physical force against an intimate partner that would be reasonably expected to cause bodily injury.” 18 U.S.C. § 922(g)(8) (emphasis added).

Likewise, the State of Washington has five avenues to restrict possession of firearms. RCW 9.94.800. In 2014, the legislature passed a statute similar to the federal restriction on firearms for an individual subject to a current restraining order. RCW 9.94.800(3). The only difference between the statutes is that the federal law only

requires the court to either find that the respondent poses a credible threat to the safety of the intimate partner, or the order explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner that would be reasonable to expect to cause bodily injury. 18 U.S.C. § 922(g)(8) (emphasis added). By contrast, the Washington law requires both findings that the respondent poses a credible threat to the safety of the intimate partner, and the order explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner that would be reasonable to expect to cause bodily injury. RCW 9.41.800(3) (emphasis added).

Under these complementary but different laws, a court could find that the respondent does not pose a credible threat to the intimate partner but the respondent would still be subject to the federal firearm prohibition if the order prohibits them from use, attempted use, or threatened use of physical force against an intimate partner. 18 U.S.C. § 922(g)(8). An exception to the federal statute allows military personnel and police officers to carry weapons during the course of their employment. 18 U.S.C. § 925. There is no exception for military personnel pursuant to the Washington State statute. RCW 9.41, *et. seq.*

Protection orders entered in Washington³ contain warnings to the respondent regarding the federal prohibition of firearms:

Warnings to the Respondent:

...

If your relationship to the victim is as intimate partner, then effective immediately, and continuing as long as this protection order is in effect, **you may** maximum possible penalty of 10 years in prison and a \$250,000 fine. **not possess a firearm or ammunition under federal law.** 18 U.S.C. § 922(g)(8). A violation of this federal firearms law carries a maximum possible penalty of 10 years in prison and a \$250,000 fine.

CP 115.

Further, courts have statutory authority to enter an order to surrender weapons without notice to the respondent. RCW 9.41.800(4); RCW 26.50.070(1)(f). ~~The court may do this upon a~~ showing that allowing the respondent access to firearms could result in irreparable harm to the petitioner. RCW 9.41.800(4). It may also restrict firearms when an individual, “presents a serious and imminent threat to public safety or health or health and safety of any individual.” RCW 9.41.800(5).

In this appeal, Mr. Hawtin makes statutory and constitutional challenges to the trial court’s authority to amend a protection order

³ RCW 26.50.025(1) “Orders shall be issued on the forms mandated by RCW 26.50.035(1). WFP DV 3.015.

by correcting a clerical error, and striking a provision returning Mr. Hawtin his firearms. Constitutional challenges are reviewed by this court de novo. *Aiken v. Aiken*, 187 Wn.2d 491, 501, 387 P.3d 680 (2017).

A. CHALLENGES TO APRIL 6, 2017, ORDER ARE MOOT BECAUSE THE COURT CANNOT PROVIDE ANY EFFECTIVE RELIEF AND EXCEPTIONS TO THE MOOTNESS DOCTRINE DO NOT APPLY⁴.

Mr. Hawtin's challenges to the April 6, 2017, order are moot because, due to its temporary and interlocutory nature, this Court cannot provide a remedy to Mr. Hawtin. A case is moot if the court cannot provide any effective relief. *4518 S. 256th, LLC. v. Karen L. Gibson, P.S.*, 195 Wn. App. 423, 433, 382 P.3d 1 (2016). The issue of mootness is a jurisdictional concern and the court should not review issues that only present an abstract question. *State v. Beaver*, 184 Wn.2d 321, 330, 358 P.3d 385 (2015).

Even when an issue is moot, the court may consider it if the question involves a continuing and substantial public interest. *Beaver*, 184 Wn.2d at 330. In order to determine whether an issue involves a continuing and substantial public interest, the court must

⁴ Ms. Hart moved to strike provisions of Mr. Hawtin's opening brief related to the April 6, 2017, order as moot. Commissioner Derek Byrne denied this motion but allowed Ms. Hart to make this argument in her response brief.

consider (1) the public or private nature of the question before the court; (2) “the desirability of an authoritative determination which will provide future guidance to public officers;” and (3) “the likelihood of future recurrence of the question.” *Beaver*, 184 Wn.2d at 330. The court may also include a fourth factor regarding “the level of adversity of the parties.” *Id.* at 331. The substantial public interest exception is not applied to cases that are fact specific. *Id.*

These factors must be applied strictly to “ensure that an actual benefit to the public interest in review of a moot case outweighs the harm from an essentially advisory opinion.” *Hart v. Dep’t of Soc. & Health Servs.*, 111 Wn.2d 445, 450, 759 P.2d 1206 (1988). The exception has generally been applied in cases involving constitutional interpretation, statutory validity and interpretation, or other matters “deemed sufficiently important to the appellate court.” *Id.* at 449. However, simply raising constitutional issues does not automatically place the case into the substantial public interest exception. *Id.*

In this case, Mr. Hawtin’s opening brief challenges the April 6, 2017, order that stayed the return of his weapons pending further hearing on April 14, 2017. Opening Br., p. 23, 25, 30, 32. This order

expired when the Court entered the April 14, 2017, order. As such, there is no remedy that this Court can provide to Mr. Hawtin.

In addition, this case does not meet the substantial public interest standard. The issue regarding the April 6, 2017, order is private in nature. The question before this Court is whether the trial court had the authority to stay the return of Mr. Hawtin's weapons under the circumstances presented in this case. Instruction to judges on the process for staying an order under these unique and particular circumstances would not be beneficial. It is also unlikely that such unique circumstances are likely to reoccur.

Mr. Hawtin's challenges to the April 6, 2017, order are moot where this Court cannot provide effective relief. In addition, the substantial public interest exception does not apply because this case is fact specific, based on unique individual circumstances and is not likely to reoccur.

B. THE TRIAL COURT DID NOT ERR IN ENTERING THE APRIL 6, 2017, AND APRIL 14, 2017, ORDERS. IT HAD AUTHORITY TO DO SO UNDER STATUTE AND COURT RULES.

The Court has broad authority to correct clerical errors, reconsider orders, and stay judgments. CR 59(d); CR 60(a); CR 62(b). It also has broad authority to act *sua sponte* and act on its

powers of equity in protection order hearings. *Hough v. Stockbridge*, 150 Wn.2d 234, 236, 76 P.3d 216 (2003). The Court used this authority to correct and stay the April 5, 2017, order.

The court has the authority to correct, "Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders." CR 60(a). It also has the authority to set its own motion for reconsideration and is obligated to do so upon discovery of an error. CR 59(d); *State v. Loux*, 69 Wn.2d 855, 858, 420 P.2d 693 (1966), *cert. denied*, 386 U.S. 997 (1967), *overturned in part on other grounds by State v. Moen*, 129 Wn.2d 535, 919 P.2d 69 (1996).

Further, the court has authority to stay a judgment regardless of whether a motion for a stay has been filed. CR 62(b).

In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to rule 59, or of a motion for relief from a judgment or order made pursuant to rule 60

CR 62(b).

Finally, the court has the authority, in non-jury cases, to reopen a judgment, take additional testimony, amend findings of fact and conclusions of law, enter new findings of fact and conclusions of law, and amend a judgment. CR 59(g).

In addition to these powers, courts have extraordinary powers to act *sua sponte* in protection order proceedings. *Hough*, 150 Wn.2d at 236. Although *Hough* addressed an anti-harassment order in District Court, the rationale applies to the Domestic Violence Prevention Act (DVPA) in this case. Protection order cases are cases in equity. *Blackmon v. Blackmon*, 155 Wn. App. 715, 721, 230 P.3d 233 (2010).

Mr. Hawtin's allegations that the Court could not act without either a motion to modify the protection order, or motion for reconsideration or revision, defies the court's authority to set these matters on its own motion⁵. In addition, his assertion that he did not receive actual notice and an opportunity to be heard at the April 6, 2017, hearing or the April 14, 2017, hearing are disingenuous.

⁵ Mr. Hawtin also alleges that the court made additional changes to the order. These changes are harmless and therefore will not be addressed. For instance, the April 6, 2017, order named Ms. Hart's children in the box on page one but the substance of the order did not include the children. CP 111-116.

Mr. Hawtin received actual notice of both hearings and appeared. 4/6/17 RP 3-8; 4/14/17 RP 3; CP 93-95. While the Court did not hear oral argument regarding the stay before the Court entered its decision on April 6, 2017, it was not required to do so. The Court had the authority to stay the order without a hearing. CR 62(b); CR 59(d); RCW 9.41.800(4);. Given the possibility that the order violated federal law and the deadly combination of domestic violence and firearms, the Court used this authority for the safety of Ms. Hart and the general public, by entering an order keeping firearms away from Mr. Hawtin, pending a full hearing.

Further, Mr. Hawtin had actual notice, and ample opportunity to be heard at the April 14, 2017, hearing. 4/14/17 RP 3-25; CP 93-95. The Court's actions are authorized by statute, court rule, and its inherent authority to craft equitable relief. CR 59(d); CR 62(b); RCW 26.50.070(1)(f); RCW 9.41.800(4).

C. THE COURT'S ORDERS DID NOT SERVE AS A PRIOR RESTRAINT WHERE MR. HAWTIN FAILED TO TIMELY FILE A MOTION FOR RECONSIDERATION OR REVISION ON THE ORIGINAL ORDER, AND WHERE HE FAILED TO TIMELY FILE A MOTION FOR REVISION ON PRO TEM COMMISSIONER KRATZ'S JUNE 28, 2017, ORDER.

The First Amendment of the United States Constitution prohibits the government from interfering with an individual's ability

to petition to government⁶. *In re Marriage of Meredith*, 148 Wn. App. 887, 896, 201 P.3d 1056 (2009). Government actions that deny a citizen access to the government “based on speculation” is a prior restraint and the court may not, “institute a sweeping prior restraint of government petitions based on” a party’s past deeds. *Id.* at 902. Prior restraints are presumed unconstitutional and are generally only permitted in extraordinary circumstances, “such as war, obscenity, and ‘incitements of acts of violence and the overthrow by force of orderly government.’” *Id.* at 897, citing *In re Marriage of Suggs*, 152 Wn.2d 74, 81, 93 P.3d 161 (2004).

Prior restraints are government actions that prohibit an individual’s ability to petition the government prior to the individual’s actual petition. *Alexander v. U.S.*, 509 U.S. 544, 550, 113 S.Ct. 2766, 125 L.Ed.2d 441 (1993)⁷. Ex parte restraining orders and permanent injunctions are examples of prior restraints. *Id.*

Mr. Hawtin alleges the Court’s April 14, 2017, order, constitutes a prior restraint for two reasons. First, he argues the

⁶ While Article I, Section 5 of the Washington State constitution may provide even more protection than the United States Constitution, Mr. Hawtin did not brief this issue and the Court should not consider it. *Suggs*, 152 Wn.2d 80.

⁷ *Alexander* is a case involving freedom of speech. *Alexander*, 509 U.S. at 544. However, although free speech and prior restraints are separate guarantees, “they are related and generally subject to the same constitutional analysis.” *Meredith*, 148 Wn. App. at 896.

order, along with Pro Tem Commissioner Kratz's comment that Judge Hirsch said there was no basis to change the order, acted as a prior restraint on his ability to petition the Court for reconsideration of the April 5, 2017, order. Opening Br., p. 41. Second, the April 14, 2017, order constituted a prior restraint on Mr. Hawtin's being able to petition the court for an order of revision on the original order. Opening Br., p. 42. However, it was not the April 14, 2017, order that prohibited Mr. Hawtin from filing such motions. Rather it was Mr. Hawtin's failure to timely challenge these orders that resulted in his inability to do so.

Motions for reconsideration and revision must be filed within 10 days after entry of the order. CR 59(b); RCW 2.24.050. If a party fails to file a motion for reconsideration within 10 days, the court loses the authority to rule on the motion. CR 59(b); *Metz v. Sarandos*, 91 Wn. App. 357, 360, 957 P.2d 795 (1998). Similarly, in a motion for revision, if the party fails to file within 10 days, the commissioner's order becomes the order of the superior court and the order can only be challenged through an appeal to the court of appeals. RCW 2.24.050; *In re Marriage of Robertson*, 113 Wn. App. 711, 714, 54 P.3d 708 (2002).

The original order was entered April 5, 2017. CP 85-89. Mr. Hawtin's deadline for filing a motion to reconsider or his motion to revise the original order was required to be filed and served by April 15, 2017. CR 59(b); RCW 2.24.050. He failed to do so. The only motion pending at the time of the deadline was Mr. Hawtin's April 10, 2017, motion to correct a clerical error or in the alternative a motion to reconsider. CP 98-100. This motion was specifically limited to whether the Court made a clerical error in checking box one on page two which, prohibited Mr. Hawtin from causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening or stalking Ms. Hart or, in the alternative, whether the court should reconsider this provision. CP 86, 98-100. It was Mr. Hawtin's failure to file a motion to reconsider or revise the original order that prohibited him from doing so. As such, the April 14, 2017, order did not constitute a prior restraint.

Similarly, the April 14, 2017, order was also not a prior restraint on Mr. Hawtin's ability to file a motion for revision on Pro Tem Commissioner Kratz's June 28, 2017, decision denying the April 10, 2017, motion to correct a clerical error or reconsider the provision of box one on page two. The record reflects Pro Tem Commissioner Kratz believed that he had no authority to consider the motion based

on Judge Hirsch's April 14, 2017, ruling. 4/24/17 RP 15; 6/28/17 RP 9-11. However, Mr. Hawtin's remedy to challenge this decision was to file a motion to revise this decision, and set it before Judge Hirsch for her to determine whether her April 14, 2017, ruling prohibited Pro Tem Commissioner Kratz from considering the motion. RCW 2.24.050. Mr. Hawtin chose not to do this.

The April 14, 2017, order did not constitute prior restraints on Mr. Hawtin's ability to petition the court for reconsideration or revision of the underlying order. Instead, it was Mr. Hawtin's failure to file these motions that prohibited him from challenging the underlying order after the timeline had passed.

D. MR. HAWTIN WAS NOT DENIED DUE PROCESS WHERE HE RECEIVED ACTUAL NOTICE AND AN OPPORTUNITY TO BE HEARD.

The trial court did not violate due process by staying and then striking the protection order provision returning Mr. Hawtin's firearms to him. He received notice and an opportunity to be heard at a full hearing, and any deprivation was temporary.

Cornerstone to our legal system is the concept of due process. Due process requires that before the government can take action affecting a person's liberty interest, they must have notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333,

96 S.Ct. 893, 47 L.Ed.2d 18 (1976). “Due process is a flexible concept; the level of procedural protection varies based on circumstances.” *Aiken*, 187 Wn.2d at 501.

In determining whether an individual has been provided due process the court must consider the individual’s private interest, the “risk of erroneous deprivation of such interest through the procedure used, and the probative value, if any, of additional or substitute procedural safeguards, and the governmental interest.” *Aiken*, 187 Wn.2d at 501-502. When determining the amount of process due, the court should also consider the length of the deprivation. *Id.* at 502.

The Washington Supreme Court has determined the Domestic Violence Prevention Act (DVPA) provides sufficient due process through its statutory safeguards. *Aiken*, 187 Wn.2d at 491; *Gourley v. Gourley*, 158 Wn.2d 460, 145 P.3d 1185 (2006). Specifically, the DVPA provides sufficient protection by providing the respondent (1) a petition signed under oath; (2) notice within five days of the hearing; (3) a hearing before a judicial officer where the parties may testify; (4) a written order; (5) an opportunity to move for revision or appeal; and (6) a one-year limit on the restraints when children in common are involved. *Aiken*, 187 Wn.2d at 501.

Both *Aiken* and *Gourley* involved a challenge to the trial court's decision not to allow cross-examination of the respondents' child who was also the alleged victim. *Aiken*, 187 Wn.2d at 501; *Gourley*, 158 Wn.2d at 460. Both of these cases involved orders that prohibited contact between the parent and the child for one year. *Id.* The Supreme Court found that despite the respondents' fundamental and constitutional right to the care, custody, and control to their children that the procedural safeguards contained in the DVPA, along with the temporary nature of the deprivation, were sufficient to fulfill the respondents' right to due process and the trial court had the discretion to determine additional procedural safeguards such as the right to cross-examination. *Aiken*, 187 Wn.2d at 505; *Gourley*, 158 Wn.2d at 469-470.

It is undeniable that, like the respondents in *Aiken* and *Gourley*, the trial court's orders infringed on a fundamental constitutional right: Mr. Hawtin's Second Amendment right to bear arms.^{8 9} It is also undeniable that the state has a compelling interest

⁸ Mr. Hawtin also argues a private interest in his military career. However, this argument is not credible where there is an exception to the federal law for military service members. 18 U.S.C. § 925. Mr. Hawtin acknowledged this exception at the April 5, 2017, hearing. 4/5/17 RP 124-125.

⁹ Mr. Hawtin also argues a private interest in his right to file a motion for reconsideration and revision of the original order. These issues were fully addressed above.

in preventing domestic violence and a strong public policy on the protection of human life. *Aiken*, 187 Wn.2d at 502; *Gardner v. Loomis Armored Inc.*, 128 Wn.2d 931, 944, 913 P.2d 377 (1996). Notably, the deprivation of Mr. Hawtin's Second Amendment right was short: in one order the deprivation only lasted nine days, in the second order the deprivation is only one year. CP 111-116. These two competing interests, Mr. Hawtin's Second Amendment right, and the government's interest in preventing domestic violence and preserving human life, must be balanced with the risk of erroneous deprivation and the probative value, if any, of additional procedural safeguards. *Aiken*, 187 Wn.2d at 501-502.

1. April 6, 2017, Order Did Not Violate Due Process Where Mr. Hawtin Received Actual Notice, the Risk to Ms. Hart and Society was Great, and the Deprivation was Extraordinarily Short.

The April 6, 2017, order did not violate due process. Mr. Hawtin was provided notice, the deprivation was temporary, and the risk to Ms. Hart and society, if the stay was not entered, was high.

When it came to the Court's attention that the box marked on the order did not match the box on the petition, or the facts of the case, it was appropriate for the Court to, on its own initiative, set a motion. *Loux* 69 Wn.2d at 858. It was also appropriate for the Court

to recognize the potential issue with returning Mr. Hawtin's firearms pending a full hearing on the issues. Given the potential conflict in the order, the Court had the statutory authority to temporarily stay the provision returning Mr. Hawtin's firearms. CR 62(b); RCW 9.41.800(4), (5).

This action by the Court did not violate due process. First, Mr. Hawtin was given notice, albeit short, and an opportunity to make a record. 4/6/17 RP 3-9. Second, he was informed about the Court's concern related to the inaccurate designation of the parties' relationship and its impact on the federal firearm prohibition. 4/14/17 RP 13. Third, the temporary nature of the deprivation was outweighed by the risk to Ms. Hart, and the community, as well as having a state court order that, on its face, violated federal law.

Allowing additional time to respond or to set the case in front of Pro Tem Commissioner Kratz would have ignored the fact that the order potentially violated federal law and, as indicated by the research and strong state and federal policy regarding domestic violence and firearms, ignored the risk to Ms. Hart and the community. Not staying the provision would have resulted in Mr. Hawtin receiving his firearms back immediately after being found to

have committed acts of domestic violence against his former intimate partner with whom he shared a home.

The trial Court did not err in staying the return of Mr. Hawtin's firearms pending a full hearing, since Mr. Hawtin was provided with notice, the deprivation was temporary, and the high risk to Ms. Hart and the community.

2. The April 14, 2017, Order Did Not Violate Due Process Where Mr. Hawtin was Provided Notice; an Opportunity to be Heard, and Where the Deprivation was Temporary.

The April 14, 2017, order did not violate due process. Mr. Hawtin received notice and an opportunity to be heard; the deprivation was temporary (one year), and was required in order to comply with federal law. At the April 14, 2017, the Court corrected the error in the designation of relationship between the parties.¹⁰ CP 111-116. The correction resulted in the order being in conflict with itself where it both prohibited Mr. Hawtin from possessing firearms under federal law and simultaneously returned Mr. Hawtin's firearms to him. 18 U.S.C. § 922(g)(8).

Mr. Hawtin alleges that due process was violated because the Court did not provide him with a written motion and because, "...the

¹⁰ Mr. Hawtin did not object to this correction and therefore it is a verity on appeal. *State v. O'Neill*, 148 Wn.2d 564, 571, 62 P.3d 489 (2003)

first time Mr. Hawtin was told and understood what Judge Hirsch desired to accomplish at the April 16, 2017, hearing, and why was when she gave her ruling.” Opening Br., p. 37. Mr. Hawtin claims that additional safeguards of either allowing the parties to bring a motion for reconsideration or revision, a motion to modify of the protection order under the DVPA set before Pro Tem Commissioner Kratz, or allowing additional briefing were required to protect due process.

First, it is insincere for Mr. Hawtin to claim he had no notice. Mr. Hawtin was made aware of the hearing at least nine days in advance both orally by the Court and in writing. CP 91-95. In addition, it is clear from the record that, despite not being provided a written motion, Mr. Hawtin knew exactly what issues the Court would address. 4/6/17 RP 308; 4/14/17 RP 13. The Court informed both parties on April 6, 2017, “it’s [the order] in conflict with what is on the petition, and given that the federal law doesn’t allow there to be firearms once a protection order is issued in certain circumstances ... the Court felt it was necessary for community safety purposes to be able to address it in this way.” 4/6/17 RP 5. After this hearing, Mr. Hawtin filed a motion to correct a clerical error or reconsider. CP 98-100. His motion, which requested that the court reverse its finding

restricting Mr. Hawtin from “causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking” Ms. Hart, demonstrates that he knew exactly what the issue was. CP 98-100. In support of his motion, Mr. Hawtin’s counsel submitted a declaration to the Court urging it to simply “uncheck” the finding restraining Mr. Hawtin from causing physical harm, bodily injury, assault, including sexual assault and from molesting, harassing, and threatening, or stalking Ms. Hart. CP 96-97. The motion and declaration asserted that the impact of unchecking this box would negate the federal firearms provision and according to the declaration would, “remove any ambiguity in the order” between the provision returning the firearms and the federal prohibition. CP 96-100. It is also clear from Mr. Hawtin’s argument at the April 14, 2017, hearing that he knew the issues before the Court were related to the Court’s concern over the improper designation of the parties’ relationship. 4/14/17 RP 8, 13. Mr. Hawtin was provided adequate notice of the content of the April 14, 2017, hearing.

Second, Mr. Hawtin was given an opportunity to be heard. 4/14/17 RP 4-16. There was nothing preventing Mr. Hawtin, in the time between the April 6, 2017, and April 14, 2017, hearing, from

briefing the issue for Judge Hirsch. Mr. Hawtin was also provided ample time to make his argument to the Court at the hearing. 4/14/17 RP 4-16. Mr. Hawtin was provided with an opportunity to be heard.

Finally, the deprivation to Mr. Hawtin's Second Amendment right to bear arms, was temporary. The federal prohibition is only effective during an active restraining order. 18 U.S.C. § 922(g)(8). The order is only effective for one year. CP 111-116.

Given the procedural due process afforded to Mr. Hawtin, the Court did not err in entering the April 14, 2017, order. The Court was not required to sit back and wait for a party to bring a motion for reconsideration or revision. It had the authority to do it on its own motion and did so. Mr. Hawtin was not denied due process through the exercise of this authority.

E. THE COURT'S ORDERS DID NOT RENDER THE DVPA UNCONSTITUTIONAL AS APPLIED WHERE MR. HAWTIN RECEIVED ACTUAL NOTICE AND AN OPPORTUNITY TO BE HEARD.

The DVPA was not rendered unconstitutional as applied to Mr. Hawtin, where he received all of the procedural safeguards afforded to litigants in a DVPA proceeding. The DVPA's procedural safeguards are sufficient to provide due process. *Aiken*, 187 Wn.2d

at 501-502. This Court reviews challenges to the constitutionality of a statute de novo. *Id.* at 501.

Specifically, the DVPA provides sufficient protection by providing the respondent (1) a petition signed under oath; (2) notice within five days of the hearing; (3) a hearing before a judicial officer where the parties may testify; (4) a written order; (5) an opportunity to move for revision or appeal; and (6) a one-year limit on the restraints when children in common are involved. *Aiken*, 187 Wn.2d at 501. Mr. Hawtin alleges that the statute was rendered unconstitutional because Judge Hirsch's April 6, 2017, and April 14, 2017, orders took away his right for revision. Opening Br., p. 39. He also alleges that the Court's failure to modify the order pursuant to the DVPA, and failure to provide actual notice and an opportunity to be heard, made the DVPA unconstitutional as applied to him.

As discussed above, the Court had the authority to set the hearing to correct a clerical error, provide relief from judgment, and stay provisions of the order. CR 59(d), CR 59(g), CR 60(a), CR 62(b). Mr. Hatwin was provided with actual notice of these hearings through direct communication with his attorney's office, a written order, and by being provided oral notification of the substance of the issue. 4/6/17 RP 3-8; 4/14/17 RP 13; CP 93-95. He was also

provided with an opportunity to be heard on the issue at the April 14, 2017, hearing. 4/14/17 RP 3-22. This actual notice and opportunity to be heard complied with the federal law and the Court was not required to file a motion to modify the protection order through the DVPA¹¹.

Further, the Court's orders on April 6, 2017, and April 14, 2017, did not dispose of his right to move for revision of the original order. A motion for revision must be filed within 10 days of the order being entered. RCW 2.24.050. If the motion is not filed within this time frame, then the order becomes the order of the superior court and the order can only be challenged through the appellate process. RCW 2.24.050.

Neither of the Court's orders prevented Mr. Hawtin from filing a motion for revision on the underlying order. Both of the Court's orders were limited to whether there was a clerical error that mistakenly listed Ms. Hart as a former dating relationship instead of former intimate partners as cohabitants and if so, whether this

¹¹ Mr. Hawtin also alleges that the failure of the Court to find adequate cause under RCW 26.50.130 made the statute unconstitutional as applied to him. However, the court must only find adequate cause to modify a protection order of two years or longer when the motion is filed by the respondent. RCW 26.50.130(2). This certainly was not a motion filed by Mr. Hawtin, so adequate cause under the DVPA was not required.

change resulted in Mr. Hawtin being prohibited from possessing firearms under federal law. In fact, the Court found that Mr. Hawtin could bring any other motion he wanted to in front of the commissioner. 4/14/17 RP 21-22. Mr. Hawtin failed to do so.

Mr. Hawtin did file a motion to reconsider on April 10, 2017. CP 98-100. This motion was limited to whether the Court made a clerical error in restraining Mr. Hawtin from “causing physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking” Ms. Hart or in the alternative, whether the Court should reconsider this provision. CP 98-100. There appeared to be some confusion by the Court on whether it could reconsider Judge Hirsch’s order. 4/24/17 RP 15; 6/28/17 RP 6-7; 9/21/17 RP 20. However, Mr. Hawtin’s remedy for this was to file a motion to revise this order and allow Judge Hirsch the opportunity to clarify for Pro Tem Commissioner Kratz, whether or not he could reconsider the order. Mr. Hawtin’s failure to do this does not create an unconstitutional restriction on his right to do so.

The impact of the Court’s orders on April 6, 2017, and April 14, 2017, did not make the DVPA unconstitutional as applied to Mr. Hawtin.

F. MR. HAWTIN WAS NOT DENIED EQUAL PROTECTION WHERE THE COURT'S ORDER WAS RATIONALLY RELATED TO THE STATE'S INTEREST IN PREVENTING DOMESTIC VIOLENCE AND PROTECTING HUMAN LIFE.

The Equal Protection Clause of the Fourteenth Amendment of the United States Constitution prohibits any government from denying citizens equal protection of the law. U.S. CONST. amend. XIV. Courts have interpreted the clause to protect groups of individuals from disparate treatment based on membership in a particular class or when it impacts a fundamental right. *State v. Osman*, 157 Wn.2d 474, 485, 139 P.3d 334 (2006).

The class the individual belongs to, or the right being infringed, dictates the standard the court applies to determine whether the individual was denied equal protection. *Osman*, 157 Wn.2d at 484. For instance, strict scrutiny is applied to members of a suspect class, or for state actions, that threaten a fundamental right. *Id.* Suspect classes often involve classes based on race, alienage, or national origin. *State v. Schaaf*, 109 Wn.2d 1, 18, 743 P.2d 240 (1987). Intermediate scrutiny is applied to members of semi-suspect classes or when state action threatens "important rights." *Osman*, 157 Wn.2d at 484. Gender has been recognized to, at times, constitute a semi-suspect class. *Mississippi Univ. for*

Women v. Hogan, 458 U.S. 718, 729-730, 102 S.Ct. 3331, 73 L.Ed.2d 1090 (1982). Lastly, if the individual is not a member of a suspect or semi-suspect class or if the state action does not threaten important rights then the rational basis test applies. *Osman*, 157 Wn.2d at 484. Under the rational basis test, a state action will be, “upheld unless it rests on grounds wholly irrelevant to achievement of legitimate state objectives.” *State v. Shawn P.*, 122 Wn.2d 553, 561, 859 P.2d 1220 (1993). This must be proven beyond a reasonable doubt, and the moving party carries the burden. *Id.*

1. Mr. Hawtin was Not Denied Equal Protection Where He Has Failed to Prove that He Belongs to any Protected Class and the Court’s Order was Rationally Related to the State’s Interest of Preventing Domestic Violence and Preservation of Human Life.

Mr. Hawtin, by his own admission, does not belong to any class, let alone a protected class. Opening Br., p. 32-33. He claims to have been, “singled out and not given “like treatment” or “equal application of the law.”” Opening Br., p. 32-33. He alleges that the Court failed to equally apply the court rules, statutes governing modification of a protection order or constitutionally required protections under the DVPA. Opening Br., p. 32-33. Mr. Hawtin unquestioningly belongs to a group of people who have protection

orders issued against them, which prohibit them, under federal law, from possession firearms. This group is not a suspect or semi-suspect class so the court's action must only be rationally related to a legitimate state interest. *U.S. v. Baker*, 197 F3d 211, 216 (6th Cir. 1999).

As stated before, the court and state have a legitimate interest in preventing domestic violence and preserving human life. Laws of 1992 Ch. 111; *Aiken*, 187 Wn.2d at 501; *Gardner*, 128 Wn.2d at 944. Given the high level of incidents between domestic violence and fatalities when a firearm is present in a home, the court's order, based on the federal statute of removing those firearms is rationally related to its legitimate interest. Mr. Hawtin was not denied equal protection under the law where the Court had the authority to enter the order and where the order was rationally related to the state's interest in preventing domestic violence and preserving human life.

2. Mr. Hawtin was Not Denied Equal Protection. He Failed to Identify any Appropriate Level of Scrutiny Based on Traditional Understanding of the Right and the Court's Order was Rationally Related to the State's Interest of Preventing Domestic Violence and Preserving Human Life.

The right to bear arms is a fundamental right protected by the United States Constitution. *Dist. of Columbia v. Heller*, 554 U.S. 570,

626, 128 S.Ct. 2783, 171 L.Ed.2d 637 (2008); *State v. Sieyes*, 168 Wn.2d 276, 292, 225 P.3d 995 (2010); *State v. Ibrahim*, 164 Wn. App. 503, 514, 269 P.3d 292 (2011). “Like most rights, the right secured by the Second Amendment is not unlimited.” *Heller*, 554 U.S. at 626. In *Heller*, the Supreme Court rejected any specific application to test equal protection challenges under the Second Amendment. *Id.* at 634-635.

Consistent with *Heller* and *Sieyes*, the courts have found:

...while it would seem that given previous constitutional jurisprudence that strict scrutiny should be the measure both our state and the United States Supreme Courts have declined to specify a level of scrutiny that should guide any judicial discussion of this fundamental right.

Ibrahim, 164 Wn. App. at 514.

Instead, courts “opt to look instead at the “original meaning, the traditional understanding of the right, and the burden imposed” by the state action. *Id.*, citing *Sieyes*, 168 Wn.2d at 294-295. The Second Amendment states, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S. CONST. amend. II. This has been interpreted to provide individuals with the right to bear arms. *Heller*, 554 U.S. at 626-627. However, this right is not

absolute and in *Heller*, Justice Scalia, reaffirmed the government's authority to limit access to weapons by individuals such as felons, the mentally ill, or prohibit firearms in sensitive places like schools, or regulate the sales of firearms. *Heller*, 554 U.S. at 626-627. Justice Scalia cautioned that this list of permissible restrictions was not exhaustive. *Id.* at 627.

In view of the fact that Mr. Hawtin has failed to establish any specific level of scrutiny afforded to him under the Second Amendment, Ms. Hart urges this Court to consider the court's action under the rational basis test. *Baker*, 197 F.3d at 216. Under the rational basis test, the Court's order was rationally related to the state's interest in preventing domestic violence and protecting human life given the Court's finding that Mr. Hawtin committed acts of domestic violence against Ms. Hart. Mr. Hawtin was not denied equal protection.

G. THE TRIAL COURT DID NOT ERR IN DENYING MR. HAWTIN'S AFFIDAVIT OF PREJUDICE SINCE THE COURT HAD ALREADY ENTERED DISCRETIONARY RULINGS.

A party may disqualify a judge from hearing a case if the motion for disqualification is entered prior to the judge making a

discretionary ruling in the matter. RCW 4.12.050(1) (2009)¹²; *Rhinehart v. Seattle Times Co.*, 51 Wn. App. 561, 578, 754 P.2d 1243 (1988); *In re the Marriage of Farr*, 87 Wn. App. 177, 188, 940 P.2d 679 (1997), *rev. denied*, 134 Wn.2d 1014 (1998). This Court reviews decisions to deny affidavits of prejudice for an abuse of discretion. *Farr*, 87 Wn. App. at 188. The trial court did not err when it denied Mr. Hawtin's affidavit of prejudice against Judge Hirsch, because Judge Hirsch, had already made a discretionary ruling in the case.

1. Mr. Hawtin's Affidavit of Prejudice is Untimely Because a Formal Motion is Not a Prerequisite to a Discretionary Ruling and Mr. Hawtin's Oral Motion Resulted in a Discretionary Ruling Before the Affidavit was Filed.

An affidavit of prejudice must be filed prior to a discretionary ruling on the motion of a party or before the judge rules on an issue in the case that involves discretion. *Rhinehardt*, 51 Wn. App. at 578; *In re the Estate of Shaughnessy*, 104 Wn.2d 89, 92, 702 P.2d 132 (1985). Ms. Hart recognizes that the Court of Appeals, Division III has ruled that a discretionary ruling can only occur upon a motion filed by a party. *State v. Torres*, 85 Wn. App. 231, 234, 932 P.2d 186

¹² RCW 4.12.050 was amended in 2017. The effective date was July 23, 2017. Laws of 2017, ch. 42, § 2.

(1997), *rev. denied*, 132 Wn.2d 1012 (1997). However, the Supreme Court has held for many years that the prerequisite to the mandatory recusal under RCW 4.12.050 is not only when a discretionary ruling was made pursuant to a motion filed by a party but also any discretionary ruling on an issue in the case. *Shaughnessy*, 104 Wn.2d at 92. Therefore, a motion by a party was not required before Judge Hirsch could make a discretionary ruling.

In addition, it is well established that rulings on oral motions can be discretionary rulings that render a subsequent affidavit of prejudice to be untimely. *State v. Lile*, 188 Wn.2d 766, 776-778, 398 P.3d 1052 (2017). In *Lile*, the Washington Supreme Court stated that a judge's ruling at status hearing granting a joint oral motion for continuance was discretionary ruling, and thus defendant's subsequent affidavit of prejudice to disqualify the judge was untimely. *Lile*, 188 Wn.2d at 766.

In the April 6, 2017, hearing, Mr. Hawtin, through counsel, moved the Court not to enter an order staying the return of his firearms. 4/6/17 RP 6. This was an oral motion.

2. **The Court's Decision to Stay the Return of Mr. Hawtin's Firearms was a Discretionary Decision Where The Court had the Authority to Enter the Stay or Not and Where Mr. Hawtin Urged Against It.**

A discretionary ruling is one where a judge can either grant the relief or not. *State v. Parra*, 122 Wn.2d 590, 859 P.2d 1231 (1993). At the April 6, 2017, hearing, the Court was concerned that there was a clerical error on the order regarding the parties' relationship. 4/6/17 RP 3-4; 4/14/17 RP 13. If a clerical error had in fact been made, the result of correcting that error would be that federal law would prohibit Mr. Hawtin from possessing firearms. 18 U.S.C. § 922(g)(8). Since the controlling order returned those firearms to Mr. Hawtin, the Court had to determine whether to stay this provision. This decision was discretionary; the Court could have decided to enter the stay or not.

The discretionary nature of this decision is demonstrated by Mr. Hawtin's renewal of his April 5, 2017, oral motion to construct the order in a manner that did not restrict his access to firearms; he urged the Court not to enter the stay. 4/5/17 RP 13. Specifically, at the April 5, 2017, hearing, counsel for Mr. Hawtin stated, "I ask that this order not be interpreted as taking away his gun rights so that he cannot continue his career." 4/5/17 RP 13. At the April 6, 2017 hearing, Counsel renewed this motion stating, "...Commissioner Kratz was explicit in his ruling that firearms were to be allowed for Mr. Hawtin." 4/6/17 RP 6. Mr. Hawtin urged this Court to use its

powers in equity to not stay the return of Mr. Hawtin's firearms. 4/6/17 RP 6. The discretionary nature of this decision was acknowledged at the April 14, 2017, hearing when counsel stated, "... if this court finds that it had to issue a stay – that's Your Honor's discretionary ruling" 4/14/17 RP 8.

The Court's decision to stay the provision returning Mr. Hawtin's firearms pending a further hearing was discretionary. As such, Mr. Hawtin's affidavit of prejudice was untimely.

H. JUDGE HIRSCH DID NOT VIOLATE THE CODE OF JUDICIAL CONDUCT BY RULING AGAINST MR. HAWTIN.

Judicial officers are bound by the Code of Judicial Conduct to "uphold and apply the law" and "perform all of duties of judicial office fairly and impartially." CJC 2.2, cmt. 5. Judge Hirsch did this in an exemplary fashion, using her judicial authority to ensure a domestic violence protection order was carefully and accurately entered. The repercussions for failure to correct the order could be disastrous. Mr. Hawtin's disagreement with her decision does not make it biased or prejudicial. He is free to disagree and to appeal the trial court's order, as he has done. Even if this appellate court finds Judge Hirsch to have committed appealable error, it is not a violation of judicial ethics. Judges, like all people, make mistakes. "When applying and

interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.” CJC 2.2, cmt. 3.

In fulfilling their duty to uphold and apply the law, a judge may correct a clerical error of which they have knowledge. *Presidential Estates Apartments Assoc. v. Barrett*, 129 Wn. 2d 320, 326, 917 P.2d 100 (1996); CR 60(b). Mr. Hawtin argues that in correcting the clerical error the trial court violated the law, court rules and the Code of Judicial Conduct. Mr. Hawtin’s argument fails. “The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.” CJC 1.2, cmt. 5. In correcting the clerical error and holding a subsequent hearing on the ramifications, Judge Hirsch fulfilled her duty to uphold the law. Judicial officers do not get to pick and choose which laws to uphold. They must uphold all laws. CJC 2.2, cmt. 2.

Mr. Hawtin alleges Judge Hirsch made a comment to Pro Tem Commission Katz regarding the firearm surrender order. There is no verification of this hearsay statement: whether it was made; if so, what was said; or the context of the alleged statement. For the sake

of argument, assuming the statement Mr. Hawtin attributed to Judge Hirsch is completely accurate; it fails to show bias, prejudice or to preclude Mr. Hawtin from further judicial relief. (In fact, the record indicates that Mr. Hawtin has returned to the trial court numerous times.) Nor does the alleged statement violate judicial ethics. A judge may consult with other judges on pending matters as long as the judge does not abrogate their responsibility to decide. CJC 2.9(c), cmt. 5; See also, CJC 2.9(A)(3), (a judge may consult with court staff or other judges).

In fulfilling her duty to comply with the law, Judge Hirsch provided Mr. Hawtin with due process and did not violate equal protection standards as fully briefed above.

I. IF SUCCESSFUL, MS. HART IS ENTITLED TO ATTORNEY FEES PURSUANT TO RCW 26.50.060(G) AND RAP 18.1.

Pursuant to RAP 18.1, Ms. Hart respectfully requests an award of attorney fees and costs in accordance with RCW 26.50.060(g). RCW 26.50.060(g), allows an award of costs and attorney fees to the petitioner. "If attorney fees are allowable at trial, the prevailing party may recover fees on appeal." *Scheib v. Crosby*, 160 Wn. App. 345, 353, 249 P.3d 184 (2011). If granted, Ms. Hart

will submit a cost bill within ten days of the decision in compliance with RAP 18.1(d).

Mr. Hawtin's request for attorney fees should be denied. His motion to realign the parties was denied by virtue of the Court's entry of the DVPO protecting Ms. Hart on April 5, 2017, and as indicated above, he was not prevented from moving to reconsider or revise this decision. Mr. Hawtin was also not prohibited from challenging this decision on appeal and he failed to do so.

Ms. Hart respectfully requests that, if successful, she be awarded attorney fees pursuant to RCW 26.50.060(g) and RAP 18.1(d).

V. CONCLUSION

Ms. Hart respectfully requests this Court affirm the trial court's orders and find that Mr. Hawtin's constitutional rights were not violated. She also respectfully requests an award of attorney fees and costs under RCW 26.50.060(g) and RAP 18.1(d) if she is successful.

Respectfully submitted on March 16th, 2018.



JACQUELYN HIGH-EDWARD
WSBA #37065
Attorney for Ms. Hart
Northwest Justice Project
1702 W. Broadway
Spokane, WA 99201



#28947
for

JENNIFER SUMMERVILLE
WSBA #39442
Attorney for Ms. Hart
Northwest Justice Project
711 Capitol Way S., #704
Spokane, WA 98501

CERTIFICATE OF SERVICE

I certify that on the 16th day of Marcy 2018, I caused a true and correct copy of this document – BRIEF OF RESPONDENT - to be served on the attorneys of record listed below via first class U.S. mail, postage prepaid, with a courtesy copy transmitted by email:

Andrew Mazzeo
Lifetime Legal, PLLC
1235 Fourth Ave East, Suite 200
Olympia, WA, 98506

Office (360) 754-1976
Fax: (360) 943-4427
Email: dpm@lifetime.legal
Attorney for Appellant

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

DATED this 16th day of March, 2018 at Spokane, Washington



NIA R. PLATT, Legal Assistant

ATTACHMENT A

FILED
Court of Appeals
Division II
State of Washington
3/15/2018 3:03 PM

SUPERIOR COURT OF WASHINGTON
COUNTY OF THURSTON

JENNIFER HART,

Petitioner,

vs.

ERIN HAWTIN,

Respondent.

NO. 17-2-30083-34

PETITIONER'S SUPPLEMENTAL
DESIGNATION OF CLERK'S
PAPERS

CLERK'S ACTION REQUIRED

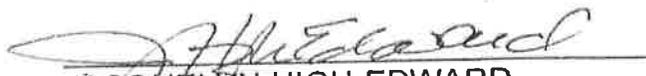
TO THE CLERK OF THE COURT:

Pursuant to RAP 9.6 and 9.7, please prepare for transmittal to the Court of Appeals for the State of Washington, Division II, Case No. 50350-6, the Clerk's Papers listed below. I understand that, upon receipt of payment, the Clerk will transmit the Clerk's Papers to the Court of Appeals. I agree to pay the amount owed within 14 days of receiving a copy of the index, regardless of the status of appeal.

Sub No.	Date	Pleading Title
	8/18/2017	Notice of Hearing for Court Commissioner Motions

Dated this 15 day of March 2018.

NORTHWEST JUSTICE PROJECT


JACQUELYN HIGH-EDWARD
WSBA #37065
Attorney for Ms. Hart

DEFENDANT'S SUPPLEMENTAL
DESIGNATION OF CLERK'S PAPERS
Page 1 of 1

Northwest Justice Project
1702 W. Broadway
Spokane, Washington 99201
Phone: (509) 324-9128 Fax: (509) 324-0065

**Superior Court of Washington, Thurston County
Family and Juvenile Court**

Petitioner:

JENNIFER LYNN HART

Case No. 17-2-30083-34

Respondent:

ERIN FREEDOM HAWTIN

**Notice of Hearing for
Court Commissioner Motions**

(NTHG)

To the County Clerk and all parties:

1. A court hearing has been scheduled for: September 12, 2017 at 9:00 a.m.

This hearing will take place at 2801 32nd Avenue SW, Tumwater, WA 98512.

2. The **name** of the motion or type of hearing is: Motion to Correct Clerical Mistake, Or, In The Alternative, Motion to Reconsider

3. The motion was filed on: April 10, 2017

4. The hearing should be scheduled on the following court session:

→ Check that the court session is available before you schedule a hearing. You can see whether a session is full on the Clerk's web page: www.co.thurston.wa.us/clerk

- | | |
|---|---|
| <input type="checkbox"/> Family Law without attorneys (Monday, Thursday, and Friday at 2 p.m.) | <input type="checkbox"/> Unlawful Harassment, Stalking, & Extreme Risk Protection Orders (Thursday 2:00 p.m.) |
| <input checked="" type="checkbox"/> Family Law with attorneys (Tues. 9 a.m. & 2 p.m. & Thursday 9 a.m.) | <input type="checkbox"/> Vulnerable Adult Protection Order (Fri. 9 a.m.) |
| <input type="checkbox"/> State Family Law (Wednesday 2 p.m.) | <input type="checkbox"/> Sexual Assault Protection Order (Fri. 9 a.m.) |
| <input type="checkbox"/> Non-Parental Custody (Friday 10 a.m.) | <input type="checkbox"/> Final Dissolution (Wednesday 9:00 a.m.) |
| <input type="checkbox"/> Court Commissioner concurrent or conflict calendar (Tuesday 9 a.m.) | <input type="checkbox"/> Truancy, Youth at Risk, CHINS (Tues. 10 a.m. Thurs. 9 a.m.) |
| <input type="checkbox"/> Probate & Guardianship (Friday 2 p.m.) | <input type="checkbox"/> Juvenile Miscellaneous Motion (Mon. 2 p.m.) |
| <input type="checkbox"/> Domestic Violence (Mon 9 a.m., Wed 9 a.m. & 2 p.m.) | |

Warnings!

- If you do not go to the hearing, the court may sign orders without hearing your side. You must file all paperwork to respond to a motion before the court hearing.
- If you do not have an attorney, a courthouse facilitator must approve the final paperwork before a final hearing can be scheduled. LSPR 94.04.

NORTHWEST JUSTICE PROJECT - SPOKANE OFFICE

March 16, 2018 - 1:45 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 50350-6
Appellate Court Case Title: Jennifer Hart, Respondent v. Erin Hawtin, Appellant
Superior Court Case Number: 17-2-30083-4

The following documents have been uploaded:

- 503506_Briefs_20180316134142D2456158_8072.pdf
This File Contains:
Briefs - Respondents
The Original File Name was Brief of Respondent.pdf

A copy of the uploaded files will be sent to:

- Jen.hart.lynn@gmail.com
- dpm@lifetime.legal
- drewmazzeo@outlook.com
- jenniferandgwenhart@yahoo.com
- jennifers@nwjustice.org

Comments:

Sender Name: Nia Platt - Email: nia.platt@nwjustice.org

Filing on Behalf of: Jacquelyn M. High-Edward - Email: jacquelyn@nwjustice.org (Alternate Email:)

Address:
1702 W. Broadway Ave
Spokane, WA, 99201
Phone: (509) 381-2308

Note: The Filing Id is 20180316134142D2456158