IN THE SUPREME COURT OF THE STATE OF WASHINGTON

SEAN KUHLMEYER, Appellant, vs. ISABELLE LATOUR, Appellee	Supreme Court Case No.: 1037368 Motion for to file corrected Petition for Review

Sean Kuhlmeyer, Appellant *Pro Se*
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Appeal of: *Kuhlmeyer v. Kuhlmeyer*
Court of Appeals No. 855441 – Division I
King County Superior Court No. 17-3-01163-4
(Issue of first-impression of constitutionality of RCW-7.105.315)

Friday, February 21, 2025 (2/21/2025)

Estimated-Reading-Time: 0.65 Decimal-Minutes

For the convenience of the court, this document contains a Table of Contents and Table of Authorities at the end of the document

I. RELIEF REQUESTED

Appellant Sean Kuhlmeyer requests this court allow him to file a corrected Petition for Discretionary Review, or in the alternative, substitute the attached corrected petition upon receipt of this motion.

II. FACTS

On December 26, 2024, per RAP 6.2, Appellant Sean Kuhlmeyer, *pro se,* filed a Petition for Discretionary Review. Because of the rushed nature of preparing the petition on the day after Christmas, Appellant did not discover certain typological errors and other errors prior to filing said petition. Attached as ***Exhibit-1*** is a corrected copy of the previously filed petition. The corrected petition is substantively the same as the previous petition, but typographical and formatting errors have been corrected to facilitate the reading and understanding of the Petition.

III. RELIEF REQUESTED

Appellant Sean Kuhlmeyer requests this court allow him to file

a corrected Petition for Discretionary Review, or in the alternative, substitute the attached corrected petition upon receipt of this motion.

IV. ISSUES PRESENTED

1. Whether this court should allow Appellant to file a corrected Petition for Discretionary Review? (Yes).
2. Whether in the alternative this court should substitute the attached corrected Petition for Discretionary Review upon receipt of this motion? (Yes).

V. AUTHORITY & ARGUMENT

Per RAP 6.2, a Petition for Discretionary Review is the manner in which an appellant seeks review of issues from lower courts. Per RAP 17.1-17.7, this court has authority to consider motions. Per RAP 9.10 this court has authority to order the correction or supplementation of the record.

Correction of previously filed documents is a common and accepted practice. Here, the potential substituted Petition for Discretionary Review is substantively the same as the

previously filed petition, and raises no new issues. But, it markedly easier to read, and corrects various errors.

Thus, this court should either allow Appellant to file the Corrected Petition for Discretionary Review directly, or alternatively should substitute the corrected petition upon receipt of this motion.

Respectfully submitted.

I certify that this document contains 323 total words of a 5000 word limit in compliance with RAP 18.17(b). See below certification.
Dated: Friday, February 21, 2025 (2/21/2025) at Seattle, Washington.

By: s/Sean Kuhlmeyer .
Electronically Signed By: Sean Kuhlmeyer, JD.
Sean Kuhlmeyer, *Appellant Pro Se*

Motion for to file corrected Petition for Review
Filename: 2025.02.21 M4 To File Corrected Petition

Appeal Signature Block Certification: I certify that in compliance with RAP 18.17(b), "the number of words contained in the document, exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of compliance, the certificate of service, signature blocks, and pictorial images (e.g., photographs, maps, diagrams, exhibits)," comply with the limits established by the rule, and that this memorandum contains 323 total words of a 5000 word limit.
Total Words: 1277 (raw words) –101 (header) –843 (signature) –10 (footer) –00 (misc. words)) = 323
Estimated-Reading-Time: 0.65 Decimal-Minutes

VI. TABLE OF CONTENTS[1]

[1] Mr. Kuhlmeyer is aware a Table of Contents and Table of Authorities, are not required in motions. Mr. Kuhlmeyer likes to include both as conveniences to the court and reader, and as organizational tools in facilitation of compensating for Mr. Kuhlmeyer's ADHD, and thus they are reasonable accommodations under the Americans with Disabilities Act, 42 USC 12132, and the Washington law against Discrimination, RCW 49.60.

VII. CERTIFICATE OF SERVICE

I hereby certify that on this Friday, February 21, 2025 (2/21/2025), I caused a true and correct copy of this

- Motion for to file corrected Petition for Review

To be served on the following in the manner indicated below:

☒ ECF Service ☐ USPS Mail ☐ Hand Delivery

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Hon. Lea Ennis, Clerk **Court of Appeals, Division I** 600 University Street One Union Square Seattle, WA 98101-1176	

VIII. EXHIBIT LIST

Exhibit-1: Corrected Petition for Discretionary Review. Fn:

2023.12.26 KvK PetForReview WSCT 855441

Corrected

EXHIBIT-1. Corrected Petition for Discretionary Review. Fn:

2023.12.26 KvK PetForReview WSCT 855441 Corrected

Corrected Petition for Discretionary Review

Exhibit-1. .

Supreme Court Case No. 1037368

Court of Appeals (Div.-I) No. 85544-1-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

SEAN KUHLMEYER,
Appellant,
vs.
ISABELLE LATOUR,
Appellee

SEAN KUHLMEYER'S PETITION FOR REVIEW – AMENDED & CORRECTED[1]

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Appeal of: *Kuhlmeyer v. Kuhlmeyer*
Court of Appeals No. 855441 – Division I
King County Superior Court No. 17-3-01163-4
(Issue of first-impression of constitutionality of RCW-7.105.315)

Monday, January 6, 2025 (1/6/2025)
Estimated-Reading-Time: 9.93 Decimal-Minutes

[1] On 12/26/2024 Kuhlmeyer filed a Petition for Review by this court. Because of the rushed nature of preparing said Petition immediately following the Christmas holiday, the original petition contained some typographical errors that affect its readability and understanding. This Petition is filed in correction of said errors, it is substantively the same as the previous Petition. The parties served and Supreme Court case number is also corrected. Kuhlmeyer apologies to the court and all parties for the errors.

I. TABLE OF CONTENTS

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III. INTRODUCTION OF FACTS AND SUMMARY OF GROUNDS FOR REVIEW

This is a case of first impression.

A. Procedural Posture

Nature of the Underlying Case: This case involves the issuance of what is effectively a lifetime protection order prohibiting father from having any contact with his son.

Trial Court's Disposition: Five weeks after the previous protection order had expired, and when it was unrefuted that the only contact the Mother had received in the intervening period between orders was from a visit supervisor trying to initiate the parenting plan visits the Mother was refusing to provide, per RCW 7.105, the trial court ordered 1) A 20-year protection order protective of both the mother and the minor child, that will not expire until the father is 74, and the child is 35, based on a theory the father's previous litigation conduct that predated the legislature's redefinition of domestic violence, and the

supervisor's attempts to initiate the ordered visits, was sufficient to justify issuance of the lifetime protection order, and ordered the father to domestic violence treatment, and 2) Sanctioned father and his counsel for asserting argument in response to Mother's motion for a protective order in part detailing the Mother's pattern of refusing to obey the court's orders, and abusive conduct toward Father including a pattern of filing false police reports, and false criminal charges, seeking criminal convictions against father for alleged violations of the previous restraining order that did not happen.

The hearing for said order took approximately 20 minutes, neither party was allowed to testify, neither party was granted discovery, and the trial court effectively 'cut off' father's counsel mid-argument when he was making an analogous argument.

Court of Appeals' Disposition: On appeal, amongst other arguments, father argued issuance of the 20-year order

protecting the child, violated RCW 7.105.315's provision "If a protection order restrains the respondent from contacting the respondent's minor children, the restraint must be for a fixed period not to exceed one year." RCW 7.105.315(2)(a) (emphasis added). And issuance of said order was error because the Mother did not prove domestic violence occurred in the period between the orders, and fathers conduct in such period was solely via an approved supervisor to initiate the parenting plan visits the mother was wrongfully withholding.

Division I affirmed the order stating substantial evidence supported the trial court's finding the father committed domestic violence, via coercive control through abusive litigation, and clarified the 20-year protection order lawfully conditioned contact according to the existing parenting plan, which did not violate statutory limitations.

Division I did not address that it is uncontested the Mother has not been obeying the Parenting Plan and the trial court has prevented the father from enforcing said plan or other

orders against the mother which has resulted in a greater than five-year separation of father and son, nor did Division-I address it is also uncontested that all the conduct alleged to be "coercive control," predated the legislature's statutory redefinition of domestic violence effective July 1, 2022. RCW 7.105.010.

B. Overview Facts

It is uncontested Kuhlmeyer has never been convicted of any crime, including any crime of violence, dishonesty, or violation of a protection order.

Kuhlmeyer and Latour married in 2000, had a child together, and separated in 2016. (CP 1-2) The parties agreed to arbitrate their contested dissolution, which was finalized two years later. (CP 35-43)

In June 2018, the trial court entered a final parenting plan awarding Latour primary custody over the parties' son, CK and restricting Kuhlmeyer's parenting time to supervised visitation. (CP 8-21) The court also ordered Kuhlmeyer to participate in

treatment to address his "anxiety, anger, communication, and impulsivity issues," which include his "compulsively self-destructive litigation pattern." (CP 9) The trial court appointed a case manager to oversee the parties' compliance with the parenting plan. (CP 11)

At the same time, the trial court entered a restraining order preventing Kuhlmeyer from contacting Latour, with an expiration date of May 5, 2023. (CP 22-25) The court later found he violated the restraining order by contacting Latour via email; an issue which was heavily contested and Kuhlmeyer asserts was error. (CP 174) Kuhlmeyer's last communication with Latour was in January 2018. (CP 65)

Before entering final divorce orders, the trial court also made a finding Kuhlmeyer had engaged in abusive litigation during the parties' dissolution action; this issue too was heavily contested as Kuhlmeyer alleged Latour's counsel inappropriately inserted said findings into the draft orders as the findings of the Arbitrator, when the Arbitrator did not make

such a finding, and said orders had been reviewed by the Arbitrator when in fact they had not. (CP 32) As a result, the court entered an order prohibiting Kuhlmeyer from filing any motions unless he received prior approval from the court. (CP 31-34)

Several years elapsed, during which Kuhlmeyer had no contact with CK, despite repeated requests to the trial court to allow him to enforce the Parenting Plan against Latour, all of which were refused by the trial court. (CP 111)

As a result, in February 2023, the arbitrator ruled Kuhlmeyer and his son "should" begin reunification therapy before beginning supervised visitation. (CP 55) The trial court adopted the arbitrator's finding in an order entered March 6, 2023. (CP 328-34)

By this time, Kuhlmeyer had arranged for Dr. Nuri Kahn from Northwest Family Psychology to provide reunification services. (CP 283) Dr. Kahn conducted an initial intake appointment with Kuhlmeyer on March 3, 2023, and he later

had separate meetings with Latour and CK. (CP 304) On April 27, Dr. Kahn scheduled an in-person session with both Kuhlmeyer and his son, but CK did not attend. (CP 302)

The next day, April 28, Kuhlmeyer's attorney, Ellery Johannessen, sent an email to Latour's attorney, informing her Latour "failed to produce [CK] for his scheduled reunification therapy session with my client." (CP 88) Latour's attorney did not respond. (CP 88-89) CK also did not attend the next scheduled reunification session on May 9; Dr. Kahn would later opine in his professional opinion that commencing the individual sessions commenced the 'start' of reunification therapy and thus Latour was obligated then to provide the visits outlined in the Parenting Plan. (CP 302, 304)

Johannessen emailed Latour's attorney a second time on May 19. (CP 89) In this email, he stated Latour "has now failed to produce [CK] for three reunification therapy appointments." (CP 89) Latour's attorney responded: "Your correspondence

violates the court's case management orders. It is rejected, deleted, and not read." (CP 90)

In a follow-up email to Kuhlmeyer, Dr. Kahn confirmed "[CK] has refused to engage in reunification therapy, and it is my understanding that [Latour] will not force him to attend if he does not wish to go." (CP 302)

Kuhlmeyer had also arranged for Carrie Lewis, a professional residential supervisor, to facilitate supervised visits with CK. (CP 81) Before retaining Lewis, Kuhlmeyer had received prior approval from the case manager, a requirement of the parenting plan. (CP 81)

Lewis contacted Latour via email, but she did not respond. (CP 83-86) Latour also did not initially respond to Lewis's phone calls. (CP 85) On May 31, 2023, however, Latour called Lewis and told her "to stop calling her, as it was harassment and that I was violating the parenting plan." (CP 83) Latour threatened to file a restraining order against Lewis if she

continued contacting her. (CP 83) In the interim, the restraining order entered in 2018 had expired. (CP 22)

In early June, Latour petitioned for a protection order, alleging Kuhlmeyer "has been harassing me ... by having an unauthorized person contacting me demanding contact with our son." (CP 48-55) She also accused Johannessen of sending her attorney "eccentrically long-emails with false assertions, threats and promises of future litigation if I do not cave to [Kuhlmeyer's] demands." (CP 56) Latour also based her petition on her claim Kuhlmeyer made "clear threats" against her in prior appellate briefs. (CP 56) In a later pleading, she provided the court with a five-page index of Kuhlmeyer's alleged "abusive litigation tactics" between 2017 and 2023. (CP 183-87)

After reviewing the petition, the trial court entered a temporary order and scheduled a full hearing on June 16, 2016. (CP 101-08) The hearing was approximately 20 minutes long, no testimony of the parties or other witnesses was allowed or

taken, and no discovery was allowed. *Id.* At the conclusion of the hearing the court entered a 20-year protection order. The trial court noted Kuhlmeyer "has a history of domestic violence that is well documented." (RP, Jun. 16, 2023, at 15). 9 The trial court made specific findings in its written order: (CP 245)

> [Kuhlmeyer] represents a credible threat to the physical safety of [Latour]. From the outset of this case, [Latour] has presented credible evidence regarding [Kuhlmeyer's] actions to coercively control her as well as verbal, physical, and emotional abuse directed toward her and her son. This has manifested itself as well as in years of scorched earth, abusive litigation which has far exceeded the description of vigorous advocacy ... Kuhlmeyer's objections are unpersuasive and unsupported by the evidence put before this Court.

The trial court entered a protection order until June 16, 2043. (CP 243) As part of the protection order, the trial court ordered Kuhlmeyer to participate in state-certified domestic violence treatment. (CP 247)

In July 2023, Latour filed a motion for contempt, alleging Kuhlmeyer had not enrolled in DV treatment. (CP 254-55) In

response, Kuhlmeyer filed a declaration in which he stated the trial court erred in issuing the DVPO. (CP 278)

He also stated he had enrolled in two Veterans Affairs programs for both victims of domestic abuse and perpetrators of domestic violence and he had undergone a state-certified assessment on October 2 as required by the Washington Administrative Code and that completing said assessment was largely out of his control and based on what the assessor did. (CP 279)

Following a hearing on October 27, 2023, the trial court found Kuhlmeyer in contempt for not "fully enrolling" in DV treatment. (RP Oct. 27, 2023, at 19). The trial court also imposed CR 11 sanctions on both Kuhlmeyer and Johannessen for "briefing and raising old issues" for which "there is no legitimate purpose." (RP 20) In a subsequent written order, the trial court found "Johannessen independently ... violated CR 11 in the court filings submitted in response to contempt" and jointly and severally assessed $2,000 in sanctions against both

Kuhlmeyer and Johannessen. (CP 406, 408) Kuhlmeyer appealed the domestic violence protection order and the contempt order. (CP 239-40, 404-05).

Kuhlmeyer now files this Petition for Review appealing Division-I's decision, and the trial court's issuance of said permanent protection order.

C. Issue of First Impression

In 2022, in a complete revamp of the previous structure of protection orders, the Washington legislature, redefined the definition of Domestic Violence to include a host of non-violent behavior as "Coercive Control," and allowed for the issuance of permanent protection orders. RCW 7.105. Said definition did not take effect until July 1, 2022. RCW 7.105.010. Notably the Rules of Evidence do not apply to protection order proceedings. ER 1101(c)(4). Even hearsay is admissible. *Gourley v. Gourley*, 158 Wn.2d 460, 464, 145 P.3d 1185 (2006). Participants get no discovery, and the issue is decided on a normal motion practice timeline, the 'accused' has no right to confront their 'accuser'

or cross-examine them on the facts, nor do they have a right to a jury trial of the issue, nor are any of the potential harms done to them by a protection order analyzed. In effect, the trial court judge has complete discretion to decide whether to issue a protection order, and on an abuse of discretion standard, first level appellate courts routinely affirm.

Since changing the definition of domestic violence, the courts have seen an explosion of protection order requests, and issued vastly more orders than in previous years, with the Administrative Office of the Court's reporting there has been an increase of 84% of Civil Protection Order filings.[2] Washington's law is one of, if not the broadest, law in the United States on the definition of domestic violence.[3]

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[2] *See*, Washington State Judicial Branch 2024 Supplemental Budget Implement Protection Order Support for Judicial Officers. Washington Administrative Office of the Courts, June 2023, Pg. 7, Avail. https://www.courts.wa.gov/content/Financial%20Services/documents/2024/Supplemental/18%204S%20Implement%20Protection%20Order%20Support.pdf

[3] *See, Washington Courts: News and Information; Gender and Justice Commission Releases New Guidance for Courts in Modernizing and Coordinating Protection Orders and Processes, Washington Administrative Office of the Courts Press Release, June 22, 2022*, avail: https://www.courts.wa.gov/newsinfo/?fa=newsinfo.internetdetail&newsid=49722

Many permanent orders have been issued, but none have tested the constitutionality of such orders.

Without exaggeration, there are likely thousands of potential Washington citizens similarly situated to Kuhlmeyer, or, whom will be similarly situated to him in the coming years.

D. Other States are Reviewing this Issue

Notably, other states are reviewing this issue, and one – Texas, has a case remarkably similar to this one currently under review, and if the oral arguments are any indication, the Texas Supreme Court is likely to reverse. See, *Stary v. Ethridge*, Texas Supreme Court No. 23-0067.[4]

IV. IDENTITY OF PETITIONER

Sean Kuhlmeyer, Respondent-Father and Appellant below, asks this Court to review the Court of Appeals' decision terminating review.

V. CITATION TO COURT OF APPEALS DECISION

[4] Avail: https://search.txcourts.gov/Case.aspx?cn=23-0067&coa=cossup

A copy of the unpublished Court of Appeals decision, filed 26Nov2024, is attached as ***Appendix-A***.

VI. ISSUES PRESENTED FOR REVIEW

1. Whether a trial-court can issue a lifetime protection order prohibiting all contact between father and son, past the age of the child's majority?
2. Whether a trial-court can issue a lifetime protection order prohibiting all contact between father and son, in violation of RCW 7.105.315(2)(a) provision that prohibits such orders exceeding one year?
3. Whether issuance of a lifetime protection order prohibiting all contact between father and son, violates a parent's fundamental due process rights to fundamentally fair procedures as it amounts to effectively a *de facto* termination of the father's parenting rights?

VII. ARGUMENT

A. Standard of Review

Constitutional challenges are questions of law reviewed *de novo. City of Redmond v. Moore,* 151 Wn.2d 664, 668, 91 P.3d 875 (2004). Because statutes are presumed to be constitutional, the party challenging the statute bears the burden of establishing the statute's unconstitutionality. *In re Interest of Infant Child Skinner,* 97 Wn.App. 108, 114, 982 P.2d 670 (1999).

Here, Kuhlmeyer asserts issuance of a permanent protection order, under the current scheme allowed by the RCW's, is unconstitutional in that it: A) Denies a parent due process by denying them the ability to conduct discovery, B) Denies them the ability to cross-examine what is effectively their 'accuser,' C) Prevents them from using the Rules of Evidence to prove their factual assertions and contest the assertions made against them, D) Can enact a disproportionate and punitive response by the court without consideration of the impacts the court's action will have upon the parent, E) Is fundamentally procedurally unfair as it happens on a

compressed timeline, F) Can be arbitrary and capricious in that it vests the trial court with almost complete discretion without meaningful ability for review, and finally, G) Lacks an effective way to address the issues including to terminate the protection order at a future date.

B. The trial court abused its discretion, in entering a lifetime protection order against the father, and Division-I errored, in affirming said order.

An appeals court reviews a trial court's decision to grant a protection order for abuse of discretion. *State v. Noah*, 103 Wn.App. 29, 43, 9 P.3d 858 (2000). A court abuses its discretion if the record does not support its legal conclusions. *Hundtofte v. Encarnacion,* 181 Wn.2d 1, 10, 330 P.3d 168 (2014). Where the court held a hearing and weighed evidence, the standard is whether "substantial evidence" support's the court's decision. *In re Marriage of Rideout, 150* Wn.2d 337, 351, 77 P.3d 1174 (2003). Substantial evidence means evidence "sufficient to persuade a fair-minded, rational person the

finding is true. *Teter v. Deck,* 174 Wn.2d 207, 215, 274 P.3d 336 (2012).

The trial court imposed a five-year restraining order on Kuhlmeyer when the parties divorced. Latour could have timely filed a motion to renew the protection order, but she let it expire. Instead, Latour filed a motion to renew the restraining order after its expiration (CP 44-4 7), which the trial court denied. (CP 237). She also filed a new DVPO petition, in which she had the burden of proof, but the allegations in her new petition do not support a finding of domestic violence.

Domestic violence includes physical harm or the threat of physical harm, coercive control, financial exploitation, or unlawful harassment. RCW 7.105.010(9). The more recent record in the case does not support finding any of these factors.

Kuhlmeyer has not seen or spoken to Latour since January 2018. Nowhere in her petition does Latour allege her ex-husband has harmed her or threatened to harm her over the past several years.

In his first appeal of his dissolution, this Court affirmed the dissolution court's finding Kuhlmeyer had committed domestic violence and upheld the June 2018 restraining order. *In re Marriage of Kuhlmeyer,* No. 78765-1, (Wash Ct. Appeals, Jan. 21, 202), slip op. at 8-9. In her motion, Latour claimed that because Kuhlmeyer had a part-time job as a delivery driver, that she was afraid that Kuhlmeyer would come to her home in response to an online order request, "claiming that I summoned him." (CP 56) But there is no evidence in the record Kuhlmeyer makes deliveries near her home. Nor is there any evidence, as discussed, that he has contacted her in several years.

Vexatious litigation is a form of coercive control. RCW 7.105.010 (4)(a)(v). But although the record supports the trial court's prior finding of abusive litigation, the vast majority of incidents Latour includes in her petition occurred before December 2020. In fact, over the past three years. Kuhlmeyer filed a single request to file a contempt motion-and this last request occurred after Latour filed her DVPO petition. In short,

Kuhlmeyer may have been a vexatious litigant in the past, but he has not been a vexatious litigant in several years.

Coercive control also includes financial exploitation, but there is no evidence Kuhlmeyer has financially exploited Latour. RCW 7.105.010(4)(a)(iii). At the time she filed the petition, Kuhlmeyer was making monthly child support payments, and he had arranged to pay Latour $100/month to satisfy past judgments against him. (CP 197, 342, 361)

Contrary to Latour's claim, there is also no evidence in the record Johannessen has a "personal vendetta" against her attorney and that his communications with her were an "intimidation tactic" designed to "create a chilling effect" on her representation. (CP 45) Johannessen sent Latour's attorney two emails over a two-month period about reunification therapy, which the trial court had ordered. The emails were polite and respectful, and no reasonable person could classify them as threatening or intimidating.

Latour's principal allegation was that Kuhlmeyer engaged in unlawful harassment by "having an unauthorized person contact me demanding contact with our son." But Carrie Lewis, a professional residential supervisor, is far from an "unauthorized'' person, having been approved by the case manager. Nowhere in her petition does Latour claim Lewis had threatened her, showed up at her residence, or contacted her after business hours. Nor does Lewis "demand'' to have contact with the parties' son. All she asks is for Latour is to respond.

Unlawful harassment is a component of domestic violence, but unlawful harassment means a "knowing or willful course of conduct directed at specific person that seriously alarms or harasses another person without a legitimate or lawful purpose." RCW 7.105.010(36). The record does not support a finding of unlawful harassment. Kuhlmeyer's attorney contacted Latour's attorney for the sole purpose of scheduling reunification therapy, and Kuhlmeyer's residential supervisor

contacted Latour for the sole purpose of commencing supervised visitation which Latour was obligated to provide.

In justifying a domestic violence protection order, the trial court focused on Kuhlmeyer's conduct from the "outset of the case," without focusing on the specific allegations in Latour's petition. (CP 245) Substantial evidence, however, did not support the trial court's entry of a new DVPO.

Even if this Court upholds the issuance of the DVPO, the trial court erred in including CK for the full term of the order. Under RCW 7.105, trial court may prohibit the respondent from contacting his minor child, but any such restraint "must be for a fixed period not to exceed one year." RCW 7.105.315(2)(a).

Here the trial court did not include any such limitations in its order. Nor did the trial court, as it is required to do, "advise [Latour] that if [she] wants to continue protection for [CK] beyond one year," she must file a petition for renewal or seek other relief. *Id.*

C. The trial court clearly abused its discretion and

violated Father's constitutional rights when it ordered a lifetime protective order for his child, which constitutes a *de facto* termination of his parental rights without due process.

The United States Constitution and Washington law provide significant protections for parental rights, which have been repeatedly recognized as one of *the* most fundamental constitutional rights. Courts have frequently emphasized the importance of family, and the rights to conceive and raise one's children have been deemed "essential," "basic civil rights of man," and "rights far more precious… than property rights." *See Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (citing cases recognizing these rights); *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); *Skinner v. Oklahoma*, 316 U.S. 535 (1942); *May v. Anderson*, 345 U.S. 528, 533 (1953).

The integrity of the family unit is protected by the Due Process Clause of the Fourteenth Amendment, the Equal Protection Clause of the Fourteenth Amendment, and the Ninth

Amendment. *Stanley v. Illinois*, 405 U.S. 645 (1972)); U.S. CONST. AMEND. XIV (14th); U.S. CONST. AMEND. IX (9th).

The Washington Constitution provides "No person shall be deprived of life, liberty, or property, without due process of law." WASH. CONST. art. I, § 3 ('Substantive Due Process'). The federal constitution guarantees the same right. U.S. CONST. AMEND. V (5th); *also see*, U.S. CONST. AMEND. XIV (14th). 'Procedural Due Process' requires 'fundamental fairness.' U.S. Const. amend. V, XIV, § 1; Wash. Const.. art. I, §3. Due process is violated "if a practice or rule offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934). If one's "liberty" or "property" rights are affected, one must have 'Procedural Due Process.' *Didlake v. Washington State,* 186 Wn. App. 417, (Wash. Ct. App. Div. I 2015), *citing, Mathews v. Eldridge,* 424 U.S. 319, 332 (1976). Notice (1), a Meaningful Opportunity to be Heard (2), and an Impartial *trier-of-fact* (3) are required.

Didlake citing, Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 542 (1985). The hearing must be "'at a meaningful time and in a meaningful manner.'*" Didlake citing, Morrison v. Dep't of Labor & Indus.,* 168 Wn.App. 269, 273 (Wash. Ct. App. Div. I 2012). Three factors determine procedural due process: 1) The private interest affected, 2) The risk the procedures will deprive one of that interest, and 3) Any countervailing governmental interests. *Didlake, citing, Mathews,* 424 U.S. at 334–35.

The natural right between parents and their children is one of constitutional dimensions, and parents have a fundamental constitutional right to relationships with their children. *Troxel v. Granville,* 530 U.S. 57, 65 (2000).

In a state dependency action to terminate parental rights, the parent gets full discovery rights, and the state must prove parental unfitness a two-step process focusing on the adequacy of the parent proved by clear, cogent, and convincing evidence. RCW 13.34. *also see,* RCW 13.34.110(1).; RCW 13.34.180(1);

Per RCW 13.34.190, a Washington court uses a two-step process when deciding whether to terminate the right of a parent to relate to his or her natural child. The first step focuses on the adequacy of the parents. RCW 13.34.180(1); *In re Interest of S.G.*, 140 Wash.App. 461, 467, 166 P.3d 802 (2007) (citing *In re Welfare of C.B.*, 134 Wash.App. 942, 952, 143 P.3d 846 (2006); *In re Welfare of Churape*, 43 Wash.App. 634, 638-39, 719 P.2d 127 (1986)). Which must be proved by clear, cogent, and convincing evidence. *In The Matter Of The Welfare Of A.B v. The Dep't Of Soc. & Health Serv.* 168 Wash.2d 908, 232 P.3d 1104 (Wash. 2010) *citing, Santosky v. Kramer,* 455 U.S. 745, 769, 102 S.Ct. 1388, 71 L.Ed.2d 599 (1982); RCW 13.34.180(1).

Due to the severity and permanency of termination, due process requires the party seeking to terminate parental rights prove the necessary elements by the heightened burden of proof of clear and convincing evidence. *In re Interest of S.G.,* 140 Wash.App. 461, 467, 166 P.3d 802 (2007).

The interest at stake when a court orders a lifetime protective order against a parent is equivalent to those interests at stake that require proof by clear and convincing evidence. When the trial court ordered what was effectively a lifetime protective order against Father for what is reasonably expected to be the duration of his life, the Court essentially terminated Father's constitutional parental rights to the care, custody and control of his child through a loophole that allowed the effect of a termination proceeding without due process, via application of RCW 7.105.315.

The fact Father retains some rights to see his child via the Parenting Plan, or the fact he could theoretically seek termination of the order after a year per RCW 7.105.505, is of little defense, especially given the uncontested evidence and case-history that the Mother is in widespread violation of the Parenting Plan and other orders preserving Father/Son contact, and has wrongfully denied Father all contact with their son for more than five years, and the trial court has repeatedly refused

to allow Father to enforce the Parenting Plan against the Mother.

The trial court has effectively said, 'you can only see your child under the strictures of the Parenting Plan, but we won't let you enforce the plan against the mother, and the Appellate Court has effectively said 'you still have parenting rights because you can see your child per the parenting plan.' This circular logic has effectively denied Father any contact with his child for more than five-years, and if it stands without review, it is posed to permanently deny him a relationship with his child.

Calling this a lifetime protective order rather than a termination is a distinction without a difference. This protective order cuts off Father's ability to be a parent and meaningfully participate in the core activities of a parent. He cannot see his child in person, communicate with him, attend their school activities, or have any sort of relationship or involvement with

his child. He has been restrained, by the government, from exercising his constitutionally protected rights as a parent, effectively forever, without the due process accorded to termination proceedings and without a guarantee of dissolving the order at some point in the future absent a showing by the applicant of a continuing need.

Without the guarantee the Father can take certain actions and rebuild a relationship with his child, Father is left standing in the same shoes as a parent whose parental rights have been terminated by a court without recourse, except that in this instance, Mother was not held to a clear and convincing burden of proof as required to terminate a parent's rights pursuant to settled Washington law.

Division I's argument that because Father retained certain parental rights that could theoretically be exercised via the Parenting Plan, that this lifetime protective order does not amount to a "termination" of his parental rights is an error this court should not ignore.

And in fact, a lifetime protective order is even more restrictive than a termination order because termination orders do not bar a parent from contacting or directing activity towards the child once the child reaches the age of majority.

By depriving Father of his interests in seeing, communicating with, and having a relationship with his child, the lifetime protective order deprived Father of his fundamental liberty interest in the care, custody and control of his child without the mandated heightened standard of proof by clear and convincing evidence per Washington law for termination actions.

By ordering this lifetime protective order, the trial court has violated Father's constitutional rights, and by upholding the trial court's protective order, the Court of Appeals has created a roadmap for an easy, unconstitutional shortcut to terminate a parent's fundamental rights. The Court of Appeals' decision must be reversed.

D. The trial court abused its discretion and

violated Father's constitutional rights when it ordered a lifetime protective order, based on a retroactive look at conduct predating the current definition of domestic violence

The Court of Appeals was clear they were affirming the trial court because of the litigation that had occurred between the parents, which the trial court had effectively assigned responsibility for all the litigation on Kuhlmeyer, defining said litigation as "coercive control" and hence domestic violence per RCW 7.105.225(1)(a). *Kuhlmeyer v. Kuhlmeyer*, No. 85544-1-I (Division-I Nov. 25, 2024).

But, both the trial court, and now Division I, ignored the section that was the basis for issuing the order (RCW 7.105.010, and RCW 7.105.225) did not take effect until July 1, 2022. RCW 7.105.010.

The definition of Domestic Violence that was in place before July 1, 2022, per RCW 10.99.020, enumerated violent

crimes and violations of protection orders as domestic violence. It is uncontested Kuhlmeyer has never been convicted of any such crime, and the allegations he violated the previous protection order were heavily disputed, and Kuhlmeyer contends the trial court's findings on those issues were error.

Nevertheless, to the extent there is a case-history between the parties that included a lengthy litigation history, and the litigation between the parties was "coercive control" and thus "domestic violence," and that it was fair and accurate of the trial court to effectively assign the entire history of litigation on Kuhlmeyer, it was still error of the trial court to issue the order, and error for Division-I to affirm said order, because it is also uncontested that by July 1, 2022, that all litigation between the parties had ceased years before the legislature's new definition of domestic violence took effect on July 1, 2022, and the only litigation continuing past that point was related solely to Kuhlmeyer's attempts to secure the visitation ordered in the Parenting Plan.

VIII. CONCLUSION

For the preceding reasons Sean Kuhlmeyer respectfully requests this court grant review of Division-I decision.

Respectfully submitted.

I certify that this document contains 4964 total words of a 5000 word limit in compliance with RAP 18.17(b). See below certification.
Dated: Monday, January 6, 2025 (1/6/2025) at Seattle, Washington.
(Note: The Original Petition for Review was dated 12/26/2023, see explanatory footnote on cover page)

By: s/Sean Kuhlmeyer .
Sean Kuhlmeyer, *Appellant Pro Se*
SEAN KUHLMEYER'S PETITION FOR REVIEW – AMENDED & CORRECTED
Filename: 2023.12.26 Kvk Petforreview WSCT 855441 Corrected

Appeal Signature Block Certification: I certify that in compliance with RAP 18.17(b), "the number of words contained in the document, exclusive of words contained in the appendices, the title sheet, the table of contents, the table of authorities, the certificate of compliance, the certificate of service, signature blocks, and pictorial images (e.g., photographs, maps, diagrams, exhibits)," comply with the limits established by the rule, and that this memorandum contains 4964 total words of a 5000 word limit.

Total Words: 6685 (raw words) –782 (header) –788 (signature) –13 (footer) –138 (misc. words (Two (2) in body footnotes with citations and hyperlinks to court resources, and one (1) explanatory footnote regarding Amended Petition)) = 4964

Estimated-Reading-Time: 9.93 Decimal-Minutes

IX. CERTIFICATE OF SERVICE

I hereby certify that on this Monday, January 6, 2025 (1/6/2025), I caused a true and correct copy of this

- SEAN KUHLMEYER'S PETITION FOR REVIEW – AMENDED & CORRECTED

Statement of Arrangements for Preparation of Verbatim Report of Proceedings Pursuant to RAP 9.2 to be served on the following in the manner indicated below:

☒ ECF Service ☐ USPS Mail ☐ Hand Delivery

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X. Appendix List

Appendix-A Copy of the Court of Appeals decisions, filed 26Nov2024. Fn: 2024.11.26 UnpubOpininReTheMarriageOfKuhlmeyer 85544-1-I

Appendix-A. Copy of the Court of Appeals decisions, filed 26Nov2024. Fn: 2024.11.26 UnpubOpininReTheMarriageOfKuhlmeyer 85544-1-I

Appendix-A. .

FILED
11/25/2024
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of: ISABELLE LATOUR, Respondent, v. SEAN KUHLMEYER, Appellant.	DIVISION ONE No. 85544-1-I UNPUBLISHED OPINION

DWYER, J. — Sean Kuhlmeyer appeals from the order of the superior court granting his ex-spouse's request for a 20-year domestic violence protection order protecting herself and their child from Kuhlmeyer and the order of the superior court imposing a CR 11 sanction against his attorney. On appeal, Kuhlmeyer asserts that the trial court erred by entering that order and that the court abused its discretion in imposing that sanction. Finding no error, we affirm.

I

The matter before us involves Kuhlmeyer's eighth and ninth appeals to this court in the last six years, all of which originated from a February 2017 marital dissolution petition initiated by Isabelle Latour. We recite the facts as previously established by both our court and the trial court over the course of Kuhlmeyer's numerous appeals in light of Kuhlmeyer's challenge to the evidentiary sufficiency of the trial court's domestic violence protection order in

this matter, which we discuss, infra, and the trial court's stated reliance on this history in entering the challenged order.

Kuhlmeyer I

In January 2020, in an unpublished opinion, we characterized Kuhlmeyer's appeal in that matter as follows:

> Sean Kuhlmeyer appeals an arbitration award entered in this lengthy, hotly disputed marital dissolution action. He contends that the arbitrator was partial, refused to consider his evidence, and entered an award containing facial legal errors. He also appeals the trial court's order confirming the arbitration award and all of the other orders entered in this action.

In re Marriage of Kuhlmeyer, No. 78765-9-I, slip op. at 1 (Wash. Ct. App. Jan. 21, 2020) (unpublished), https://www.courts.wa.gov/opinions/pdf/787659.pdf (Kuhlmeyer I).

The pertinent facts from that decision are as follows:

> Sean and Isabelle Kuhlmeyer married in 2000, later had a child, and separated in 2016. In February 2017, Isabelle petitioned for dissolution of the marriage.
>
> In January 2018, the parties agreed to arbitrate their disputes with Cheryll Russell. The arbitration was governed by chapter 7.04A RCW. The parties authorized the arbitrator to determine a final parenting plan, each party's income, a child support order, the division of assets and debts, a restraining order, and an award of attorney fees.
>
> Arbitration was conducted over two days. The parties testified, counsel argued, and a substantial volume of exhibits were introduced. In May 2018, the arbitrator entered a comprehensive 153-page award that set forth findings and conclusions resolving all issues. Sean did not agree with any of the rulings, contending that the arbitration award was "a travesty of justice" and "rife with errors."
>
> In June 2018, Sean moved to vacate the arbitration award and requested a new trial. He also filed for bankruptcy and demanded that all issues before the arbitrator be re-litigated.

Isabelle then asked the superior court to affirm the non-financial issues resolved in binding arbitration.

Subsequently, the court entered an order partially confirming the arbitration award (reserving resolution of financial issues pending the completion of Sean's bankruptcy), findings and conclusions, and an order restraining Sean from contacting Isabelle for 60 months.[1] The court also entered a final parenting plan that restricted Sean's parenting time with, and the ability to make major decisions about, the child. The court imposed those parenting restrictions, under RCW 26.09.191, based on Sean showing "no evidence of being able to stop his compulsively self-destructive litigation pattern, short of vindication, which h[e] is unlikely to get" and his abusive use of conflict "that endangers and damages the psychological development" of their child.

In July 2018, Sean filed a "motion and request for exercise of sua sponte powers" and asked the court to consider new evidence of alleged misconduct by Isabelle's counsel in conjunction with his motion to strike the arbitration award. Isabelle responded by asking the court for relief from Sean's incessant and frivolous motions.

After a hearing, the court found Sean's repeated filings needlessly increased Isabelle's litigation costs and that his threats to continue improper litigation were harassing and abusive. Thus, in an effort to impede Sean's "ability to abusively use court filings and legal proceedings to harass" Isabelle, the court prohibited Sean from filing any more motions unless he submitted "a one-page statement regarding its subject matter" to the court and received approval to file the motion. The court further awarded Isabelle attorney fees "for the necessity of reviewing thousands of pages of improper filings and addressing multiple improperly filed and frivolous motions." The court denied Sean's grievance against the [guardian ad litem], motion to vacate the arbitrator's award, motion for new trial, and motion for sanctions against Isabelle's counsel.

In August 2018, Sean filed a notice of appeal challenging numerous orders entered by the trial court between February and July 2018. Isabelle then filed a motion for contempt in which she asserted Sean was failing to comply with (1) the temporary child support order, (2) the communications provision of the parenting plan by continuing to contact her, (3) the restraining order by not surrendering his weapons, and (4) the order directing him to obtain court permission prior to filing future motions. Following yet

[1] The June 2018 restraining order also protected Latour's and Kuhlmeyer's son against Kuhlmeyer. The order indicated that Kuhlmeyer "is restrained from communicating with or contacting the minor child *except as expressly provided in the parenting plan*. Contact outside the affirmative conditions allowing contact which are set forth in the parenting plan is a violation of this restraining order." (Emphasis added.)

> another hearing, the court found Sean in "contempt of court" and denied Sean's request for permission to file several other motions.
>
> In September 2018, the court denied Sean's motion to reconsider the contempt order. That same month, the bankruptcy court dismissed Sean's petition after concluding that his petition "was filed in bad faith," "to prevent the resolution of the dissolution proceeding" with Isabelle, and "unfairly manipulate[ ] the bankruptcy code."
>
> In October 2018, the trial court denied Sean's numerous requests to file motions to reconsider and/or for a contempt order against Isabelle. The court stated: "The potential motions either are repetitive of motions that have been previously denied, or have no merit on their face."
>
> In November 2018, Sean filed a second notice of appeal challenging various orders entered in the proceeding between August and October 2018.
>
> In December 2018, the court entered findings and conclusions regarding financial issues, a final order confirming the arbitration award and assessing sanctions against Sean, a final dissolution decree, and a final child support order. The court denied Sean's motion for a continuance and for a new trial as repetitive of past motions and denied his other motions as meritless. Sean challenged these orders in January 2019 in a third notice of appeal.

Kuhlmeyer I, slip op. at 1-5 (some footnotes omitted). We also noted, in several footnotes, as follows:

> In its July 31, 2018 order on case management prohibiting Sean from sending e-mails to the court, the trial court observed: "In the past eight weeks, [Sean] has filed approximately 38 motions. . . . He also has emailed [sic] this court 31 times since June 2, 2018. Frequently, the emails [sic] improperly seek legal advice on how to file more motions, or to complain of some other, unrelated, situation." The court noted that Sean "has engaged in repetitive litigation that is harassing and abusive."

Kuhlmeyer I, slip op. at 3 n.4.

> In making its contempt findings, the court noted how Sean had "been warned in multiple court orders to follow the orders of this court" and that "[n]otwithstanding the warnings, [he] filed almost 500 pages of documents less than two court days before this hearing[,]" with the "vast majority of the content" of his materials asserting "frivolous claims."

Kuhlmeyer I, slip op. at 4 n.6.

> Specifically, on August 29, 2018, the court denied Sean permission to file a motion to modify the parenting plan, a motion for contempt against Isabelle, and a motion "regarding personal property."

Kuhlmeyer I, slip op. at 4 n.7.

> The bankruptcy court summarized how Sean intended to use the bankruptcy code to disadvantage Isabelle in the dissolution proceedings as follows:
>
> > [T]he debtor [Sean] wants to use an asset in which [Isabelle] has a substantial economic interest to satisfy [Isabelle's] claims against him, arising out of the marriage dissolution. While that is egregious under almost any circumstance, it is made even worse here by the additional facts that: (1) [Isabelle] has occupied the home and paid the mortgage since 2016; (2) [Isabelle] is exposed to the risk that she would be unable to take Washington State's $125,000 homestead exemption, to which she would be entitled but for this case; and (3) the debtor didn't file this case until after the arbitrator involved in the dissolution case concluded the home should be awarded to [Isabelle].

Kuhlmeyer I, slip op. at 4-5 n.8.

We considered his challenge to the arbitration award along with his request that we "reverse all orders of the trial court," and we held that his assertions had no merit, were unsupported by the record, or otherwise failed to establish an entitlement to appellate relief. Kuhlmeyer I, slip op. at 5-10.

Kuhlmeyer II

Two years later, in March 2021, in our second unpublished opinion in this case, we characterized Kuhlmeyer's appeal therein as follows: "Sean Kuhlmeyer challenges several trial court orders entered following the dissolution of his marriage with Isabelle Kuhlmeyer. The 'law of the case' doctrine precludes

several assignments of error. Others are barred as untimely, unsupported by the record, or moot. The remaining challenges lack merit." In re Marriage of Kuhlmeyer, No. 81002-2-I, slip op. at 1 (Wash. Ct. App. Mar. 8, 2021) (unpublished) https://www.courts.wa.gov/opinions/pdf/810022.pdf (Kuhlmeyer II). We noted that, in June 2018, "[t]he court appointed Mollie Hughes to serve as case manager and directed Hughes to conduct a six-month review of the parenting plan" and that she

> completed her review and filed her report in August 2019. She stated that since the court's December 2018 orders, the parties' dispute about Sean's residential time "spiraled from bad to worse." Isabelle unilaterally cancelled multiple visits set forth in the parenting plan; second-guessed the visitation supervisor, who later resigned; refused to cooperate with Hughes; and filed a motion to have Hughes removed as case manager. Meanwhile, Sean's persistent "legal wrangling" with Isabelle's attorney "served to incite and inflame the situation" and was "driven by obsessive thoughts of unfairness and victimization related to the withholding of visits with his child." Hughes admonished Sean multiple times "for his behavior and set strict guidelines for communication, financial accountability and restraint in his filings." Hughes also urged Sean to retain a family law attorney "to insulate him from his impulsive attempt at using the legal system to avoid his own culpability."
>
> Hughes reported that since December 2018, Sean had only one two-hour supervised visit with his child. Hughes recommended a phased-in return of Sean's residential time. She also described her multiple attempts to resign as case manager because the parties' ongoing turmoil "made it impossible for [her] to be effective." But Hughes agreed to delay her resignation twice until after she completed her August 2019 report.
>
> Isabelle then started an arbitration proceeding, as required by the parenting plan, to challenge Hughes' recommendations. Undeterred, the parties continued litigating their disputes in the trial court. Isabelle applied for a writ of garnishment in the amount of $113,211. Sean responded with a series of pleadings seeking to stay enforcement of the judgment, disgorge garnished funds, and claim an exemption. On September 13, 2019, the trial court entered a partial judgment and order to pay the writ of garnishment and denied Sean's exemption claim.

> Also in September 2019, Sean filed a "Motion to Modify the Parenting Plan, Immediately Reinstating the Parenting Plan Previously in Place," claiming that the parenting plan was not in the child's best interest and there was no need for him to establish a substantial change in circumstances.
>
> In November 2019, Sean served a subpoena duces tecum on his child's school to produce all educational records and correspondence. He moved to waive the civil fees and surcharges and to proceed "in forma pauperis." Isabelle moved to quash the subpoena and requested an order clarifying the sole decision-making provision in the parenting plan.
>
> In December 2019, the trial court granted Isabelle's motion to quash, ordered that "[n]o documents shall be disclosed under that subpoena," and clarified that Isabelle "shall continue to have sole discretion as to the child's health, medical and educational decisions in all regards." The court also found Sean did not meet his burden to establish adequate cause to hold a hearing on the motion to modify the final parenting plan and entered an "Order Denying Adequate Cause/Motion To Modify." The court denied Sean's motion to proceed in forma pauperis and stated in its order:
>
> > Respondent is reminded of the court's order of July 9, 2018, allowing ONE MOTION PER YEAR, preceded by a request for PERMISSION TO FILE SUCH MOTION. It is still in effect. Thus, Respondent's list of upcoming motions (in his motion to proceed in forma pauperis) is not pertinent.
>
> On January 8, 2020, Sean filed a notice of appeal, challenging the trial court's December 2019 orders.
>
> . . . .
>
> Following [our decision in] Kuhlmeyer I, in spring 2020, Sean (1) submitted in the trial court a "request to file a Motion for Contempt" against Isabelle; (2) "repeatedly and without permission contacted" the trial court by e-mail, "inquiring as to the status of his motion"; (3) filed "copies of memos to opposing counsel and the case's arbitrator entitled 'Threats' to pursue further litigation"; and (4) filed an eight-page "Memo of Law on Parental Alienation." On May 8, 2020, the trial court denied Sean's request for permission to file a motion for contempt and entered an order warning Sean that his e-mails to the court and filing of frivolous pleadings "may be met with sanctions." Sean sought review of this order in a "Second Notice of Appeal" filed in June 2020.

Kuhlmeyer II, slip op. at 3, 5-9. (footnotes omitted).

We affirmed the trial court's rulings. Kuhlmeyer II, slip op. at 11-18.[2]

Kuhlmeyer III

In November 2022, in our third unpublished opinion in this case, we characterized Kuhlmeyer's appeal as follows:

> Sean Kuhlmeyer appeals the trial court's dismissal of his lawsuit against his ex-wife and several professionals involved in their dissolution as abusive litigation. He also seeks relief from future filing restrictions ordered under the abusive litigation act (ALA), chapter 26.51 RCW. Kuhlmeyer argues the ALA is unconstitutional and the court misapplied the ALA to his lawsuit.

In re Marriage of Kuhlmeyer, No. 82828-2-I, slip op. at 1-2 (Wash. Ct. App. Nov. 7, 2022) (consolidated with No. 83312-0-I), review denied, 1 Wn.3d 1009 (2023) (unpublished) https://www.courts.wa.gov/opinions/pdf/828282.pdf (Kuhlmeyer III).

We set forth the facts therein as follows:

> In July 2020, Kuhlmeyer sued Latour; her dissolution attorney, Karma Zaike; Zaike's law partner, Michael Bugni; the guardian ad litem (GAL), Nancy Weil; and Latour's friends, Douglas and Danielle Kisker. In the 399-page complaint, Kuhlmeyer variously asserts more than 30 tort claims against the defendants. Each claim is rooted in facts related to Kuhlmeyer and Latour's dissolution proceeding.
>
> In January 2021, Latour moved the court for an order restricting Kuhlmeyer from engaging in abusive litigation under the ALA. The court held a hearing on the motion, and as a threshold matter, found by a preponderance of the evidence that Kuhlmeyer and Latour were in a prior intimate partner relationship and that Kuhlmeyer committed domestic violence against Latour. It then found that the ALA applied to Kuhlmeyer and set the matter for an evidentiary hearing in April to determine whether it should dismiss his lawsuit as abusive litigation.

[2] On September 2022, in a consolidation of three of Kuhlmeyer's notices of appeal, a commissioner of this court denied Kuhlmeyer's request for discretionary review. In re Marriage of Kuhlmeyer, No. 84021-5-I (consolidated with Nos. 83085-6-I, 83785-1-I), Commissioner's Ruling Denying Discretionary Review at 1-7 (September 19, 2022).

> After the hearing, on May 7, 2021, the court issued an "Order Restricting Abusive Litigation of Attorney Sean Kuhlmeyer." It determined that (1) Kuhlmeyer advanced his lawsuit primarily to harass, intimidate, or maintain contact with Latour; (2) the parties already litigated all the claims in the dissolution proceeding; and (3) a court previously found the allegations to be without the existence of evidentiary support. The court dismissed the lawsuit with prejudice under both the ALA and its inherent authority to control the conduct of litigants who impede orderly proceedings. It then awarded the defendants attorney fees and costs. The court also ordered that Kuhlmeyer must obtain permission from the court before filing a new case or a motion in an existing case for 72 months.

Kuhlmeyer III, slip op. at 2-3 (footnotes omitted).

We then considered and rejected his challenge to the constitutionality of the Abusive Litigation Act. Kuhlmeyer III, slip op. at 4-7. Thereafter, in addressing his challenge that substantial evidence did not support the trial court's finding that he committed domestic violence against Latour, we stated as follows:

> Here, the trial court found Kuhlmeyer committed domestic violence against Latour because "the [dissolution] court entered a restraining order pursuant to RCW 26.09[.060], in which it found that Mr. Kuhlmeyer, the restrained person, 'represents a credible threat to the physical safety' of Ms. Latour." Substantial evidence supports that finding.
>
> The record shows that in June 2018, the dissolution court issued a restraining order under RCW 26.09.060. The order prohibited Kuhlmeyer from contacting Latour for five years. And the court explicitly found that Kuhlmeyer is "a former spouse" of Latour and that Kuhlmeyer "represents a credible threat to the physical safety of" Latour.
>
> Kuhlmeyer argues that the "credible threat" finding in the restraining order is itself not supported by substantial evidence. But Kuhlmeyer challenged whether the restraining order was proper in his first appeal of the dissolution. See [Kuhlmeyer I], at 8-9. We rejected that claim. Id. Any ability to challenge the underlying basis of the restraining order has long since expired. See RAP 5.2(a), 12.7(a).

Kuhlmeyer III, slip op. at 9-10. In affirming the trial court's determination that the primary purpose of Kuhlmeyer's lawsuit was to harass, intimidate, or maintain contact with Latour, we stated that

> [t]he ALA creates a rebuttable presumption that litigation is being initiated, advanced, or continued "primarily for the purpose of harassing, intimidating, or maintaining contact with the other party" if there is evidence that "[t]he same or substantially similar issues between the same or substantially similar parties have been litigated within the past five years," or if courts have sanctioned the alleged abusive litigant "for filing one or more cases, petitions, motions, or other filings . . . that were found to have been frivolous, vexatious, intransigent, or brought in bad faith involving the same opposing party." RCW 26.51.050(1), (3).
>
> Here, the court found that Kuhlmeyer litigated the "facts surrounding the Dissolution . . . repeatedly and obsessively," and that "King County Superior Court judicial officers have held Mr. Kuhlmeyer in contempt, have found him in violation of CR 11, have found him in violation of the Rules of Professional Conduct, and have imposed prefiling restrictions." Those findings support a rebuttable presumption that Kuhlmeyer advanced the litigation primarily to harass, intimidate, or maintain contact with Latour. RCW 26.51.050(1)-(3). Kuhlmeyer offered no evidence to rebut that presumption.

Kuhlmeyer III, slip op. at 10-11 (footnote omitted). Accordingly, as pertinent here, we affirmed the trial court's orders. Kuhlmeyer III, slip op. at 15.

20-Year Domestic Violence Protection Order and Contempt Hearing

After our decision in Kuhlmeyer III, on June 7, 2023, Latour filed a petition for a domestic violence protection order, pursuant to RCW 7.105.100.[3] Her petition set forth the following allegations:

> **Most Recent Incident**: . . . .
> Sean has been harassing me in violation of the restraining order by having an unauthorized person contact me demanding contact with

[3] Latour also filed a motion for renewal of a domestic violence protection order, setting forth the same allegations as she provided in her petition. The trial court later denied this motion on the basis that it had entered a new domestic violence protection order.

our son. Pursuant to our 2018 Parenting Plan, Sean could have immediately started visitation with a professional supervisor, but he refused. Currently he is not allowed contact except through the reunification process which, given that he abandoned our son from ages eight through 15, is going slowly.[]

In February 2023, our parenting Arbitrator ruled that Sean must participate in reunification therapy prior to supervised visitation commencing. There have been no further rulings that authorize the commencement of supervised visits. The Arbitrator's February 2023 ruling held as follows:

> After considering the provisions in the Final Parenting Plan for supervised visits, the effect of adding reunification therapy to the schedule, the time that has elapsed since [C.K.] had any extended contact with Mr. Kuhlmeyer, as well as [C.K.]'s age, school commitments and other obligations (such as sports or extracurricular activities), this Arbitrator FINDS Ms. Burgess' recommendation is reasonable. This Arbitrator agrees reunification therapy should begin before adding on the alternating weekend supervised visits.

However, in the past several weeks, I have received more than a dozen contacts from a woman who stated she contacted me on behalf of Sean seeking supervised visitation in violation of the order. She is [sic] now contacted me daily and sometimes several times a day using both phone calls and e-mails. These contact [sic] are equal in scope to the overbearing and overwhelming manner Sean has traditionally utilized and I am becoming traumatized from her contacts. It is getting to the point that I am stressed when the phone rings as I am fearful it will be Sean's agent harassing me.

I believe that Sean has increased these abusive contacts because he thinks that the prior order expired in early May. . . . I am asking for an immediate temporary order because Sean's minions are increasing frequency and intensity of abusive contacts.

On March 6, 2023, Judge Sean O'Donnell ordered Sean to file a Standard Financial Declaration so that our Arbitrator could determine a payment plan for Sean to pay the past judgments and sanctions he owes arising from his abusive litigation. As of the filing of this action, he has failed to comply.

Sean has had several attorneys in the past, sometimes multiple attorneys simultaneously, and is a lawyer himself. He has been actively represented by counsel since last fall and had a new

lawyer appear on April 21, 2023. Since the attorney's appearance, Sean's escalation has skyrocketed. He has a woman constantly calling me requesting to see our son in violation of the order, he has failed to comply with Judge Richardson's May 20, 2018 order to transfer assets to me, he has failed to comply with Judge O'Donnell's March 6 or May 4, 2023 orders. Immediately upon the entry of his latest attorney's appearance, my attorney has been harassed under the guise of litigation, but it is the same rehashing of Sean's prior abusive tactics – eccentrically long e-mails with false assertions, threats and promises of future litigation if I do not cave to Sean's demands. Sean has teamed up with an attorney who, like him, has a personal vendetta against my attorney. They have both filed (and had dismissed) a shocking number of grievances against my attorney with the WSBA. Every time one is dismissed, they appeal it as far as it can go. I believe Sean has deliberately hired this attorney as an intimidation tactic to me as he has historically been found to have engaged in tactics designed to "create a chilling effect" on representing me. Sean's current attorney has repeatedly violated the court's case management orders in the same way Sean does claiming that the orders "do not apply" to him. He has contacted the court in violation of the orders seeking at least two hearings which would violate the Parenting Plan, the Court's Arbitration Orders and the Case Management Orders.

A recent pleading from Sean testified that he is working for a restaurant delivery company. I live in fear that my son or I will initiate an online order and Sean will come to my door claiming that I summoned him. I would like an express order that Sean must stay 1000 feet away from my home and me. I feel that the police were not as diligent in enforcing the Restraining Order as Sean has engaged in many violations with impunity. Judge Richardson entered an express order finding Sean had violated the Restraining Order, but the police and prosecutor's office would not prosecute.

Sean also filed two separate documents with the Court of Appeals, Div I with clear threats as follows:

> Sociologically, Division-I's decision is exceedingly dangerous, and lives will be lost as a result, because it will encourage former intimate partners to lie to get false domestic violence findings (which is already an endemic problem but will now get worse), and encourage them to abuse their former partner by committing torts against them. **That will escalate conflict between partners, which will eventually result in violence and death** because their

> interpersonal situation was needlessly escalated by the vindictive partner who was able to manipulate the process to obtain domestic-violence findings against their ex-partner and then commit torts against them which they have no power to rectify. **A certain number of these cases will result in violence as either the targeted former partner either loses their ability to cope with the legal abuse and torts against them and reacts with violence,** or, the vindictive targeting partner, when confronted with the fact their behaviors and torts has exacerbated the conflict, and they realize they are about to lose their ability to continue to harass their ex because their behaviors have finally drawn the attention of the courts and they are being corrected, reacts with violence. *See Sean Kuhlmeyer's Petition for Review to the Supreme Court at 19-21.*
>
> **Past Incidents.** . . . .
> Sean's history of violence and abuse is well documented in our Arbitration proceeding and [guardian ad litem] report which resulted in a five-year restraining order.
>
> After the finalization of our parenting plan and entry of the restraining order, our docket has grown from 250 pleadings to 782 prior to filing of this renewal. Sean has been sanctioned dozens of times for abusive litigation and is currently the subject of a five-year bar order entered under King County Cause No. 21-2-00105-4.

The trial court granted her request for a temporary restraining order and scheduled a hearing for June 16, 2023.

At that hearing, the trial court heard argument from counsel and ruled as follows:

> I am issuing a protective order under RCW 7.105. There is a history of domestic violence that is well documented, at least, in my mind, in the file. And I would say that the behavior that has been alleged in the petition I find credible, because I'm very familiar with the docket here.
>
> And I do find that, you know, describing it as Mr. Kuhlmeyer just putting himself into a cage, I think was the term that [Kuhlmeyer's counsel] used, is really grossly minimizing his conduct here, which has been egregious, which has been abusive, which

> has been persistent, which has been extraordinary. And it does create a reasonable -- any reasonable person would view that and consider that as a compendium of -- not compendium, but a continuum of threats to their person and to their safety, in addition to the prior incidents of domestic violence that -- that have been detailed in this docket.
>
> And so I -- I'm going to enter a 20-year order. I think that's appropriate.[4]

On June 20, 2023, the trial court entered a written domestic violence protection order protecting Latour and their minor child against Kuhlmeyer for a period of 20 years. The trial court concluded that Kuhlmeyer

> has subjected the protected person to domestic violence: physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; coercive control; unlawful harassment; or stalking.

The trial court found that Kuhlmeyer was a

> **Credible Threat**: The restrained person represents a credible threat to the physical safety of the protected person/s. From the outset of this case, Ms. Latour has presented credible evidence regarding Mr. Kuhlmeyer's actions to coercively control her as well as verbal, physical and emotional abuse directed toward her and her son. This has manifested itself as well in years of scorched earth, abusive litigation which has far exceeded the description of vigorous advocacy. Any reasonable person experiencing this conduct would be in fear for their mental, emotional and physical safety. Ms. Latour's representations on this matter is wholly credible. Mr. Kuhlmeyer's objections are unpersuasive and unsupported by the evidence put before this Court.

As pertinent here, the order mandated that Kuhlmeyer attend a state-certified domestic violence perpetrator treatment program and also conditioned his contact with his minor child to coincide with the contact provisions set forth in the parties' parenting plan.

[4] The court also entered an order mandating that Kuhlmeyer surrender any weapons.

Two months after entry of the court's protective order, in August 2023, Latour filed a motion requesting that the court find Kuhlmeyer in contempt for, among else, failing to attend state-certified domestic violence perpetrator treatment. Later that month, Kuhlmeyer's trial counsel signed and filed a response to that motion in the trial court captioned as "Opposition to Petitioner's Motion to Set Show Cause Hearing."[5]

During a subsequent hearing on Latour's contempt motion—and in a later-entered written order—the trial court imposed a CR 11 sanction against Kuhlmeyer's attorney on the basis that his legal filing opposing Latour's contempt motion had relitigated issues that were previously and conclusively addressed by the court.

Kuhlmeyer now appeals.

II

Kuhlmeyer presents two challenges to the trial court's entry of a 20-year domestic violence protection order protecting Latour and their minor child against him. His challenges fail.

[5] There were also several documents filed with the trial court after Latour's July 2023 contempt motion. These documents were signed by Kuhlmeyer, captioned as "Declaration of Sean Kuhlmeyer" or "Reply Declaration of Sean Kuhlmeyer," and included numerous exhibits. Kuhlmeyer's trial counsel appears to have somewhat assisted him with these documents, as evidenced by the documents' creation and signature log and the appearance of Kuhlmeyer's trial counsel's business logo on each page of the "declaration" documents and their corresponding exhibit identification sheets. None of these documents contained Kuhlmeyer's attorney's signature.

A

Kuhlmeyer first asserts that the trial court erred in entering the domestic violence protection order in question because substantial evidence does not support the trial court's conclusion that he had subjected Latour to domestic violence. Kuhlmeyer's assertion is unavailing.

We have stated that

> [w]hen an appellant contends that findings of fact do not support the trial court's conclusions, we limit our review to determining whether substantial evidence supports the findings and, if so, whether those findings support the conclusions of law. Nguyen v. City of Seattle, 179 Wn. App. 155, 317 P.3d 518 (2014). Substantial evidence is evidence sufficient to persuade a fair-minded, rational person that the finding is true. In re Estate of Langeland, 177 Wn. App. 315, 320, 312 P.3d 657 (2013). This court defers 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).

Graser v. Olsen, 28 Wn. App. 2d 933, 941-42, 542 P.3d 1013 (2023).

In considering a petition for a domestic violence protection order, a trial court "shall issue a protection order if it finds by a preponderance of the evidence that the petitioner has proved . . . that the petitioner has been subjected to domestic violence by the respondent." RCW 7.105.225(1)(a).

Our legislature has defined "domestic violence" to mean:

> (a) Physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; coercive control; unlawful harassment; or stalking of one intimate partner by another intimate partner; or
>
> (b) Physical harm, bodily injury, assault, or the infliction of fear of physical harm, bodily injury, or assault; nonconsensual sexual conduct or nonconsensual sexual penetration; coercive

> control; unlawful harassment; or stalking of one family or household member by another family or household member.

RCW 7.105.010(9). As pertinent here, our legislature defined "coercive control" to mean

> a pattern of behavior that is used to cause another to suffer physical, emotional, or psychological harm, and in purpose or effect unreasonably interferes with a person's free will and personal liberty. In determining whether the interference is unreasonable, the court shall consider the context and impact of the pattern of behavior from the perspective of a similarly situated person. Examples of coercive control include, but are not limited to, engaging in any of the following:
> . . .
> (v) Engaging in vexatious litigation or abusive litigation as defined in RCW 26.51.020 against the other party to harass, coerce, or control the other party, to diminish or exhaust the other party's financial resources, or to compromise the other party's employment or housing.

RCW 7.105.010(4)(a).

Furthermore, our Supreme Court has held that a parent's fear for the safety of their child is a legitimate basis to grant a domestic violence protection order and that a child's exposure to domestic violence against a parent "constitutes domestic violence under [former] chapter 26.50 RCW." Rodriguez v. Zavala, 188 Wn.2d 586, 598, 398 P.3d 1071 (2017).

Here, the trial court concluded that Kuhlmeyer had subjected Latour and their child to domestic violence. As set forth above, the court found in its oral ruling during the hearing on Kuhlmeyer's motion that

> [t]here is a history of domestic violence that is well documented, at least, in my mind, in the file. And I would say that the behavior that has been alleged in the petition I find credible, because I'm very familiar with the docket here.
> And I do find that, you know, describing it as Mr. Kuhlmeyer just putting himself into a cage, I think was the term that

> [Kuhlmeyer's counsel] used, is really grossly minimizing his conduct here, which has been egregious, which has been abusive, which has been persistent, which has been extraordinary. And it does create a reasonable -- any reasonable person would view that and consider that as a compendium of -- not compendium, but a continuum of threats to their person and to their safety, in addition to the prior incidents of domestic violence that -- that have been detailed in this docket.

Later, in its written order, the trial court reiterated its conclusion that Kuhlmeyer had subjected Latour and their son to domestic violence because

> [f]rom the outset of this case, Ms. Latour has presented credible evidence regarding Mr. Kuhlmeyer's actions to coercively control her as well as verbal, physical and emotional abuse directed toward her and her son. This has manifested itself as well in years of scorched earth, abusive litigation which has far exceeded the description of vigorous advocacy. Any reasonable person experiencing this conduct would be in fear for their mental, emotional and physical safety. Ms. Latour's representations on this matter is wholly credible. Mr. Kuhlmeyer's objections are unpersuasive and unsupported by the evidence put before this Court.

Substantial evidence supports the trial court's conclusion that Kuhlmeyer subjected Latour and their child to domestic violence. The trial court, for its part, indicated that it was familiar with the long history of this case and stated that its conclusion was predicated, in part, on that history. As set forth at length above, in three of our prior decisions in this matter, this case is replete with evidence supporting that Kuhlmeyer has, over the course of six years of litigation, subjected Latour and her child to domestic violence. Moreover, the trial court found Latour's allegations of more recent domestic violence credible and Kuhlmeyer's allegations not so. We defer to the trial court in matters of witness credibility. Graser, 28 Wn. App. 2d at 941-42 (citing Knight, 178 Wn. App. at

937). Furthermore, the court determined that a reasonable person experiencing Kuhlmeyer's conduct would fear for their mental, emotional, and physical safety.

Given all of that, the record contains ample evidence supporting Kuhlmeyer's vexatious and abusive history in this case, Latour's credible allegations of conduct set forth in her petition, and the trial court's determination that her allegations of Kuhlmeyer's misconduct are part of the larger continuum of ongoing abuse initiated by Kuhlmeyer against her and their son. Rodriguez, 188 Wn.2d at 598.

Therefore, substantial evidence supports the trial court's conclusion that Kuhlmeyer had subjected Latour and their child to domestic violence. Thus, the trial court did not err in so concluding. Accordingly, Kuhlmeyer's assertion to the contrary fails.

B

Kuhlmeyer next contends that the trial court erred by including his minor child in the 20-year domestic violence protection order. This was error, according to Kuhlmeyer, because the trial court did not have the authority to restrain him from contacting his minor child for a period of time exceeding one year. Because the protection order did not bar Kuhlmeyer from contacting his minor child but, rather, conditioned his contact to be that which was expressly provided in the parties' parenting plan, Kuhlmeyer's contention fails.

We review a trial court's entry of a domestic violence protection order for abuse of discretion. Rodriguez, 188 Wn.2d at 590. A trial court abuses its discretion when its decision is manifestly unreasonable or based on untenable

grounds or untenable reasons. In re Marriage of Littlefield, 133 Wn.2d 39, 46-47, 940 P.2d 1362 (1997) (citing In re Marriage of Kovacs, 121 Wn.2d 795, 801, 854 P.2d 629 (1993); In re Marriage of Wicklund, 84 Wn. App. 763, 770 n.1, 932 P.2d 652 (1996)). A trial court's decision is based on untenable grounds if, among else, the court applies the wrong legal standard. Salas v. Hi-Tech Erectors, 168 Wn.2d 664, 669, 230 P.3d 583 (2010).

RCW 7.105.315 reads, in pertinent part that, "[i]f a protection order restrains the respondent from contacting the respondent's minor children, the restraint must be for a fixed period not to exceed one year." RCW 7.105.315(2)(a).

Here, the trial court's 20-year domestic violence protection order, in pertinent part, set forth that Kuhlmeyer

> is restrained from communicating with or contacting the minor child *except as expressly provided in the parenting plan*. Contact outside the affirmative conditions [allowing] contact which are set forth in the parentin[g] plan is a violation of this restraining order.

(Emphasis added.)

The final parenting plan in question identified several reasons for limiting Kuhlmeyer's contact with his child, set forth a detailed framework regarding the manner in which he was authorized to have contact with his child, and set forth steps that he would need to take in order to have additional contact. The parenting plan did not have the effect of unilaterally barring Kuhlmeyer from contacting his child. See also Kuhlmeyer I, slip op. at 2-3; Kuhlmeyer II, slip op. at 5-9.

The trial court's protection order did not unlawfully restrain Kuhlmeyer from having contact with his child. Rather, the protection order conditioned Kuhlmeyer's contact with his child such that it would coincide with the framework previously entered by the trial court in the parties' final parenting plan, an operative framework outside the purview of chapter 7.105 RCW.

Furthermore, the parenting plan, for its part, did not prohibit Kuhlmeyer from contacting his child but, rather, identified reasons for restricting his contact with his child along with a series of steps through which he could obtain additional contact. Therefore, by conditioning his contact with his child to coincide with the quantum of contact permitted under the previously entered final parenting plan, the trial court's 20-year domestic violence protection order did not unlawfully prohibit Kuhlmeyer from having contact with his child.

Thus, the trial court did not err.

III

Kuhlmeyer next asserts that the trial court erred by imposing a CR 11 sanction against his trial counsel. We disagree.

The imposition of CR 11 sanctions lies within the sound discretion of the court and will only be reversed when the trial court abuses its discretion. Watson v. Maier, 64 Wn. App. 889, 891, 896, 827 P.2d 311 (1992); see also Biggs v. Vail, 124 Wn.2d 193, 197, 876 P.2d 448 (1994).

CR 11 requires attorneys to sign "[e]very pleading, motion, and legal memorandum" as a certification that the filing, as pertinent here, "is not

interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." CR 11(a)(3).

CR 11(a)(4) further states that

> [i]f a pleading, motion, or legal memorandum is signed in violation of this rule, the court . . . may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party . . . a reasonable attorney fee.

CR 11 incorporates by reference CR 7, which regards the pleadings allowed and the form of motions. We note that

> CR 7 neither requires nor prohibits a formal answer or response to a motion. It is nonetheless generally understood and expected that a written memorandum or brief in response to a contested motion will be submitted, together with any affidavits or other evidence that the nonmoving party wishes the court to consider.
>
> Responses are subject to the same form, filing, and service requirements that apply to motions.

3A ELIZABETH A. TURNER, WASHINGTON PRACTICE: RULES PRACTICE, CR 7, at 209 (7th ed. 2021). It therefore logically follows that "[b]y signing a motion (*or response*), an attorney makes the usual warranties under CR 11, and the court may impose sanctions for filing a document that violates CR 11." 3A TURNER, supra, at 200 (emphasis added).

Here, in August 2023, Latour filed a motion requesting that the court find Kuhlmeyer in contempt for, among else, failing to comply with a provision of the court's June 2023 order mandating Kuhlmeyer to attend state-certified domestic violence perpetrator treatment.

Later that month, Kuhlmeyer's trial counsel signed and filed with the trial court a document entitled "Opposition to Petitioner's Motion to Set Show Cause

Hearing."[6] The document commenced by stating that, "COMES NOW the Respondent, Sean Kuhlmeyer, by and through undersigned counsel, and files this opposition to Petitioner's *Motion to Set Show Cause Hearing* (the 'Contempt Motion')," and requested relief from the court in the form of "an order denying the *Contempt Motion* and an award of attorneys' fees." The document identified the relief requested, and provided a statement of facts, statement of issues, evidence relied upon, authority and argument, conclusion, a certification of counsel signed by Kuhlmeyer's trial counsel, and eight exhibits.

The trial court did not err by considering Kuhlmeyer's attorney's filing in opposition to Latour's contempt motion as subject to CR 11 sanctions. The filing constituted a legal document signed and filed with the trial court by Kuhlmeyer's designated counsel, presented itself as a response to a motion that was filed with the court, set forth not one, but two, requests for relief from the court, and contained legal argument and analysis, with 60 pages of supporting exhibits. Given all of that, the foregoing court filing was one that set forth the usual warranties that legal counsel provides to the court when an attorney signs such a filing.[7] It was, therefore, subject to sanction if such warranties failed to comply with the requirements of CR 11.

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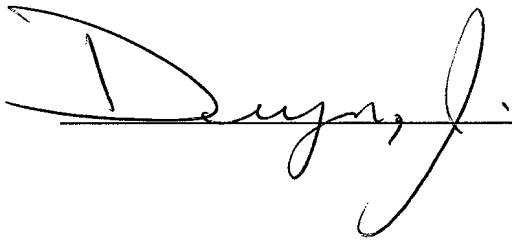
[6] We note that it was Latour, not Kuhlmeyer, who brought this document to our attention by designating it in a supplemental designation of clerks papers and mentioning it in her response briefing. We also note that Kuhlmeyer's briefing on appeal omitted mention of this document having been filed with the trial court by Kuhlmeyer's trial attorney.

[7] Kuhlmeyer asserts that a sanction was not warranted against his trial counsel because his trial counsel did not file any pleadings or any legal memorandum in response to Latour's contempt motion and because CR 11 does not authorize a sanction in response to oral argument.

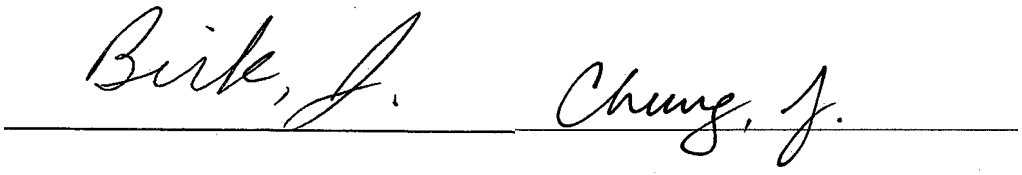
Kuhlmeyer misses the mark. The record supports that the trial court imposed a sanction against Kuhlmeyer's attorney not in response to a court filing of a pleading or legal memorandum but, rather, in response to his attorney's signed court filing submitted in opposition to Latour's

Thus, the trial court did not abuse its discretion by considering such a filing as one subject to CR 11 sanctions.[8] Accordingly, the trial court did not err by imposing a sanction against Kuhlmeyer's trial counsel.

Affirmed.



WE CONCUR:



contempt motion. Accordingly, for the reasons discussed herein, the trial court did not abuse its discretion in imposing such a sanction.

[8] Kuhlmeyer does not challenge the underlying basis of the sanction imposed by the trial court herein—that his trial counsel's court filing opposing Latour's contempt motion sought to relitigate issues previously and conclusively determined in the court's June 2023 domestic violence protection order. Additionally, Kuhlmeyer's opening brief indicates that he "is not challenging the trial court's underlying contempt order or the assessment of CR 11 sanctions against Kuhlmeyer personally." Accordingly, we do not consider the foregoing on appeal.

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