IN THE SUPREME COURT OF THE STATE OF WASHINGTON

SEAN KUHLMEYER, Appellant, vs. ISABELLE LATOUR, Appellee	Supreme Court Case No.: 1037368 Motion for Consideration of Additional Material Relevant to Appellant's Petition For Discretionary Review Per RAP 13.4(b)(3) and RAP 13.4(b)(4), **AND** Notice of Legislative Action Affecting the Issues Relevant to Discretionary Review)

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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: 6.64 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. INTRODUCTION AND SUMMARY

Per RAP 17.1, RAP 13.4(b)(3), and RAP 13.4(b)(4), Appellant Sean Kuhlmeyer submits this Motion for the Court to Consider Additional Evidence relevant to its decision regarding whether to accept review of the underlying case. This motion also addresses and provides notice of recent legislative action relevant to the underlying case, making review of this case critical in consideration of the Legislature's proposed bills.

The goal of this motion twofold: 1) To show that many Washington families are facing the same issues as the Appellant-Kuhlmeyer, and 2) To show that given consideration of what the Legislature is currently proposing for changes to RCW 26.09.191 via House Bill 1620 and Senate Bill 5575 (HB-1620/SB-5575) (cited herein), even more Washingtonians will face similar issues to the issues in the underlying case if the bills pass. And thus, this court should take review not only to rectify the errors of the trial court and Division-I specific to this case, but also to instruct the Legislature of what standards are

necessary when crafting laws impacting people's fundamental constitutional rights, including their rights to a relationship with their child or children.

Appellant-Kuhlmeyer wants to make clear that the evidence submitted would be beneficial for this court to consider in deciding the underlying issues in this case, but considering said evidence is not necessary to decide the underlying issues. Thus the submitted evidence does not need to be considered an addendum to the appellate record. Appellant-Kuhlmeyer believes this court should exercise its discretion not only to grant review of this case, but also to consider the submitted evidence in deciding the underlying issues, but Appellant wants to stress that considering this evidence for any issue beyond understanding that the issues in the underlying case are affecting more Washington citizens than just Kuhlmeyer alone, is not necessary for any issue other than whether to grant review of this case.

A. Facts

1. Legislative Action

On Jan. 27, 2025, HB-1620 was introduced in the Washington House of Representatives.[1] Senate Bill 5575 is the companion bill.[2] The proposed bills would make sweeping changes to RCW 26.09.191 limiting parents' rights, including to access their children.

Such limitations are routinely used by both the courts, and the favored parent, to limit the disfavored parent's rights to both access their children, and make educational, medical, and religious decisions, or even to be involved in such decisions. Thus RCW 26.09.191, routinely impacts a wide range of the disfavored parent's fundamental rights, including not just parenting rights, but also rights of free association, free speech, travel, employment, and religion.

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[1] *See*, Washington State Legislature Website for House Bill 1620 (HB-1620 2025-26). Aval: https://app.leg.wa.gov/BillSummary/?BillNumber=1620&Year=2025&Initiative=false

[2] *See*, Washington State Legislature Website for Senate Bill 5575 (SB-5575 2025-26). Aval: https://app.leg.wa.gov/BillSummary/?BillNumber=5575&Chamber=Senate&Year=2025

The Legislature's proposed changes to RCW 26.09.191, are directly relevant to the underlying issues in this case and implicate constitutional and public interest issues, which per RAP 13.4(b)(3), and RAP 13.4(b)(4), this court should consider in deciding whether to review this case, because such restrictions via the application of RCW 26.09.191 factors, routinely rely upon findings associated with protection orders issued per RCW 7.105 which this case is about.

2. Underlying Petition for Discretionary Review

On December 26, 2024, Appellant Sean Kuhlmeyer, *pro se,* filed a Petition for Discretionary Review of the issuance, per RCW 7.105, of a 20-year Domestic Violence Protection Order (DVPO), by the King County Superior Court, and affirmation of said order by Division I of the Washington Court of Appeals, limiting his rights in many ways, and most importantly by prohibiting him from having any contact with his only son until 2043, at which point Mr. Kuhlmeyer will be 74 and his son 35. Given Mr. Kuhlmeyer's health and life expectancy, he does not

expect to outlive the protection order. Thus, the order is a lifetime order *de facto* terminating the father/son relationship.

In addition to the other individualized errors in his Petition that Mr. Kuhlmeyer detailed the trial court and Division I made in issuing and affirming the DVPO, pursuant to RAP 13.4(b)(3), and RAP 13.4(b)(4), Appellant-Kuhlmeyer detailed that significant issues of Constitutional Law and Substantial Public Interest warranted this court taking review, in part, because there were potentially thousands of similarly situated parents that have been harmed by RCW 7.105 (or the statutes it replaced), or who will be harmed by the way protection orders are currently issued by Washington Courts.

Mr. Kuhlmeyer also discussed in his Petition, but did not detail how the issuance of the DVPO harmed him specifically. He raised this issue as an error that the trial court committed in issuing said DVPO. He was not able to detail at the trial court how the potential DVPO would harm him, because the trial court did not request he discuss potential harms in his briefing,

and because no subsection of RCW 7.105 requires issuing courts to consider evidence of how previous protection orders have been misused by the protected party, and because he did not know all such harms at the time. And finally and most importantly, to the extent that he did detail how the previous restraining order had harmed him, including his ex-wife's historical pattern of weaponizing said order by filing false police reports and false criminal charges against him, and by her misuse of the trial court's contempt procedures, the trial court both refused to consider those issues, and punished him for raising those points by issuing sanctions against him and his attorney, and thus he was not 'heard' as due-process requires.

Thus the harms being caused to Mr. Kuhlmeyer by the DVPO were not directly before the Appellate court as an appeal issue, and thus were not discussed at depth in the Petition.[3] However, those harms are relevant to the issue of whether this

[3] Mr. Kuhlmeyer was also rushed in preparing the Petition as it was due before 5pm on December 26, the day after the Christmas holiday.

court should take review, because of the arguments that per RAP 13.4(b)(3), and RAP 13.4(b)(4), regarding constitutional and public interests issues, by not requiring consideration of the harms to restrained persons by issuance of a protection order, both Mr. Kuhlmeyer's trial court, and more broadly all Washington trial courts, are violating people's fundamental due-process rights to fundamentally fair procedures, including but not limited to, full and complete consideration of their issues, including the harms potentially created by needless issuance of a protection order, and the history, if any exists, of the protected person misusing previous protections or public resources. To the extent other courts are refusing to consider such evidence, then Washington trial courts are widely violating people's rights to access the courts. Thus submitting evidence to this court of the harms Appellant-Kuhlmeyer suffered by the trial court's issuance of the DVPO, is appropriate to understand the importance of the underlying issues, and thus why this court should take review of this case.

The evidence submitted with this motion provides some evidence of the harms that Appellant-Kuhlmeyer, and restrained persons similarly situated to him, have suffered, and harms they will continue to suffer in the absence of action by this court. In reading this evidence, this court should consider that all the harms detailed to each person submitting this evidence, is emblematic of harms that thousands of other Washington citizens are also suffering.

II. RELIEF REQUESTED

Appellant Sean Kuhlmeyer requests this court, in considering whether to grant review of the case, consider the attached evidence in formulating its decision to take review. He further requests this court exercise its discretion to consider the attached evidence in ultimately deciding the legal issues at work in this case. He also requests this court consider how the Legislature's proposed rewriting of RCW 26.09.191 impacts the underlying issues within this case, thereby making it critical

this court take review to address both the underlying issues to this family, as well as to instruct the Legislature of what is required when drafting laws impacting constitutional rights, including but not limited to one's fundamental rights to a relationship with their children.

III. ISSUES PRESENTED

1. Whether this court should consider the attached evidence in deciding whether to grant review of this case? (Yes).
2. Whether this court should exercise its discretion to consider the evidence in deciding the underlying issues in this case? (Yes).
3. Whether this court should consider the attached evidence in deciding whether to grant review of this case, in light of the Legislature's proposed rewriting of RCW 26.09.191, and how such bills, if passed, would impact not only the underlying issues in this case, but impact other similarly situated citizen's constitutional rights,

including but not limited to, one's rights to a relationship with their child(ren)? (Yes).

IV. AUTHORITY

Per RAP 17, and RAP 17.1 this court may consider motions.

Per RAP 13.4(b)(3), and RAP 13.4(b)(4), a Petition for Discretionary Review will be granted if the Appellant raises an issue of "a significant question of law under the Constitution of the State of Washington, or of the United States," and/or, if "the petition involves an issue of substantial public interest that should be determined by the Supreme Court." Per RAP 9.11, an appellate court can consider additional evidence.

Parties to an appeal in Washington have a duty to inform appellate courts if potential legislative action will have an effect on the issues within the case, and commonly obey that duty.[4]

[4] *See, DeSean v. Sanger,* 2 Wn.3d 329, (Wash. No. 101330-2. En Banc. 2023) (analyzing the effect of the legislature repeal and replacement of the operative statute regarding sexual consent while an appeal of that issue was pending); *also see, Friends of White Salmon River v. Klickitat County,* 7 Wn.App. 305, 306, 499 P.2d 906 (1972) (analyzing the effect of the legislatures repeal of a gambling statute while an appeal was pending on whether certain bingo-type machines constituted prohibited gambling

Here, the attached evidence is relevant to considering the constitutional and public interests raised by this case, as well as the constitutional and public interests raised by the legislature's consideration of HB-1620/SB-5575, and thus, this court should grant this motion, and consider this evidence in its decision making of whether to grant review of this case.

V. FACTS AND EVIDENCE PRESENTED

The evidence consists of sworn declarations of Washington citizens that have been affected by the issuance of protection orders per RCW 7.105, or the statutes it replaced.

A. Declaration of Sean Kuhlmeyer

Appellant in this case, Mr. Kuhlmeyer, describes the facts and circumstances of issuance of the 20-year DVPO, and how applying said order to both his ex-wife, and their minor son, has harmed his relationship with his child, including effectively

devices); *Wash. Off Highway Vehicle Alliance v. State,* 290 P.3d 954, 176 Wash.2d 225 (Wash. 2012) (analyzing the effect of the Washington legislature amending a statute affecting issues on appeal).

terminating the father/son relationship. ***Exhibit-1.*** He describes how issuance of the order is worse than terminating his parental rights because termination does not prevent a parent from having a relationship with their child after they turn 18, but the protection order does. He details how he was denied application of the correct standard of evidence, denied discovery, prevented from presenting his arguments and evidence, and how the hearing was perfunctory. He further details how the order is causing emotional suffering and physiological harms to his mental and physical health, making it likely he will not outlive the order. How it has harmed his extended family relationships. How it has harmed his son directly and is thus contrary to his best interests. How it has harmed his professional, and social standing, and financial interests. And impacted his fundamental rights to travel, petition his government, free religion, free speech, and right to earn a living.

B. Declaration of Adam Grossman

Mr. Grossman, a Washington citizen and unaffiliated with the

underlying case, describes how a lifetime protection order that does not expire until 2099 (at which point Grossman will be dead), was issued prohibiting him from having any contact with his two children while he was hospitalized in intensive care and had no knowledge of the proceedings against him. ***Exhibit-2.*** He describes how the order continues to harm him daily, and creates a condition wherein he can't even attempt to contact his now adult daughters, to try to repair their relationship.

C. Declaration of Stephan Hicks

Mr. Hicks, a Washington citizen and unaffiliated with the underlying case, who has never been convicted of any crime, describes how a lifetime protection order that does not expire until 2059, at which point he will be 87 and his son 50, was entered as an extension of a previous order, and all attempts to have said order terminated under current standards have failed. ***Exhibit-3.*** He describes how he has never been allowed to call witnesses, nor were the harms done to him or his son examined.

D. Declaration of John Loop

Mr. Loop, a Washington citizen and unaffiliated with the underlying case, who prior to being embroiled in a 'high-conflict' divorce had never had any interactions with law-enforcement, describes how he was charged with domestic violence for raking the leaves of the marital home while his wife was on a planned trip out of state, in technical violation of a temporary protection order but in obedience of a temporary family court order requiring him to maintain the property. ***Exhibit-4.*** He further describes how the protection order was issued *sua sponte* by an Arbitrator, after Arbitration had ended, and he had no knowledge an order was being contemplated, and thus had no opportunity to present evidence regarding same.[5]

[5] Mr. Loop's case is pending review of his Motion for Discretionary Review before this court. Two of the issues in Mr. Loop's case, are the same as issues in this case. *See*, Washington Supreme Court No: 1038305.

VI. HOW HB-1620 WILL POTENTIALLY AFFECT THE ISSUES UNDERLYING THIS CASE AND OTHERS

As stated, HB-1620/SB-5575 was recently introduced in the Washington Legislature. If passed, it will create sweeping changes to RCW 26.09.191, and only magnify the problems that have brought this case to this court. Since protection orders issued per RCW 7.105 are routinely used in proceedings governed by RCW 26.09.191 to limit a parent's rights, the issues within this case, are directly relevant to the changes the legislature is anticipating making via HB-1620/SB-5575.

HB-1620/SB-5575 would lower the threshold for restricting a parent's residential rights, and shift to the restricted parent a standard of evidence difficult to prove.

Specifically, it would make imposing limits on parents easier, particularly if there are any findings of domestic violence, by creating a rebuttable presumption the parent's access to the child must be restricted. *See, Ibid.,* House Bill 1620 proposed bill pg.16 ln.5-7 . Since such domestic-violence

'findings,' are commonly 'proved' on the Preponderance of the Evidence standard in an RCW 7.105 protection-order hearing, where per ER 1101(C)(4) and RCW 7.105.200(8) the Rules of Evidence don't apply, and per *Gourley v. Gourley*, 158 Wn.2d 460, 464, 145 P.3d 1185 (2006), hearsay is admissible and routinely considered, any findings regarding domestic-violence are already constitutionally suspect. But regardless they do not meet constitutional requirements for proof when used to restrict someone's fundamental rights, especially to a relationship with their child. *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) (Parental unfitness for termination actions require heightened due process and the Clear and Convincing Evidence standard), *citing, Santosky v. Kramer*, 455 U.S. 745, 769 (1982); RCW 13.34.132. But per the proposed changes via HB-1620/SB-5575, said domestic violence 'findings' that result from a protection order hearing, become *res judicata* for the premise that domestic-violence has been conclusively established. *See,*

Ibid., HOUSE Bill 1620 proposed bill pg.3 ln.29-30 .

Then, under HB-1620/SB-5575 proposed changes, in order to overcome the presumption their rights must be restricted, the parent must use clear and convincing evidence. *See, Ibid.,* HB-1620 proposed bill pg.15 ln.30-31; also see, ibid. pg.16 ln.11-13 . And they must prove a negative, specifically, "that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child." *See, Ibid.,* HB-1620 proposed bill pg.15 ln.30-35.

This is directly relevant to the issues in this case, because since per RCW 7.105.010(4)(a)(i-vi), a vast range of non-violent behavior is now coercive control and domestic violence, then vastly more parents will be subject to presumptions their parenting should be restricted, many of which, won't be able to overcome the high burden to prove their innocence, and they will lose access to their children.[6]

[6] Under HB-1620/SB-5575's changes, people will have their rights restricted for conduct reasonable people can argue isn't 'domestic-violence' but rather was something redefined by the legislature as

As cited in the Petition, the Administrative Office of the Court's already reports an increase of 84% in protection order filings since the legislature redefined domestic-violence to include that vast array of non-violent behavior. If HB-1620/SB-5575 passes, that problem is going to get vastly worse, with many more Washington families and children affected.[7]

If passed, HB-1620/SB-5575 will be used, like RCW 7.105 and the statutes it replaced have been used, to terminate parents' rights to their children, in clear violation of binding precedential authority that prohibits such governmental overreach. Per the United States Supreme Court's decision in *Santosky v. Kramer*, 455 U.S. 745 (1982), and the line of

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coercive-control, including things such as 'causing fear,' 'driving recklessly,' mentioning suicide, or other factually specific conduct that may not be intended as coercive control, but regardless is not actual violence, or threats of actual violence. *See*, RCW 7.105.010(4)(a)(i-vi).

[7] 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

federal and state cases following it, termination of a parent's fundamental constitutional rights to a relationship with their child requires the Clear and Convincing evidence standard, and increased due process rights and procedures that are completely absent in RCW 7.105 and HB-1620/SB-5575.

Said simply, HB-1620/SB-5575 is literally backwards from what should be required. Namely the clear and convincing evidence standard to take away rights, and the preponderance standard to recover rights or overcome rebuttable presumptions.

Appellant-Kuhlmeyer contends that, not only does existing precedent and constitutional law require that when government terminates or restricts a parents rights to access their child, due process requires use of the Clear and Convincing Evidence Standard, but that due process also requires that standard, as well as application of the Rules of Evidence, whenever government is going to restrict any of an individual's fundamental rights, including their rights to access their child, beyond any temporary order immediately necessary

to preserve safety.

Taking review of this case, and opining on the constitutionality of the standards and procedures associated with issuance of protection orders per RCW 7.105, since such orders are commonly later used in proceedings governed by the process in RCW 26.09.191 to limit parental rights, would give this court the opportunity, by discussing what is required to limit a parents rights via a protection order, to also instruct the Legislature of what is necessary in crafting changes to both RCW 7.105, and RCW 26.09.191 to comply with constitutional standards. Thus, because of the legislature's consideration of HB-1620/SB-5575, this court's review of this case, is even more important than when the Petition was filed, as it is an opportunity for this court to instruct the legislature it is on the wrong constitutional path regarding individual's rights, especially parents' rights to access their children.

VII. CONCLUSION

For the preceding reasons Sean Kuhlmeyer respectfully requests this court, when considering whether to grant review of this case, consider the attached evidence as emblematic of how the issues in this case are reflective of issues facing many Washington citizens.

Respectfully submitted.

I certify that this document contains 3320 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
Sean Kuhlmeyer, *Appellant Pro Se*

Motion for Consideration of Additional Material Relevant to Appellant's Petition For Discretionary Review Per RAP 13.4(b)(3) and RAP 13.4(b)(4), AND Notice of Legislative Action Affecting the Issues Relevant to Discretionary Review)
Filename: 2025.02.21 M4 Considaddevid 1037368

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 3320 total words of a 5000 word limit.
Total Words: 4722 (raw words) –124 (header) –1268 (signature) –10 (footer) –00 (misc. words)) = 3320
Estimated-Reading-Time: 6.64 Decimal-Minutes

VIII. TABLE OF CONTENTS[8]

[8] 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.

IX. TABLE OF AUTHORITIES

CASES

STATUTES

OTHER AUTHORITIES

RULES

X. 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 Consideration of Additional Material Relevant to Appellant's Petition For Discretionary Review Per RAP 13.4(b)(3) and RAP 13.4(b)(4), AND Notice of Legislative Action Affecting the Issues Relevant to Discretionary Review)

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

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

XI. EXHIBIT LIST

Exhibit-1: Declaration of Sean Kuhlmeyer regarding DVPO Impacts, 2/14/2025. Fn: 2025.02.20 WSCT 855441 DecOf S.Kuhlmeyer re DVPO Impacts

Exhibit-2: Declaration of Adam Grossman regarding DVPO Impacts, 1/31/2025. Fn: 2025.01.30 WSCT 855441 DecOf S.Kuhlmeyer re DVPO Impacts.

Exhibit-3: Declaration of Stephan Hicks regarding DVPO Impacts, 1/30/2025. Fn: 2025.01.22 WSCT 855441 DecOf S.Hicks re DVPO

Exhibit-4: Declaration of John Loop regarding DVPO Impacts, 1/30/2025. Fn: 2025.01.27 WSCT 855441 DecOf J.Loop re DVPO signed

EXHIBIT-1. Declaration of Sean Kuhlmeyer regarding DVPO Impacts, 2/14/2025. Fn: 2025.02.20 WSCT 855441 DecOf S.Kuhlmeyer re DVPO Impacts

Declaration of Sean Kuhlmeyer

Exhibit-1. .

IN THE SUPREME COURT OF THE

STATE OF WASHINGTON

SEAN KUHLMEYER, Appellant, vs. ISABELLE LATOUR, Appellee	Supreme Court Case No.: 1037368 **DECLARATION OF SEAN KUHLMEYER REGARDING DVPO IMPACTS**

I, Sean Kuhlmeyer, solemnly affirm under penalty of perjury of the laws of Washington the following statements are true and correct.

1. I am over 18 years of age and am competent to testify. All statements herein are based upon my personal knowledge. I am the Appellant and Respondent in the family law action below, and Appellee, Isabelle Latour, is my former spouse. We share one child together – CMK.

2. I write this declaration to supplement this court's understanding of the events surrounding the trial court's June 2023 issuance of the DVPO, so this court can consider per RAP 13.4(b)(3), and RAP 13.4(b)(4), how I and other similarly situated citizens, have been

harmed, and will be harmed by the way protection orders are issued, and thus how the issues within my case are indicative of greater social and constitutional issues affecting many citizens.

3. I also submit this declaration to show how the Legislature's introduction and consideration of House Bill 1620 and Senate Bill 5575, are relevant to this case and implicate constitutional and public interest issues, which this court should consider in deciding to review this case.

4. As an overview, I have had no contact with my son in almost six (6) years because Ms. Latour has been allowed by the trial court to both ignore the Parenting Plan and other court orders regarding the father/son relationship, while the court has also prevented me from bringing enforcement actions against Latour. Meanwhile, Latour has engaged in a concerted pattern of misusing the protections of both the previous restraining order and the new DVPO, which the trial court, despite being repeatedly notified of Latour's conduct, has ignored.

5. But I am not unique. Many Washingtonians have similar stories suffering long periods of no-contact with their child(ren), which although courts have tools to address that problem, they often don't, leaving parents like me, languishing for years with no clear way to access their children or remedy any of the harms done to them.

6. As an overview, since the imposition of the Parenting Plan in 2018, and the litigation restrictions that followed shortly after requiring I

get permission before bringing a motion, I have regularly asked to bring enforcement actions against Latour to secure the father/son contact ordered in the Parenting Plan and other orders. I have requested said permission 14 times.[1] I have been refused every time, often for factually wrong reasons, or based on faulty assumptions by the court.[2] And despite pointing those errors out, permission to enforce the orders for father/son contact has been consistently denied, resulting in the long father/son separation I suffered.

7. Specifically to this case, the DVPO, coupled with the trial court's repeated refusal to let me enforce the orders against Latour, has denied and limited many of my fundamental rights including not just my rights to contact and to have a relationship with our son, but also my rights to free association, free speech, free employment, freedom to participate in actions of government, freedom from wrongful imprisonment, freedom from harassment, and even rights to access healthcare and religious freedom. While some of those impacts are nuanced, all of those rights are limited in some way by both the DVPO and Latour's pattern of misusing protections and disobeying court orders. More broadly, the impacts to my

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[1] *Trial Court Record for Permissions Requested in King County Case 17-3-01163-4:* Sub.-254, 287, 288, 289, 290, 291, 352, 476, 658, 660, 684, 695, 786, 814. (Available upon request).

[2] *Trial Court Record for Permissions Denied in King County Case 17-3-01163-4:* Sub-254, 302, 307, 308, 311, 571, 624, 633, 660, 697, 798, 822, 824 (one permission was granted (Sub.311), but revoked when the motion was presented) (Available on request)

fundamental rights, are limitations many other citizens are experiencing.

Regarding issuance of the DVPO, on 6/16/2023 the trial court, held a hearing on Ms. Latour's Petition for a new DVPO, granting a 20-year order. Latour had requested a 76-year order to 2099. I will be 74, and our son will be 35, when the order expires.[3] Given my health, I do not expect to outlive the order. The DVPO contains no exceptions, nor is it self-expiring when our son reaches adulthood. It was issued in clear violation of RCW 7.105.315(2)(a) prohibiting protection orders limiting a parent from contact with their child(ren) for more than one year.[4] The DVPO effectively terminates my parenting rights and the father/son relationship forever.

8. Per RCW 7.105.325, the DVPO has been entered into publicly available law enforcement databases, including the "national instant criminal background check system," and will remain there until

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[3] If Latour had been granted the order she wanted, I would have been 131 years old, Latour would have been 128, and our son 91, when it expired. Per RCW 7.105.325(2) said orders must remain in the public databases until they expire, creating absurd results where protection orders remain operative long after everyone is dead.

[4] An error which Division I affirmed on a theory that because I arguably have some rights to access my child via the Parenting Plan, which again the trial court has refused to allow me to enforce since it was entered in 2018, that since I still have those hypothetical rights, that is sufficient to justify the trial court's issuance of a 20-year order prohibiting me from contact with my child, even though the plain language of RCW 7.105.315(2)(a) states that a trial court can't do that. Incidentally, this is the exact same issue as the Texas case *Stary v. Ethridge, currently under review by the Texas Supreme Court. See, Stary v. Ethridge,* Texas Supreme Court No. 23-0067 (citations in Petition for Discretionary Review).

2043, thereby forcibly associating me with criminals and criminalizing me, for the rest of my life. I have never been arrested or convicted of a crime. I was even a police officer in the Navy on a duty rotation to Shore Patrol. And with the exception of two false criminal cases Latour brought where Latour alleged I violated the previous restraining order when she knew I was innocent, which were dismissed, I have never been accused of a crime. It has always been a source of pride that I have always been a law-abiding citizen, but now, with entry of the DVPO into the law enforcement databases, I am associated with Murders, Rapists, and other criminals.

9. Latour's petition for a DVPO was filed five (5) weeks after the previous restraining order expired.[5] In the intervening time, despite knowing the order had expired, it is undisputed there was no contact between us, as the only contact Latour had was from a supervisor trying to start the Parenting Plan visits Latour has been refusing since 2019.[6]

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[5] It is important to note the previous Restraining Order was not issued because of violence, but rather was a continuation of a temporary order I agreed to in order to 'keep the family peace.' A one-year order was arbitrated, which I did not challenge vigorously as I felt our family needed a 'cooling' off period. But after Arbitration ended, and without notice to me, the Arbitrator *sua sponte* extended the one-year order to five-years. When I sought review, I lost. Thus while I agreed to a temporary order, I did not expect it to be justification for a five-year order, let alone a pretext to eventually *de facto* terminate my parental rights by issuing a lifetime DVPO. It is also important to note that what the Arbitrator did in 2018 could not happen today because the Legislature changed the Family Arbitration Act, RCW 26.14, and under that act, none of the things that happened in Arbitration would have happened at trial. *Also see,* RCW 26.14.903.

[6] Since June 2018, Ms. Latour has refused to provide any of the Father/Son

10. In issuing the DVPO, the trial court did not apply the Clear and Convincing evidence standard. It did not allow me to present testimony or take cross-examination. There was no discovery. Only 10 days passed between the Petition and issuance of the lifetime order. The rules of evidence were not applied. The evidence I presented of Ms. Latour's pattern of misusing the previous protection order and refusal to obey the Parenting Plan and other orders (defined by case-law as emotional child abuse and domestic-violence), was not only not considered, but the trial court punished me with sanctions for presenting what evidence on that I did. No alternatives to the DVPO were explored. No family services were ordered. No evidence of the harms the DVPO would cause was considered.

11. The trial court claimed in the hearing I allegedly had "a history of domestic violence that is well documented." (RP 6/16/2023, at 15). Later, when it issued the DVPO, the court said: "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." (CP 245). In fact, the court was wrong.[7] Nowhere is there any finding, anywhere in the

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contact various orders including the parenting plan command. For some unknown reason, the court has allowed Latour to withhold visits, while also repeatedly preventing me from enforcing the orders.

[7] The expired restraining order, which was prepared by Latour's counsel, has the box 'checked' I was a 'credible threat' to Latour, but the Arbitration decision does not have any such finding as required by case-law. *See, Bering*

record, that I ever committed such violence.[8] Notably the trial court did not cite any specific place in the record to support that I had a "history of domestic violence that is well documented," as no such finding exists. [9 & 10]

12. The court did not analyze any of the harms created by the DVPO, the most significant being that it terminates the father and son relationship and eliminates our ability to repair our relationship forever.

13. Harms caused by the DVPO the court did not analyze include damage to my personal and professional reputations by continuing a false narrative I'm abusive and dangerous. Entering me into publicly available criminal law enforcement databases of known criminals (an acute harm as I am a lawyer, and a 'clean' criminal record is vital to my career). Limits to my ability to get a job requiring trust. Restraints on my speech, most importantly with our son. Elimination of my ability to volunteer with children. Impacts to romantic relationships. Impacts to international travel

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v. Share, 106 Wn.2d 212, 220 (1986).

[8] There are no findings in which any person adjudicating domestic-violence found I did so. Meaning, there are no words that say: "Mr. Kuhlmeyer committed domestic violence on XYZ date, by doing ABC thing." Such words, or their equivalent, do not exist.

[9] At the time the court issued the DVPO, the record contained over 14,000 pages of approximately 5.7 million words taking about 237 hours to read, and it is highly likely that Hon. O'Donnell did not actually read the record.

[10] The fact no adjudicator ever found I committed any act of domestic-violence, is relevant to the issue of taking this case, as it relates to an issue of substantial public interest, namely, the issuance of protection orders without a clear history of domestic-violence.

and my ability to visit family in countries that prohibit entry for DVPO's.[11] Hindering my ability to earn a living by banning me from a vast area of employers. And many others. None were considered.

14. This last issue – *my ability to travel locally,* is illustrative of the far-reaching effect and harm the court should have considered, because by doubling the previous distance restriction from Latour's work at the Seattle Municipal Tower from 500' to 1000,' the court created a ½ mile exclusion zone in the core of Seattle's downtown containing thousands of business and public areas including Seattle City Hall, Seattle Police Headquarters, all City of Seattle and King County Government offices, Seattle City Council, Seattle Public Library, St. James Cathedral, Bethel Church, Harborview Medical Center, a section of Interstate-5, and numerous other places. All are out-of-bounds, for life.

15. Before that harm is dismissed as exaggerated, the DVPO contains no exceptions, nor is it narrowly tailored to a particularized danger. It is a broad geographic ban measured only by distance. But both Division I's record, and the trial court record, contain well-documented evidence of Latour misusing the previous restraining order, both by false claims of violations that did not happen, including false claims I was in places I was not, and evidence of Latour's attempts to entrap violations,

[11] I have family members in countries I cannot enter because of the DVPO.

attempts to 'frame' violations, and efforts to achieve technical violations.[12] This pattern of Latour's weaponization of the previous restraining order included filing eleven (11) frivolous police reports, four of which, were false.[13] The record also showed Latour maintained two false criminal cases against me knowing I was innocent.[14] And proved she concealed exculpatory evidence trying to get a false conviction.[15] The Police even submitted a case against Latour for filing false reports.[16] Thus, my concerns about Latour continuing her pattern of misusing protections, including weaponizing local travel restrictions, were not hypothetical and I should have been allowed to detail them. But not only did the trial court refuse to consider these facts, but when I raised them in a limited way in response to her petition, the court punished me with sanctions, thereby violating my right to access the court and fully present my issues.

16. Nor did the court analyze the active harms the DVPO does

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[12] In 2018, Latour was able to achieve a technical violation of the previous restraining order by engineering a situation where I was forced to technically violate the order, and by making false statements to the court claiming other violations that never happened.

[13] *See*, Seattle Police Reports: 18-41429 (3Feb2018), 18-50824 (10Feb2018); 18-425835 (13Nov2018); 18-161941 (7May2018); 18-163318 (8May2018); 19-32747 (25Jan2019); 19-473629 (23Dec2019); 20-184369 (9Jun2020); 22-246553 (20Sep2022). Details available.

[14] *See, Seattle v. Kuhlmeyer* Case# 637289 (2019) (dismissed), *Seattle v. Kuhlmeyer* Case# 651296 (2020) (dismissed).

[15] Seattle Municipal Tower Security Report, 15Nov2018; detail available.

[16] *See*, SPD 20-270470.

to our son. Or how it is against his best-interests. Including that it destroys his relationships with my family, denying him contact with Aunts, Uncles, and Cousins, allowing Latour to monopolize all family relationships.[17] And it facilitates Latour continuing a harmful false narrative she brainwashed our son to believe, namely a myth that I don't love him and abandoned him. Neither of which are true, but I can't correct these false-beliefs, ever.

17. To be specific, there are many things I cannot do under the DVPO, none of which the trial court considered. I cannot:

a. See my only child.

b. Communicate with my son.

c. Respond to any potential communication from my son.

d. Attend any of my son's important events.

e. Act as a full parent to my only child

f. Participate in any parental decision making including medical, educational, or religious decisions.

g. Facilitate my son's relationship with my extended family

h. Travel internationally to visit family.

i. Attend religious services at the church I choose

[17] Two of our son's extended family members have died while these protection orders have been in place. My father, and an Uncle. Thus, these orders have denied our son relationships with his Grandfather and Uncle. And denied us the ability to discuss their deaths. And denied us the ability to relate to their deaths with family members.

j. Live in a vast area of my home city

k. Participate in Seattle City Council hearings.

l. Visit any City of Seattle office

m. Travel on the main interstate through the center of my city.

n. Visit thousands of locations in a massive area of my city.

o. Travel in several large zones of exclusion in my home city

p. Obtain employment in a position requiring trust

q. Volunteer with children

r. Pass a background check

s. And many others

These restraints violate many of my fundamental rights including free speech, parenting, protest, association, travel, religion, and employment.

18. None of these harms were considered. If the court had considered them, it would have realized that both the past harms the previous restraining order had created, and the new future harms the new DVPO would create, vastly outweighed the potential protective benefit of the DVPO, especially since there is no history of violence in our family.

19. Nor did the court ensure that any protections, since they necessarily infringed on my rights, were narrowly tailored to meet a particular danger.[18] Here, that would have entailed issuing factual findings

[18] *See, Meyer v. Nebraska,* 262 U.S. 390, 399-400, 43 S. Ct. 625, 67 L. Ed. 1042 (1923*); Also see, In re Welfare of Sumey*, 94 Wash.2d 757, 762, 621

supported by substantial evidence I had committed domestic-violence, and issuing a protection order narrowly tailored to address the specific form of violence. Instead, the court issued a broad order impacting all aspects of my life and destroying the father/son relationship, without any factual findings supported by evidence, or citation to any place in the record supporting the court's alleged 'findings.'

20. Nor did the court consider alternatives to issuing a protection order. If it had, it would have realized there were more effective options to lessen the family conflict, such as referrals to family services, family systems therapy, professional mediation, or other services such as what is offered in termination proceedings per RCW 13.34.025. None of those were considered, thereby implicating equal protection issues between parents facing parental termination actions under RCW 13.34.025, and me, facing a *de facto* parental termination action under RCW 7.105.315(1).

21. A final harm was more nuanced. In reading the DVPO, to the extent that the trial court was issuing said order based on a belief I had engaged in domestic violence via coercive control, and to the extent the court stated that such coercive control extended from "the outset of this case" (which began in 2017), since per RCW 7.105.010, the legislature's new definition of domestic violence that includes coercive control was not

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P.2d 108 (1980) and the line of cases that follow it, including *In re R.V.,* 511 P.3d 148, 156-57 (Wash. Ct. App. 2022).

effective until July 1, 2022, and by that date it is uncontested that no such conduct was happening between the parents, the trial court, by applying a retroactive definition of domestic violence to conduct that wasn't domestic violence at the time it happened, effectively criminalized something that happened in the past that I had no ability to change, which is unfair.

22. Effectively, the trial court used the new definition of coercive control as domestic violence as an *Ex Post Facto* Law or Bill of Attainder.[19] Which violates my fundamental rights protected by the federal and state constitutions.[20] As legal historians know, the constitutional prohibitions against *Ex Post Facto* laws and Bills of Attainder exist because history shows that legislatures and courts will retroactively apply current laws to historical acts to justify a current outcome, which has resulted in some of the worst excesses of power in history.[21] Retroactive

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[19] Historically, what the trial court did is more akin to applying a Bill of Pains and Penalties which enacted punishments via legislative action, whereas a Bill of Attainder traditionally imposed a legislative death sentence. But both have been historically understood, as contained within the constitutional prohibition against Bills of Attainder. *Cummings v. State of Missouri*, 4 Wall. 277, 323, 18 L.Ed. 356 (U.S. 1866) ("Within the meaning of the Constitution, bills of attainder include bills of pains and penalties.")

[20] U.S. CONST. art. I, §9 (*"*No Bill of Attainder or ex post facto Law shall be passed."); U.S. CONST. art. I, §10 (*"*No State shall… pass any Bill of Attainder, ex post facto Law…"); WASH. CONST. art. I, §23 (*"*No bill of attainder, ex post facto law… shall ever be passed."). *Also see, Nixon v. General Services Administration*, 433 U.S 425 (1977); *Weaver v. Graham*, 450 U.S. 24, 28-29 (1981).

[21] Traditional legal analysis, holds that the prohibition against Ex Post Facto Laws, applies only to criminal rather than civil cases. *Calder v. Bull*, 3 U.S. 3

application of the new legal definition of domestic violence to conduct in the past, as a justification for issuance of a protection order now, which is what the trial court did and Division I affirmed, and which criminalized me by forcibly associating me with criminals in public law enforcement databases, was a separate and discrete harm, and just as unfair applied to me in 2023, as it was in 1787, or 1889, when the United States and Washington Constitutions were drafted and those laws were banned.

23. I request this court consider these harms as indicative of both the harms done to me and my family by the issuance of the DVPO, but also as indicative harms to other Washington residents similarly situated to me in deciding to take review of this case. I thank the court for considering this Declaration, and apologize for any procedural errors.

I declare under penalty of perjury under the laws of the State of Washington, that all statements, observations, and facts, are true and correct, to the best of my knowledge.

Signed at Seattle, King County, Washington, on Friday, Feb. 21, 2025.

s/ Sean Kuhlmeyer

Dall. 386 386 (1798). This approach is under wide criticism, both criticism that *Calder* is simply wrong and the founders did intend the prohibition to apply to civil issues. *See, The Civil Ex Post Facto Clause, Zoldan,* Evan Craig, July 21, 2014. 2015 Wisconsin Law Review 727 (2015)., Aval.: https://ssrn.com/abstract=2469141. And criticisms that limiting Ex Post Facto laws to only criminal issues, is incorrect given the growth of ostensibly civil issues that either directly or indirectly criminalize someone, as a protection order does. *See, The Case against Civil Ex Post Facto Laws,* Steve Selinger, 1996. Cato Journal, Cato Institute, vol. 15(2-3), pages 191-213, Fall/Wint. Aval.: The Case against Civil Ex Post Facto Laws. In contrast, Bills of Attainder (as well as their included Bill of Pains and Penalties), did, often explicitly, apply to civil issues, most often property forfeiture.

EXHIBIT-2. Declaration of Adam Grossman regarding DVPO Impacts, 1/31/2025. Fn: 2025.01.30 WSCT 855441 DecOf S.Kuhlmeyer re DVPO Impacts.

Declaration of Adam Grossman

Exhibit-2. .

IN THE SUPREME COURT OF THE

STATE OF WASHINGTON

SEAN KUHLMEYER, Appellant, vs. ISABELLE LATOUR, Appellee	Supreme Court Case No.: 1037368 **DECLARATION OF ADAM R. GROSSMAN REGARDING DVPO**

I, Adam R. Grossman, solemnly affirm under penalty of perjury of the laws of the State of Washington the following statements are true and correct to the best of my knowledge, information, and belief.

1. I am over 18 years of age and am competent to testify. All statements herein are based upon my personal knowledge.

2. In 2009, I began divorce proceedings in King County Superior Court. *Borodin v. Grossman*, No: 09-3-02955-9 SEA. I believe that my ex-wife used false allegations of abuse to create a false narrative about me to achieve an advantage in the divorce.

3. In 2010, when the divorce was decreed, the court issued a ten-year restraining order restricting my presence in several places (the [home, work, school, synagogue] of my [ex-wife, children]) except when allowed in the Parenting Plan.[1]

[1] E.g., the Parenting Plan allowed both parents to attend all children's events (when parents were invited or often attended) at every place and at any time; if the restraining

4. On November 3, 2020, I collapsed from what I later learned was a stroke and sepsis that had spread pockets of infection throughout my body. I was rushed to Northwest Hospital and soon transferred to Harborview's Intensive Care Unit. I did not regain consciousness for almost two weeks after which surgeries and recovery took another two months (including two short stays at Harborview's Respite facility) until being discharged from Harborview on January 21, 2021, and I remained in a severely weakened state barely able to walk for six months.

5. After leaving the hospital, I learned my ex-wife had got a 79-year restraining order, protecting her and our two daughters, both 14 at the time, and prohibiting contact with them. The ten-year restraining order that had been about to expire did not prohibit contact with my daughters. Both daughters have since turned 18. I did not know about the motion or the hearing(s) until months later and thus did not appear. The order was not issued on the clear and convincing evidence standard, nor did I have the ability to gather and present evidence. The order expires in December 2099 when my daughters will be 93-years old, and I will be dead. Thus it is a lifetime order terminating our relationships. After my discharge, addressing my health was my priority, and I couldn't address the order.

6. In addition to the severe psychological harm the existence

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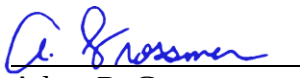
order conflicted, the Parenting Plan would control. The restraining order did not otherwise restrain my contact, my communication nor my interactions with the children. The judge explicitly said it would not make sense to order restraints since the children were expected to reside with me close to half time in about one year.

of such an order has done to me, I live in fear that I will be faced with a horrible choice if either of my daughters reaches out in that I risk incarceration if I respond, and thus I might have to suffer the emotional pain of whether I reciprocate because of my love for them, against my desire to avoid being criminally convicted of violating a protection order. It is a horrible situation, and I don't know what to do about it.

7. I love my daughters, and I would like to repair our relationships, but the protection order completely prevents that.

8. I feel that the way the protection order was issued, namely while I was in the hospital, with no actual notice, the extreme length, that it applies to my children after they became adults, and that there is no effective way to end the order, is an extreme injustice, and violates not only my fundamental due process rights, my rights to free speech and association, and my rights to have a relationship with my daughters, but also violates my daughter's rights to have a relationship with me.

I declare under penalty of perjury under the laws of the State of Washington, that all statements, observations, and facts, are true and correct, to the best of my knowledge.
Signed at Seattle, King County, Washington, on Thursday, Jan. 30, 2025.



Adam R. Grossman
(425) 243-3212 | arg@AdamReedGrossman.com

EXHIBIT-3. Declaration of Stephan Hicks regarding DVPO Impacts, 1/30/2025. Fn: 2025.01.22 WSCT 855441 DecOf S.Hicks re DVPO

Declaration of Stephan Hicks

Exhibit-3. .

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

SEAN KUHLMEYER, Appellant, vs. ISABELLE LATOUR, Appellee	Supreme Court Case No.: 1037368 **DECLARATION OF STEPHAN HICKS REGARDING DVPO**

I, Stephen Hicks, solemnly affirm under penalty of perjury of the laws of the State of Washington the following statements are true and correct to the best of my knowledge, information, and belief.

1. I am over 18 years of age and am competent to testify. All statements herein are based upon my personal knowledge.

2. I have been involved in a family law proceeding in Thurston County Superior Court since 2015. *Roth v. Hicks,* No: 14-3-

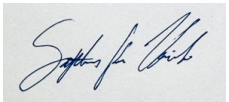
00778-8. I have never been convicted of any crime. In 2015, a restraining order was entered prohibiting me from contact with our minor son. In 2018 the order was extended to 2059; at which time I will be 87, and my son 50. The order prohibits all contact. Thus it is a lifetime order terminating our relationship. I've attempted to challenge the order several times, arguing the circumstances have changed, and if the order was removed I was unlikely to commit domestic-violence. I have been routinely denied. At no point, including when the original order was entered, nor when it was extended, nor at any review hearing, was I allowed call witnesses, nor was the clear and convincing evidence standard used, nor were the harms being done to me, or my son, examined.

3. The result of the restraining order is I have not seen or spoken to our now 16-year old son in 10 years.

4. I believe the lack of substantive and procedural due process available at the time the protection orders were issued, and the lack of a clear process to end the order, violates my fundamental rights, including my rights to a relationship with my child.

I declare under penalty of perjury under the laws of the State of Washington, that all statements, observations, and facts, are true and correct, to the best of my knowledge.

Signed at Poulsbo, Kitsap County, Washington, on Friday, Jan. 24, 2025.



(360) 301-9926 | hicks_stephen@icloud.com

EXHIBIT-4. Declaration of John Loop regarding DVPO Impacts, 1/30/2025. Fn: 2025.01.27 WSCT 855441 DecOf J.Loop re DVPO signed

Declaration of John Loop

Exhibit-4. .

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

SEAN KUHLMEYER, Appellant, vs. ISABELLE LATOUR, Appellee	Supreme Court Case No.: 1037368 **DECLARATION OF JOHN LOOP REGARDING DVPO**

I, John Loop, solemnly affirm under penalty of perjury of the laws of the State of Washington the following statements are true and correct to the best of my knowledge, information, and belief.

1. I am over 18 years of age and am competent to testify. All statements herein are based upon my personal knowledge.

2. In 2020 my ex-wife and I separated. In Dec. 2020 my ex-wife falsely claimed I assaulted her, and Seattle Municipal Court issued a no-contact order. *Seattle v. Loop,* No. 659851. In Feb. 2021, King County

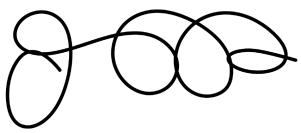
Superior Court issued temporary family orders requiring I maintain the family house and garden. *Loop v. Loop,* No: 21-3-00225-1. In Oct. 2021, my ex-wife and daughter took a planned trip to California. While they were gone, and in obedience of the temporary orders, I went to the house, raked leaves, and cleared windstorm debris. When they returned, I was charged with violating the no-contact order, and in fear I would be jailed, I 'plead out' to misdemeanor domestic violence.

3. In May of 2023 we arbitrated our divorce. Upon issuing the Arbitration decision, I learned the Arbitrator, *sua sponte*, and without notice to me, issued a restraining order prohibiting me from contact with our daughter until Sep. 2025, which will be well past her 18th birthday. I did not know the Arbitrator was considering a restraining order, and was not allowed to present evidence. That decision was affirmed by Division I (No: 863827). I have appealed to this court, No. 1038305. I also have a case in Federal Court about this. *Loop v. Washington et. al,* No: 24-5020.

4. I feel that issuance of the protection order violated my fundamental rights, including my rights to a relationship with my child.

I declare under penalty of perjury under the laws of the State of Washington, that all statements, observations, and facts, are true and correct, to the best of my knowledge.
Signed at Seattle, King County, Washington, on Monday, Jan. 27, 2025.

s/ John Loop
206-790-5225 | jackloop@gmail.com



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