

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. CE82 HON. GRETCHEN W. TAYLOR, COMMR.

FRANCIS COYOTE SHIVERS,)
)
 PETITIONER,)
)
 VS.) NO. BD417230
)
 LAURA PAULINE PERRETT,)
)
 RESPONDENT.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
 MONDAY, JANUARY 31, 2005

APPEARANCES:

FOR THE PETITIONER: JEFFERY P. BOYKIN, ATTORNEY AT LAW
 227 BROADWAY
 SUITE 302
 SANTA MONICA, CALIFORNIA 90401

FOR THE RESPONDENT: DIANNA GOULD-SALTMAN,
 ATTORNEY AT LAW
 818 W. 7TH STREET,
 SUITE 960
 LOS ANGELES, CALIFORNIA 90017

ORIGINAL

ZOHRA RAHMAN, RPR
 OFFICIAL REPORTER
 CSR NO. 11396

1 THE COURT: ALL RIGHT. SHIVERS AND PERRETT.

2 GOOD MORNING. THIS IS THE CONSOLIDATED CASE
3 OF SHIVERS VERSUS PERRETT, BD417230 CONSOLIDATED WITH
4 BD417685.

5 MS. GOULD-SALTMAN: GOOD MORNING. DIANNA
6 GOULD-SALTMAN ON BEHALF OF RESPONDENT, THE MOVING PARTY
7 ON THIS O.S.C. WHO IS PRESENT AND SITTING TO MY LEFT.

8 MR. BOYKIN: GOOD MORNING. JEFFREY BOYKIN FOR
9 PETITIONER, FRANCIS SHIVERS, WHO IS PRESENT IN COURT.

10 THE COURT: GOOD MORNING. I DON'T KNOW WHETHER
11 WE'LL NEED TO SPEAK TO EITHER OF YOU. IN AN ABUNDANCE OF
12 CAUTION, I'D LIKE YOU TO BE SWORN IN, PLEASE.

13 THE CLERK: DO YOU SOLEMNLY STATE THAT THE
14 TESTIMONY YOU ARE ABOUT TO GIVE IN THE MATTER NOW PENDING
15 BEFORE THIS COURT SHALL BE THE TRUTH, THE WHOLE TRUTH,
16 AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

17 MS. PERRETT: YES.

18 MR. SHIVERS: YES.

19 THE COURT: IF I UNDERSTAND THE POSTURE OF THE
20 CASE, MS. GOULD-SALTMAN, YOU FILED A REGULAR ORDER TO
21 SHOW CAUSE AND APPENDED THE D.V. ORDER TO SHOW CAUSE AND
22 INCORPORATED THAT AS YOUR REQUEST FOR NON-D.V. ORDERS.

23 MS. GOULD-SALTMAN: CORRECT, YOUR HONOR.

24 THE COURT: BUT THERE IS NO DIFFERENCE IN THE
25 REQUEST OF YOUR ORDERS. IN OTHER WORDS, YOU DID NOT
26 BREAK DOWN YOUR ORDERS IN ANY DIFFERENT WAY. THEY REMAIN
27 THE SAME ORDERS AS REQUESTED IN THE DOMESTIC VIOLENCE
28 RESTRAINING ORDER.

1 MS. GOULD-SALTMAN: THAT'S CORRECT. SPECIFICALLY
2 BASED ON THE FACTS ALLEGED BOTH IN THE UNDERLYING
3 PLEADING AND THE EX PARTE WE REQUESTED PERSONAL CONDUCT
4 RESTRAINTS, STAY-AWAY ORDERS, MOVE-OUT ORDER, AND
5 PROPERTY ORDERS.

6 THE COURT: ALL RIGHT. THE COURT WILL NOT CONSIDER
7 THE UNTIMELY SUPPLEMENTAL RESPONSE BY PETITIONER.

8 MS. GOULD-SALTMAN: THANK YOU, YOUR HONOR.

9 THE COURT: COURT HAS READ AND REVIEWED THE FILE.
10 ARGUMENT, MS. GOULD-SALTMAN.

11 MS. GOULD-SALTMAN: THANK YOU, YOUR HONOR. IT
12 SEEMS CLEAR THAT THE PARTIES CAN'T LIVE IN THE SAME HOUSE
13 SAFELY AND PEACEFULLY. MS. PERRETT FEARS FOR HER SAFETY
14 AND FOR HER PEACE. SHE IS THE PARTY WHO WORKS PRIMARILY
15 OUTSIDE OF THE HOME AND IS THE SOLE OWNER OF THE HOUSE
16 AND IS PAYING ALL THE BILLS OF THE HOUSE, EVEN DURING
17 THAT PERIOD OF TIME WHEN SHE'S BEEN OUT OF THE HOUSE.
18 ULTIMATELY, THE COURT, I THINK, HAS TO DETERMINE WHICH OF
19 THE PARTIES BASED ON THE UNDERLYING FACTS AS PRESENTED TO
20 THE COURT AND THE COMPETENT EVIDENCE IS ENTITLED TO THE
21 USE OF THE HOUSE, AND I THINK THAT CLEARLY SHOWS THAT IT
22 IS RESPONDENT.

23 MR. SHIVERS HAS CHASED HER THROUGHOUT THE
24 HOUSE. HE'S BLASTED HER WITH LOUD MUSIC ALL NIGHT TO
25 PREVENT HER FROM SLEEPING, GOING TO WORK THE NEXT
26 MORNING. HE'S YELLED AND SCREAMED AT HER PREVENTED HER
27 FROM SCREAMING. HE SENDS FRIGHTENING E-MAILS TO HER. HE
28 INTERCEPTS HER PRIVATE E-MAILS TO OTHER PEOPLE. HE,

1 ACCORDING TO HER DECLARATION AS WELL AS THE DECLARATION
2 OF COLLATERAL WITNESSES, HAS BLOCKED HER CAR TO PREVENT
3 HER FROM LEAVING THE PROPERTY. HE ATTEMPTS TO MINIMIZE
4 HIS CONDUCT IN HIS DECLARATION BY CLAIMING THAT SHE
5 DOESN'T ALLEGE PHYSICAL VIOLENCE IN HER INITIAL
6 PAPERWORK, AND, ULTIMATELY, I THINK ON AN EX PARTE BASIS
7 WE WERE HERE BEFORE, THE COURT INDICATED THAT IT WASN'T
8 PREPARED TO MAKE THE ORDERS ON AN EX PARTE BASIS.

9 HOWEVER, IT ISN'T JUST VIOLENCE THAT THIS
10 COURT'S JOB IS TO RESTRAIN. IT'S ALL KINDS OF
11 INAPPROPRIATE CONDUCT THAT PREVENTS PEOPLE FROM LEGALLY
12 AND PEACEFULLY GOING ABOUT THEIR DAILY ACTIVITIES AS
13 PETITIONER HAS DONE WITH RESPONDENT.

14 COLLATERAL DECLARATIONS ARE SUPPORTIVE OF
15 RESPONDENT'S POSITION. THE DECLARATION OF DAN BAILEY
16 DIRECTLY CONTRADICTS PETITIONER'S ALLEGATIONS THAT THE
17 ALARM SYSTEM WAS ALWAYS THERE. THE DECLARATION OF TONY
18 MAC ELWAYNE (PHONETIC) CONTRADICTS PETITIONER'S
19 DECLARATION THAT HE ADOPTED THE DOG, WHICH HE KNOWS
20 RESPONDENT IS PARTICULARLY ATTACHED TO, AND IT APPEARS
21 THAT PETITIONER DUMMIED UP A DOCUMENT WHICH HE THEN
22 ATTEMPTED TO ATTACH AS AN EXHIBIT TO HIS RESPONSIVE
23 PAPERS TO SUPPORT HIS POSITION.

24 THE DECLARATION OF SEAN SWEENEY CONTRADICTS
25 PETITIONER'S ALLEGATIONS THAT MS. PERRETT WAS YELLING AT
26 PETITIONER AS PETITIONER ALLEGES ON OCTOBER 30TH, AND IT
27 SUPPORTS MS. PERRETT'S CONTENTION SHE WAS AFRAID AND
28 CONTINUES TO BE AFRAID OF PETITIONER, AND IT WAS

1 PETITIONER WHO POSITIONED HIS CAR BEHIND HERS TO PREVENT
 2 HER FROM LEAVING THE PROPERTY. MR. SWEENEY ALSO
 3 CONFRONTED PETITIONER REGARDING THE INCIDENT IN WHICH HE
 4 BLASTED MS. PERRETT WITH LOUD MUSIC TO PREVENT HER FROM
 5 SLEEPING AND FOR THE INTENT PURPOSE OF DISTURBING HER,
 6 AND NOT ONLY DID PETITIONER FAIL TO DENY THE INCIDENT HE
 7 STATED ACCORDING TO MR. SWEENEY WELL, THAT WAS ONE THING
 8 THAT WAS DUMB. MR. SWEENEY ALSO HEARD PETITIONER
 9 ACKNOWLEDGE HE HAD HIRED NEIGHBORS TO PREVENT MS. PERRETT
 10 FROM USING HER OWN HOUSE WHEN HE WASN'T ON THE PROPERTY.

11 MR. SANDUSKY'S (PHONETIC) DECLARATION
 12 SUPPORTS MS. PERRETT'S VERSION OF EVENTS THE NIGHT
 13 PETITIONER WAS SERVED, AND IT REFUTES PETITIONER'S
 14 VERSION OF THOSE EVENTS.. MR. SANDUSKY ALSO SUPPORTS
 15 MS. PERRETT'S VERSION OF HER RELATIONSHIP WITH THE
 16 ANIMALS TO WHICH SHE IS SO ATTACHED AND REFUTES
 17 MR. SHIVERS' VERSION.

18 SHE'S ENTITLED -- MY CLIENT IS ENTITLED TO
 19 THE PEACEFUL USE OF THE HOME, WHICH IS HER SOLE AND
 20 SEPARATE PROPERTY WHICH SHE'S TAKING CARE OF WHICH, WHEN
 21 SHE WENT BACK TO LOOK AT THE CONDITION OF THE PROPERTY
 22 SINCE SHE'S BEEN GONE, HAS BEEN LEFT DIRTY AND IN RUIN
 23 AND FRANKLY IN A DANGEROUS CONDITION BOTH IN TERMS OF THE
 24 BRUSH THAT'S BEEN ALLOWED TO ACCUMULATE AND IN TERMS OF
 25 DURING THE RAINS THE PROBLEMS THAT HAVE ENSUED BECAUSE OF
 26 THAT. SHE'S ENTITLED TO PEACEFUL USE OF HER PROPERTY.
 27 SHE'S ENTITLED TO BE ABLE TO SLEEP BEFORE SHE GOES TO
 28 WORK. SHE'S ENTITLED NOT TO BE HARASSED. MR. SHIVERS

1 APPARENTLY WAS BOTHERED THAT MS. PERRETT REFUSED TO ARGUE
2 AND ENGAGE WITH HIM AND JUST WANTS THIS MARRIAGE TO BE
3 OVER. HE SAID AS MUCH TO THE COLLATERAL WITNESSES WHO
4 STATE SO IN THEIR DECLARATIONS.

5 FOR THAT REASON WE ASK THE COURT TO GRANT US
6 THE RESTRAINING ORDERS REQUESTED, TO ALLOW MS. PERRETT TO
7 MOVE BACK INTO HER OWN HOME AND TO EXCLUDE MR. SHIVERS SO
8 HE CAN'T CONTINUE TO BOTHER HER.

9 THE COURT: OKAY.

10 MR. BOYKIN: YOUR HONOR, THE STANDARD, I BELIEVE
11 THE COURT IS DEALING WITH FOR A MOVE-OUT ORDER AT THIS
12 POINT OF THE PROCEEDINGS WOULD BE A SHOWING OF PHYSICAL
13 OR EMOTIONAL HARM UNDER FAMILY CODE 2047. THERE'S BEEN
14 NO DISCUSSION BY THE RESPONDENT, MOVING PARTY, THERE IS
15 PHYSICAL OR EMOTIONAL HARM. ALL THE ALLEGATIONS AGAINST
16 MR. SHIVERS ARE ALLEGATIONS THAT WERE BROUGHT UP AND
17 BROUGHT TO THIS COURT'S ATTENTION ONLY AFTER MR. SHIVERS
18 HAD FILED A PETITION FOR DISSOLUTION OF THIS MARRIAGE.

19 MS. PERRETT CHOSE TO MOVE OUT OF A JOINTLY
20 OWNED COMMUNITY ASSET HOME IN, I BELIEVE, LATE JUNE,
21 EARLY JULY BACK IN THE SUMMER OF 2004. SHE COULD HAVE
22 AVAILED HERSELF OF THE COURT'S ASSISTANCE IN REMOVING
23 MR. SHIVERS AT THAT TIME, AND HAD THERE BEEN AT THAT TIME
24 THE CHANCE OF PHYSICAL OR EMOTIONAL HARM, THERE WOULD
25 BE -- MY GUESS, SHE WOULD HAVE OBTAINED AN ATTORNEY AND
26 BROUGHT THIS MATTER TO THE COURT'S ATTENTION AT THAT
27 TIME.

28 IT APPEARS MORE LIKELY THAT THIS IS SIMPLY

1 DONE IN RESPONSE TO THE FACT THAT THERE IS NOW A DIVORCE
2 PROCEEDING. MS. PERRETT HAS BEEN LIVING AWAY FROM HER
3 HOME FOR SEVERAL MONTHS NOW, AND I THINK THE EVIDENCE
4 BEFORE THE COURT IS THAT SHE HAS BEEN WORKING
5 SUCCESSFULLY, DOING A GOOD JOB AND CARRYING ON WITH HER
6 LIFE. IT'S NOT DISPUTED THAT THIS HOUSE BELONGS IN SOME
7 PART AT LEAST IN PART TO MS. PERRETT. IT WAS THE FAMILY
8 HOME. IT WAS THE HOME OF BOTH MY CLIENT AND MS. PERRETT.
9 SO THAT'S NOT DISPUTED, BUT SHE LEFT VOLUNTARILY, AND,
10 ACTUALLY, I THINK FOR THE LAST FEW MONTHS IT'S OUR
11 OPINION AND OUR ARGUMENT TODAY THAT THINGS ARE PROCEEDING
12 TOWARDS DISSOLUTION OF THIS MARRIAGE.

13 AGAIN, THERE HAS BEEN NO INCIDENTS SINCE THE
14 MOVE-OUT OTHER THAN WHEN MS. PERRETT CHOSE TO GO TO THE
15 HOUSE FOR WHATEVER REASONS. THEN THERE WAS AN INCIDENT
16 WHEN EACH PARTY WAS SERVED. I CAN'T STRESS ENOUGH TO
17 THIS COURT THAT THE INCIDENT MS. PERRETT CLAIMS IS
18 DISPUTED AND ALSO NEVER HAD TO HAPPEN IF SHE HAD SIGNED A
19 RETURN OF NOTICE AND ACKNOWLEDGMENT. AGAIN, IT'S
20 DISPUTED THAT THIS IS A SEPARATE PROPERTY ASSET AND THE
21 WHOLE DISSOLUTION, I THINK, WILL REVOLVE AROUND THE
22 COURT'S DETERMINATION OF THAT ISSUE AT SOME FUTURE DATE.

23 ALL OF THE ALLEGATIONS IN REGARD TO
24 MR. SHIVERS' BEHAVIOR HAVE BEEN DISPUTED PREVIOUSLY IN
25 THIS COURT AND IN PAPERS FILED PREVIOUSLY AND CONSIDERED
26 BY THIS COURT. IN REGARD TO THE ALARM SYSTEM, A LOT HAS
27 BEEN MADE ABOUT THAT. I DON'T THINK IT'S REALLY
28 POSSIBLE, AND IN MR. SHIVERS' PRIOR DECLARATION TO THE

1 COURT HE STATED IT'S NOT POSSIBLE THAT THE ALARM HAS NO
2 DELAY. HE CANNOT GET INTO THE HOUSE HIMSELF IF THERE WAS
3 NOT A DELAY ALLOWING HIM TO GO FROM THE DOOR TO THE ALARM
4 SYSTEM TO SHUT IT OFF. WHETHER IT MALFUNCTIONED THAT
5 DAY, WHETHER THAT'S A MISREPRESENTATION DOESN'T REALLY
6 MATTER. IT'S JUST NOT LOGICAL, NOT POSSIBLE.

7 IN REGARD TO THE ADOPTION OF CECE, RESPONDENT
8 STATING THAT THE ADOPTION CERTIFICATE WE PROVIDED IS
9 SOMEHOW FORGED. HOWEVER, THAT'S THE ONLY ADOPTION
10 CERTIFICATE BEFORE THE COURT, SO THOSE ARE THE PAPERS IN
11 REGARD TO THE ANIMAL. AND I DON'T UNDERSTAND THE
12 ALLEGATION REGARDING BRUSH FIRES. IT'S BEEN RAINING
13 PRETTY HEAVILY THIS WINTER. I THINK THE HOUSE IS IN GOOD
14 SHAPE, AND HE'S TAKING CARE OF IT BECAUSE HE CONSIDERS IT
15 HIS HOUSE ALSO.

16 THE COURT: MS. GOULD-SALTMAN, YOUR CLIENT HAS
17 LITTLE JOE?

18 MS. GOULD-SALTMAN: SHE HAS BOTH DOGS, CORRECT.
19 THERE'S APPARENTLY SOME OTHER DOG IN THE HOUSE WHICH IS
20 NOT A DOG SHE WAS FAMILIAR WITH.

21 THE COURT: BUT THE COMMUNITY PROPERTY DOGS AS IT
22 WERE SHE CURRENTLY HAS.

23 MS. GOULD-SALTMAN: THE DOGS ACQUIRED DURING THE
24 TIME PARTIES WERE MARRIED ARE IN HER POSSESSION.

25 THE COURT: OKAY. MS. GOULD-SALTMAN, SINCE YOU
26 WERE LAST HERE HAVE THERE BEEN ANY INCIDENTS OF DOMESTIC
27 VIOLENCE OR STALKING?

28 MS. GOULD-SALTMAN: IT'S HARD -- WELL, IN TERMS OF

1 DOMESTIC VIOLENCE, THE PARTIES HAVE REMAINED APART. IN
2 TERMS OF STALKING, SHE YET AGAIN CHANGED HER E-MAIL
3 ADDRESS SO THAT THE CYBER STALKING WOULD STOP. AS THE
4 COURT MAY RECALL WHEN WE WERE LAST HERE ON THE ACTUAL
5 DATE OF THE HEARING THERE ARE E-MAILS THAT WERE PRINTED
6 FROM MY CLIENT'S E-MAIL ADDRESS BY PETITIONER, AND SHE
7 HAD SINCE CHANGED HER E-MAIL PASSWORD.

8 MS. PERRETT: MY PERSONAL ACCOUNT.

9 THE COURT: MS. GOULD-SALTMAN, I AM NOT IGNORANT
10 ABOUT COMPUTERS, BUT, ON THE OTHER HAND, I'M NOT AN
11 EXPERT. OKAY. SO IF YOU'RE TALKING ABOUT THE E-MAILS
12 THAT ARE ALL FROM YOUR CLIENT TO HIM, OKAY, THAT ARE ALL
13 FROM YOUR CLIENT TO HIM, HE OBVIOUSLY HAS THE ABILITY TO
14 PRINT THEM OUT BECAUSE THEY WERE ADDRESSED TO HIM.

15 MS. GOULD-SALTMAN: THAT'S ACTUALLY NOT THE CASE.
16 IF THE COURT WOULD TAKE A LOOK AT THE BOTTOM OF THE
17 E-MAILS NOT THE TOP, FIRST OFF THE TOP DOESN'T SAY WHO
18 THEY'RE FROM.

19 THE COURT: BUT I DON'T KNOW. MS. GOULD-SALTMAN, I
20 DON'T HAVE A DECLARATION OF THE COMPUTER EXPERT. I DON'T
21 KNOW, AND I DON'T THINK IT'S RIGHT FOR ME TO BE
22 CONDUCTING EXPERIMENTS HERE. NOW, I'D LOVE TO CONDUCT AN
23 EXPERIMENT, BUT THEY TOOK AWAY MY COMPUTER. IT CRASHED.
24 SO I DON'T KNOW WHETHER WHEN YOU PRINT OUT AN AOL E-MAIL
25 IN JANUARY THAT YOU RECEIVED LAST MAY, WHETHER IT SAYS
26 WHO THE FROM LINE IS OR WHETHER THAT'S BEEN WHITED OUT.
27 OKAY. I DON'T KNOW, AND I DON'T KNOW, YOU KNOW, THAT THE
28 FACT THE BOTTOM SAYS POLLYGO SHE SAYS THAT'S A SEPARATE

1 E-MAIL ADDRESS, I HAVE NO IDEA HOW THAT WORKS. THIS IS
2 OBVIOUSLY APPARENTLY AN E-MAIL FROM HER TO HIM LAST MAY,
3 SO ONE CAN ASSUME HE MIGHT HAVE BEEN ABLE TO RECEIVE A
4 COPY OF IT IN SOME OTHER FASHION OTHER THAN CYBER
5 STALKING. I CERTAINLY CAN'T CONNECT THE DOTS.

6 MS. GOULD-SALTMAN: THE ISSUE ISN'T WHETHER HE
7 RECEIVED THE UNDERLYING E-MAIL. THE ISSUE IS ON THE
8 BOTTOM ON THE DAY WE WERE HERE HE HAD TO USE
9 POLLYGO@AOL.COM, WHICH IS HER E-MAIL ACCOUNT USING A
10 PASSWORD SHE DID NOT GIVE HIM TO PRINT THIS E-MAIL ON
11 THAT DATE, AND THAT'S WHAT HE DID.

12 THE COURT: HOW COULD HE? IT WAS SENT MAY, '04.

13 MS. GOULD-SALTMAN: NO. HE PRINTED IT ON 1-4-05.

14 THE COURT: I REALIZE THAT, BUT IT'S FROM MAY.
15 WHEN DID SHE ESTABLISH POLLYGO?

16 MS. PERRETT: A FEW YEARS AGO, BUT TO GET INTO THE
17 ACCOUNT, YOU HAVE A PERSONAL FILING ACCOUNT.

18 THE COURT: BUT YOU WERE MARRIED IN MAY. THAT'S
19 BEFORE THE DATE OF SEPARATION. HOW COULD THAT BE CYBER
20 STALKING? MAYBE HE'S HAD THE PASSWORD SINCE THEN.

21 MS. GOULD-SALTMAN: SHE CHANGED THE PASSWORD. IN
22 HER DECLARATION SHE TESTIFIED SHE CHANGED HER PASSWORD.

23 THE COURT: I REALIZE THAT, BUT I CERTAINLY DON'T
24 THINK I CAN MAKE ALL THESE LEAPS ABOUT CYBER STALKING.
25 SO THINGS HAVE BEEN QUIET IN THE LAST 30 DAYS?

26 MR. BOYKIN: YES, YOUR HONOR.

27 THE COURT: OKAY. THAT'S GOOD. COURT IS GOING TO
28 RULE AS FOLLOWS: COURT FINDS THE PARTIES HAVE CERTAINLY

1 VERY DIFFERENT VIEW OF THE FACTS. WE'VE GOT TWO
 2 DIFFERENT WORLDS. AND YOU MAY END UP WITH A FAIRLY
 3 COMPLICATED DIVORCE ACTION BECAUSE ONE OF THE FIRST
 4 THINGS YOU DON'T AGREE UPON IS WHEN YOU SEPARATED. WE'VE
 5 GOT JUNE OVER HERE AND DECEMBER OVER THERE. WE WILL HAVE
 6 TO HAVE, IF YOU CAN'T COME TO SOME AGREEMENT, A TRIAL ON
 7 WHEN THE DATE OF SEPARATION TOOK PLACE BECAUSE IT MAY
 8 AFFECT YOUR PROPERTY RIGHTS AND OTHER IMPORTANT MATTERS
 9 WITH RESPECT TO YOUR DIVORCE.

10 IT IS OBVIOUS TO ME THAT CERTAINLY BACK IN
 11 THE PERIOD OF TIME WHEN THE RESPONDENT CLAIMS THE TWO OF
 12 YOU WERE BRAKING UP, THAT THE QUALITY OF YOUR
 13 COMMUNICATION WAS UNCIVILIZED AND THREATENING,
 14 UNPLEASANT, NOT NICE. AND WHETHER YOUR, YOU KNOW,
 15 ALLEGED SEPARATION AND THE REASONS FOR IT FUELED
 16 COMMUNICATION THAT WAS LESS THAN NICE AND BEHAVIOR THAT
 17 WAS LESS THAN NICE CERTAINLY PUTS ONE IN A DIFFICULT
 18 POSITION, AND I THINK THAT THE RESPONDENT VOLUNTARILY
 19 LEFT THE FAMILY RESIDENCE IN OR AROUND JUNE FOR SEVERAL
 20 REASONS, NOT JUST BECAUSE IT WAS AN ABUSIVE ENVIRONMENT,
 21 BUT BECAUSE SHE HAD WORK COMMITMENTS AND MAYBE THINGS TO
 22 SORT OUT.

23 YOU CANNOT CONTINUE WITHOUT RULES. IT'S NOT
 24 RIGHT. IT'S NOT RIGHT TO HAVE SOMEBODY COME IN THROUGH
 25 THE WINDOW. IT'S NOT RIGHT TO BE HAVING THE POLICE.
 26 IT'S NOT RIGHT TO BE, YOU KNOW, PLAYING GAMES WITH WHAT
 27 UNFORTUNATELY IS YOUR TOTALITY OF MARITAL PROPERTY. IT
 28 IS OF NO INTEREST TODAY WHO PAYS THE BILLS. THERE IS NO

1 REQUEST FOR FINANCIAL RELIEF. NO ONE HAS ASKED FOR HELP
 2 WITH MONEY. WE KNOW THAT JUST BECAUSE PRESUMPTIVELY IN
 3 FAMILY LAW SOMEBODY HAS THEIR NAME ON SOMETHING DOESN'T
 4 MEAN IT'S THEIRS. THIS MAY BE A MIXED ASSET, MAY HAVE A
 5 COMMUNITY INTEREST IN IT EVEN IF IT DIDN'T -- THE FACT IT
 6 IS THE MARITAL HOME MEANS EACH OF YOU HAVE A CO-EXISTENT
 7 RIGHT TO RESIDE THERE.

8 I THINK THERE IS SUFFICIENT WELL-FOUNDED FEAR
 9 ON THE PART OF THE RESPONDENT, AND IF I PROPERLY HAD A
 10 REQUEST FROM THE PETITIONER I MIGHT EVEN FIND
 11 WELL-FOUNDED EMOTIONAL FEAR ON HIS PART, BUT I DON'T.
 12 BUT CERTAINLY TO BELIEVE THAT THE RESPONDENT DESERVES THE
 13 COMFORT OF PEACE AND QUIET OF THE KNOWLEDGE THAT THERE IS
 14 A RULE THAT SAYS THERE IS PEACE AND QUIET, SO THE COURT
 15 IS GOING TO GRANT A RESTRAINING ORDER AGAINST THE
 16 PETITIONER. IT WILL BE A NO CONTACT, NO STALKING, NO
 17 WRITING, NO E-MAILS, NO PASSWORDS, STAY 100 YARDS AWAY,
 18 AND THIS MAY CAUSE A LITTLE BIT OF DIFFICULTY, BUT I SEE
 19 NO FAMILY CODE SECTION 6321 (A) (2) BEHAVIOR THAT SAYS
 20 THAT MR. SHIVERS HAS ENGAGED IN AN ASSAULT, THREAT OF AN
 21 ASSAULT, OR BEHAVIOR THAT RISES TO THE LEVEL OF SUCH
 22 SEVERE EMOTIONAL HARM THAT HE NEEDS TO BE EXCLUDED FROM
 23 HIS HOME.

24 SO I GRANT AN EXCLUSIVE USE AND POSSESSION OF
 25 THE FAMILY RESIDENCE TO THE PETITIONER. THE RESPONDENT
 26 BECAUSE OF THE RESTRAINING ORDER MAY NEED TO HAVE ACCESS
 27 TO THE FAMILY RESIDENCE. THAT WILL BE AN EXCEPTION TO
 28 THE RESTRAINING ORDER. SHE CAN HAVE ACCESS TO THE HOUSE

1 UPON 48 HOURS NOTICE TO INSPECT IT, GET IT FIXED, DO
2 WHATEVER SHE NEEDS TO DO, GET HER THINGS, AND SHE CAN
3 BRING WHOMEVER SHE LIKES, SHE CAN BRING AN ARMED GUARD IF
4 SHE NEEDS TO. SHE CAN REASONABLY REQUEST, SIR, THAT YOU
5 VACATE THE PREMISES AND STAY AWAY FOR SOME HOURS AT A
6 CONVENIENT TIME AND THAT COMMUNICATION ABOUT HER ACCESS
7 TO THE RESIDENCE SHOULD TAKE PLACE BETWEEN ATTORNEYS NOT
8 BETWEEN THE TWO OF YOU.

9 I SEE NO REASON WHY YOUR DIVORCE CAN'T RUSH
10 TO THE FINAL NOTE, WHICH IS IF THE RESPONDENT WISHES THIS
11 FAMILY RESIDENCE AND IT HAS A VALUE TO THE COMMUNITY, WE
12 CAN ASCERTAIN WHAT THAT IS, PAY MR. SHIVERS HIS SHARE,
13 AND SEND HIM ON HIS WAY. WE'RE NOT THERE YET. SO I'M
14 GOING TO MAKE THIS RESTRAINING ORDER LAST FOR NINE
15 MONTHS. I THINK THAT IS PLENTY TO GET YOU THROUGH A MINI
16 TRIAL ON DATE OF SEPARATION IF WE HAVE TO AND A MINI
17 TRIAL ON WHAT HAPPENS TO THE FAMILY RESIDENCE AND HOW
18 MUCH MONEY IT IS. IF IT DOESN'T DO THE TRICK, IT CAN BE
19 EXTENDED, BUT THE COURT MAKES THIS RESTRAINING ORDER
20 AUTOMATICALLY EXPIRE OCTOBER 31ST, 2005 UNLESS TO
21 TERMINATE SOONER BY AGREEMENT OF THE PARTIES SUBJECT TO
22 THE COURT SIGNING OFF ON IT OR EXTENDED BECAUSE THE
23 PARTIES' DIVORCE IS NOT FINISHED AND MS. PERRETT STILL
24 HAS CONCERNS ABOUT CONTACT FROM MR. SHIVERS.

25 THE TWO DOGS CECE AND LITTLE JOE ARE IN
26 MS. PERRETT'S POSSESSION. THEY REMAIN IN HER POSSESSION
27 UNTIL WE MAKE A DETERMINATION AS TO THEIR COMMUNITY OR
28 SEPARATE NATURE. I HAVE DONE DOGS BEFORE. THEY'RE VERY

1 IMPORTANT TO PEOPLE. QUESTIONS OR COMMENTS, COUNSEL.

2 MR. BOYKIN: THERE WAS A REQUEST FOR ATTORNEY'S
3 FEES.

4 THE COURT: DENIED. I HAVE NO I.M.E.'S. BRING IT
5 UP AT A LATER DATE.

6 MS. GOULD-SALTMAN: YOUR HONOR, IF I'M
7 UNDERSTANDING YOU CORRECTLY, IF YOU'RE GRANTING TO
8 PETITIONER EXCLUSIVE USE OF THE PROPERTY, PETITIONER HAS
9 MADE NO REQUEST FOR EXCLUSIVE USE OF THE PROPERTY. UNDER
10 WHAT BASIS IS THE COURT GRANTING PETITIONER'S EXCLUSIVE
11 USE?

12 THE COURT: UNDER THE BASIS THAT IF MS. PERRETT
13 REALLY WANTS A RESTRAINING ORDER, I NEED TO GIVE SOMEBODY
14 EXCLUSIVE USE OR SHE'LL BE GOING OVER THERE VIOLATING
15 HIM.

16 MS. GOULD-SALTMAN: SINCE THERE'S NO RESTRAINING
17 ORDER AGAINST HER, IS THERE ANY -- AND THERE'S NO REQUEST
18 BY HIM FOR EXCLUSIVE USE, I DON'T BELIEVE THE COURT HAS
19 THE POWER TO GRANT HIM EXCLUSIVE USE THAT HE HASN'T ASKED
20 FOR. THE COURT MAY GRANT OR DENY MY CLIENT'S REQUEST FOR
21 EXCLUSIVE USE, BUT I DON'T THINK THE COURT CAN GRANT HIM
22 AN ORDER THAT'S NEVER BEEN REQUESTED. THERE'S NO
23 JURISDICTION. NOBODY HAS GIVEN THIS COURT THE RIGHT TO
24 MAKE AN ORDER SIMILAR TO THE CASE BEFORE YOU PRIOR TO US.

25 THE COURT: THAT'S WHY I ASKED YOU ABOUT WHAT YOU
26 PUT UNDER YOUR REGULAR FAMILY LAW O.S.C. I MEAN --

27 MS. GOULD-SALTMAN: IT ASKED FOR EXCLUSIVE USE TO
28 MY CLIENT, WHICH THIS COURT MAY GRANT OR DENY, BUT I

1 DON'T BELIEVE THIS COURT HAS JURISDICTION TO GRANT
2 PETITIONER EXCLUSIVE USE OF THE PROPERTY.

3 THE COURT: OKAY. DO YOU AGREE WITH HER?

4 MR. BOYKIN: I DON'T, YOUR HONOR. I THINK THIS
5 COURT DOES HAVE THE DISCRETION TO GRANT IT. IT'S NOT
6 INCONSISTENT WITH WHAT'S REQUESTED.

7 MS. GOULD-SALTMAN: IT'S ABSOLUTELY INCONSISTENT
8 WITH THE RELIEF REQUESTED. IT'S 180 DEGREES.

9 THE COURT: LET ME PUT IT TO YOU THIS WAY. SHE CAN
10 HAVE A CHOICE OF NO RESTRAINING ORDERS OR EXCLUSIVE USE
11 TO HIM, BUT I CAN'T HAVE A RESTRAINING ORDER WITH THE
12 FAMILY RESIDENCE WITH HIM IN PLACE WITH HER GOING IN,
13 THROUGH THE WINDOW OR HE'LL GET ARRESTED. THAT'S NOT
14 RIGHT.

15 DO YOU WANT ME TO PUT EXCEPT -- HOW ABOUT
16 THIS? I WILL DO THE FOLLOWING IF THIS MAKES IT BETTER:
17 THERE WILL BE NO 100-YARD STAY AWAY AND NO NO-CONTACT
18 ORDER WHENEVER MS. PERRETT CHOOSES VOLUNTARILY TO STEP
19 ONTO THE PROPERTY. HOW IS THAT? SO THERE WILL BE NO
20 RESTRAINING ORDERS IN EFFECT ON THE PROPERTY.

21 MS. GOULD-SALTMAN: WELL, IN TERMS OF THE NO
22 CONTACT CLEARLY ASSAULT, BATTERY, ETC. WOULD STILL BE IN
23 PLACE. IF THEY PASS EACH OTHER IN A HALL, IT WOULD BE
24 LESS THAN 100 YARDS, NO BIG DEAL, BUT HE STILL COULDN'T
25 SLUG HER.

26 THE COURT: NO, HE CAN'T SLUG HER, BUT HE CAN
27 CONTACT HER, SO THE NO CONTACT ORDER WOULD NOT BE IN
28 PLACE. THE OTHER, WHICH IS SEPARATE, THE CONDUCT ORDER,

1 THAT WOULD REMAIN IN PLACE. SO THE CONDUCT ORDER WITH
2 THE EXCEPTION OF NO CONTACT.

3 MR. BOYKIN: WOULDN'T IT BE SIMPLER TO JUST AGREE
4 TO STIPULATE TO --

5 THE COURT: SHE'S RAISED THE ISSUE. I'M TRYING TO
6 MAKE IT WORK FOR YOU.

7 MR. BOYKIN: I AGREE, WHATEVER WE HAVE TO DO WE'LL
8 DO, BUT COULD WE NOT STIPULATE TO THE COURT'S ORDER?

9 MS. GOULD-SALTMAN: I'M OPPOSING EXCLUSIVE USE.

10 THE COURT: IF NOWHERE IN THERE IN THE DEPTHS OF
11 YOUR PAPERWORK YOU SAID GIVE US EXCLUSIVE USE, AND IT
12 DOESN'T SEEM TO MAKE SENSE TO DO SO TO KEEP THE PEACE,
13 THEN I CAN MAKE A RESTRAINING ORDER THAT SAYS SINCE
14 YOU'RE LIVING THERE THAT MS. PERRETT IS NOT LIVING THERE,
15 AND AQT ANY TIME SHE WISHES TO VISIT THE PROPERTY, BE
16 THERE, THE RESTRAINING ORDERS WON'T APPLY EXCEPT FOR THE
17 NO HARASS, MOLEST, THREATEN, ATTACK, STRIKE, SEXUALLY
18 ASSAULT.

19 MR. BOYKIN: HOW OFTEN WOULD SHE REQUEST TO COME
20 BY?

21 THE COURT: AT ANY TIME, ANY TIME SHE WANTS. SHE
22 CAN MOVE INTO THE SPARE ROOM IF SHE WANTS TO UNTIL YOU
23 GJYS BRING ME A DIFFERENT O.S.C.

24 MS. GOULD-SALTMAN: IS THIS COURT'S RULING BASED ON
25 THE FACT PER THE COURT'S QUESTION THAT THERE HASN'T BEEN
26 A PROBLEM THE LAST 30 DAYS BECAUSE MY CLIENT HAS STAYED
27 AWAY?

28 THE COURT: NO, I THINK THERE'S BEEN VERY LITTLE

1 PROBLEM IN THE LAST SIX MONTHS, VERY LITTLE PROBLEM, A
2 FEW E-MAILS AND YOUR ALLEGATION WITHOUT A SCIENTIFIC
3 ANALYSIS THAT MAKES IT TOTALLY IRREFUTABLE, THE WORST
4 THINGS THAT HAPPENED WERE ON THE OCCASION WHEN
5 MS. PERRETT WENT TO THE RESIDENCE AND BROUGHT THE COPS
6 AND WENT THROUGH THE WINDOW.

7 MR. SHIVERS, I THINK, YOU'RE BEHAVING RATHER
8 BIZARRELY. I THINK IT'S A LITTLE BIT CREEPY TO HAVE
9 PAPER BAGS OVER THE WINDOWS, STUFF LIKE THAT. IT DOESN'T
10 LOOK PRETTY, RIGHT? BUT THAT'S NOT A CRIME. IT'S NOT A
11 CRIME, BUT IT DOES LOOK WEIRD. I AGREE. IT LOOKS
12 STRANGE, BUT I DON'T ISSUE RESTRAINING ORDERS AGAINST
13 STRANGE PEOPLE. I ISSUE RESTRAINING ORDERS AGAINST
14 PEOPLE THAT ARE VIOLENT OR SCARING PEOPLE. I THINK BACK
15 IN JUNE WHICH IS MOST OF THE EVIDENCE YOU'VE GOT IS WHEN
16 IN JUNE THEY WERE BREAKING UP. YOUR COMMUNICATION, BOTH
17 OF YOU, BUT YOU'RE NOT ASKING FOR ANY, BUT YOUR
18 COMMUNICATION WHAT WAS GOING ON IN YOUR RELATIONSHIP WAS
19 LESS THAN PRETTY. SO BASED ON HISTORY OF EMOTIONAL ABUSE
20 I'M GRANTING THE RESTRAINING ORDER. HOWEVER, IT DOES NOT
21 RISE TO THE LEVEL OF ASSAULT THAT A PERSON NEEDS TO BE
22 THROWN OUT OF THEIR HOME, END OF STORY.

23 MS. GOULD-SALTMAN WILL PREPARE THE
24 APPROPRIATE RESTRAINING ORDER WITH THE EXCEPTIONS, AND I
25 WILL SEE YOU BACK.

26 MS. GOULD-SALTMAN: THANK YOU, YOUR HONOR.
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
THE COUNTY OF LOS ANGELES

DEPARTMENT CE82 HON. GRETCHEN W. TAYLOR, COMMISSIONER

FRANCIS COYOTE SHIVERS,)
PETITIONER,)
VS.)
LAURA PAULINE PERRETT)
RESPONDENT.)

NO. BD417230
REPORTER'S
CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

I, ZOHRA RAHMAN, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING
PAGES, 1 THROUGH 17, INCLUSIVE, COMPRISE A FULL, TRUE AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON JANUARY 31, 2005.

DATED THIS 2ND DAY OF FEBRUARY, 2005.

Zohra Rahman

ZOHRA RAHMAN, RPR
OFFICIAL REPORTER
CSR*11396