

DEC 31 2009

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES - WEST**

10
11 **BARRY WILLIAMS, an individual,**

12 **Petitioner,**

13 **v.**

14 **ELIZABETH KENNEDY, an individual,**

15 **Respondent.**

CASE NO. SQ004289

[Assigned to The Hon. David J. Cowan]

**ELIZABETH KENNEDY'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
PETITIONER'S REQUEST FOR
TEMPORARY RESTRAINING ORDER;
DECLARATION OF ELIZABETH
KENNEDY**

**[DV-120 ANSWER TO TEMPORARY
RESTRAINING ORDER FILED
CONCURRENTLY HEREWITH]**

Date: January 4, 2010

Time: 8:45 a.m.

Dept.: WEE

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22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **I. INTRODUCTION**

24 Petitioner Barry Williams ("*Petitioner*") seeks an order preventing domestic violence by
25 Elizabeth Kennedy ("*Ms. Kennedy*"). The imposition of a restraining order against Ms. Kennedy is
26 improper as Petitioner has failed to set forth sufficient facts to demonstrate that Ms. Kennedy is in
27 any way a threat to his personal safety. Petitioner's request for restraining order is nothing other
28 than an attempt to embarrass and defame Ms. Kennedy, being brought in retaliation for her

1 incurring "excessive" charges on his credit card while they were living together. Moreover,
2 Petitioner is aware that Ms. Kennedy is retaining counsel for a palimony suit and wrongful
3 termination claim and this restraining order is his attempt to obtain some type of advantage in the
4 anticipated litigation. As is demonstrated below and in Ms. Kennedy's accompanying declaration,
5 Ms. Kennedy has done nothing to justify the imposition of such a restraining order.

6 **II. MR. WILLIAMS CANNOT DEMONSTRATE CREDIBLE FACTS TO**
7 **JUSTIFY IMPOSING A RESTRAINING ORDER ON MS. KENNEDY.**

8 If the Court proceeds with the evidentiary hearing, the Court is requested to view
9 Petitioner's application in light of the true facts and context. Petitioner, a 55 year-old actor, had an
10 employment relationship with a then 26-year-old woman with whom he lived. Petitioner, a child
11 star on the television show "The Brady Bunch", wined, dined, and seduced Ms. Kennedy, a young
12 girl half his age, when he first employed her. Petitioner terminated her employment and ended their
13 relationship on the untrue excuse that Ms. Kennedy overcharged his credit card, without his
14 knowledge. Ms. Kennedy has no intention of initiating contact with Mr. Williams or having
15 anything to do with him. All future contact will be through her legal counsel. It is wrong for
16 Petitioner to try to use this Court to obtain a restraining order to obtain an advantage in future
17 litigation.

18 An order may be issued under the Domestic Violence Prevention Act ("**DVPA**") to restrain a
19 person for the purpose of "preventing a recurrence of domestic violence and ensuring a period of
20 separation of the persons involved. . . if [the petitioner] shows, to the satisfaction of the court,
21 reasonable proof of a past act or acts of abuse." Family Code § 6300.

22 "Abuse" within the meaning of the DVPA means either intentionally or recklessly causing
23 or attempting to cause bodily injury; sexual assault; placing a person in "reasonable apprehension"
24 of imminent serious bodily injury to that person or another; or engaging in any behavior that has
25 been or could be enjoined pursuant to Family Code § 6320. Family Code § 6203(a) - (d).
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1 Petitioner fails to set forth the required abuse in his Request for Order. His allegations of
2 abuse, which are denied by Ms. Kennedy, consist of:

- 3 • She threatened to kill herself on August 20, 2009, and then threatened him as well.
- 4 • She knocked his eye glasses off his face on September 25, 2009.
- 5 • She attempted to pull out a knife from a knife holder on November 23, 2009. (But
6 apparently she did not do so.)
- 7 • She tried to kick him but missed.
- 8 • She threatened to destroy his personal belongings.

9 Ms. Kennedy denies that she ever threatened to kill herself or him. In fact, she was not even
10 in the State of California on the date that Petitioner alleges the threat occurred. This fabrication
11 seriously undermines Petitioner's credibility. Ms. Kennedy denies that she ever knocked
12 Petitioner's glasses off his face. It is noteworthy that Petitioner fails to set forth the circumstances
13 behind this incident. There is no allegation that Ms. Kennedy struck Petitioner or took any actions
14 which would be violent. The truth of the matter is that she never hit or struck Petitioner.

15 Ms. Kennedy further denies that she ever tried to pull a knife from a knife holder other than
16 to cook a meal. Petitioner's allegations that Ms. Kennedy "attempted to pull out a knife from a
17 knife holder" is without basis in fact or reality. It is again noteworthy that she never pulled out the
18 knife nor pointed it at him. His suggestion that had he not restrained her she would have pulled out
19 the knife is speculation, even if believed. Ms. Kennedy denies that she ever did such and she has no
20 history of violence or aggression.

21 Ms. Kennedy further denies that she ever kicked or struck Petitioner. She never kicked him
22 and there is no allegation that she ever did such. It is important to keep in mind that Petitioner is 6'0
23 and 180 lbs. while Ms. Kennedy is 5'2 and 103 lbs. The idea that Petitioner is reasonably concerned
24 about his safety, when he was never struck, hit, kicked, assaulted or battered is ridiculous.

25 Finally, there is no truth as to Petitioner's allegations that Ms. Kennedy threatened to destroy
26 his personal property. Ms. Kennedy denies that she ever made such a threat. There is no allegation
27 that she did destroy his personal property even when she was thrown out of the house in which they
28 both lived. Petitioner's allegations are baseless.

1 As such, Petitioner's allegations do not satisfy Family Code § 6203(e), since the basis of the
2 statute is to prevent behavior that "has been or could be enjoined pursuant to Family Code § 6320"
3 including: "molesting, attacking, striking, stalking, threatening, sexually assaulting, battering,
4 harassing, telephoning, including, but not limited to, annoying telephone calls . . . destroying
5 personal property, contacting by mail or otherwise . . ."

6 Petitioner has not alleged that he was molested, attacked, stalked, sexually assaulted,
7 harassed or had personal property destroyed. The only allegation (which is denied) is that she
8 knocked off his glasses on one occasion- which hardly rises to the level to obtain a permanent
9 restraining order.

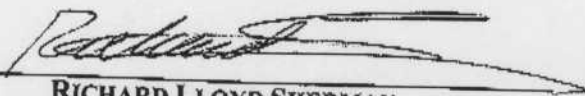
10 Petitioner has failed to set forth sufficient evident to demonstrate that Ms. Kennedy is a
11 danger to him, or that he a reasonable fear that she will inflict upon him any imminent harm.

12 The Court is requested to view Petitioner's application and testimony in the context of what
13 this is really about. Petitioner is upset because Ms. Kennedy, while they were living together, spent
14 monies on his credit card and the ATM, which he now contends was excessive and unauthorized.
15 While there is no basis for a court to order any such restraint, Ms. Kennedy has no intention of
16 initiating contract with Petitioner other than through her legal counsel.

17 Ms. Kennedy respectfully requests that this Court deny Petitioner's Request for Order. If
18 Petitioner feels that he is owed money by Ms. Kennedy, then he has other remedies. Ms. Kennedy
19 was Petitioner's employee and his callous treatment of her in the way he terminated her
20 employment and ended their relationship will be the subject of future litigation.

21
22 Dated: December 30, 2009

SHERMAN LAW GROUP

23
24 By: 
25 **RICHARD LLOYD SHERMAN**
26 Attorneys for Respondent Elizabeth Kennedy
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28

- 1 Name of person who asked for the order (protected person):
Barry Williams
- 2 Your name: Elizabeth Kennedy
Your address (skip this if you have a lawyer): (If you want your address to be private, give a mailing address instead):

City: _____ State: _____ Zip: _____

Your telephone (optional): _____

Your lawyer (if you have one): (Name, address, telephone number, and State Bar number):

Richard Lloyd Sherman, Esq. (SBN 106597)
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Beverly Hills, CA 90212-2911
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Give the judge your answers to DV-100:

- 3 Personal Conduct Orders
I do do not agree to the order requested.
- 4 Stay-Away Order
I do do not agree to the order requested.
- 5 Move-Out Order
I do do not agree to the order requested.
- 6 Child Custody
 - a. I do do not agree to the custody order requested.
 - b. I am not the parent of the child listed in DV-105.
 - c. I ask for the following custody order (specify):

d. I do do not agree to the orders requested to prevent child abduction.

- 7 Visitation
 - a. I do do not agree to the visitation order requested.
 - b. I ask for the following visitation order (specify):

- 8 Child Support
 - a. I do do not agree to the order requested.
 - b. I agree to pay guideline child support.
 You must fill out, serve, and file Form FL-150 or FL-155.

- 9 Spousal Support
I do do not agree to the order requested.
Whether or not you agree, you must fill out, serve, and file Form FL-150.

Clerk stamps date here when form is filed.

FILED
 LOS ANGELES SUPERIOR COURT
 DEC 31 2009
 JONNA A. CLARKE, CLERK
 DEPUTY

Fill in court name and street address:

Superior Court of California, County of
 LOS ANGELES
 Santa Monica Courthouse
 1625 Main Street
 Same
 Santa Monica, CA 90401

Clerk fills in case number:
 Case Number:
 SQ004289

The judge can consider your Answer at the hearing. Write your hearing date and time here:

Hearing Date → Date: 1/4/10 Time: 8:30A
 Dept.: E Room: 111

You must obey the orders until the hearing.
 If you do not come to this hearing, the judge can make the orders last for 3 years or longer.

Your name: Elizabeth Kennedy

Case Number:
SQ004289

- 10 **Property Control**
I do do not agree to the order requested.
If you have other requests, list them in 20 below.
- 11 **Debt Payment**
I do do not agree to the order requested.
If you have other requests, list them in 20 below.
- 12 **Property Restraint**
I do do not agree to the order requested.
If you have other requests, list them in 20 below.
- 13 **Attorney Fees and Costs**
I do do not agree to the order requested.
- 14 **Payments for Costs and Services**
I do do not agree to the order requested.
- 15 **Animals**
I do do not agree to the order requested.
- 16 **Batterer Intervention Program**
I do do not agree to the order requested.
- 17 **Other Orders** (see item 21 on Form DV-100)
I do do not agree to the orders requested.
- 18 **Turn in guns or other firearms.**
a. I do not own or have any guns or firearms.
b. I have have not turned in my guns and firearms to the police or a licensed gun dealer.
c. A copy of the receipt is attached. has already been filed with the court.
You must file a receipt with the court within 48 hours after being served with temporary orders.
- 19 **I ask the court to order payment of my**
a. Attorney fees
b. Out-of-pocket expenses because the temporary restraining order was issued without enough supporting facts. The expenses are:
Item: _____ Amount: \$ _____ Item: _____ Amount: \$ _____
You must fill out, serve, and file Form FL-150.

- 20 **My Answer to the Statements in DV-100 and Other Requests**
Please attach your statement. Write "DV-120, Item 20—More Information" at the top. Be specific.

- 21 I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: December 30, 2009

Elizabeth Kennedy
Type or print your name

Elizabeth Kennedy
Sign your name

1 DV-120, ITEM 20 – MORE INFORMATION

2 DECLARATION OF ELIZABETH KENNEDY

3 I, Elizabeth Kennedy, hereby declare and state as follows:

4 1. I am the person identified in paragraph 2 of Barry Williams's DV-110 Temporary
5 Restraining Order as the "Restrained Person" and the person Mr. Williams "want(s) protection from"
6 as stated in paragraph 2 of his DV-100 Request for Order (Domestic Violence Prevention). I make
7 this declaration in answer and in opposition to his request for a Restraining Order. I have personal
8 first hand knowledge of the facts stated herein and if called to testify as a witness, I could and would
9 testify to the following facts.

10 2. I first met the applicant Barry Williams in April of 2006. At the time, he was 51 years
11 old; I recognized at the time that he was the former child star of the television show "The Brady
12 Bunch." Barry Williams pursued me aggressively romantically until I agreed to enter into a
13 romantic/work relationship with him. At the time, I was 27 years old.

14 3. Thereafter, I was dedicated partner to Mr. Williams. As part of our relationship, I not
15 only provided emotional support for Barry Williams, but Barry often trusted me to be in sole
16 supervision of his minor son Brandon Williams. As just one example, I was listed on documentation
17 at Brandon Williams' pre-school in Santa Monica as having been expressly granted authority to pick
18 up Brandon after school and to be recognized by school officials as a trustworthy caregiver. I am thus
19 especially shocked by the current allegations made against me, that I am somehow a violent person,
20 and I believe it should be obvious that they are untrue based upon the fact that Mr. Williams had
21 trusted me with the care of his minor son throughout the duration of our relationship.

22 4. On November 17, 2009, Barry received a telephone call from Marianne Yhounkeere,
23 his financial advisor at Merrill Lynch, alerting him to supposedly "suspicious activity" on his Visa
24 card. I had no involvement in this "suspicious activity," but thereafter, on November 23, 2009, he
25 began to suddenly accuse me of having "stolen" \$50,000 from him. I now believe that these
26 outrageous accusations were simply an untrue "pre-text" to end our relationship and my employment
27 with him.

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1 5. He now apparently claims that this is the same date (November 23, 2009) that I
2 attempted to pull a knife on him; no such event ever took place. In fact, none of the events in which
3 Mr. Williams claims I acted violently took place— they are all complete and obvious fabrications.

4 6. Mr. Williams claims that I threatened to commit suicide and to murder him as well
5 after losing a "beauty pageant." He is referring to a Miss Hawaiian Tropic fitness pageant on August
6 15, 2009, that I had entered purely for fun and for the experience. At all relevant times, we were in
7 the constant company of Barry Williams' minor son Brandon, who would have witnessed any such
8 outburst. If such an event had taken place, I believe that (a) Brandon would have reported it to his
9 mother and Barry Williams's divorced wife Eila, and (b) Eila in turn would have immediately
10 forbidden any further contact with her child. This did not take place, and in fact the opposite took
11 place: I was placed in charge of Brandon after said pageant for a three-week period.

12 7. Mr. Williams claims that the foregoing took place on August 20, 2009. This is
13 incorrect, and Mr. Williams is confused. I was not even in the same state as Mr. Williams on August
14 20, 2009 as he was out of the state for a Kansas City musical called "Church Basement Ladies 2: A
15 Second Helping."

16 8. Mr. Williams also claims that I knocked eyeglasses from his face on or about
17 September 25, 2009. This never took place. Mr. Williams also claims that I once tried to kick him
18 but missed. This is also untrue. Mr. Williams also claims that I threatened to destroy his personal
19 belongings. This is also untrue. I am 5'3" and 103 lbs., and Barry Williams is 6'0" and considerably
20 heavier than I am. The idea that I would provoke a physical confrontation with him is absurd. I am
21 stunned by the suggestion that a man the size of Barry Williams would think he needs a restraining
22 order to prevent being slapped by a woman of my size. I believe the more likely explanation is Barry
23 is being vindictive because of a financial dispute between us, and not because I pose any threat to him
24 or his property.

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10. I have no intention of initiating further contact with Mr. Williams or having anything further to do with him. All future contact will be through my legal counsel.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 30, 2009 in Beverly Hills, California.

Elizabeth Kennedy
ELIZABETH KENNEDY

