

This is the 1st affidavit
of Patrick Fox in this case
and was made on 29 January 2019

CA44915
Vancouver Registry

Court of Appeal

Regina

v.

Patrick Henry Fox

Affidavit of Patrick Henry Fox

I, Patrick Henry Fox, Software Engineer, of 555 Homer Street in the City of Vancouver, Province of British Columbia, make oath and say that:

1. I am the appellant in this matter and I have personal knowledge of the matters deposed to in this affidavit, except where the same are said to be based on information and belief, in which event I verily believe them to be true.

Complainant's Perjurious Testimony

2. Prior to trial, both Tony Lagemaat and Mark Myhre (Crown Counsel) told me directly and in person that they each had reviewed every page of the website upon which the criminal harassment conviction is based, and all of the content on that website, including every email between myself and Complainant which was published on the website, and every email between myself and Complainant which Mr. Myhre had printed from me prior to trial. In addition, Mr. Lagemaat stated during cross examination, that he has "seen all of the emails" (TR 2017-06-14 p3/37).

3. Based on Mr. Lagemaat's and Mr. Myhre's respective admissions that they had reviewed every email between myself and Complainant and all of the content on the website, I believe it is reasonable to conclude that any content on the website which proved Complainant was committing perjury must have been known to Mr. Lagemaat and Mr. Myhre. And that by knowing of such content at the time of the trial Mr. Lagemaat and Mr. Myhre must have known Complainant was committing perjury while she was in the act of doing so.
4. Complainant falsely testified, repeatedly, she continued to engage me in communication and to allow our son, GR1, to visit me in Vancouver because she was required to under order of the family court.
 - TR 2017-06-13 p35/33-35
 - TR 2017-06-13 p60/30-33
 - TR 2017-06-14 p3/11-13
 - TR 2017-06-14 p38/32-36
 - TR 2017-06-15 p4/31-36, p4/40-42
 - TR 2017-06-15 p6/5-9
 - TR 2017-06-15 p33/43-44
 - TR 2017-06-15 p34/27-29
 - TR 2017-06-15 p34/41-44

However, Complainant admitted in her testimony, she “had full control over visitation and determining that visitation”.

TR 2017-06-15 p2/29-30

Also, the minute entries from the July 2014 family court hearing show I voluntarily waived all parental rights, and Complainant was, therefore, no longer required to allow ANY visitation or communication between myself and GR1.

After admitting she had “full control over visitation” Complainant continued to testify she was required, under court order, to communicate with me and to allow GR1 to visit me.

I had discussed Complainant's false claims that she was required, under court order, to communicate with me and to allow GR1 to visit me, with both Mr. Lagemaat and Mr. Myhre prior to trial because Complainant had also falsely stated

such in her RCMP interviews. Also, Complainant stated in her RCMP interviews that I had waived all parental rights in the family court order in July 2014, giving her sole authority in all matters pertaining to GR1 from that point forward. Therefore, Mr. Lagemaat and Mr. Myhre knew, at the time of Complainant's testimony, that her repeated claim of being required, under court order, to communicate with me and to allow GR1 to visit was false.

Mr. Lagemaat failed or refused to confront or to cross examine Complainant with the proof that her testimony was false. Both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

5. Complainant falsely testified I published pictures of her son, SC1, in his underwear, and that she did not publish the pictures to Facebook.

TR 2017-06-13 p19/33-41

Mr. Myhre had moved on from talking about the pictures of SC1 without referencing the pictures of SC1 in his underwear.

TR 2017-06-13 p19/31-32

But Complainant expressly remained on the topic of the pictures of SC1 and explicitly emphasized the pictures of him in his underwear.

TR 2017-06-13 p19/33-34

Complainant was also very deliberate to point out that she did not publish those pictures to Facebook.

TR 2017-06-13 p19/40-41

The above referenced testimony immediately followed very emotional testimony by Complainant about how SC1 has been harmed by being on the website; how it wasn't fair to SC1 because he's a 12 year old child and has done nothing to deserve these attacks by me; and about how any pedophile could find him on the website. Complainant also repeatedly testified she did not publish any of those pictures on Facebook.

TR 2017-06-13 p17/37 - p18/46

However, it was actually Complainant who did publish the pictures of SC1 in his underwear, on her public Facebook profile in 2009. Complainant then left those pictures on her public profile for seven years, until she made her Facebook profile non-public in February 2016, after the CBC story ran.

In February 2016, after I was interviewed by CBC, but before they ran the story, I made a copy of Complainant's public Facebook profile which I later posted to the website. The copy of Complainant's Facebook Timeline, which I put on the website, proves it was actually Complainant who published the pictures of SC1 in his underwear, not me.

As soon as I spoke with Mr. Lagemaat, following Complainant's false testimony about the pictures of SC1 in his underwear, I told Mr. Lagemaat Complainant was lying and informed him of the copy of her Facebook Timeline on the website, which would prove she's lying. Mr. Lagemaat acknowledged he was aware of and had seen the Facebook Timeline. Nevertheless, Mr. Lagemaat refused to cross examine Complainant on the pictures of SC1 in his underwear, or to confront her with the proof she had perjured herself regarding publishing the pictures.

Following Complainant's testimony regarding the pictures of SC1 in he underwear, I had also informed Mr. Myhre that Complainant had perjured herself, and I informed him of the Facebook Timeline on the website. Mr. Myhre stated he was aware of the Facebook Timeline.

Both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant had committed perjury.

I also brought up this issue during my sentencing submissions, and a printout of Complainant's Facebook Timeline, showing the pictures of SC1 in his underwear, having been published by Complainant in September 2009 was admitted as Exhibit 3.

When I confronted Mr. Myhre about this issue he insisted he was under no ethical obligation to inform the court of his witness committing perjury.

6. The Complainant falsely testified she wrote specific emails, upon which the allegations are based, but the emails were actually written by a third party.

TR 2017-06-14 p18/5-6

TR 2017-06-14 p23/26-28

TR 2017-06-14 p26/19-20

TR 2017-06-14 p29/23-24

TR 2017-06-14 p30/46-47

TR	2017-06-14	p31/43-45
TR	2017-06-14	p32/28-30
TR	2017-06-14	p34/26-27, p34/33
TR	2017-06-14	p34/44-45
TR	2017-06-14	p35/33-35
TR	2017-06-14	p38/14-16
TR	2017-06-14	p40/14-16
TR	2017-06-14	p43/29-31
TR	2017-06-14	p44/24-27
TR	2017-06-14	p44/35-38
TR	2017-06-14	p47/39-41
TR	2017-06-14	p63/42-45
TR	2017-06-15	p2/47 - p3/1
TR	2017-06-15	p4/5-6

In addition to the above emails in which Mr. Lagemaat directly and explicitly asked Complainant whether she wrote them and she explicitly and directly testified she did, in the following instances, Mr. Lagemaat either failed to directly ask Complainant whether she wrote the emails in question or he asked her and she failed to directly state she did write them. Nevertheless, Complainant's implication was that she had written the emails in question.

TR	2017-06-14	p18/34-37 (re l41-45)
TR	2017-06-14	p19/5-7 (re l10-15)
TR	2017-06-14	p21/8-11 (re l14-28)
TR	2017-06-14	p37/18-23 (re l28 - p38 l12)
TR	2017-06-14	p62/33-36 (re l39-46)

I told Mr. Lagemaat, prior to trial, that certain email conversations which the Crown was relying on were not actually composed by Complainant. Mr. Lagemaat replied he was aware of that; that it was obvious to him by the differences in writing style, grammar, vocabulary, brevity.

Near the end of Mr. Lagemaat's cross examination, Mr. Lagemaat told me Mr. Myhre had told him that before the start of the trial Complainant had told Mr. Myhre that she did not write some of the emails in the Crown's book of evidence which purported to be from her.

By Mr. Lagemaat's and Mr. Myhre's own admissions they knew Complainant did not write certain specific emails which both Mr. Lagemaat and Mr. Myhre had offered

into evidence as being emails written by Complainant. Neither Mr. Lagemaat nor Mr. Myhre took steps to prevent Complainant from committing perjury by testifying that she wrote the emails; nor did they notify the court or the jury that they had reason to believe Complainant was committing perjury.

When Mr. Myhre first questioned Complainant about the email thread with the subject "GR1's summer visitation 2015" he asked her whether she "participated in" the email string, rather than asking her whether she wrote any of the specific emails in the thread or whether my responses were to emails actually written by her. I believe Mr. Myhre phrased the question in that way because he knew most of the emails had not been written by Complainant.

7. Complainant falsely testified she never threatened me or threatened to destroy my life.

TR 2017-06-14 p58/1-9

Complainant was very emotional when she testified to that effect.

I directed Mr. Lagemaat to numerous emails from Complainant to me, from September 2011 through February 2013, wherein she and her fiancé, KL1, openly and repeatedly threatened me with physical harm; to take steps to have me arrested, detained and if possible deported from the US based on Complainant's false allegations; to file frivolous criminal charges against me; and to "publicly expose me" (which I understood to mean to "publicly defame me"). Mr. Lagemaat acknowledged he was already familiar with all of those emails. That being the case, Mr. Lagemaat must have known Complainant's testimony was false at the time she stated it.

I requested Mr. Lagemaat confront Complainant with the numerous emails wherein she and her fiancé repeatedly threatened me. Mr. Lagemaat failed to do so.

Almost all of the threatening emails from Complainant and her fiancé occurred prior to me being deported to Canada. At the time Complainant sent most of the threatening emails I was still living in Los Angeles; raising GR1 with no assistance from Complainant; and struggling to secure stable employment after spending four years in DHS custody. Complainant was unquestionably in a superior position, financially and otherwise.

I believe it was critical to cross examine Complainant on the emails where she threatened me because it would have shown the jury that Complainant was more often the one trying to intimidate and control me; that Complainant was the one who initiated any and all hostilities; that Complainant had been acting that way toward me long before I began retaliating in 2014 - AFTER I was deported and lost custody of GR1 as a direct result of her filing false reports with DHS against me.

Both Mr. Lagemaat and Mr. Myhre knew of the many threatening emails from Complainant. Therefore, they knew at the time of her testimony that she was committing perjury. But both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant had committed perjury.

I also brought this issue up during my sentencing submissions, and the court did agree the emails contained clearly threatening content. The emails were admitted as exhibits at sentencing.

8. Complainant falsely testified the California family court ordered her to return GR1 to me, in November 2011, without having heard from her.

TR 2017-06-12 p5/22-26

Complainant was, in fact, present at that hearing, by telephone, and addressed the court at length. The court rendered its ruling, ordering Complainant to return GR1 to my care, AFTER hearing from both of us.

The minute entries from the hearing, which were on the website, prove Complainant's testimony was false. Also, later on cross examination, Complainant admitted to participating in that hearing.

TR 2017-06-15 p40/23 - p41/32

Since the minute entries from the family court were on the website then both Mr. Lagemaat and Mr. Myhre knew of them. Therefore, they must have known at the time of Complainant's testimony that she was committing perjury. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

9. Complainant falsely testified she had been "okay with the custody arrangement"

imposed in the November 2011 (though actually the hearing in question occurred in December 2011), because it was what GR1 wanted.

TR 2017-06-12 p5/35-37

However, in September 2011, while Complainant was holding GR1 in Arizona under a temporary emergency custody order she obtained on false pretenses, GR1 told Complainant, while on a conference call between me, GR1 and Complainant, that he wanted to live with me and visit her on his school breaks. Complainant's immediate response, in mine and GR1's presence, was to accede; but immediately the following morning Complainant appeared in court in Arizona, requesting an order of protection against me to prohibit me from having any further contact with her and GR1.

The Arizona family court documents on the website prove this is so.

Following Complainant's false testimony, I informed Mr. Lagemaat of my conference call with GR1 and Complainant and how she had reacted. I informed Mr. Lagemaat of the application for the order of protection and that a copy was on the website. Mr. Lagemaat failed to confront Complainant about the conference call or about her attempting to obtain an order of protection in response to GR1 saying he wanted to live with me.

10. Complainant falsely testified many of the emails from me in 2011 and 2012 were "demanding, ordering, threatening, insulting, mean, hostile and aggressive".

TR 2017-06-12 p9/41-45

The very emails to which Complainant was referring, which were on the website, prove this is false. In fact, Complainant was the one consistently initiating hostilities, threats, insults, et cetera. Most of my emails prior to 2014 were civil, helpful, and I frequently went out of my way to be accommodating.

I believe the Crown soliciting this negative and false characterization of the emails from 2011 and 2012 gave them direct relevance for Mr. Lagemaat to cross examine Complainant on them. I further believe that by not confronting Complainant with the proof her statement was false Mr. Lagemaat left the jury with the impression it was true.

Since both Mr. Lagemaat and Mr. Myhre had reviewed every email thread on the

website then they both new at the time of her testimony that Complainant's statement was perjurious. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

11. Complainant falsely testified I CC'd or included GR1 on "most" and on "almost every" email I sent her.

TR 2017-06-12 p12/8-9
TR 2017-06-13 p22/21-22
TR 2017-06-14 p63/19-21
TR 2017-06-14 p65/32-35

The emails Mr. Myhre printed for me, which I provided to Mr. Lagemaat, included the CC and BCC headers, so they prove these statements were false. In fact, out of the 1095 emails I had sent Complainant between September 2011 and May 2016, I had only CC'd GR1 on 122 of them, and about half of those were conversations which GR1 was part of (e.g. visitation scheduling); Complainant had also CC'd GR1 on 38 of the 5603 emails she had sent me over that time.

Since both Mr. Lagemaat and Mr. Myhre received a copy of the emails printed for me by Mr. Myhre they knew at the time of Complainant's testimony that each time she made this claim she was committing perjury. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

12. Complainant falsely testified she was scared as a result of my email with the subject "Last attempt at an amicable resolution", dated 2013-07-21.

TR 2017-06-12 p14/35-40

Complainant's own responses to that email prove she was not scared, in fact Complainant's own words in her response, dated 2013-07-21 were:

"...do what you need to do. I am not scared and I have nothing to hide."

Then, in another response a day later (2013-07-22), Complainant wrote:

"I no longer care. Take it back to court - I am not scared and I have nothing to hide."

In addition to proving Complainant's claim of being scared by my email was

perjurious, her responses in her emails also provided explicit authorization, in writing, for me to do exactly what I did with the website, which forms much of the basis of the allegations of criminal harassment. Prior to trial I had repeatedly raised this issue with both Mr. Lagemaat and Mr. Myhre, insisting it cannot be considered harassment if I am merely doing exactly what Complainant had explicitly authorized me to do, saying she “didn't care”, and she's “not scared” and she “has nothing to hide”.

I insisted Mr. Lagemaat confront Complainant with her responses. He did not do so.

Since both Mr. Lagemaat and Mr. Myhre had reviewed Complainant's emails before trial they must have known at the time of her testimony that her statement was false - particularly since the email where she says she is not scared and has nothing to hide was included in the Crown's book of exhibits. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

Although the emails from Complainant, admitting she is not scared and she has nothing to hide were included in the Crown's book, they were, unfortunately, buried amongst the other emails in that thread and, I believe, would have been easily missed by the jurors unless explicitly brought to their attention, for example through cross examination.

13. Complainant falsely testified that when she wrote the email with the subject “Cease and desist”, on 2014-04-28, she was fearful for herself and her son.

TR 2017-06-12 p18/26-46

However, a Phoenix Police report from 2014-04-18; RCMP reports from April, June and July 2015; and Sahuarita Police reports from July 2015 through January 2016; all of which were on the website, show that Complainant never, during that time - from April 2014 through January 2016 - expressed any fear for her safety. Moreover, documents obtained since the trial, from agencies including Global Affairs Canada, prove that as far back as November 2011, Complainant has consistently and repeatedly been describing me to others as a “coward” and stating she does not believe I would harm her.

The above referenced police reports were publicly accessible on the website, so

both Mr. Lagemaat and Mr. Myhre must have known about them at the time of Complainant's testimony. Nevertheless, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was committing perjury.

14. Complainant falsely testified Steve Riess is my father.

TR 2017-06-12 p20/13-16

TR 2017-06-14 p24/21

As far back as 2011, and possibly even earlier, Complainant has periodically insisted my father is a man named Steve Riess from Ontario, and that I was born Ricky Riess in Ontario. Complainant's assertions to this effect usually occur in conjunction with her alleging I am not a US citizen, that I was living illegally in the US, and that I am not permitted to enter the US.

However, in January 2015, Complainant admitted in an email that she had sent my photo to Steve Riess and he was unable to identify me as his son. Complainant conceded in that email that Steve Riess is not my father.

Documents obtained since the trial, from CBSA and IRCC, show that the Canadian government acknowledges I was not born in Canada and am, therefore, not a Canadian citizen, further proving I am not Ricky Riess from Ontario and, therefore, Steve Riess cannot be my father.

Moreover, Ricky Riess from Ontario had been arrested in Toronto in the early 1990s. The mugshot and fingerprints from that arrest do not match mine. The RCMP and the Crown have had access to that booking information since before the current charges had been filed. I also told Mr. Lagemaat about the fact that those fingerprints and mugshot prove I am not that person and, therefore, Steve Riess cannot be my father.

Also, numerous emails between US DHS, CBSA, and the RCMP, which were known to Mr. Lagemaat and Mr. Myhre prior to trial, show those agencies acknowledging I am not a Canadian citizen and, therefore, cannot be the person who was born Ricky Riess, son of Steve Riess, in Ontario.

Complainant had stated, repeatedly, in her RCMP interviews that Steve Riess is my father, and that Mr. Riess is willing to do a DNA test to prove that. Prior to trial I told

Mr. Myhre that I, too, would very much like to participated in a DNA test, to prove once and for all, whether Steve Riess is my father - with the one condition that the verifiable results be provided to me so I may publish them. Mr. Myhre responded "That's not going to happen."

I had discussed the circumstances of my place of birth and citizenship, at length, with Mr. Lagemaat, Mr. Myhre, and the RCMP, prior to trial.

Given all of the foregoing facts and evidence, which were all known to Mr. Lagemaat and Mr. Myhre prior to trial, then they must have known at the time Complainant testified that she was committing perjury by testifying that my father is Steve Riess. Nevertheless, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

15. Complainant falsely testified she "certainly never contacted anyone" regarding me.
TR 2017-06-12 p20/27-31

However, in numerous emails in 2012 Complainant claimed to have contacted my associates, rabbi, father, ICE, and the FBI. And, in an email in February 2013 Complainant said she is going to contact "the Jewish community" to tell them GR1 and I are not Jewish so they would not help me in my legal challenges.

Moreover, in her own testimony Complainant admitted to contacting the person she claims to believe to be my father.

TR 2017-06-12 p20/15-18

And in her RCMP interviews Complainant also stated she had contacted the person she believed to be my father and spoke with him at some length. By Complainant's descriptions to the RCMP, her conversations with my supposed father were decidedly conspiratorial and adversarial against me.

Further, documents obtained since the trial, from Foreign Affairs, Trade and Development Canada contain Case Notes from the Canadian Consulate in Los Angeles which detail a phone call they received from Complainant on November 1, 2011, wherein Complainant falsely accused me of numerous offences; she attempted to instigate an investigation which could lead to my arrest, detention and deportation; and admits to also taking similar steps with US Immigration and Customs Enforcement (ICE). That call occurred BEFORE the California family

court ordered Complainant to return GR1 to me; BEFORE all the emails between Complainant and I; and years BEFORE the website was created. Although that document may not have been known to Mr. Lagemaat and Mr. Myhre at the time of Complainant's testimony, it nevertheless proves two critical points: 1) Complainant was committing perjury; and 2) Complainant began her attacks on me and her attempts to ruin my life long before any of my alleged attacks on her.

Both Mr. Lagemaat and Mr. Myhre knew of the emails and the RCMP interviews where Complainant admitted to contacting third parties about me, before trial. Therefore, they must have known when Complainant testified she "certainly never contacted anyone", she was lying. But neither Mr. Lagemaat nor Mr. Myhre confronted Complainant with the evidence she was lying, or took steps to inform the court or the jury they had reason to believe Complainant was committing perjury.

16. Complainant falsely testified that as of July 2014 she had not attempted to prevent communication or visitation between me and GR1.

TR 2017-06-12 p21/24-29

However, on at least two occasions prior to July 2014 Complainant had formally sought an order in the family court prohibiting all contact between me and GR1. The first time was in September 2011, while she had abducted GR1 to Arizona - Complainant had attempted to obtain an order of protection against me, naming herself and GR1 as the protected parties. The second time was in January 2013, while I was in ICE custody as a direct result of Complainant filing a false report against me with them - Complainant had explicitly requested the California family court issue an order prohibiting all contact between me and GR1.

The documents filed by Complainant, with the Arizona and the California family courts prove she did seek to prohibit all contact on both occasions. The family court documents were on the website, so both Mr. Lagemaat and Mr. Myhre knew of them at the time of Complainant's testimony.

There were other instances of Complainant deliberately interfering with, or prohibiting my contact with GR1, however it cannot be proven beyond a doubt that Mr. Lagemaat and Mr. Myhre knew of them at the time of Complainant's testimony.

Although Mr. Lagemaat and Mr. Myhre must have known Complainant was committing perjury, neither of them attempted to inform the court or the jury of such.

17. Complainant falsely testified I abruptly and without notice simply assumed the identity "Patrick Fox".

TR 2017-06-12 p23/11-15

And Complainant further falsely testified there was nothing linking the name Patrick Fox to my past.

TR 2017-06-12 p23/22-25

However, by her own admissions, in an RCMP interview (2016-07-13 at para. 470), Complainant stated I testified in the California family court in 2012 (though it was actually at the December 2011 hearing) that my birth name was Patrick Fox.

Also, as soon as I reverted to using the name Patrick Fox, in 2014, I promptly informed Complainant and, upon request, I provided her copies of my government issued identification. I was completely open, honest and forthright with Complainant, at all times, regarding my name and identity.

Both Mr. Lagemaat and Mr. Myhre had the transcript and the audio recording of the 2016-07-13 RCMP interview referenced above. In addition, Mr. Lagemaat also had my annotations to that interview. And both Mr. Lagemaat and Mr. Myhre had the emails where I informed Complainant that I would no longer be using the name Richard Riess; that I have returned to using my birth name, Patrick Fox ; and where I provided her copies of my ID. Therefore, Mr. Lagemaat and Mr. Myhre must have know that Complainant was committing perjury when she testified. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

Further on this issue, I believe Complainant is deliberately pretending to confuse the issue of my name and identity.

18. Complainant falsely testified she obtained her medical marijuana card in 2012.

TR 2017-06-12 p27/44-45

However, the actual card, the applications, and the supporting documents were on the website. They clearly show Complainant applied for the card immediately following her arrest for marijuana possession at the end of September 2011, and obtained the card in mid-November 2011.

Mr. Lagemaat and Mr. Myhre knew of the medical marijuana card and application on the website. So they must have known Complainant's statement was false at the time she made it. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was providing false testimony.

19. Complainant falsely testified Apollo Group's legal department was working with GoDaddy to have the website taken down.

TR 2017-06-12 p33/37-41

However, the email dated 2014-07-30, from me to "abuse@godaddy.com", with Complainant CC'd, shows that the complaint was actually filed from the Complainant's personal Gmail email address (i.e. d*****.c*****@gmail.com). Also, the emails show the complaint pertained ONLY to sending unsolicited emails from the DNS domain hosted by GoDaddy - the complaint had absolutely nothing to do with the website.

Mr. Lagemaat and Mr. Myhre knew of that email thread at the time of Complainant's testimony. They knew Complainant alone was the only participant in the complaint and that the complaint had nothing to do with the website. Therefore, Mr. Lagemaat and Mr. Myhre must have known Complainant was lying, yet they both refused to inform the court or the jury that they had reason to believe Complainant was lying.

20. Complainant falsely testified she filed a complaint with the Phoenix Police about the website.

TR 2017-06-12 p34/1-12

However, the Phoenix Police report of that complaint, which was on the website, proves Complainant was only complaining about me emailing her associates, not about the website.

Mr. Lagemaat and Mr. Myhre knew about that police report at the time of Complainant's testimony. Therefore, they must have known she was committing perjury. Both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

21. Complainant falsely testified that as of 2014-12-17 she did not know that I had guns in Canada.

TR 2017-06-12 p37/34-35

Complainant testified that prior to receiving the email with the subject "The ugly proof" on 2014-12-17, she did not know I had guns.

However, I had informed Complainant, prior to that point, in an email dated 2014-11-08, that I had gotten GR1 a Mauser K98 rifle.

Both Mr. Lagemaat and Mr. Myhre knew about the 2014-11-08 email wherein I informed Complainant of the Mauser. Therefore, they must have known she was committing perjury when she made this statement. Both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury they had reason to believe Complainant was committing perjury.

22. Complainant falsely testified there were durations of time when she had ignored my emails and didn't respond.

TR 2017-06-13 p7/41-43

TR 2017-06-14 p49/14-23

TR 2017-06-14 p63/16-21

TR 2017-06-14 p64/17-22

TR 2017-06-14 p64/27-29

TR 2017-06-15 p5/9-12

TR 2017-06-15 p5/41-47

TR 2017-06-15 p6/24

However, the email history and, in particular, the main email page of the website (included at Tab 8 of the Crown's book of exhibits) show there was never a period when Complainant ignored my emails and didn't respond.

In March and April 2014 Complainant did not respond to my emails but, by her own admission in her testimony, it was not because she was "ignoring" them or "trying a different tactic", it was because she had just discovered I had published all of her emails and she "did not want to give me anything else that I could use against her."

TR 2017-06-12 p29/35-41

I believe that would seem to be an acknowledgement by Complainant that her

conduct in her emails was inappropriate and offensive.

23. Complainant falsely testified, repeatedly, that prior to the period of the emails which were being presented to the jury, that is, prior to 2014, I was frequently and consistently verbally abusive and that prior to January 2015 she had passively accepted that abuse without reciprocating.

TR	2017-06-13	p8/6-12
TR	2017-06-13	p12/40-45
TR	2017-06-13	p13/15-19
TR	2017-06-13	p32/28-33
TR	2017-06-14	p6/15-18, p6/24-27
TR	2017-06-14	p22/3-9
TR	2017-06-14	p27/34-37
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TR	2017-06-14	p41/41-46
TR	2017-06-14	p49/24-34
TR	2017-06-14	p50/13-16
TR	2017-06-14	p50/36-44
TR	2017-06-14	p63/16-21
TR	2017-06-14	p64/17-22, p64/27-32
TR	2017-06-15	p5/47 - p6/24
TR	2017-06-15	p32/23-36
TR	2017-06-15	p33/4-5, p33/11-13
TR	2017-06-15	p33/32-34

However, those claims are entirely contrary to the actual emails between Complainant and myself from 2011 through 2013, as is proven from the following few email conversations during that time:

2012-02-02	Further curiosity
2012-02-08	Forms for example parte hearing
2012-02-20	Legal request
2012-04-01	GR1's necessities
2012-04-18	GR1's iPod, and SC1's calls
2012-04-23	GR1's shoes
2012-05-08	GR1's medical bills
2012-05-17	Mother's day
2012-05-21	Medical insurance deductible
2012-06-05	GR1's school

2012-06-12 GR1's graduation/culmination ceremony
2012-06-14 Desiree, your trip is around the corner
2012-06-29 GR1's school supplies
2012-07-02 Gears of War 3
2012-07-08 GR1's school supplies
[etc...]

Mr. Lagemaat and Mr. Myhre knew of all of the emails from 2011 through 2013. They knew most of those email conversations began with me attempting to discuss a legitimate subject pertaining to GR1, then Complainant becoming belligerent and insulting for no apparent reason. I clearly expressed my desire, in open court, for Complainant to be cross examined on many of those emails, prior to trial.

In spite of the foregoing, Mr. Lagemaat refused to cross examine Complainant on ANY of the emails from 2011 through 2013.

Although both Mr. Lagemaat and Mr. Myhre knew of the content of all of the emails prior to 2014, and therefore knew Complainant had committed perjury each of the 18 times she repeated this claim, neither of them made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

In addition to proving Complainant was perjuring herself with this claim, I believe cross examining her on the emails from 2011 through 2013 would also have proven that the truth of the matter is that Complainant was the one attacking and insulting me for years, and I was the one passively tolerating it, and going out of my way to help and accommodate her; and that it was not until 2014, AFTER she had me deported and took away my child, that I began fighting back. But Mr. Lagemaat and Mr. Myhre insisted against presenting any of that to the jury. However, many of those emails were submitted by me at sentencing.

24. Complainant falsely testified she questioned my ability to “rationalize what's right and what's not”, and that she believed I would “absolutely” shoot her.

TR 2017-06-13 p10/30-36

Complainant testified to that regarding the email wherein I mentioned that GR1 had asked me if I would shoot her, which she received on January 11, 2015. However, the later Sahuarita Police reports; and Complainant's testimony at the order of

protection hearing, in December 2015, show she did not express any concern about my psychological stability; my ability to rationalize or to distinguish between right and wrong; my morals; values or beliefs; my ownership of firearms; or her safety from me.

Complainant did not start claiming to believe I was “scary” or psychologically unstable, and to fear for her safety until after she spoke with CBC News in January 2016 - a year after receiving and responding to that email.

Prior to speaking with CBC Complainant repeatedly stated she believed I was too much of a coward to physically harm her. That very statement is documented in numerous police reports/interviews, Canadian Consulate case notes, news media interviews, and family court documents.

In her 2015-07-19 RCMP interview, at the end of paragraph 6, Complainant stated “And so he won't physically shoot me.” In that interview, Constable Dupont asked Complainant if she feared for her safety, and she repeatedly qualified her response as “...IF he had nothing to lose...” and “...IF he could not get caught...” (paragraph 36). At paragraph 40, Complainant said “...the only physical threat he has made is that he would shoot me IF he could get away with it.” I believe this shows Complainant wasn't sincerely afraid for her safety and didn't truly consider the content of that email threatening. Complainant continuously escalated her claims after that because she wasn't receiving the response she desired. It should also be noted, Complainant was misrepresenting what I had said in that email - I did not say I “would” shoot her, under ANY circumstances other than in self defense.

Throughout her testimony Complainant repeatedly claimed, falsely, to be afraid for her safety due to my statement in that email which she claims was an expression of my desire to shoot her.

TR 2017-06-15 p2/30-32
TR 2017-06-15 p5/15-24
TR 2017-06-15 p5/32-37
TR 2017-06-15 p32/37-39
TR 2017-06-15 p33/6-11

Both Mr. Lagemaat and Mr. Myhre knew of Complainant's statements in her RCMP interviews, her testimony at the order of protection hearing, and her statement to the Sahuarita Police. All of that material was on the website. Therefore, both Mr. Lagemaat and Mr. Myhre had seen that Complainant's claims with respect to that

email had become more extreme each time her claims did not result in adverse consequences for me. And, that Complainant continued to exaggerate and escalate her claims until she reached the point of going on international news, claiming I said publicly, on the Internet, that I intend to murder her and that the courts and the police have been doing nothing to help or protect her.

25. Complainant falsely testified that I obtained the pictures I published on the website, from a “camera roll” option “accessible through Facebook”, and that she hadn’t “posted” the photos to Facebook.

TR 2017-06-13 p17/41-43

However, there is no such thing as a “camera roll” on Facebook. There is a “camera roll” feature in Apple iCloud and on Apple devices, but that has absolutely nothing to do with Facebook, and could not have been accessible to me.

And with respect to Complainant’s claim she hadn’t posted the photos to Facebook, the copy of her public Facebook profile which I put on the website proves she DID post them to her public Facebook profile.

Having admitted to reviewing the entire website, both Mr. Lagemaat and Mr. Myhre must have seen the copy of Complainant’s Facebook profile, including her numerous photo albums. And that being the case, they must have known she was perjuring herself when she testified she hadn’t posted the pictures to Facebook. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

26. Complainant falsely testified the pictures and information about SC1 on the website “scared her so much”; that any pedophile or person who wanted to harm SC1 could easily find him.

TR 2017-0-13 p18/11-12, 30-46

Complainant’s testimony was very emotional.

However, as I pointed out to both Mr. Lagemaat and Mr. Myhre, Complainant never once requested I remove SC1 from the website; there is not a single email from Complainant, or anyone acting on Complainant’s behalf, expressing any concern about SC1 being on the website. Complainant went as far as hiring a lawyer to try

to get me to take down the blog post about her trying to induce a miscarriage when she was pregnant with GR1, but even then, not a single mention of SC1.

On the other hand, Complainant has repeatedly used SC1 being on the website to exploit people's compassion and pity. I believe this shows that Complainant is more interested in how she can use her children for her own benefit, than in the safety and well-being of her children.

I believe Complainant's emotional performance on this topic was just an act to manipulate the jurors.

Mr. Lagemaat and Mr. Myhre must have known Complainant was lying about being scared for SC1 as a result of his picture and information being on the website, by her refusal to even request SC1 be removed from the site. Yet Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was lying.

And, if nothing else, I believe Mr. Lagemaat should have, at least, cross examined Complainant on why, if she was so scared for SC1 and felt so bad for him, she did not even send me an email requesting I remove him from the website.

27. Complainant falsely testified JP1 had filed a complaint about the website with the web hosting provider.

TR 2017-06-13 p54/8-10

TR 2017-06-13 p56/17-19

However, JP1's complaint about the website was to the DNS domain registrar, Web.com, not to the web hosting provider. The domain registration has absolutely nothing to do with the website or with the hosting of the website. Nor would it have had any authority or ability to take any action related to the website.

Both JP1 and Complainant work in advanced fields of computer technology (Software Engineer and Systems Analyst, respectively). The difference between a website and it's hosting, and a DNS domain and it's hosting is very elementary and, as such, both JP1 and Complainant must have known.

The email from Web.com, at Tab 16 of the Crown's book, proves Complainant's statement is false.

This is a significant instance of perjury because it gave the jury the impression Complainant had actually taken reasonable steps to try to get the website taken down, however, in reality she and JP1 had knowingly filed a complaint with the wrong service provider. And, I believe Complainant's and JP1's failure to then file a complaint with the correct service provider, the web hosting provider, shows that they were not really concerned about the website.

I had discussed these issues, at length, with both Mr. Lagemaat and Mr. Myhre prior to trial. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant's statement was perjurious. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

28. Complainant falsely testified there were multiple complaints made to GoDaddy about the website.

TR 2017-06-13 p56/20-22

However, there was only one complaint filed with GoDaddy, and only about using the DNS domain at issue in this matter (i.e. d*****c*****.com) to send unsolicited emails - NOT about the website.

The email from GoDaddy proves this.

Both Mr. Lagemaat and Mr. Myhre knew of the email from GoDaddy prior to trial, so they must have known Complainant's statement was perjurious. But both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

29. Complainant falsely testified she "interacted with Detective Tuchfarber" about the website.

TR 2017-06-13 p56/23-26

In fact, however, Complainant's complaint to the Phoenix Police was only about me sending unsolicited emails to her associates, not about the website. This is proven by the Phoenix Police report which was on the website.

Both Mr. Lagemaat and Mr. Myhre knew of the Phoenix Police report on the website. Therefore, they must have known Complainant was lying when she testified. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant had committed perjury.

30. Complainant falsely testified that when she filed the “uttering threats” complaint in April 2015, she informed the RCMP that I was crossing the border using a fake identity from Florida; that my identity of Patrick Fox was not real; and asked them to explain how I was able to obtain a PAL.

TR 2017-06-13 p56/36-41

However, the RCMP report of Complainant's complaint, dated 2015-04-10, shows that none of what Complainant stated in her testimony actually occurred.

Both Mr. Lagemaat and Mr. Myhre had a copy of all of the RCMP reports prior to trial, so they must have known Complainant's statements were false. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant had committed perjury.

31. Complainant falsely testified she started contacting the news media in the Spring of 2016.

2017-06-13 p57/28-30

2017-06-13 p59/23-27

The proof that these statements are false is self-evident. Complainant contacted CBC in January 2016; the CBC story ran and was aired on February 18, 2016. Spring did not begin until March 20, 2016.

Complainant's false statement gave the jury the mistaken impression I was arrested within two months of her first contacting the news media.

Both Mr. Lagemaat and Mr. Myhre knew the CBC story ran on February 18, 2016 and that Complainant had been in contact with them since, at least, late January. Therefore, they both knew Complainant was committing perjury when she testified she had not even started contacting the media until Spring of 2016 - which would have meant some time after March 20, 2016. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe

Complainant had committed perjury.

32. Complainant falsely testified there was an appeal of the order of protection “at the municipal level”.

TR 2017-06-13 p58/44-45

However, there was only one appeal of the order of protection, and it was in the Pima County Superior Court. The court upheld the order because I failed to appear for the oral arguments hearing due to being in DHS custody.

Complainant's false statement gave the impression multiple courts had reviewed the order of protection and upheld it based on the merits. Which was entirely false.

This is proven by the court documents for the order of protection proceedings which were on the website.

Both Mr. Lagemaat and Mr. Myhre knew of the court documents on the website. Therefore, they must have known at the time of Complainant's testimony that her statement was perjurious. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant had committed perjury.

33. Complainant falsely testified I added the disclaimers about the website content not being written by herself and JP1 after the news media coverage in early 2016.

TR 2017-06-13 p60/7-10

The copies of the pages from the website, printed by the RCMP at the time of the July 2015 arrest prove this is false. The disclaimer was always present at the footer of each page on the website.

Both Mr. Lagemaat and Mr. Myhre knew of and had seen the pages printed from the website in July 2015. Therefore, they must have known Complainant was perjuring herself when she testified regarding the disclaimers on the website. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant had committed perjury.

34. Complainant falsely testified she had concerns for her physical safety from January 2015 through May 2016.

TR 2017-06-13 p61/26-29

However, the Sahuarita Police reports; the RCMP reports for the July 2015 arrest; Complainant's statements at the order of protection hearing in December 2015; Complainant's sworn statement in support of the order of protection in July 2015; Complainant's statements on the Aaron Rand radio show in February 2016; all prove she was not afraid for her safety.

Both Mr. Lagemaat and Mr. Myhre knew of and had full access to all of the artefacts listed above, so they must have known Complainant was lying. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was not being truthful in her testimony.

35. Complainant falsely testified most of the emails I sent her were not about GR1.

TR 2017-06-14 p11/20-22

The collection of emails on the website proves this was false. The main email page on the website shows that of approximately 390 email conversations started by me, at least 275 were about GR1 and less than 115 were not related to GR1. And of the conversations which were not related to GR1, some pertained to legal proceedings for mine and Complainant's divorce; some were responses to allegations or claims Complainant had made against me; some were requests for information or for confirmation of matters relevant to our legal proceedings. And of those remaining, the few which might, arguably, be considered insulting or provocative all occurred AFTER January 2014.

Both Mr. Lagemaat and Mr. Myhre had reviewed all of the emails between Complainant and myself and, as such, they must have known at the time of Complainant's testimony that she was perjuring herself. Yet both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that Complainant's testimony was false. Moreover, Mr. Lagemaat refused to confront Complainant with the proof she was lying by cross examining her on the emails prior to January 2014.

36. Complainant falsely testified I had used "four or five different names".

TR 2017-06-14 p16/6-7

There is no record or evidence of me ever using any names other than “Richard Riess” and “Patrick Fox”. And I've been completely forthright about “Patrick Fox” being my birth/legal name and “Richard Riess” being the name I assumed/adopted in the early 1990s, and which I changed my name to under California common law.

Throughout her testimony, Complainant made repeated allusions to me using “so many” fake names and fake identities, typically for deceitful purposes.

TR 2017-06-12 p22/11-13
TR 2017-06-12 p23/14-25
TR 2017-06-12 p37/47 - p38/7
TR 2017-06-13 p2/35 - p36/3
TR 2017-06-13 p56/36-41
TR 2017-06-13 p61/35-40
TR 2017-06-14 p24/11-15
TR 2017-06-14 p27/22-25
TR 2017-06-14 p34/8-11
TR 2017-06-14 p38/19-25
TR 2017-06-14 p40/8-13
TR 2017-06-15 p14/17-18
TR 2017-06-15 p16/7-8
TR 2017-06-15 p27/10-11

I notified Complainant as soon as I reverted to using my birth name of “Patrick Fox”; and I, obviously, knew she would inform DHS immediately; obviously I was not trying to hide anything or deceive anyone.

Complainant's repeated comments about me having and using so many fake names and identities may have given the jury the mistaken impression I was of bad or questionable character. I believe Mr. Lagemaat should have confronted Complainant on her claims, to show the jury it simply wasn't true. That could also have shown the jury that Complainant was simply refusing to accept the reality that my real, legal, birth name is Patrick Fox.

37. Complainant falsely testified she was “trying to remove GR1” from the email chain with the subject “Your loving home and parental teaching and guidance”.

TR 2017-06-14 p17/42

(Note: There is an error in the transcript at the cited location. Complainant actually said “I was trying to, yes.”, however the transcript reads “There was times, yes.”)

However, in that email chain, there are 26 messages – 17 from me; 9 from Complainant – and Complainant included GR1 in every one of her emails. There were no emails from Complainant, in that chain, where she did not include GR1. At the same time, there were 3 emails in that chain in which I did not include GR1.

Both Mr. Lagemaat and Mr. Myhre had access to all of the emails between myself and Complainant, including the list of “CC” and “BCC” recipients. Therefore, they could easily have looked at any given email message to determine whether or not GR1 had been included as a recipient. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was giving false testimony. Moreover, Mr. Lagemaat made no attempt to cross examine or confront Complainant with the proof that her statement was false.

38. Complainant falsely testified I “lied about everything”.

TR 2017-06-14 p46/36

However, each topic Complainant has claimed I lied about, either I have been able to provide proof I was actually telling the truth; Complainant feigned to misunderstand or did not fully or correctly read/hear what I wrote/said; or Complainant added her own incorrect inferences to my statements. This is repeatedly and extensively proven in many of the email conversations between Complainant and myself.

Both Mr. Lagemaat and Mr. Myhre had received Complainant's statements to the RCMP and the emails between Complainant and me, prior to trial. They had both seen the evidence proving that every statement I had made which Complainant insists was a lie was, in fact, true. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant was committing perjury when she testified I lied about everything. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

39. Complainant falsely testified that throughout 2011 - 2014, she did not engage me,

yet I still kept "escalating".

TR 2017-06-14 p49/22-23

The emails from that time show that any escalation, whether of hostilities or retaliation, almost always occurred by Complainant; and when Complainant didn't respond with hostility, insults, or false accusations I never escalated anything. The emails also show that Complainant almost exclusively only responded to my emails when she mistook my statements as being unjustly accusatory, insulting, or confrontational - though that was almost always her own erroneous inferences.

I believe Complainant considers my creating the website and publishing the proof of her offensive conduct and her lies an "escalation", however the website was created in response to Complainant consistently getting away with lying in the family court; convincing people she has not done any of the offensive conduct the evidence on the website has been able to prove she HAS done; and exploiting people's compassion and decency through lies and false shows of emotion. I do not believe the website was an "escalation" at all - it was a reasonable and very withheld reaction to years of being harmed by Complainant's lies, manipulation, and cheating.

On the other hand, I believe Complainant repeatedly escalated matters, unprovoked, when she, for example: abducted GR1 and took him to Arizona in August 2011; repeatedly took deliberate steps over a year and a half to have me arrested, detained, and deported from the US based on false allegations; deliberately created a situation (my deportation) which caused me to lose custody of my son, whom I had raised with no involvement from Complainant for nine years, and extremely limited my contact and involvement in my son's life due to him and I being forced to live in different countries; going on international news media, making false allegations about me; and falsely testifying, extensively, at the trial in the matter to get me convicted of a crime which, it should be obvious, was not committed, and then sentenced to 3 years in prison based on that false testimony.

Both Mr. Lagemaat and Mr. Myhre had reviewed all of the emails between Complainant and myself. Therefore, they must have known Complainant was lying when she testified that I "kept escalating". Moreover, I have been very forthcoming, both before and after trial, with Mr. Lagemaat, Mr. Myhre, and the court about my belief that all I have ever done has been in response to Complainant's actions against me and GR1; and that if the entirety of the evidence, starting from 2011, not just the subset of evidence starting from 2014 - AFTER Complainant had already

taken everything away from me and had me exiled to a foreign country with, literally, nothing but the clothes in my back - were presented to the jury then they would not have come to the conclusion that I engaged in misconduct, that Complainant was harassed, that Complainant had any fear for her safety, or that anything Complainant said could be believed. Yet, Mr. Lagemaat and Mr. Myhre refused to present any of that evidence which would have shown the jury that it was consistently Complainant who escalated things and I who consistently had to react to those escalations.

And having reviewed every email and having repeatedly heard my perspective that Complainant has always been the one initiating and escalating hostilities and I have been the one reacting and retaliating to her acts, both Mr. Lagemaat and Mr. Myhre must have known Complainant was lying when she testified that I kept escalating. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was lying.

40. Complainant falsely testified I had filed, in the family court, to have all her visitation and communication with GR1 revoked.

TR 2017-06-14 p49/46 - p50/3

The family court documents, on the website, show this is false. In November 2012 I had only requested supervised visitation until the next scheduled hearing (four months away), and that was only because of Complainant's fiancée's, KL1, recent arrest; the police executing a search warrant on Complainant's home and finding a stolen assault rifle and Crystal methamphetamine in the home; and Complainant's consistent history of trying to conceal and lying about the drug use and criminal activity going on in her home.

The family court documents on the website show there was never any other time I had sought to restrict or limit Complainant's access to GR1 and that, in fact, I had repeatedly and consistently gone out of my way to assist and accommodate her.

Both Mr. Lagemaat and Mr. Myhre had full access to all of the family court documents on the website. Therefore, they must have known at the time of Complainant's testimony that her statement was perjurious. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

41. Complainant falsely testified GR1 was included in all of the emails in the chain with the subject "More of what I know".

TR 2017-06-14 p63/19

However, of the 13 messages that make up that chain, GR1 was only included in the first two. The testimony in question here, pertained to the twelfth message in the chain – sent from Complainant to me. Complainant was using the false claim that GR1 was being included, by me, in the email conversation, as the reason for why she continued to engage me.

Both Mr. Lagemaat and Mr. Myhre had access to all of the emails between Complainant and myself, including the full list of "CC" and "BCC" recipients. Therefore, they must have known exactly which messages GR1 was included on and which he was not. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was committing perjury. Moreover, Mr. Lagemaat failed to confront Complainant with the proof that her statement was false.

42. Complainant falsely testified GR1 was included in the email chain with the subject "The motivation for your behavior".

TR 2017-06-14 p65/32-33

TR 2017-06-14 p66/4

Complainant was using GR1 being included as a recipient of the email conversation as the justification for why she continued to engage me. However, GR1 was not included in a single message of that chain. There are 13 messages in that chain, and GR1 is not CC'd or BCC'd on any of them.

Both Mr. Lagemaat and Mr. Myhre had access to all of the emails between myself and Complainant, and therefore, must have known or could easily have verified whether or not GR1 was included on any given message. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was providing false testimony. Moreover, Mr. Lagemaat failed to confront Complainant with the proof that her testimony was false.

43. Complainant falsely testified she was prohibited under order by the family court from prohibiting GR1 from communicating with me by email.

TR 2017-06-14 p66/7-15

Communication between me and GR1 by email was never discussed in, or addressed by, the family court - only communication by mail and by telephone. Nevertheless, as of July 2014 I had waived all parental rights, which meant any and all prior orders related to communication were, as of July 2014, void.

Both Mr. Lagemaat and Mr. Myhre knew all of the family court documents were on the website and that they showed only communication by mail and by phone was ever addressed. Moreover, it was well known that I had waved all of my parental rights in July 2014. Therefore, Mr. Lagemaat and Mr. Myhre must have known at the time of Complainant's testimony that she was lying. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was lying.

44. Complainant falsely testified the only reason she "ever went to court and tried to cease communication" between between me and GR1 is because of the emails like the one where I call her a "stupid fucking cunt".

TR 2017-06-14 p66/16-19

However, the family court documents on the website show that in September 2011, Complainant tried to prohibit all communication because, she claimed, she believed I was going to travel to Arizona and take GR1 back to California, however, she sought that order the day after GR1 told her he wanted to live with me, not with her. At that point there had not been ANY hostility or insults expressed between us.

The family court documents on the website show that in January 2013, Complainant tried to prohibit all communication because she claimed she believed that would help GR1 transition to her home environment and way of life. But, at that time GR1 was only with Complainant because I was being detained by ICE due to her taking very deliberate and calculated steps to have me arrested, detained and deported.

The family court documents on the website also show that in September 2015, Complainant tried to prohibit all communication because she claimed she believed I was manipulating GR1 against her.

In fact, there is no record of Complainant ever seeking to prohibit, or even limit my contact with GR1 due to the manner in which I spoke to her and my CC'ing GR1 on any of my emails.

Both Mr. Lagemaat and Mr. Myhre knew of and had full access to all of the family court documents on the website. By their own admissions, they had reviewed all of the content on the website, which included the family court documents. Therefore, they must have known Complainant was perjuring herself when she testified to this matter. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury they had reason to believe Complainant was committing perjury.

45. Complainant falsely testified she believed my emails showed I was "requiring she drive two hours during the work week from Tucson to Phoenix to put GR1 on a plane" for his visit with me.

TR 2017-06-15 p3/41-43

However, Complainant wasn't even living in Tucson at that point. She was still living in South Phoenix, near the airport. And even if she were to now claim that she had already moved to Tucson prior to that point, the fact remains there was no mention of her moving to Tucson until I brought it up, after GR1 was already in Vancouver - at which point Complainant admitted to moving while GR1 was with me.

Moreover, Complainant testified that she continued to work at Apollo after moving to Tucson, and that she commuted from Tucson to Phoenix for work - which would mean she was making the two hour drive on the weekdays anyway, and that by scheduling the flight on a weekend, as she was requesting, would have required her to make an otherwise unnecessary trip to Phoenix, which would have been much less convenient for her. And, if Complainant had actually moved from Phoenix to Tucson prior to GR1's flight then why wouldn't she have simply suggested I get him a flight from Tucson to Vancouver, rather than from Phoenix to Vancouver?

Moreover, if Complainant had actually already moved from Phoenix to Tucson prior to me making GR1's travel arrangements, then it is clear from our emails around that time that she was very deliberately withholding that information from me and I had no way of knowing she had moved to another city. Therefore, how could Complainant possibly hold me responsible for requiring she drive two hours from

Tucson to Phoenix if she was deliberately misleading me to believe she was still living in Phoenix?

Also, in the email conversation in question, I repeatedly insisted Complainant did not have to transport GR1 to the airport personally. I repeatedly stated I would arrange for a car (e.g. a taxi) to pick him up. Complainant consistently ignored that proposal, as though I had never stated it - but it's very clearly stated in the email conversation.

Both Mr. Lagemaat and Mr. Myhre were very familiar with the email conversation in question. In fact, it is included in part, in both parties' books of exhibits. They must have known that either Complainant had not yet moved to Tucson, or had moved to Tucson but had expressly withheld that information from me. But either way, they must have known that her testimony that I was requiring her to drive two hours during the work week from Tucson to Phoenix was perjurious because either she wasn't living in Tucson or she hadn't informed me she had moved to Tucson. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

46. Complainant falsely testified that from 2012 through early 2014 I had threatened her repeatedly.

TR 2017-07-15 p6/20-24

However, the emails and Complainant's own admissions in the Sahuarita Police reports, the Phoenix Police report, the order of protection hearing and declaration, and the RCMP reports from April through July 2015, show that I have never, not once, threatened Complainant with anything other than what I had every legal right to do (e.g. pursuing legal action).

And, I believe it is critical to this point, that a threat to engage in some perfectly legal course of action against the other party, for example, seeking redress in civil or family court, is not "threatening conduct" as envisioned by the criminal harassment laws.

Both Mr. Lagemaat and Mr. Myhre were well aware of the emails and the numerous police reports, court documents, and hearings in which Complainant admitted I had never threatened her with anything other than legal action and to publicly expose what I considered to be her offensive conduct - both of which are perfectly legal

courses of action. Therefore, both Mr. Lagemaat and Mr. Myhre knew at the time of Complainant's testimony that her statement was false. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

47. Complainant falsely testified when she contacted the RCMP on 2015-06-30 she had only "asked for a home check".

TR 2017-06-15 p10/32-34

However, the RCMP report shows Complainant had actually, falsely told them she "hadn't heard from GR1 since he'd been in Vancouver", and that "when she attempted to contact GR1's father, Richard Riess, she received responses from a man named Patrick Fox stating Riess does not exist, that GR1 is with Fox and would be back in Arizona when he (Fox) 'said so'." Complainant deliberately misled the RCMP to believe Patrick Fox and Richard Riess were two different people; that she didn't know who Patrick Fox was; and that her 14 year old son was with a strange man in a foreign country (RCMP report #2015-29196).

Confronting Complainant on this would have been an excellent opportunity to show the jury that Complainant will make up outrageous lies, even to law enforcement, to get people to do what she wants and to abuse the justice system for her own pointless, petty purposes.

Both Mr. Lagemaat and Mr. Myhre knew of the RCMP report which was on the website and also included in the Crown's disclosure material. Therefore, they must have known Complainant was lying when she testified. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was lying in her testimony.

48. Complainant falsely testified that Facebook had something called a "camera roll" option, which gave her "friends" access to the photos she posted to her Facebook profile.

TR 2017-06-15 p13/19-24

However, there is no such thing as a "camera roll" option in Facebook. Apple iCloud and Apple devices have something called a camera roll but that is completely different and separate from Facebook, which is where Complainant

testified I surreptitiously obtained the photos from without her knowledge or consent.

The proof of this matter was self-evident. The fact that Complainant was referring to something which does not exist should have been sufficient proof for both Mr. Lagemaat and Mr. Myhre to know she was lying. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

49. Complainant falsely testified that she made her Facebook data non-public in 2014, as soon as she learned I had created the website.

TR 2017-06-15 p13/39-40

However, it was actually in February 2016, a couple of days after the CBC story aired/ran, that Complainant made her Facebook data non-public. I had made the copy of her public profile, which I put on the website, a few days before the CBC story was released.

The timestamps of some of the content in the copy I had put on the website prove the copy was generated in February 2016, which means as of that point, the content on Complainant's profile must have still been publicly accessible. I had explained this to both Mr. Lagemaat and Mr. Myhre, and I had directed them to the copy of Complainant's Facebook profile which I had put on the website. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant was lying when she testified. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was lying under oath.

50. Complainant falsely testified I surreptitiously, without her knowledge or consent, took her private and personal photographs.

TR 2017-07-15 → p16/13-19

p13

Complainant testified she had not "posted them to Facebook" and "they were just in the camera roll".

TR 2017-06-13 → p16/24-25

p13

However, Facebook does not have a "camera roll" feature - that is a feature of Apple iCloud and Apple devices, which have absolutely nothing to do with

Facebook. Nor does Facebook have a feature comparable to Apple's camera roll. Nevertheless, based on Complainant's testimony, she is saying she believed I used GR1's Facebook account, which she claims she believed was actually maintained by GR1, not by me, even though I had repeatedly informed her I was maintaining that account, to access pictures from her Facebook profile which were not publicly accessible. Complainant is claiming the photos were only accessible to her "trusted" Facebook friends - of which, I was not one.

However, Complainant's earlier testimony that originally ALL of her Facebook data was public and that at some point after the website was created she made it non-public (in February 2016) contradicts that.

TR 2017-06-15 p13/30-32, 39-40

Mr. Lagemaat and Mr. Myhre were both present for all of Complainant's testimony. So they both must have heard her contradictory statements. Moreover, Complainant's false statements about Facebook's "camera roll" feature are easily proven by the simple fact that such a feature simply does not exist. Therefore, Mr. Lagemaat and Mr. Myhre both must have known that Complainant was perjuring herself when she testified. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant had committed perjury.

51. Complainant falsely testified she didn't know where I was.

TR 2017-06-15 p16/4-5

However, that is contradicted by her earlier testimony that I was, at various times, in contact with, and in the physical presence of, her mother in Phoenix in 2005 - 2007.

TR 2017-06-12 p3/38-43

TR 2017-06-12 p4/19-21

TR 2017-06-12 p4/22-27

TR 2017-06-15 p42/13-15

Complainant also admitted in an RCMP interview that on one occasion in particular GR1 spent the night at her mother's home in Phoenix while I returned to Los Angeles to get my motorcycle.

Both Mr. Lagemaat and Mr. Myhre were present for all of Complainant's testimony, including the contradictory statements referenced above. Moreover, they both had

reviewed Complainant's statements to the RCMP prior to trial. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant was perjuring herself when she testified she didn't know where I was. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was committing perjury.

52. Complainant falsely testified that no custody determination was made by the California family court at the November 2011 hearing, that the hearing was only about which state was GR1's "home state" under the UCCJEA.

TR 2017-06-15 p25/8-9

The minute entries of the hearing prove that is false. The home state issue was discussed amongst the Arizona and California family court judges themselves and the determination was made, prior to the hearing, as required under the UCCJEA. At the time of the hearing, GR1 was in Complainant's custody in Arizona, pursuant to a temporary emergency custody order she obtained in the Arizona family court in August 2011, based on her false claim I had been hiding GR1 from her for the past nine years. Then, at the November 2011 hearing, the California family court ordered Complainant to return GR1 to my care and custody "without delay" - that is, unquestionably, a custody determination and a change in custody status.

Both Mr. Lagemaat and Mr. Myhre knew of the minute entries of the family court which were on the website. Also, I had discussed the circumstances of the November and December 2011 family court hearings at length with both Mr. Lagemaat and Mr. Myhre prior to trial. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant was lying when she testified. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was lying.

53. Complainant falsely testified that multiple times I had tried to remove her visitation with GR1 and multiple times I had tried to interfere with her custody of GR1.

TR 2017-06-15 p27/38-40, 46-47

However, family court documents on the website prove I never sought or requested to remove Complainant's visitation with GR1. The most I requested was that her visits be supervised, temporarily, until the next scheduled hearing, and that only because of my finding out about the drug use (Crystal methamphetamine) and

criminal activity (stolen assault rifle by a prohibited possessor) going on in her home, and her consistent and repeated attempts to conceal that from me and to deny that.

Both Mr. Lagemaat and Mr. Myhre had full access to the family court documents which were on the website, and I had discussed this very issue with both Mr. Lagemaat and Mr. Myhre repeatedly prior to trial. Both Mr. Lagemaat and Mr. Myhre must have known Complainant was committing perjury when she testified on this matter. Yet neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was committing perjury.

54. Complainant falsely testified she told and asked me many times if we could work amicably on a resolution for GR1.

TR 2017-06-15 p27/36-37

However, the court documents and the emails on the website prove that is completely false. There were only two times Complainant appeared to be amicable, and both of those times it was only because she believed she was completely defeated and had absolutely no chance of prevailing:

1. At the December 2011 custody mediation hearing - but only because Complainant knew the family court was very upset with her for having abducted GR1 in August 2011 (4 months prior), taking him to another state, and getting a temporary emergency custody order by falsely claiming I hid GR1 from her for nine years. Complainant also had a lawyer representing her at that hearing.
2. Upon my release from ICE custody in February 2013 - but only because the California family court had said at the hearing two weeks prior that upon my release I can request an ex parte hearing for GR1 to be returned to my custody and so, Complainant believed, again, that the family court was very upset with her for having deliberately caused my arrest and detention by ICE as a way for her to get custody of GR1, and that the family court was again going to order her to return GR1 to my custody.

Otherwise, every single other court document and every email shows Complainant refusing to cooperate in GR1's interests; refusing to allow GR1 to visit me unless it was ordered by the family court (or she falsely believed it was ordered by the court); refusing to get GR1's passport until it was ordered by the court; refusing to contribute to GR1's financial needs unless it was ordered by the court; refusing to

provide her medical insurance information for GR1's benefit until the court told her she must; refusing to share information with me about GR1's education, medical care, health, et cetera, because she "was not required to under court order".

Both Mr. Lagemaat and Mr. Myhre knew of and reviewed all of the emails and family court documents on the website. Therefore, they must have known Complainant was committing perjury when she testified to this. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

55. Complainant falsely testified that multiple times I had gone after her for child support when she was the only one financially providing for GR1.

TR 2017-06-15 p27/40-42

The emails and court documents, which were on the website, prove that from November 2001 through August 2011, and from November 2011 through December 2012 Complainant did not provide ANY financial support for GR1 at all. Complainant had provided a single payment in the amount of \$75 in September 2012, for partial reimbursement to my friend, Liz Munoz, for some school expenses, and not a penny more. Even in 2012, while I was unable to secure employment in Los Angeles, had sole physical custody of GR1, and both I and GR1 were being supported by Miss Munoz, Complainant steadfastly refused to contribute ANYTHING to GR1's support or well-being, stating instead that if I cannot afford to provide for GR1 then I should send him to live with her and I'll never have to worry about it again. At that time I had no income and Complainant's income was approximately \$70,000US/year.

In contrast to Complainant's refusal to contribute any financial support for GR1 when he is not in her physical presence or custody, following my deportation to Canada, as soon as I secured employment, in July 2013, and continuing until long after my incarceration on this matter, until there was no money left in my bank account (February or March 2017), I consistently transferred \$125CDN per week to GR1's bank account, and I provided him a credit card to cover any and all support related expenses. The credit card had a limit of \$6,000CDN, and GR1 was authorized to use it for any and all support related expenses. That is also discussed in the emails between me and Complainant.

Both Mr. Lagemaat and Mr. Myhre knew of the emails and court documents which

proved that Complainant had never provided any financial support for GR1 while he was in my care or custody. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant was committing perjury when she testified on this matter. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant had committed perjury.

56. Complainant falsely testified she had already scheduled an appointment to see a doctor to apply for a medical marijuana card prior to her arrest for possession of marijuana on September 27, 2011.

TR 2017-06-15 p27/31

The copy of Complainant's medical marijuana applications and the supporting documents on the website prove this is false. Complainant made the appointment to see the doctor AFTER her September 27, 2011 arrest.

On November 1, 2011, before Complainant's application was approved, she was caught by the police, again, possessing marijuana illegally. This time in a public place, when she arrived at the scene of her fiancé, KL1's, arrest, to take custody of her children whom she had left in KL1's care while he was committing crimes. On that occasion Complainant, again, lied to the police by claiming she already had a medical marijuana card. Complainant was not arrested at the time, for the sake of the children. This is all documented in the police report which was on the website.

Both Mr. Lagemaat and Mr. Myhre knew of, and had reviewed Complainant's medical marijuana applications, and the Scottsdale Police reports of the September 27, 2011 and the November 1, 2011 arrests. Therefore, they must have known Complainant was lying when she made this statement under oath in her testimony. However, both Mr. Lagemaat and Mr. Myhre refused to inform the court or the jury that they had reason to believe Complainant was committing perjury.

57. Complainant falsely testified that every time I tried to get sole custody of GR1 and to revoke all her visitation and communication with GR1 she won because she was right and she was telling the truth.

TR 2017-06-15 p28/22-24

The California family court documents and recordings on the website prove this is false. First, they prove that I've never once tried to revoke or "take away", or even

to decrease any of Complainant's visitation with GR1. Further, they prove that every time I sought any kind of change to the visitation agreement it was ALWAYS due to newly discovered evidence of criminal activity and drug use in Complainant's home, which directly impacted GR1's safety and well-being while in her care.

The family court documents also show Complainant consistently lied just as frequently and just as easily in those proceedings as as she did in these proceedings.

All of those family court documents were on the website and had been reviewed by both Mr. Lagemaat and Mr. Myhre prior to trial. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant was lying when she made this statement. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant had lied in her testimony.

58. Complainant falsely testified that the one time she requested sole custody of GR1 with no visitation or communication between me and GR1 I lost because I was lying.

TR 2017-06-15 p28/24-26

The California and Arizona family court documents, which were on the website, prove that is false. The documents prove Complainant did not try to obtain a court order prohibiting contact between me and GR1 only time as she testified, but rather three times - in September 2011, in January 2013, and in September 2015. The documents also show that I did not make a single false statement, or "lie", at any time in the family court proceedings. The three subjects which Complainant keeps insisting I lied about have, by now, been well established to be true: my place of birth; my citizenship; and my name. My real, legal, and birth name is Patrick Henry Fox, just as I have been stating, and that is proven by my government issued identification; I was born in the US, just as I have been stating, and that is proven by CBSA and IRCC documents; and, as a result of being born in the US I am, automatically, a US citizen, just as I have been stating. I do not believe there is anything else I have stated in the family court or in these proceedings which Complainant claims is false.

I believe I lost custody of GR1, in 2013, solely because I was deported from the US, not because I lied in the family court.

Mr. Lagemaat and Mr. Myhre had reviewed the family court documents prior to trial;

they had seen my birth certificate and multiple pieces of government issued photo identification - in fact, Mr. Myhre himself had admitted them as an exhibit at the trial. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant was lying when she testified about me lying in the family court.

Moreover, my losing custody of GR1 occurred immediately following my deportation from the US; and since that time, even though GR1 has told the court he wants to live with me, the court has refused to return custody to me.

59. Complainant falsely testified I was present and living in "her country" (the US) illegally.

TR 2017-06-15 p30/26-30

Contrary to Complainant's insistence, she has known since January 2000 that I was born in the US, and therefore am a US citizen. That is why we never applied for permanent resident status for me when we were together and GR1 was born.

Although it might have been difficult to prove Complainant knew I was not an illegal alien, if Mr. Lagemaat had questioned her about it even a little, I believe it would have become apparent that she was lying to exploit the fact there is a removal order against me in the US Immigration Court - even though the order is based on a faulty perjury and false claim of US citizenship convictions. For example, if Mr. Lagemaat had questioned Complainant on why we did not try to get any type of legal immigration status back in 2000/2001; or why she never reported me to INS/ICE before she learned of the removal order against me; or why she believes ICE and the US Attorney's Office have consistently dropped all charges against me, related to illegal re-entry, even each of the times she called them; or why my fingerprints and mugshot don't match those on file with the Toronto Police for Ricky Riess; or the fact that she already admitted she sent my picture to Ricky Riess's father and he could not identify me as his son; her claim of believing I was an illegal alien and not a US citizen would have quickly lost credibility.

I had discussed the matter of my citizenship at great length with both Mr. Lagemaat and especially with Mr. Myhre prior to trial. And, I had discussed with both Mr. Lagemaat and Mr. Myhre the very points which are listed in the previous paragraph. I had sternly informed both parties that if Complainant makes ANY reference to my citizenship or claims I was in the US illegally, then I will want her cross examined on the matter to prove she did not truly believe, at any time, that I actually was an

illegal alien.

Based on the foregoing, it should have been obvious to both Mr. Lagemaat and Mr. Myhre that Complainant's claims of believing I was an illegal alien were false. And since she did state that belief before the jury, Mr. Lagemaat should have cross examined her to determine if that stated belief was sincere and rational. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was lying.

60. Complainant falsely testified I was trying to "take her kid".

TR 2017-06-15 p30/27-19

However, I was the one who already had custody of GR1. GR1 had been with me his entire life up to that point. Complainant had never had custody of GR1, other than the three months she had abducted him to Arizona and obtained temporary emergency custody based on false claims in 2011. It is completely false to say I was trying to "take GR1 from her" because I already had sole physical custody - I could not have taken from her what she did not have. If anything, Complainant was the one trying to "take" GR1 from me - and that is, in fact, exactly what Complainant did, first in August 2011, then in January 2013 by creating a situation whereby I would be removed from the US, by force and against my will, and GR1 would be required to reside with Complainant, also by force and against his will.

And, the family court documents on the website also prove I never did anything to interfere with, frustrate, or discourage any of Complainant's visitation or contact with GR1.

For the most part, the proof that Complainant's statement is false is self-evident, as explained above. The history of GR1's custody and the fact that he had been with me his entire life, was well known to both Mr. Lagemaat and Mr. Myhre. As were the facts that Complainant had never had custody of GR1, and had not been present in his life, at all. Therefore, Mr. Lagemaat and Mr. Myhre must have known Complainant's statement was perjurious at the time she made it. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

61. Complainant falsely testified the drugs in her home were "stashed".

However, the Glendale and Scottsdale Police reports, which were on the website prove this is false. The Scottsdale Police report of Complainant's arrest shows the marijuana, which was still very illegal in Arizona at the time, was in the night stand next to her bed, not secured. The Glendale Police report of the search warrant shows the crystal methamphetamine was in the garage, unsecured. Photos posted to Complainant's Facebook profile show that she, SC1, and GR1 did spend time in the garage - where the crystal methamphetamine was being used.

Both Mr. Lagemaat and Mr. Myhre had full access to the police reports, which were publicly accessible on the website. Therefore, they must have known Complainant was perjuring herself when she testified the drugs in her home were "stashed". However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

62. Complainant falsely testified that when KL1 was breaking the law "he was nowhere around"; she "couldn't even reach him"; he wouldn't answer the phone, he wouldn't come back to the house; he was gone all the time.

However, police reports on the website, from the time Complainant was engaged to and living with KL1, and Complainant's own sworn statements and declarations in the family court, also on the website, prove that is false. On November 1, 2011, KL1 was arrested outside the home; he had both of Complainant's children (including GR1) with him while he was engaging in committing felonies (passing counterfeit notes, forgery). KL1 repeatedly possessed and used crystal methamphetamine in the very home Complainant claims he was not around when he was committing crimes - possession of crystal methamphetamine is a felony in the State of Arizona. KL1, himself prohibited from possessing or handling firearms due to his prior felonies, stole an assault rifle, then brought and stored that assault rifle in the very home Complainant testified he was never around when he was committing crimes. Complainant admitted to the Glendale Police that she knew KL1 had stored the rifle in the home; she also knew KL1 had a long list of prior felonies and so, was prohibited from possessing the rifle.

In particular, Mr. Lagemaat should have cross examined Complainant on the incident when KL1 was arrested with GR1 in his care, and her defense of KL1's

conduct in the emails with the subject "Legal request" on 2012-02-20. This could have shown the jury that Complainant was aware of KL1's illegal activities and knowingly chose to support them and to put KL1 before GR1, which contributed to my concerns for GR1's safety and well-being while in her care.

There is another police report and audio recording of an arrest of KL1, for shoplifting, on the website, where KL1 attempts to call Complainant on the telephone. She did not answer the call.

There are numerous emails between Complainant and I, where I inform her of recent criminal activity I had discovered KL1 was involved in (typically through public arrest records), and Complainant would become hostile and defend KL1's conduct.

Both Mr. Lagemaat and Mr. Myhre knew of those emails and the police reports, which were publicly accessible on the website, so they must have known Complainant was lying when she testified. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

63. Complainant falsely testified that "as soon as medical marijuana became legal, she got her card".

TR 2017-06-15 p31/4-6

However, Complainant's medical marijuana application, approval, and card, all of which were on the website, prove this is false. Medical marijuana was legalized in Arizona in November 2010, but Complainant did not apply for a medical marijuana card until October 2011, almost immediately after she was arrested and charged with possession of marijuana. Complainant continued to possess and use marijuana illegally from November 2010 through November 2011.

Both Mr. Lagemaat and Mr. Myhre had full access to and had reviewed all of the content on the website, including Complainant's medical marijuana application. Therefore, they both must have known Complainant was lying when she testified that she got her medical marijuana card as soon as medical marijuana became legal. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was lying under oath.

64. Complainant falsely testified she she never called for fear of her life until the email that I said I thought about shooting her.

TR 2017-06-15 p32/37-39

TR 2017-06-15 p33/6-11

However, the emails on the website; the Sahuarita Police reports; the RCMP reports from July 2015; Complainant's declaration in support of her request for an order of protection and her statements at the order of protection hearing in December 2015; all prove this is false. The first time Complainant made any mention of being afraid for her safety - let alone afraid for her life - or of feeling threatened was AFTER speaking with CBC in January 2016 - more than a year after she had read and responded to the email in question. Also, Complainant's claims of being afraid for her life were purportedly made to the news media, NOT to any court or law enforcement agency. Though, in the CBC segment which aired and was published, it was only the CBC reporter, Natalie Clancy, who stated "Talk of shooting left Complainant fearing for her and her fiance's safety". There is no evidence that even at THAT point Complainant actually expressed any fear for her safety from me.

The fact is, Complainant did not claim to have any fear for her safety from me until more than a year AFTER reading and responding to the very email she testified was the basis for that fear. Moreover, Complainant never called, or otherwise initiated contact with any law enforcement agency claiming to fear for her safety from me. In, and since, June 2016 it has been the RCMP and Victim Services that have contacted Complainant about proceeding with a criminal harassment charge against me - it was not Complainant who contacted the RCMP in June 2016, complaining of harassment or fear for her safety.

Also, Complainant admitted in her own testimony that she was only seeking the order of protection in Arizona because she believed it was required in order to get the website taken down.

TR 2017-06-13 p58/10-16

TR 2017-06-15 p38/40-42

Complainant also discussed that in greater detail in her 2016-07-13 RCMP interview, at paragraphs 822-826.

And, as a point of fact, I never stated in that email, or at any other time, that I “thought of shooting” Complainant. That is Complainant's own clear and gross misrepresentation of the wording of that email. If anything, it was our son who had “thought of shooting” Complainant - he asked the question, and I was merely responding to his question.

Both Mr. Lagemaat and Mr. Myhre knew of all of the emails, police reports, court declarations, and statements to the news media which proved Complainant did not, at any time, sincerely fear for her life from me. Therefore, both Mr. Lagemaat and Mr. Myhre must have known Complainant was lying when she made this statement. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

65. Complainant falsely testified she set the target amount for her GoFundMe campaign to \$10,000US because that was the minimum she could choose.

TR 2017-06-15 p35/29-31

Complainant then contradicted herself by stating she set the target to \$10,000US because that was “the typical GoFundMe limit”.

TR 2017-06-15 p35/33-35

Complainant then contradicted herself again by stating she set the target to \$10,000US because that was what was suggested to her by someone.

TR 2017-06-15 p35/36-37

The proof that Complainant was lying about the GoFundMe limit is self-evident - she contradicted herself twice.

Both Mr. Lagemaat and Mr. Myhre were present for this testimony. They must have known Complainant was lying about at least two of the reasons she had provided. Yet neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe Complainant was lying in her testimony.

66. Complainant falsely testified she used the money she received through GoFundMe to obtain the Arizona order of protection.

TR 2017-07-15 p38/36-43

The proof of this being false is self-evident. Complainant applied for, and received the Arizona order of protection in July 2015. She created the GoFundMe campaign in June 2016 - immediately after I was denied bail - a year AFTER she obtained the order of protection. Also, there is no cost to a complainant/plaintiff for obtaining an order of protection.

Both Mr. Lagemaat and Mr. Myhre knew Complainant had already obtained the order of protection, a year before starting the GoFundMe campaign, and that Complainant did not renew the order of protection when it expired in October 2016. Therefore they must have known Complainant was committing perjury when she testified. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant had committed perjury.

67. Complainant falsely testified that at the November 2011 California family court hearing her allegation that I had hidden GR1 from her wasn't discussed.

TR 2017-06-15 p41/1-4

However, Complainant's allegation that I had absconded with GR1 then hid him from her for nine years was clearly stated in her declaration in the Arizona family court, a copy of which was forwarded to the California family court. My response to that allegation was clearly stated in my sworn declaration in the California family court. At the hearing, Complainant explicitly raised the allegation again. She stated to the court, under oath, that over the nine years she had repeatedly contacted the sheriff in Pinellas County, Florida where she had been living, but they were not able to help her. The California family court judge told Complainant she and I had had an active child custody case before the the Torrance courthouse (of the Los Angeles County Superior Court) and that if her allegation were true all she would have had to do would be to call the Torrance court, tell them I had absconded with GR1, and a warrant would have been issued for my arrest. The judge asked Complainant why she had not once contacted the Torrance court in that nine years. Complainant stated she didn't know that that is what she could have done. Based on that response, the court determined her claim of me hiding GR1 from her for nine years was not credible.

Also, it is my understanding, if the family court had believed there was ANY truth to Complainant's claim it would not have ordered Complainant to immediately return GR1 to my custody on that day.

I had discussed this very point at great length with both Mr. Lagemaat and Mr. Myhre prior to trial. In addition, I had written about it in a blog post in the website. And, the minute entries and documents from the family court also prove Complainant's claim was discussed at that hearing. Therefore, Mr. Lagemaat and Mr. Myhre must have known Complainant was lying when she testified on this point. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant had lied in her testimony.

68. Complainant falsely testified the California family court ordering her to return GR1 to my custody, in November 2011, was solely an issue of jurisdiction, not a determination on the merits.

TR 2017-06-15 p41/17-25

The California and Arizona family courts conferring and determining that California was GR1's "home state" under the UCCJEA only meant that the California court had jurisdiction over the child custody proceedings. The "home state" determination has nothing to do with which state the court will decide it is in the best interests of the child to reside in. That can ONLY be determined on the merits.

This is proven by the minute entries of the California and the Arizona family courts.

Mr. Lagemaat and Mr. Myhre, both being lawyers, must have known that a determination of which court (i.e. California or Arizona) will have jurisdiction to hear and decide a case is completely separate from which state and parent the child should reside with. Also, under the UCCJEA, the determination of jurisdiction is made, amongst the involved judges, outside of court - the determination of jurisdiction was made before the November 2011 hearing. Therefore, Mr. Lagemaat and Mr. Myhre must have known Complainant's statement could not possibly have been true. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

69. Complainant falsely testified that I was in a bar in Arizona, with a firearm, lining up bullets on the bar.

TR 2017-06-15 p42/13-15

However, Arizona law, at the time in question (2005 - 2007) prohibited bringing a firearm into an establishment which serves alcohol. Complainant has been making this same false claim, under oath, in various courts, since 2011 - even though it has been proven false each time. And although it has been proven false, Complainant continues to revive it whenever there is a new audience.

The proof that this statement is false is elementary. The Arizona law prohibiting bringing a firearm into an establishment which serves alcohol was well documented at the time (the law was later repealed in 2009, but was still active and enforced at the time of Complainant's claim). Also, Complainant had raised this same claim in her declarations in the family court and I had responded as I have here. Based on that, the family court did not consider her claim credible. Therefore, Mr. Lagemaat and Mr. Myhre already knew, prior to trial, that this claim could not be true; that Complainant had already raised it, under oath, in prior proceedings only to have it determined to be false. However, neither Mr. Lagemaat nor Mr. Myhre attempted to inform the court or the jury that they had reason to believe that Complainant was committing perjury.

70. Complainant falsely testified that when I emailed her a copy of my PAL was the first time she knew I was able to purchase firearms legally.

TR 2017-06-15 p42/16-20

However, that testimony directly contradicts her prior testimony where she admitted that in Arizona there is no firearm registration or licensing, and that anybody can purchase a firearm without having to obtain "legal permission".

TR 2017-06-15 p41/42-44

Therefore, since Complainant knew I had lived in Arizona in 2000, 2001, 2006 - 2007, then at any of those times I would have been "able to purchase firearms legally". Particularly since she admits to having knowledge of me possessing at least one firearm when I lived in Arizona in 2006/2007.

TR 2017-06-15 p42/6-13

Both Mr. Lagemaat and Mr. Myhre were present for all of Complainant's testimony. Therefore, they must have noticed her contradictory statements on this point. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant was committing perjury.

71. Complainant falsely testified GoDaddy made me take the website down.

TR 2017-06-12 p33/37-41

However, the emails between GoDaddy and myself, on 2014-07-30 prove that is false. Her complaint was only about sending unsolicited emails to her associates, not about the website. Moreover, in my response to GoDaddy, I proactively informed them I would be moving any hosted services associated with the domain in question, so the complaint was moot. GoDaddy did nothing further and shortly thereafter I moved the domain to another provider.

Both Mr. Lagemaat and Mr. Myhre knew of that email thread. Therefore, they must have known Complainant was lying when she testified. However, neither Mr. Lagemaat nor Mr. Myhre made any attempt to inform the court or the jury that they had reason to believe Complainant had committed perjury.

Failure to Pursue Lines of Questioning

72. Complainant testified that she was knowingly and deliberately trying to keep me talking to her so that she could try to get information from me which she could use against me.

TR 2017-06-14 p48/31-46

Mr. Lagemaat should have pursued this further. Complainant admitting that she was deliberately trying to "keep me talking" so that she could get information to use against me should invalidate her claim of harassment. Harassment requires that the "repeated communication" or the "threatening conduct" be unwanted. But if Complainant was taking very deliberate and strategic steps to try to get me to continue the communication or the conduct in question then it cannot, reasonably, be considered unwanted. Particularly when Complainant is doing so for the express purpose of trying to get me to say things for the purpose of using them against me.

Based on this admission, Complainant is saying that what she was doing was very intentional and strategic and, as such, my conduct could not possibly have been harassment - I was merely doing exactly what she was trying to get me to do.

73. Complainant testified that she never read any of the blog posts on the website.

Mr. Lagemaat should have cross examined Complainant on this admission. Any content on the website which Complainant had not seen could not possibly have contributed to her fear for her safety and, as such, could not have been relevant to the charge of criminal harassment. And, if the blog posts were not relevant then they should have been excluded from the Crown's book.

This admission by Complainant is even documented in Mr. Lagemaat's trial notes (p24, last 2 lines of the page), so he was clearly aware of it.

I believe it is also significant that when Complainant testified she hadn't read any of the blog posts, Mr. Myhre appeared surprised by that. He then confirmed by asking again and Complainant clearly stated "No". That suggests Mr. Myhre had been under the mistaken impression Complainant had actually seen the blog posts he was putting before the jury.

74. Complainant testified, very emotionally, about me publishing pictures and information about her son, SC1, on the website and how that adversely affected him.

TR 2017-06-13 p17/44 – p19/41

However, Complainant never once made any attempt to request I remove SC1 from the website. There is not one email from Complainant, making any reference to SC1 being on the website. Mr. Lagemaat should have confronted Complainant on why, if she was so scared and upset about SC1 being on the website she did not even ask me to remove him. This could have shown the jury that the reality is that Complainant is more interested in how she can use her children to gain people's sympathy, than in actually protecting or looking out for the safety and well-being of her children.

75. In March 2000, Complainant had been committed to the Penn Mar Therapeutic Center in El Monte, California (a psychiatric hospital) under a court order. At that time Complainant was prescribed antipsychotic medication.

Mr. Lagemaat should have cross examined Complainant on this. Mr. Myhre alluded to it, briefly, while reading in one of my emails to Complainant.

This could have helped to prove to the jury that Complainant has a history of mental illness, that she refuses to receive treatment for it, and that she refuses to acknowledge it.

If Complainant attempted to deny being committed to a psychiatric hospital under court order, Mr. Lagemaat could have confronted her with the court documents from her March 2000 arrest and conviction.

76. Throughout her testimony, Complainant repeatedly stated she was afraid of me and of what she believed I would do, however she was consistently overly vague and did not once provide any indication of what, exactly, she believed I would do that would cause her to fear for her safety.

TR 2017-06-14 p45/21-27

TR 2017-06-14 p50/18-26

Each time Complainant made such vague claims of being afraid for her safety Mr. Lagemaat should have cross examined her on what, exactly, she believed I would do.

If Complainant responded that she believed I would continue to publish information about her on the Internet, then Mr. Lagemaat could have confronted her on whether or not all of the claims I had made about Complainant, on the Internet were true. And once he had proven that they were true, he could have pointed out that it seems what Complainant is really afraid of is everybody finding out the truth about her – not anything I would do.

If Complainant responded her fear was related to any email communication from me then Mr. Lagemaat could have pointed out that as of July 2014 she was no longer under any obligation to maintain any communication with me, and that as of July 2015, the first arrest for criminal harassment, there had been no communication from me other than 8 emails requesting she allow GR1 to visit with me.

If Complainant responded she believed I would physically harm her, Mr. Lagemaat could have pointed out that there is absolutely no history of violence or aggression from me, and that, in reality, it has actually been Complainant who consistently “escalated” hostilities between us – not me. Mr. Lagemaat also could have

confronted Complainant with her consistent and repeated statements to the police, the news media, and others, that she does not believe I would physically harm her because I'm too much of a "coward" to do anything like that.

This could have shown the jury that Complainant's claims of being afraid for her safety, based on some belief of what I might do, were unfounded, irrational and insincere.

77. The Crown's book of exhibits included numerous blog posts from the website. However, neither Mr. Lagemaat nor Mr. Myhre questioned Complainant on any of those blog posts. The jury was lead to believe much of the content of those blog posts, particularly the claims and allegations made by me against Complainant, were false and, therefore, defamatory.

Mr. Lagemaat should have cross examined Complainant on the accuracy and truthfulness of those blog posts to show that, in fact, the claims and allegations were all true. I Complainant attempted to deny the truthfulness of the posts then Mr. Lagemaat could have confronted her with the physical evidence – much of which was on the website (e.g. police reports, court documents, audio recordings) – proving the posts were actually true and Complainant was committing perjury.

Otherwise, the jury was left with the impression that the claims and allegations made by me on the website were false and that I intended to harm Complainant by disseminating false information about her. Rather than the reality, which was that I merely intended to inform the public of the truth about the offensive and very harmful things Complainant has done to myself and others.

Mr. Lagemaat should have emphasized that merely publishing the truth about a person's offensive conduct does not, and cannot, amount to harassment – it is, after all, no different than what the news does every day.

78. Mr. Lagemaat failed to cross examine Complainant on why she did not file a complaint with the web hosting provider or the DNS hosting provider while I was in custody on this matter.

Since I was in custody, I was unable to respond to any emails. Had Complainant filed a complaint with either the web or the DNS hosting provider the provider would

have required me to respond, by email, to the complaint and, failing to do so could have resulted in the respective service being temporarily suspended – effectively causing the website to be taken offline. It would have been a very quick, easy, and effective way for Complainant to get the website taken down.

I had pointed this out to both Mr. Lagemaat and Mr. Myhre. I believe Mr. Myhre would have had an ethical obligation to inform Complainant of this since the Crown's position was that the website itself constituted criminal harassment. Yet, Complainant still did not take this very simple step to get the website taken down.

Mr. Lagemaat should have cross examined Complainant on why she chose not to file a complaint with the hosting providers, knowing that I was in custody and would not have been able to participate in the complaint resolution process. I believe this would have shown the jury that Complainant was not in the least bit serious about wanting the website to be taken down.

79. Complainant testified that she had been in communication with lawyers, police in various states, and Child Protective Services (CPS) in Arizona and California, every six months, during the time she claims she did not know where GR1 and I were (approximately 2002 through 2010).

However, according to extensive freedom of information requests I had filed with CPS and the Sheriff's Offices in Pinellas County, FL; Maricopa County, AZ; and Los Angeles County, CA; police departments in Clearwater, FL; Tampa, FL; Largo, FL; St. Petersburg, FL; Phoenix, AZ; Scottsdale, AZ; Los Angeles, CA; Torrance, CA; there is no record of a single contact by anyone with Complainant's maiden or married names and relating to GR1.

Mr. Lagemaat should have cross examined Complainant on this issue and, if she continued to claim she had been in repeated contact with such agencies, he should have confronted her with the proof that no record of such contacts exists. This could have shown the jury that Complainant was lying about having put any effort into attempting to locate me and GR1 during the nine years she was absent from our lives.

80. Mr. Lagemaat failed to cross examine Complainant on why, if she didn't know where GR1 and I were for nine years, she didn't simply notify the Torrance, where

we had an active child custody proceeding, that I had absconded with GR1.

This issue had already been addressed by the California family court in 2011, when Complainant claimed I had been hiding GR1 from her for nine years and she didn't know where we were. Complainant had also used that claim in the Arizona family court, in August 2011, when she abducted GR1 to Arizona, to get emergency temporary custody of GR1 from me. In November 2011, the California family court asked Complainant why she didn't just notify the Torrance court that I had absconded with GR1. Complainant's response was that she didn't know that's what she could have done. Based on that response, the California family court decided her claim was not credible. Thereafter, Complainant abandoned that claim – until she spoke with the news media in February 2016, at which point she went on international news media, giving numerous interviews, claiming I had abducted and hid GR1 from her for nine years.

Even though Complainant falsely testified that the California family court did not address this issue in November 2011, it does not change the fact that for nine years Complainant failed to do the one and only thing she would have had to do if there was any truth at all to her claim that I had hid GR1 from her for nine years.

This could have shown the jury that there is no truth to Complainant's claims that I had absconded and hid GR1 from her for any period of time, and that she was lying under oath. Moreover, it would have established a pattern of behavior with respect to Complainant claiming she had taken specific steps to resolve something when in reality she had done nothing at all.

This issue was also addressed on the website, in two blog posts I had written, wherein I point out that Complainant's own letters to me and her testimony in the California family court prove her claim was false. Mr. Lagemaat also should have cross examined Complainant on those blog posts and the information contained therein.

81. Complainant testified that I had created a fake LinkedIn account in her name, for nefarious purposes.

TR 2017-06-12 p17/9-p18/5

TR 2017-06-15 p10/8-9

And that I sent multiple defamatory emails to a large number of her coworkers and associates.

TR	2017-06-12	p26/39-43
TR	2017-06-14	p9/1-5
TR	2017-06-14	p20/32-34

Complainant also made those claims, repeatedly, in her statements to the RCMP. She told the RCMP she had copies of the emails and the LinkedIn page and that she would forward those to the RCMP. However, she did not provide them to the RCMP. Nor were they ever received or used by the Crown. In reality, the emails and the LinkedIn page simply did not exist.

Mr. Lagemaat should have confronted Complainant on why she failed to provide the RCMP or the Crown any evidence at all to support those claims. Particularly since she had told the RCMP she had copies and would forward them.

This could have shown the jury that there was no truth to her claims I had sent multiple, mass emails to her associates and created a fake LinkedIn account in her name. But by not cross examining Complainant on these claims, the jury was left with the impression they were true.

AFFIRMED BEFORE ME at the City
of Vancouver, in the Province of
British Columbia, on ____ January, 2019

A Commissioner for Taking Affidavits in the Province of British Columbia

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PATRICK FOX
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27178
Vancouver Registry

In the Supreme Court of British Columbia
(BEFORE THE HONOURABLE MADAM JUSTICE HOLMES AND JURY)

Vancouver, B.C.
June 12, 2017

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT TRIAL
(Excerpt - Testimony of Desiree Capuano)

COPY

BAN ON PUBLICATION; INHERENT JURISDICTION

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Crown Counsel:

M. Myhre

Appearing on his own behalf:

P. Fox

Defence Counsel:

A.J. Lagemaat
M. Chatha, A/S

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RULINGS

Nil

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 September of 2000?
2 A Very prematurely.
3 Q You separated from Mr. Fox, or Mr. Riess, in 2001?
4 A Yes.
5 Q Or the two of you separated. There was a custody
6 battle over Gabriel at that point in time?
7 A Yes.
8 Q There were court hearings involved?
9 A Yes.
10 Q And at the end of it, I understand there was a
11 joint custody order where Gabriel was to go back
12 and forth between your home in Florida, and
13 Richard's home in California?
14 A Yes.
15 Q What was your belief about your marital status
16 with Richard at the end of the court proceedings?
17 A I was under the impression that the divorce
18 proceedings were included with the custody so that
19 had been taken care of. I was young and naive,
20 but --
21 Q You were 21 when the custody --
22 A Yes.
23 Q -- was resolved? I understand that very shortly,
24 within about a month, or so, you did not have the
25 funds to fly Gabriel back from California?
26 A Correct.
27 Q And that Richard ended up with custody by default?
28 A Yes.
29 Q And not long after that, Richard stopped
30 communicating with you?
31 A Yes.
32 Q And you were unable to reach Gabriel?
33 A Yes.
34 Q In 2002, you married a man named Michael Capuano?
35 A Yes.
36 Q You had your son Sage with him in 2003?
37 A Yes.
38 Q I understand the next time you had contact with
39 Gabriel was in 2005?
40 A Yes.
41 Q And that Richard had brought Gabriel to see your
42 mother?
43 A Yes.
44 Q They had a series of visits, your mother and
45 Gabriel did?
46 A Yes.
47 Q But they didn't leave any contact information?

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 A No.
2 Q Did you want to have contact with Gabriel?
3 A Yes.
4 Q Were you doing anything to try to get in contact
5 with him?
6 A After 2005, when the phone number didn't work, I
7 did reach out to various sources, legal sources,
8 but never made any progress with finding him.
9 Q When you say various sources, who are you
10 referring to?
11 A Lawyers, I spoke with attorneys, I spoke with
12 police in various states, Missing Persons, CPS.
13 Q That's Child Protection Services?
14 A Correct, sorry, Child Protection Services, yes. I
15 left my information with Child Protective Services
16 in Arizona and California every six months.
17 Q So in 2005, did you have any interaction with
18 Gabriel?
19 A After the phone call, no. I spoke with him on the
20 phone once in 2005 while he was at my mother's
21 house.
22 Q I understand that you spoke to him on the phone
23 again in 2007?
24 A Correct.
25 Q The circumstances of that were that Richard had
26 contacted your mom?
27 A Yes.
28 Q Asking for your contact information so Gabriel
29 could contact you?
30 A Correct.
31 Q And then Gabriel did phone you?
32 A Correct.
33 Q In 2009, you separated from Michael Capuano?
34 A Yes.
35 Q And then I understand that in 2011, Richard sent
36 you a letter, inviting you to re-establish some
37 contact with Gabriel --
38 A Correct.
39 Q -- and apologizing for withholding him from you?
40 A Yes.
41 Q There were a few letters back and forth and then
42 eventually he gave you Gabriel's contact
43 information?
44 A Correct.
45 Q And it was then that you learned that Gabriel was
46 actually living with a friend of Richard's named
47 Liz Munoz, in the Los Angeles area?

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 A Correct.
2 Q And then you drove to California and you actually
3 met with Gabriel in June of 2011?
4 A Yes.
5 Q That was the first time you'd seen him since 2001?
6 A Yes.
7 Q And I understand that initially it was going well,
8 but then very short in -- in July of 2011, Liz
9 told you that she was concerned that you were
10 going to take Gabriel, and she told you that she
11 was going to, essentially, hide him from you?
12 A Yes.
13 Q I understand that after that, you got some legal
14 advice?
15 A Yes.
16 Q You then drove to California and with the
17 assistance of police, took custody of Gabriel?
18 A Yes.
19 Q Then in October 2011, Richard filed for custody of
20 Gabriel in California?
21 A Yes.
22 Q In November, without having heard from you, I
23 understand that the judge in California ordered
24 that Gabriel should be immediately returned to
25 California?
26 A Yes.
27 Q There was a court hearing where you were heard
28 then?
29 A Yes.
30 Q In November 2011, and at the end of that, the
31 order was for joint custody with Richard having
32 primary physical custody and a visitation plan
33 where Gabriel would visit you on school breaks?
34 A Correct.
35 Q And how did you feel about that arrangement?
36 A I was okay with that arrangement. That was what
37 Gabriel said he wanted so --
38 Q And you flew Gabriel to Arizona for winter
39 break --
40 A Yes.
41 Q -- over the winter 2012 into January 2013?
42 A Yes. Multiple visits throughout 2012, but, yes,
43 also for that one.
44 Q And so then again in the summer of 2012 --
45 A Yes.
46 Q -- he flew to Arizona --
47 A Yes.

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 number and the dates of these emails, we can see
2 they start at the top. The most recent would be
3 May 20th, 2016, and then on the last page, the
4 last one listed is October the 10th, 2011?
5 A Yes.
6 Q As far as you've been able to tell, is that an --
7 accurate in terms of the number of emails that
8 went back and forth between you and Richard?
9 A Yes. Yeah.
10 Q Do you think there are any emails, or email chains
11 missing from this list?
12 A There -- there might be. I -- I haven't looked,
13 compared.
14 Q And then as far as the dates that are on these
15 emails and the dates of the other emails in this
16 book that you've reviewed, do the dates appear to
17 be accurate, as far as you can tell?
18 A Yes.
19 Q Okay. Now, I'd like you to go to the very end,
20 the last page of Tab 8, and I'm going to suggest
21 that if you flip forward from -- forward in time
22 from that point of view or that point, there are,
23 roughly, 13 pages on a list of emails before you
24 get to October 2012 --
25 A Yes.
26 Q -- about 13 pages. And there are about 35 emails
27 a page --
28 A Yes.
29 Q -- and so that's, roughly, 450 emails between
30 October 2011 and October 2012?
31 A Yes.
32 Q Does that sound, roughly, accurate in terms of the
33 number of communications that were going back and
34 forth between yourself and Richard at that time?
35 A Yes.
36 Q In a couple of sentences, could you characterize
37 the tone of these email communications between
38 yourself and Richard during that timespan?
39 A Between 2011 and 2012?
40 Q Yes.
41 A Many of the emails from Richard were demanding,
42 ordering, threatening to take me back to court,
43 telling me that -- in -- insulting. They were
44 mean and -- and -- and hostile, and aggressive in
45 nature.
46 Q Okay. We're going to go back to some of the high-
47 level events that took place for a minute. I

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 A No.
2 Q What did it say there?
3 A "Richard."
4 Q Other than those differences, the emails that you
5 reviewed in here, do they appear to be accurate
6 copies of the actual correspondence between
7 yourself and Richard?
8 A Most of them had my son also included when he sent
9 them to me.
10 Q And by included, what do you mean?
11 A CC'd on the emails.
12 Q And are you referring to Gabriel?
13 A Yes.
14 Q And then just as far as the dates that are listed,
15 do those appear to be accurate to you?
16 A Yes, the dates do.
17 MR. MYHRE: Okay. At this point, I'd like to invite
18 the jury to review the email, "Last attempt at an
19 amicable resolution." And the way that I intend
20 to proceed by reviewing these emails is to have
21 the members of the jury read the email and then
22 I'll be asking Ms. Capuano a few questions about
23 it. And so maybe just look up at me when you're
24 done reading and I'll start with the questions.
25 THE COURT: Mr. Myhre, this a public trial so
26 everything has to be on the record.
27 MR. MYHRE: This is -- it is an exhibit, My Lady.
28 THE COURT: It is. Is it publicly available?
29 A It's on the website.
30 MR. MYHRE: I would think the members of the public
31 could apply for access to it.
32 THE COURT: Well, I'm not sure we can proceed in the
33 way you're suggesting. Can you not direct her
34 attention to specific portions?
35 MR. MYHRE: It does seem to me that the jury will have
36 to look at this book at some point. It's an
37 exhibit and it will --
38 THE COURT: I think we need to address this so --
39 MR. MYHRE: Very good.
40 THE COURT: Members of the jury, I'm going to ask you
41 to retire to the jury room briefly. Leave all
42 your materials, please, in the courtroom. Nobody
43 will go near them. Thank you.
44
45 (JURY OUT)
46
47 THE COURT: Now, is this a discussion that should be in

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 officer, not paid a bill on time, will be
2 scrutinized. Every past and present employer
3 and landlord will be interviewed. Every
4 person you've lived with or associated with
5 will be questioned. Every tax return, every
6 credit card bill, every bank account, every
7 medical record including psychological and
8 psychiatric for all relevant people in your
9 life will be found and picked apart. Medical
10 records are confidential but investigators
11 always have a way around that. Every time
12 Sage choked a kid at school will be found.
13 Every person you've ever had a relationship
14 with or slept with, or even just had a drink
15 with will be found and questioned. Each
16 person that comes to your home or whose home
17 you go to, every person you've worked with,
18 will be researched and questioned. Every
19 person you have ever betrayed, lied to,
20 deceived, misled, will be located and
21 interviewed.

22
23 Q Okay. And we see your response above [as read
24 in]:

25
26 You do what you feel you need to.

27
28 A Yes.

29 Q How would you characterize your response?

30 A I was not going to send my son to Canada.

31 Q Why not?

32 A Again, I felt that if he went up to Canada, I
33 would not see him again and I had custody of our
34 child in the United States.

35 Q Okay. And how did Richard's words that you read
36 out make you feel?

37 A Scared.

38 Q Scared of what?

39 A That he would do this and that I would have to
40 somehow try to fix whatever damage was caused.

41 Q Okay. Now, if we flip back to the previous page,
42 there's an email titled, "One more thing," dated
43 July 21st, 2013, at 11:29 a.m. When was this sent
44 in relation to the email we just looked at?

45 A Same day.

46 Q And I see Mr. Fox's -- or, sorry, Mr. Riess's
47 words there, the third line down [as read in]:

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1 A I do. I had just gotten out of the shower, I had
2 my bathrobe on. Gabriel came in laughing while he
3 was on the phone and said he wanted to take a
4 picture, and I told him I had just gotten out of
5 the shower. He said that was fine, he really
6 wanted to take a picture. He's my son and, of
7 course, so he took a picture and it ended up on
8 the website.

9 Q Around that time, you also became aware that there
10 was a LinkedIn profile in your name that you
11 hadn't set up?

12 A Correct.

13 Q Tell the jury how you found out about that and
14 what it was.

15 A I had a project manager, work associate come to me
16 one day and she said, "It's none of my business
17 and I don't judge anybody, but you may not want to
18 put out on LinkedIn that you're a stripper." And
19 I said, "Excuse me," and she said, "Yes, you're
20 LinkedIn profile says you're a stripper and a drug
21 user," and I went to my LinkedIn profile and I saw
22 my main profile, which was fine, and then I saw
23 underneath it a secondary profile that was created
24 and many of my work associates had already
25 connected with the secondary profile. It had the
26 name of a strip club that I apparently worked at
27 and I like to sit around and watch UFC and drink
28 beer and get high in front of my kids.

29 Q Okay. What did you do about it?

30 A I called LinkedIn and I told them about the
31 situation, and they researched it. They got it
32 taken down. I contacted my work associates and I
33 told them not to connect to that LinkedIn profile,
34 that that was not me. And once it was down, I
35 thought I was done.

36 Q Do you remember if that was before or after you
37 found out about the website?

38 A It was before.

39 Q Okay. So then you subsequently found out about a
40 website?

41 A The individuals that had connected to the LinkedIn
42 profile received the first email from Richard,
43 pretending to be me, that had the link to the
44 website in it.

45 Q Okay. If we could flip to the next email, it's
46 titled, "Cease and desist," April 28th, 2014. And
47 you emailed Richard [as read in]:

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- 1
2 Please stop emailing my coworkers' personal
3 email accounts that you managed to obtain
4 through my LinkedIn account pretending to be
5 me. This is harassment and will be treated
6 as such if you do not cease. Your continued
7 attacks have made me fearful for myself and
8 for our son. Moreover, your aggressive
9 behaviour has made it impossible for us to
10 communicate, co-parent or work together to
11 provide a safe, nurturing and positive
12 environment for G, which is all that you and
13 I should be concerned with. I am willing to
14 work with you in regards to G, but not in
15 this hostile environment you have created.
16 Desiree.
- 17
- 18 Is that --
- 19 A Yes.
- 20 Q -- an accurate copy of the email that you sent to
21 Richard on that day?
- 22 A Yes.
- 23 Q When you sent this email to Richard, did you write
24 "Gabriel," or did you write "G*"?
- 25 A I wrote "Gabriel."
- 26 Q Okay. And you told Richard at that point that you
27 were fearful for yourself and your son?
- 28 A Yes.
- 29 Q Why were you fearful?
- 30 A At that point, he had my home address, he had my
31 home phone number, he had my work address, he had
32 my work phone number, he had my income and expense
33 declaration, he had a lot of things that could
34 potentially cause risk to myself and my family up
35 on the website.
- 36 Q When you say risk, what kind of risk, at the time
37 you wrote this email, was in your mind?
- 38 A Honestly, just that all of this information was
39 out there. I didn't know who could read it, I
40 didn't know who would take interest in it, I
41 didn't know who would pay attention to it. It was
42 also an attempt to get me fired from my job, and
43 which would have meant that I had no income to
44 provide for my children.
- 45 Q You perceived it that way?
- 46 A Yes.
- 47 Q Did you do anything within your company to try to

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1 [as read in]:
2

3 It also occurs to me that if what you allege
4 is true, and I have, in fact, contacted some
5 of your associates to provide them
6 information which may be damaging to your
7 reputation, then that is merely the same
8 thing you had done when you contacted Steve,
9 my rabbi, et cetera, is it not?
10

11 Did you contact somebody named Steve who was --
12 you understood to be Richard's rabbi?

13 A No, Steve was not Richard's rabbi, Steve Riess is
14 Richard's father. I never contacted a rabbi.

15 Q Did you contact Richard's father?

16 A Yes.

17 Q Did you ask his father for any assistance?

18 A Not at that time. No, not at that time.

19 Q The last paragraph, Richard wrote [as read in]:
20

21 Moreover, when I informed the court of your
22 actions and requested it order you to desist,
23 it refused to get involved.
24

25 What did you understand him to be referring to and
26 what did that mean to you?

27 A Honestly, I have no idea. He -- he made claims
28 that I contacted a bunch of his associates and
29 rabbis, but I didn't even know these people, or
30 who they were, or how to get a hold of them, and I
31 certainly never contacted anyone.

32 Q But specifically with his mentioning here, ". . .
33 I informed the court of your actions and requested
34 it order you to desist, it refused to get
35 involved," do you know what he's talking about?

36 A In the custody court, he told the custody judge
37 that I had contacted these people.

38 Q And did the court refuse to get involved?

39 A There was no evidence.

40 Q Okay. The next email, "Re waiver of rights, dated
41 May 22nd, 2013," and this email chain starts at
42 the bottom of the page with an email from Richard
43 on May 21st, 2014, and he wrote to you [as read
44 in]:
45

46 I hereby serve notice that effective
47 immediately, I waive all my rights with

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1 respect to Gabriel.

2

3 And he goes on to try to be explicit that he's
4 saying he's waiving all of his legal rights to
5 custody of Gabriel.

6 A Visitation and communication.

7 Q Okay. And we see your response above that. With
8 respect to communication, you say [as read in]:

9

10 I see no reason for anything to change with
11 respect to the communication between you and
12 your son.

13

14 And then on number 3, visitation:

15

16 I don't know how else to explain to you that
17 I think it is important for Gabriel to spend
18 time with you.

19

20 So how would you characterize your response to
21 Richard saying he gives up all legal rights?

22 A He had talked about it before so this wasn't the
23 first time that he'd brought it up. It was the
24 first time that he told the lawyer, but at this
25 point, my job as a mom is to make sure that my
26 child has both of his parents so I never -- I
27 wasn't going to restrict their communication. It
28 wasn't restricted at that point. There was no
29 reason to restrict it just because he said this.
30 And he was supposed to get on a plane in a couple
31 days and go see his father so my only concern with
32 this email was did he still want his son for the
33 visitation?

34 Q Okay. And which you address in point number 3(a),
35 you tell him [as read in]:

36

37 If you're unable or unwilling to have Gabriel
38 at any time, he can stay with me.

39

40 A Yes.

41 Q You also go on to express a concern in (b):

42

43 Let me be as blunt about this as I can. If
44 you take my son across international borders
45 using anything but his given name and ID
46 issued to him by the United States Federal
47 Government, I will use everything in my power

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1 to see justice done.

2

3 A Yes.

4 Q [As read in]:

5

6 That said, I agree to fly our son to
7 California and agree to fly him to Canada.

8

9 A Yes.

10 Q Your concern there was what?

11 A He was using a different name. He was trying to
12 indicate that my child's name should be a
13 different last name, and he indicated he wanted to
14 believe -- if I'm not mistaken, in this one he was
15 indicating that he was going to be going with my
16 son from California to Canada and I didn't want to
17 lose track of my son. I just wanted to make sure
18 that everything was documented properly.

19 Q So you made an allusion to this -- oh, I
20 understand by this time, then, Richard was no
21 longer going by the name Richard?

22 A I believe so. He had -- he had told me that he
23 had -- he was Patrick Fox.

24 MR. MYHRE: Okay. This might -- there are a few more
25 questions on that line, but it might be a good
26 time for the break, My Lady.

27 THE COURT: All right. Members of the jury, we'll take
28 the afternoon break.

29

30 (JURY OUT)

31

32 THE COURT: Anything to address? All right. Thank
33 you.

34

35 (WITNESS STOOD DOWN)

36

37 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

38 (PROCEEDINGS RECONVENED)

39

40 MR. MYHRE: I have concerns about it being on the
41 record.

42 THE COURT: Yes, thank you.

43

44 (JURY IN)

45

46 **DESIREE CAPUANO, recalled.**

47

Desiree Capuano (for Crown)
in chief by Mr. Myhre
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1 THE COURT: Thank you. Go ahead.

2

3 **EXAMINATION IN CHIEF BY MR. MYHRE, CONTINUING:**

4

5 Q Ms. Capuano, when we left off, you had just
6 mentioned that at some point, Richard started
7 referring to himself as Patrick Fox?

8 A Correct.

9 Q And that was -- was that, roughly, around the time
10 of this May 22nd email?

11 A It was summer of 2014.

12 Q And how did that happen from -- as far as you were
13 concerned?

14 A It was -- it was very abrupt. There was no
15 documentation to show a name change. There was
16 nothing that I was given to indicate that -- in
17 any way that he was anybody other than Richard
18 Riess until he just said, "I'm Patrick Fox."

19 Q Okay. And did that concern you at all?

20 A Yes.

21 Q Why?

22 A Because this is a different identity, a different
23 identity that was not tied to anything of his past
24 or the child, the custody agreement, or anything
25 else.

26 Q Specifically with regards to Gabriel visiting, did
27 that cause you any concern?

28 A Yes. The custody agreement that said he had
29 visitation was to Richard Riess. The birth
30 certificate of my son has the father listed as
31 Richard Riess. The passport that my son has says
32 his father is Richard Riess. And with all of the
33 documentation showing who his father is, if he
34 went out to Canada and he's in the custody of
35 someone named Patrick Fox, who has no
36 documentation that he's also Richard Riess, then
37 if anything were to happen, they would have no
38 idea who my child was supposed to be with. And
39 being that he's in another country, I would have
40 very limited ability to help.

41 Q Okay. If we could turn to the next email, please,
42 dated June 24th, 2014. In this email, in the
43 first paragraph, Richard wrote [as read in]:

44

45 I would like to congratulate you on turning
46 our intelligent, inquisitive, generally
47 proactive son [et cetera et cetera] . . .

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1 Q Do you remember calling him and having something
2 rehearsed to say and trying not to cry?
3 A Yes. Yes, I do. I don't remember the
4 circumstances.
5 Q How frequently in this period of time did you
6 communicate with Richard over the telephone?
7 A I think are were a total of three times.
8 Q In what time period?
9 A The whole six years. More so in the beginning.
10 Q When you say the beginning, are you referring
11 to --
12 A 2011.
13 Q 2011. If we could go to the next email, please,
14 dated the same day, titled, "Forward Reforward
15 Income Expense Declaration," and Richard writes
16 [as read in]:
17
18 As you can see from the attached screenshot,
19 it seems you've requested that
20 desireecapuano.com be blocked by Apollo's
21 internal network. While I'm assuming you've
22 requested it, what's the matter, are you
23 embarrassed and/or ashamed of the things
24 you've done?
25
26 It goes on:
27
28 There's a few easy workarounds and I'll be
29 sure to implement before the next update is
30 posted to the site.
31
32 And then below that, there's forwarded an email
33 from a David Shroads at Western International
34 University. Do you know who Western International
35 University is?
36 A It's a college owned by Apollo.
37 Q And what did you understand to have been the
38 subject of this email from David Shroads?
39 A I believe Richard sent out a mass communication to
40 people that worked for Apollo or any of the
41 subsequent universities owned by Apollo, including
42 the income and expense declaration that I was
43 required to provide at the custody court.
44 Q And so at the top when Richard writes [as read
45 in]:
46
47 . . . it seems you've requested that

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1 desireecapuano.com be blocked by Apollo's
2 internal network.
3
4 Had you requested that?
5 A I didn't have to request it, the company blocked
6 it.
7 Q Okay. The next email dated the same day, titled,
8 "Forward forward medical marihuana program ID."
9 And this is an email, at the top, from Richard to
10 you, but it starts, if we look at the bottom just
11 where there are the little arrows [as read in]:
12
13 On July 22nd, 2014, at 5:02, Desiree Capuano
14 wrote: "Please note, as attached, I do have
15 a medical marihuana card so my use of
16 marihuana is legal and I don't have to
17 explain it or justify it to anyone and what I
18 do in my own home around my own kids is my
19 own business. Desiree Capuano.
20
21 Did you write that email?
22 A No.
23 Q Okay. What did you understand -- sorry, let's
24 just go up a little bit. Then there's an email,
25 Dawn Foster to Desiree Capuano [as read in]:
26
27 What the hell is this? Is he harassing you
28 again?
29
30 Do you know Dawn Foster?
31 A Yes.
32 Q Who is that?
33 A She was my co-worker. She was on my team.
34 Q Okay. And so what do you know about this email on
35 July -- the one at the bottom, "Please note I do
36 have a medical marihuana card"?
37 A I know that he sent it, signed by me, to make it
38 look like it was from me to my work associates.
39 So he sent out another email again to my
40 colleagues, and I only knew about that because she
41 forwarded it over to me.
42 Q Do you have a medical marihuana card?
43 A Yes.
44 Q When did you get that?
45 A 2012.
46 Q Okay. If we then go and look at what Richard
47 wrote to you at the top, in the second paragraph,

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1 Q And then the last paragraph [as read in]:
2
3 And for all the 1200 or so people that have
4 been bcc'd on this message, I wonder if
5 you've told them about . . .
6
7 And then a number of alleged misdeeds on your
8 part.
9 A Yes.
10 Q Do you know whether this was actually bcc'd to
11 1200 people?
12 A I don't know.
13 Q And just over the page, the first full paragraph:
14
15 Since you decided to stop all communication
16 around the time your website was set up and
17 all your emails to me have been made public,
18 I'm bcc'ing this message to all the
19 recipients that may be associated with you.
20
21 And then he provides your -- or he provides a
22 phone number, an email address and a physical
23 address, and then the website.
24 Now, was that your phone number -- were those
25 your phone numbers at the time?
26 A Yes.
27 Q Was that your actual home address at the time?
28 A Yes.
29 Q Now, in this email, Richard references you
30 stopping all communication with him?
31 A Yes.
32 Q Is that -- was that true?
33 A Yes.
34 Q And why did you do that?
35 A Communication with him wasn't going anywhere and
36 all communication was being put up on one side. I
37 wasn't going to give him anything else.
38 Q I'm sorry, Ms. Capuano, I just couldn't quite hear
39 that.
40 A I wasn't going to give him anything else that he
41 could use against me.
42 Q In the summer of 2014, did Gabriel visit with
43 Richard in Canada?
44 A Yes.
45 Q Roughly, what time period?
46 A I don't remember the exact dates. It was sometime
47 between May and July.

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1 labelled one as, "The picture of you in bed."

2

3 And then he goes on to say [as read in]:

4

5 There also seems to be a lot of interest in
6 the pictures of your bedroom.

7

8 And so did you understand Richard, here, to be
9 referring to the usage statistics for the website,
10 desireecapuano.com?

11 A Yes.

12 Q And how did it make you feel to know that --

13 A He was taunting me, knowing I couldn't do anything
14 about it.

15 Q And how did that make you feel?

16 A Powerless.

17 Q In particular, did it bother you that there might
18 be a picture of you in bed, or pictures of your
19 bedroom on a public website?

20 A Yes.

21 Q Okay. The next email dated July 31st, 2014, if I
22 could just take you to the second page of this
23 email? It appears -- it starts with an email from
24 Richard, saying [as read in]:

25

26 Desiree, please be advised due to my lack of
27 interest in dealing with GoDaddy, I intend to
28 transfer the hosting of the aforementioned
29 domain and all services thereto related to my
30 own servers which are based outside the US
31 and will, therefore, not only -- not be
32 subject to US laws and regulations, but will
33 also be under the exclusive control and
34 authority of, well, me.

35

36 So what did you understand him to be referring to?

37 A Well, he was trying to indicate that he was going
38 to take down the website from GoDaddy and host it
39 himself. He tried to make it seem like it was his
40 idea, but I -- I know that Apollo Group's legal
41 department was working with GoDaddy at that time.

42 Q Okay. Now, if we go back to the other page, this
43 appears to be an email from Richard or Patrick to
44 a Detective Tuchfarber. Do you know who that is?

45 A Yes.

46 Q Who is that?

47 A He is a detective at the Phoenix Police

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1 Department. I called the Phoenix Police when I
2 found out about the website and they opened a case
3 and this was the person that was assigned to the
4 case, and he responded to Richard's initial email.
5 Q Okay. And just to be clear, you say you contacted
6 the Phoenix Police Department when you found out
7 about the website. Why did you contact them?
8 A I figured there had to be something that could be
9 done about it. He was contacting my people I work
10 with, my place of employment. He had my personal
11 information up on this website. It felt like the
12 right thing to do.
13 Q From your perspective, did the Phoenix Police
14 Department have any success in getting any of this
15 to stop?
16 A No, the detective made an arrangement with Richard
17 that Richard would stop his harassment as long as
18 the detective investigated my drug use.
19 Q Did the -- was that something communicated to you
20 by the detective?
21 A Yes.
22 Q Did the detective investigate your drug use?
23 A I had a medical marijuana card so insofar as he
24 saw that, yeah. He'd also been to the home, he
25 had seen everything.
26 Q Okay. And did Richard stop the harassment?
27 A For a little while, yes.
28 Q For how long?
29 A I'm not sure exactly.
30 Q And so when you say stopped, do you mean -- what
31 do you mean?
32 A He stopped emailing the people I worked with.
33 Q Do you know whether or not in that period of time
34 he took the website down?
35 A I -- I think it was down shortly after, but I
36 think that's because GoDaddy took it down.
37 Q If we could go to the next email, then. Moving
38 ahead in time to December of 2014, Richard writes
39 to you [as read in]:
40
41 You don't mind if I post that telephone call
42 on the website, do you?
43
44 Do you know what he's referring to?
45 A I -- I called him and spoke with him about
46 something.
47 Q Do you know whether he recorded your phone calls?

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1 society who makes pretty decent money and
2 Gabriel likes me more than he likes you. You
3 have been played, you're a sucker. For
4 years, I was paying a salary in your name
5 through my corporations. You do remember
6 Vertical Inversion Systems, right?
7
8 What is that?
9 A It's a company that he incorporated when -- when
10 we were together.
11 Q [As read in]:
12
13 And not withholding taxes. You've got
14 thousands in back taxes which eventually the
15 IRS is going to go looking for and if they
16 don't, they're just a phone call away. I'm
17 methodical and think things through. I look
18 at the long-term. Sometimes my plans take
19 years to complete, but I always see them
20 through. PS, I emphasize the PAL because
21 it's hard to get, involves an extensive
22 background check and requires a clean record
23 and proof of good moral standing and
24 psychological stability. If there was any
25 truth to your claims, I would never be able
26 to get it. Do not take any statements or
27 references to firearms above as being in any
28 way threatening. I would never use a firearm
29 offensively or to threaten someone. They are
30 for sport and target practice only.
31
32 Did you know, before this email, that Richard had
33 guns in Canada?
34 A I know that he had taken Gabriel to a shooting
35 range. I did not know that he had guns.
36 Q And so we see Richard explicitly told you why he
37 was telling you about the guns?
38 A That's what he says.
39 Q Okay. How did that make you feel?
40 A He also told me I shouldn't feel offended when he
41 calls me white trash so I didn't really take that
42 at face value.
43 Q Okay. Did knowing that he had guns, or learning
44 that he actually had guns cause you any concern?
45 A Terribly, yes.
46 Q Why?
47 A The birth certificate that was attached in this

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in chief by Mr. Myhre
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1 email was from Florida so the birth certificate he
2 sent me said that he was Patrick Fox from the
3 United States, but then he sends me a gun licence
4 that says he can purchase firearms in Canada under
5 a name that's not his. The ability to do things
6 with those firearms and not have them traced back
7 to Richard Riess is very easy.

8 Q Was there anything else about this email that you
9 found significant?

10 A No, I -- there's a paragraph where, again, he's
11 calling me a lousy mother and that he does more
12 for our son than I do, but aside that, no.

13 MR. MYHRE: This might be a good time, then, My Lady.

14 THE COURT: All right. Thank you. Members of the
15 jury, thank you very much for your attention
16 through the day today. We're finished for the day
17 and I'll ask you all to be back and ready to
18 continue at the usual time tomorrow. Thank you.

19
20 (WITNESS STOOD DOWN)

21
22 (JURY OUT)

23
24 (PROCEEDINGS ADJOURNED TO JUNE 13, 2017, AT
25 10:00 A.M.)
26
27

28
29 Transcriber: I. Lim
30
31
32
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I hereby certify the foregoing to
be a true and accurate transcript
of the evidence recorded on a sound
recording apparatus, transcribed to
the best of my skill and ability.



I. Lim
Court Transcriber

27178
Vancouver Registry

In the Supreme Court of British Columbia
(BEFORE THE HONOURABLE MADAM JUSTICE HOLMES AND JURY)

Vancouver, B.C.
June 13, 2017

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT TRIAL
(Excerpt - Testimony of Desiree Capuano)

COPY

BAN ON PUBLICATION; INHERENT JURISDICTION
--

27178
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Vancouver, B.C.
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v.

PATRICK HENRY FOX

PROCEEDINGS AT TRIAL
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COPY

BAN ON PUBLICATION; INHERENT JURISDICTION
--

Crown Counsel:

M. Myhre

Appearing on his own behalf:

P. Fox

Defence Counsel:

A.J. Lagemaat
M. Chatha, A/S

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EXHIBITS

EXHIBIT 2: Identification documents attached to email of December 17, 2014, 3 pages	4
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RULINGS

Nil

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in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 "Richard" was being used, not "Patrick".
2 A Correct.
3 Q So that looks like it's been replaced in these
4 emails.
5 A Correct.
6 Q If you look at the P.S. section of this email [as
7 read in]:
8
9 P.S., is it really necessary to keep using
10 the name Patrick?
11
12 What did that say when you received this email in
13 July 23, 2014?
14 A
15 Is it really necessary to keep using the name
16 Richard.
17
18 Q Then:
19
20 I only use it with you and that now for
21 relevant family court proceeding and you
22 already know my name is Patrick, or is it?
23
24 Did that second Patrick -- did that say Patrick?
25 A Yes.
26 Q Okay. Moving ahead again, so the email titled,
27 "The ugly proof" from December 17th, 2010 -- 2014.
28 Did you check overnight whether or not this was
29 one of the emails that Gabriel was cc'd on?
30 A Yes, I did, and yes, he was.
31 Q Okay. And after court yesterday, you pointed
32 something out to me that troubled you in this
33 email that we'd overlooked yesterday when you were
34 testifying. What was that?
35 A The question on whether or not the email made me
36 fearful, because he's indicating that he owns
37 firearms and he's purchased these firearms under
38 the identity of Patrick Fox, but what was
39 concerning to me, particularly in this email, was
40 where he says [as read in]:
41
42 Regardless of what you believe, that birth
43 certificate, together with my BC ID has been
44 sufficient every time I've crossed the
45 border. You only require the passport when
46 flying, not driving.
47

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1 make you feel?

2 A Incredibly sad. But I knew that my son was being

3 manipulated to help his father, oftentimes

4 unknowingly. So I was watching this happen and it

5 was very frustrating that he put it into words, I

6 mean, put it down on paper and there's still

7 nothing I could do to stop it.

8 Q Okay, now I'd like to go to the first page of this

9 email string, so the first page after Tab 11.

10 Now, it has the parties there listed, "From

11 Patrick to Desiree" at the top. Do you know

12 whether this was one of the emails that Gabriel

13 was cc'd on?

14 A I'm sorry, which -- which one are we referring to?

15 Q So it -- as soon as you open from Tab 11, that

16 first page.

17 A Correct.

18 Q Do you know whether or not Gabriel was cc'd on

19 this email?

20 A I believe he was.

21 Q And what we see following are some little arrows

22 that show what your response to Richard's initial

23 emails that we just looked at were.

24 A Yes.

25 Q And then below those arrows, there's Richard's

26 response to your response.

27 A Correct.

28 Q And so I'd like to take you to -- just partway

29 down the page where there are little arrows that

30 start with, "Your stalker-like obsession...",

31 about a third of the way down the page. And you

32 write to Richard [as read in]:

33

34 Your stalker-like obsession with me is truly

35 impressive. The amount of time and energy

36 spent thinking of me is flattering, but

37 honestly, a little pathetic.

38

39 Is that what you said in your email?

40 A That is what I said, yes.

41 Q And you told us earlier how you had, for a time,

42 been ignoring emails from Richard.

43 A Yes.

44 Q Here you've done something different.

45 A Yes. I was trying a new -- a new approach.

46 Q Can you explain what that approach was and why you

47 took that approach?

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1 A A lot of the times with a bully, if you ignore
2 them or don't give them what they're after,
3 they'll stop, and so that's what I had been
4 trying. I was trying to placate and give him what
5 he was demanding or just not engaging.

6 At this point, I instead tried to defend
7 myself, stood my ground, and I wasn't going to be
8 pushed around anymore and I thought maybe if he
9 saw that I wasn't intimidated or if I wasn't
10 affected, that maybe he would stop, and so I
11 pushed back and I was trying some bravado and just
12 -- I was tired.

13 Q And Richard's response to you saying that was [as
14 read in]:
15

16 If there's any sincerity in your statements
17 that you -- then you've grossly
18 misinterpreted my intentions. I was pretty
19 direct when I told Detective Tuchfarber that
20 my intention was to do everything in my power
21 and capabilities to make your life as
22 miserable as possible and, if possible, to
23 the point that you ultimately commit suicide.
24 That would be my ultimate desire. But before
25 you reach that point, it is imperative that
26 you experience as much misery,
27 disappointment, and suffering as possible
28 first. At this point in your life, you have
29 very little to lose, so there is not much
30 incentive for me to actively publish your
31 information. I shall wait patiently until
32 you rise up a bit, then proceed with the
33 billboard campaign around Phoenix. I will
34 wait until you actually have some financial
35 significance, then publish your complete
36 credit and financial history, including your
37 social security number and birth certificate.
38 Not illegal as long as it is done outside the
39 U.S. I don't see how you could interpret
40 such intentions as being misguided affection.
41

42 How did that statement from Richard make you feel?
43 A It gave me a clue into some of the things that he
44 was planning on doing.

45 Q And did that have any affect on you?

46 A Yes. At that point, I started to wonder what else
47 he had planned. I honestly figured it was just a

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1 told him that murder is illegal and immoral
2 and can result in spending the rest of one's
3 life in prison. And that the rest of my life
4 in prison is not a risk I'm willing to take.
5 But otherwise, no, I would have no qualms
6 about it; that that is how much I despise you
7 for the things you've done and continue to
8 do. He did not flinch; he didn't look
9 anything other than indifferent; as best I
10 could tell, he didn't care. The topic never
11 came up again. That was during his visit
12 last summer. To be clear, I told Tuchfarber
13 the same thing. There is nothing illegal or
14 threatening about wanting to harm someone as
15 long as you don't act on it. I am reasonable
16 and rational enough to know the difference,
17 and to refrain from engaging in such
18 activity.

19
20 And let me be absolutely clear on this point:
21 I would never deliberately cause you physical
22 harm, other than in self defence or defence
23 of another. Though that is nothing special
24 toward you - I have that rule for 'ALL'
25 people. Also, I emphasize that [Gabriel]
26 brought up the question and I only responded
27 to it truthfully.

28
29 How did this statement make you feel?

30 A I -- I, in my own mind, questioned Richard's
31 ability to rationalize what's -- what's right and
32 what's not. I also questioned his respect for the
33 law and, to me, what that meant was if he could
34 figure out a way that the risk of going to jail
35 was not there, that he would absolutely shoot me,
36 and he discussed it with our child.

37 Q Okay, if we could flip to the next email chain.

38 MR. MYHRE: And again, My Lady, I do apologize for not
39 having page numbers. That would have made things
40 easier.

41 Q If we could flip to the beginning of this email
42 chain, so over the next page. If you look at the
43 bottom of that page, see an email that starts, "On
44 Monday, January 26th, 2015, Patrick wrote...".

45 MR. MYHRE: So, okay, pardon me, members of the jury.
46 I can see you're flipping. So if we could --
47 there's the email that starts, "Your talk with

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1 Gabriel..." at the subject line on January 27th,
2 2015. So if you could just flip the page from
3 there and at the very bottom of that page, it
4 says, "On Monday, January 26th, 2015, Patrick
5 wrote...".
6 Q And if we look over the page, Ms. Capuano, at the
7 end of that email, the second paragraph reads [as
8 read in]:
9
10 By the bye about your medical records.
11
12 Do you see that paragraph?
13 A Yes.
14 Q So Richard wrote:
15
16 By the bye, about your medical records, I got
17 them from Penmar [phonetic] unofficially, of
18 course. That's when you were diagnosed as
19 bipolar, and since there is no cure for it
20 and it never goes away, if you were bipolar
21 then, you're bipolar now.
22
23 Do you know, Ms. Capuano, whether or not Mr. Fox
24 -- Mr. Riess was able to obtain your medical
25 records?
26 A No, I don't know if he was able to get them or
27 not. I don't know if he has them.
28 Q Generally speaking, around this time, what was
29 your belief about Mr. Riess's ability to find out
30 information about you?
31 A I figured everything that he said he had, he
32 actually had. He generally doesn't lie, so when
33 he says he's going to get it or has it...
34 Q Now, this email continues on with a criticism
35 about your parenting [as read in]:
36
37 How is it you've still not inspected
38 Gabriel's eye and brought him to the
39 ophthalmologist. It's been two weeks since I
40 ridiculed you for being so indifferent toward
41 him that you hadn't even noticed it and now
42 you still have not. How do you live with
43 yourself being so full of shit that you claim
44 to love and care about your children and that
45 you're a good parent, dude. You're one of
46 the worst fucking parents I've ever known.
47 Even my crappy mother at least eventually

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1 would have taken me to the doctor. Dang,
2 woman, you're a fuckin' sad excuse for a
3 human being. Anyway, it's about time that I
4 update your website and put it back online.

5
6 Cheers,
7 Patrick.

8
9 So there we see another criticism of your
10 parenting. Do you remember whether there was a
11 problem for which Gabriel needed to go to the
12 ophthalmologist?

13 A Gabriel is blind in one eye. He's between half
14 and three-quarters blind. He had ROP, which is
15 retinopathy of prematurity, so he had it from
16 being premature, and he lost the retina. The
17 retina detached in that eye, so the eye is
18 essentially dead, which means it's going to milk
19 over and it's going to lose the colour and it's --
20 this is just normal. I've taken him to the eye
21 doctor. There's nothing to be done about it. The
22 eye is essentially dead, and we knew that.

23 Q Okay. If we could flip back to the beginning of
24 this email string where the subject line is
25 listed, "Your talk of Gabriel", January 27th,
26 2015. So in this file of email printout, what we
27 see here is your response to those previous
28 emails, has a line along the left-hand side, and
29 then Richard has responded underneath those.

30 A Yes.

31 Q And right at the top we see your response [as read
32 in]:

33
34 Paddy, I can clearly see that maturity is not
35 your strong suit.

36
37 A Yes.

38 Q So how would you characterize your response there?

39 A It was -- it was a little antagonistic, it
40 absolutely was. I was really tired of the
41 insults, I was really tired of being called a
42 terrible person, I was really tired of being
43 questioned on everything, especially when it was
44 not true. But I also wasn't going to be pushed
45 around anymore.

46 Q Did you notice, Ms. Capuano, whether or not there
47 was any difference in your relationship with

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1 Gabriel when your responses changed in January of
2 2015?
3 A Absolutely.
4 Q How did it change?
5 A When I was not responding to Richard, then Gabriel
6 only had one side of the story. He had Richard's
7 side of the story only. I -- I refused to put my
8 son in the middle and so I wouldn't talk to him
9 about any of this. So when he saw that I wasn't
10 responding to emails, and I wouldn't talk to him
11 about the situation, all he had was his father's
12 perspective.
13 When I started responding to these emails,
14 and when I started defending myself, that's when
15 Gabriel started respecting me. When he actually
16 saw me standing up and he saw me not just laying
17 down and taking it, and he started to see some of
18 my responses as well, and he started to realize
19 that there were two sides to the story. At one
20 point, he told me it was good that I was finally
21 responding.
22 Q Now, if we go just look at the next page, and just
23 over halfway down, there's your response there
24 with the left -- bar along the left [as read in]:
25
26 All for what, to pursue some selfish vendetta
27 against me.
28
29 And so you're questioning why Richard is doing
30 what he's doing.
31 A Yes.
32 Q And we see Richard's response was [as read in]:
33
34 Wait a second, my vendetta against you is
35 somehow more selfish than what you did? You
36 had me detained for six months, then
37 physically removed from the country of my
38 birth so that you could gain custody of a
39 child you clearly don't even care about.
40 Yet, in your warped mind, I'm the selfish
41 one? Otherwise, yes, as I've stated
42 consistently for the past year and a half,
43 the singular goal of the rest of my life is
44 to destroy your life. I don't care if I die
45 penniless and alone, as long as I know I have
46 done everything I can to make your life as
47 difficult and miserable as possible within

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1 2. So videos of Michael Capuano, is that Michael
2 Capuano? Right, Tab 2.
3 A Sorry, Tab 2. Yes, that video was taken long
4 after we were no longer together.
5 Q And below that, is that your son Sage?
6 A Yes.
7 Q Do you know what video that is?
8 A I have that video.
9 Q Roughly how old is Sage in that picture?
10 A I think he's about six, seven.
11 Q Do you have any idea how Richard could have gotten
12 it?
13 A Same way he got the pictures of everything. I
14 then took the pictures using my cell phone, and in
15 Facebook there's an upload section, used to be,
16 and so Richard would go into Gabriel's Facebook
17 account where I was linked with him, and he would
18 go into my pictures and he would look at my
19 uploaded pictures and he would take them all.
20 Q Now, do you know that for a fact or is that your
21 best --
22 A That's my best guess.
23 Q -- guess as to how he would have gotten them?
24 A Because I didn't even post these on Facebook.
25 They were just in the camera wall.
26 Q If we go over to Tab 3, please. So this page is
27 titled photo albums. There's a picture of you,
28 there's your current partner, James Pendleton,
29 Christopher Lochner, your son, Sage, Michael
30 Capuano. Those are -- and that's accurate, that's
31 who those people are in those pictures?
32 A Yes. The picture of Michael Capuano, that was --
33 that was after we were already separated and
34 divorced, that -- that picture he got.
35 Q Is that actually your bedroom there?
36 A It was.
37 Q That actually -- was that your bathroom?
38 A Yes.
39 Q In what years?
40 A That was -- that was 2014 and '15. That was the
41 apartment I had with just the boys and me.
42 Q When did you move out of that apartment?
43 A Summer of 2015.
44 Q Was that the bathroom?
45 A Yes.
46 Q Was that -- it's like a living room under "my
47 home".

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1 A That living room was from a previous apartment
2 that I had with Christopher Lochner in 2012 or
3 2011.
4 Q Okay. Under the "San Diego", do you know where
5 that picture is from?
6 A That's from the family vacation that we took in
7 San Diego that Gabriel was supposed to be with us.
8 Q In 2011?
9 A Yes.
10 Q If we flip the page over, we see photo album,
11 Desiree Capuano. Where is the -- can you tell the
12 jury where the first three pictures are from?
13 A The first picture is the mug shot from when I was
14 arrested for marihuana. The second picture is the
15 marihuana card. The arrest actually -- the
16 charges were dropped for the arrest for marihuana.
17 And then all of the rest of the pictures are
18 still-shot images from the interview that I did
19 with the CBC.
20 Q Okay. If we flip the page --
21 MR. MYHRE: And, members of the jury, if we're counting
22 page numbers in this photo album, if you go to
23 page 3.
24 Q If you look down to the sixth row, Ms. Capuano,
25 you see there's -- looks like a picture of you and
26 then a blurred-out face.
27 A Yes.
28 Q Whose face is that?
29 A Gabriel's.
30 Q And then the next row, the third picture, whose
31 face is blurred out there?
32 A Gabriel's.
33 Q If you flip over to the next page, there's some
34 photos of you and -- is that Christopher Lochner
35 at the top there?
36 A Yes.
37 Q Do you know where these photos came from?
38 A Some in the camera wall. They weren't -- they
39 weren't published.
40 Q Sorry, you said they weren't public?
41 A I didn't post them on the Facebook. They were
42 just in the camera wall section that you can get
43 to through Facebook.
44 Q Okay. If we could flip over to the next photo
45 album titled page, Capuano. These are all
46 pictures of your son, Sage?
47 A Yes.

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1 Q How does it make you feel these -- knowing these
2 pictures are up on the website?
3 A This section was added after the last custody
4 hearing in which the judge maintained that I have
5 sole custody over our son, and that I'm
6 responsible for all visitation and communication.
7 Richard called Gabriel and Gabriel told me that
8 Richard's intentions were now to go after Sage, my
9 other child, and this was his way of doing this,
10 to put all of these pictures of my son on the
11 site. And this scares me so much, because that's
12 public. So any paedophile --
13 THE COURT: Would you just stop for a moment, please.
14 THE ACCUSED: No, I'm sorry.
15 THE COURT: All right.
16 THE ACCUSED: I don't object.
17 THE COURT: There was a hearsay issue in there. That's
18 why I'm -- can you go back and address that again,
19 please, appropriately?
20 MR. MYHRE:
21 Q So the relevant question, Ms. Capuano, is how does
22 this make you feel, and I think you were starting
23 to tell us that.
24 A Yes.
25 Q You came to believe, for the reasons you've
26 outlined, that now --
27 A There was a reason --
28 Q -- Richard was focusing an attack on Sage.
29 A Yes.
30 Q How did that make you feel?
31 A Again, this is a danger and this is a risk to a
32 minor child. This website has my home address.
33 It has pictures of my house. It has maps
34 detailing the area where I live along with bus
35 routes, and any other information. So if anybody
36 took a liking to my kid, they could very easily
37 find him. And above that, the kid was 12 years
38 old. He did nothing to Richard. Richard might
39 claim that I deserve this punishment, but this kid
40 did nothing to deserve punishment.
41 Q How did that make you feel, to feel like Sage was
42 being punished now?
43 A Scared. At this point we talked about moving, we
44 talked about hiding identities, we talked about
45 what we could do to disappear so that I could
46 protect my family.
47 Q Okay. Ms. Capuano, if you look at the last row of

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1 pictures on the first page of the Sage Capuano
2 photo album, in the middle, do you know who is in
3 that picture, the middle picture? So the photo --
4 the first page of the Sage Capuano photo album.
5 A Yes.
6 Q The last row, the middle picture.
7 A Yes.
8 Q Who's in that picture?
9 A Gabriel.
10 Q Who else?
11 A Sage.
12 Q And who's the one who's face is blurred?
13 A Gabriel.
14 Q If we flip to the -- counting page numbers of this
15 photo album, the 1, 2, 3, 4, fifth page, the last
16 -- well, actually, how about the first row. You
17 see in the middle photo in the first row, there --
18 there are two, it looks like children laying on
19 the floor and a dog.
20 A Yes.
21 Q Who is that?
22 A Sage and Gabriel.
23 Q And whose face is blurred?
24 A Gabriel's.
25 Q If you look at the last row on that page, the
26 middle photo or the first two photos in the last
27 row, whose face is blurred out there?
28 A Always Gabriel.
29 Q And the boy in the light blue, that's Sage?
30 A Yes.
31 Q Okay. I would just like to skip ahead to Tab 5
32 now.
33 A There's also a picture of Sage in his underwear on
34 the last page outside by the pool.
35 Q So those are the last two rows on the second-last
36 page of the Sage Capuano photo album?
37 A Yes.
38 Q And you pointed them out because...?
39 A It's a child in his underwear on a disgusting
40 website. Again, these are not photos I published
41 to Facebook. They were just in the camera wall.
42 Q Tab 5, please. So this page is titled
43 "Associates". Now, my question is you've looked
44 at some of these, and some of the people you don't
45 know and some of them you do. As far as the
46 people you know, these are actually those people.
47 Like that's actually a picture of Theresa Hoffman

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1 do what you want. Hooray America!

2
3 There's nothing criminally illegal about it.
4 You may be able to pursue a claim in civil
5 court, but I'm not going to worry about that.
6

7 Okay, good evening.
8 Patrick
9

10 How did this response from Richard make you feel?

11 A This -- this was -- he actually had Gabriel on
12 this email to me, where he was saying that he was
13 going to hire someone to have sex with me so he
14 could get pictures for the website. It is
15 disgusting. It was -- it was sick. It was sick.

16 Q Okay. If we could flip to the next email, please,
17 titled "More plans", dated January 28th, 2015.
18 Ms. Capuano, do you remember if Gabriel was cc'd
19 on this email?

20 A I don't remember, but I'm pretty sure he was. I'd
21 have to verify that, but Gabriel was put on almost
22 every email he sent, so...

23 Q Okay. I'm going to read it out for you, Ms.
24 Capuano [as read in]:
25

26 Desiree:
27

28 Being that my primary goal in life is for you
29 to experience as much misery as possible,
30 allow me to point out another way in which
31 you've been manipulated. Gabriel being in
32 your home serves that goal much better than
33 if he were here with me. How so? His
34 formative years were spent in an environment
35 very different from yours, around people who
36 viewed the world very differently than you.
37 By now, you should have come to the
38 conclusion that he's not going to assimilate
39 to your way of life. He'll never see the
40 world through your perception. Sage, on the
41 other hand, has always been with you and only
42 knows your way of life. You and Sage live
43 harmoniously. Gabriel brings friction to
44 that world of yours. By now you should have
45 realized that he is and will remain a
46 constant source of contention. Gradually his
47 presence erodes the delicate fantasy bubble

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1
2 The only reason you're being such a stupid
3 cunt right now, well, always, really, is
4 because you know that Gabriel would rather be
5 with me than with you.

6
7 And he goes on to explain why he thinks that
8 you're being -- giving the responses you were
9 giving in that previous email chain.

10 A Yes. Why I was standing up for myself and not
11 just accepting, why I was actually setting rules
12 and guidelines and stipulations for visitation.

13 Q Ms. Capuano, I think you said you were -- thought
14 you were standing up for yourself?

15 THE COURT: Just a moment, please, Mr. Myhre. Mr. Fox
16 has a concern.

17 THE ACCUSED: I'm sorry, I'm just having difficulty
18 hearing again.

19 THE COURT: All right.

20 THE ACCUSED: Not hearing Ms. Capuano.

21 THE COURT: Mr. Myhre, if you keep your voice up and
22 Ms. Capuano will more likely keep hers up.

23 MR. MYHRE: Thank you, My Lady, I'll try. Apologies,
24 Ms. Capuano, I'll try to keep my voice up.

25 Q Now, you -- I think what you said was you felt you
26 were standing up for yourself in that previous
27 email.

28 A Yes. I was actually, in my own way, trying to
29 control the situation for one of the first times,
30 determine the guidelines, the stipulations and the
31 rules for Gabriel's visitation which is something
32 that I hadn't necessarily done before, and it's my
33 belief that that's why he called me a stupid cunt.

34 Q That's how you understood his response?

35 A Correct.

36 Q If we could go to the next email, please, the one
37 titled "Belligerence" dated May 7th, at 7:01 p.m.,
38 and Richard wrote [as read in]:

39
40 For someone who claims not to care, you sure
41 spend a lot of time trying to get a rise out
42 of me.

43
44 I'll read the whole email, Ms. Capuano.

45
46 If I believe your intention was to try to
47 annoy me, to anger me, then I will phrase my

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1 immigration, there's no custody, there's nobody to
2 check his identity, there's nobody to see if he's
3 got guns on him, there's nobody. He -- it's just
4 a park and he just walks across and he shows me
5 pictures of it, tells me how easy it is.
6 Q The next email is titled "Search engine results"
7 dated May 23rd, 2015. I'll read the first couple
8 paragraphs [as read in]:
9

10 Hello Desiree:

11
12 Thought you might like to know that when I
13 Google Desiree Capuano, the website is the
14 second entry on the list. Not bad for people
15 that might want to Google you. When I Google
16 Desiree Tomlin, the site is the 18th in the
17 search results. Need to improve this so
18 people who don't know you changed your name
19 can find it easier, people you went to grade
20 school with and such.
21

22 Your maiden name is Tomlin?

23 A Yes.

24 Q And is this an accurate copy of the email you
25 received on that day, other than as you've told us
26 before, the actual email address was --

27 A Correct, yes.

28 Q Do you remember in the summer of 2015 whether or
29 not Gabriel -- you sent Gabriel to visit Richard
30 in Canada?

31 A Yes, I did.

32 Q Do you know roughly what dates?

33 A End of May through July. I was under court order
34 to provide reasonable visitation and communication
35 between Gabriel and his father. Bless you.

36 Q Do you remember when that order was made?

37 A The last hearing that we had had. I'd have to
38 look at records.

39 Q Okay. If we could go to Tab 14, please. Email
40 titled "Re automobile accident" dated June 12th,
41 2015, and Ms. Capuano, if you could flip to the
42 fourth page of this email string, the last page of
43 this email string. If I could summarize this
44 email string, this is you and Richard arguing
45 about what happened around Gabriel being born
46 prematurely.
47 A Correct.

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- 1 Q What we see on the last page, the second-last full
2 paragraph, it appears Richard wrote [as read in]:
3
4 Now what I would like from you is for you to
5 deny these claims and call me a liar. I will
6 then gladly post the medical, insurance and
7 police reports to your website. Yes, medical
8 reports are confidential, but you live in the
9 greatest country in the world where anything
10 can be purchased, yay America.
11
12 And then at the end:
13
14 P.S., I've bcc'd all the relevant parties.
15
16 So, first of all, do you know whether Richard had
17 obtained any of your medical records?
18 A I don't know.
19 Q At that point in time, did you think that he could
20 or not?
21 A I think he's capable of getting anything he says
22 he's going to get.
23 Q Do you know whether he had bcc'd to anybody on
24 this email?
25 A I have no idea.
26 Q Did the possibility that he had cause you any
27 concern?
28 A Only because I don't know who he would have bcc'd.
29 I don't know if it would have been more work
30 colleagues or friends or to people he knew.
31 There's no way to know. If you want to point out
32 this is -- this is the first notification that I
33 ever got that he believes that our son was
34 premature because I punched myself in the stomach,
35 and that is the story that he gave to our son
36 while he raised him.
37 Q How did that make you feel knowing that that's
38 what your son had been told?
39 A I had to talk to him about it, and he told me he
40 already knew the story. I had -- it was -- it was
41 really baffling. He was there during the whole
42 event. He -- Richard knew what had happened. I'm
43 not really sure where he got that from.
44 Q Now, I'm start -- just going to stop you there,
45 Ms. Capuano. The question is how did it make you
46 feel?
47 A Disgusted. Just -- just another lie.

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in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 listed; does that sound roughly accurate?
2 A Based off of this documentation, yes. I don't
3 know, I haven't read any of the blogs before the
4 hearing.
5 Q You hadn't read any of these before the hearing?
6 A No.
7 Q Now, if we look at -- if we go past the list and
8 again, My Lady, I apologize for the lack of page
9 numbers. The way these -- the blogs are printed
10 out here, if you flip to the very bottom of the
11 page and you see a title of a blog that says, "My
12 new home and job", that starts after the list of
13 the blogs. It's dated July 13th, 2015 over on the
14 right-hand side.
15 A Yes.
16 Q You can see under that it says "Perspective" --
17 sorry, under the title, "My new home and job", it
18 says [as read in]:
19
20 Perspective Desiree 306 viewers, views zero
21 comments.
22
23 If we flip over the page, do you recognize the
24 house that's shown there?
25 A Yes.
26 Q And was that your house?
27 A Yes.
28 Q When did you move there?
29 A It's not my house, it's my fiancé's house. Yes, I
30 moved there over the summer of 2015.
31 Q You moved there in the summer of 2015?
32 A Correct.
33 Q And we've already seen that's a picture of James
34 Pendleton?
35 A Correct.
36 Q Now, the next blog we see on the next page is
37 titled [as read in]:
38
39 James' attempts to get the site taken down.
40
41 I'm going to skip that one and go to the next one
42 after that, that's titled:
43
44 Green Valley Hospital career prospects.
45
46 And its website. Do you have that there, Ms.
47 Capuano?

Desiree Capuano (for Crown)
in chief by Mr. Myhre
BAN ON PUBLICATION; INHERENT JURISDICTION

1 DesiréeCapuano.com, and if we look halfway down
2 the page, there's an email from
3 JamesPendletonJunior@gmail.com to abuse@web.com.
4 Do you -- had you seen this email --
5 A Yes.
6 Q -- before? What is -- what is the email that
7 follows there?
8 A This is James sending an email to the abuse
9 department of the website host company, letting
10 them know that this website was up and that it was
11 damaging and that -- asking them to look into it
12 and try to take it down, then said they forwarded
13 it over to Mr. Riggs. Then he put it on the
14 website.
15 Q Okay. Do you know if this complaint from James
16 had the effect of having the website taken down?
17 A It absolutely did not.
18 Q Okay. If we could go to Tab 17, please. This
19 email is titled "Re Gabriel's visit for winter
20 break, 2015", and if we look halfway down, we see
21 you're initiating email to Richard sent November
22 14th, 2015, in which you basically bring up the
23 subject of Gabriel coming to visit for the winter
24 break and you put some stipulations on it.
25 A Yes. Richard had sent me emails requesting
26 Gabriel for the winter break, so this was my email
27 to him with the stipulations.
28 Q And Richard's response was essentially -- this was
29 -- we see in the first line [as read in]:
30
31 This was not an invitation to negotiate,
32 and --
33
34 A Correct.
35 Q And it goes on in the third paragraph.
36
37 There will be no negotiating and I will not
38 agree to any terms you try to impose.
39
40 You will soon be homeless; you have no money;
41 nobody believes anything you say anymore;
42 nobody is coming to your aid or defence; you
43 will not be able to secure another job as
44 long as that website exists - and it's not
45 going anywhere as long as you're alive.
46
47 Your boyfriend has reached the point of being

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1 return the cell phone to Gabriel. That's what
2 Gabriel wanted. He wanted his cell phone back and
3 the website and harassment to stop.
4 Q Do you remember if Richard had any response to
5 that?
6 A He said no.
7 Q Okay. We've seen -- do you -- sorry, do you
8 remember when that was?
9 A That was the summer of 2015, shortly after he
10 returned.
11 Q From his visit with Richard?
12 A Correct.
13 THE ACCUSED: I'm sorry, did she say December?
14 A Summer.
15 THE ACCUSED: Summer, thank you.
16 MR. MYHRE:
17 Q We've seen that you -- or at least from James
18 there was a complaint to this web host?
19 A Yes.
20 Q There were earlier complaints made to a site -- or
21 to a host called "GoDaddy"?
22 A Yes.
23 Q We've heard that you interacted with a Detective
24 Tuchfarber with -- sorry, was that Phoenix or
25 Tucson?
26 A That was Phoenix.
27 Q You also tried to get help from the police in
28 Canada.
29 A I did.
30 Q So let's talk about that for a minute. Do you
31 remember when you first contacted the RCMP?
32 A I believe it was spring of 2015.
33 Q And what did you ask them to do for you?
34 A I told them that the website was up and that I
35 kept receiving emails in abusive nature from
36 Richard. Also informed them that the emails
37 indicated that he was crossing the border using
38 this identity from Florida, and that the identity
39 from Florida, to my understanding, was not valid,
40 was not true, and asked if they could explain to
41 me how he was able to get a PAL.
42 Q Okay. Did you get a response from the RCMP?
43 A At the time, yeah, I got something of a response.
44 Q Were there any results in terms of the website?
45 A No.
46 Q I understand that then, in the summer of 2015, you
47 contacted the RCMP again?

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1 not a direct order to take it down.
2 Q What do you mean the website was considered
3 harassment?
4 A In the -- in the order of protection case, the
5 website was brought up as evidence of harassment.
6 Q So what was your understanding of what was
7 supposed to happen as a result of that order?
8 Sorry, let me rephrase that. Why did you get that
9 order? Why did you seek it?
10 A In order to move through legal channels to have a
11 website taken down from a provider, the first step
12 is to get a restraining order or an order of
13 protection. So that was only as a first order.
14 That, in itself, cannot be used to take down the
15 website, but it is the first necessary step. So I
16 went through that process.
17 The other reason that I got it is because if
18 Richard were to show up physically, and I had the
19 restraining order in place, then the cops would
20 show up faster with a restraining order than they
21 would if I didn't have it. So it did help me were
22 he to show up in person at any point.
23 Q Okay. I understand that Richard later challenged
24 that order in the -- at the next level --
25 A Municipal, yeah.
26 Q -- of court. At the Municipal Court. Was the
27 order upheld?
28 A Yes.
29 Q Okay. Did Richard participate in a hearing --
30 A Yes.
31 Q -- for -- of the appeal of the order?
32 A Yes, over the phone.
33 Q Okay. Did he --
34 A Sorry?
35 THE ACCUSED: Can you clarify, are you referring to the
36 order of protection hearing that were made in
37 Municipal Court or the appeal in the Pima County
38 Superior Court?
39 MR. MYHRE: So as I understand it -- thank you, we'll
40 clarify.
41 Q Ms. Capuano, you obtained an order for
42 protection --
43 A From the Municipal Court.
44 Q Okay. And then there was an appeal of that?
45 A At the municipal level.
46 Q Okay. So did Richard participate in the appeal at
47 the municipal level?

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1 Q Did that have any effect as far as what you could
2 tell in terms of when your name was Googled?
3 A Yes. Yes.
4 Q What was the effect?
5 A After that, any time my name was Googled and the
6 website came up, there was also information that
7 it was written by Patrick or Richard. He also
8 modified the website after that to include
9 disclaimers that the website was written by him
10 that weren't there before.
11 So it did help to identify that I was not the
12 one responsible for that website.
13 Q At some point, you set up a GoFundMe page?
14 A I did.
15 Q Why did you do that?
16 A I was asked to. A media source said that she was
17 getting requests from people who wanted to find
18 out how to help me and had requested that I set up
19 a GoFundMe page for that, so I did.
20 Q Did you get financial help from that page?
21 A Some. There's about \$900 total. In order for
22 those things to work, you have to continuously ask
23 for help, and I wasn't going to do that.
24 Q In terms of custody of Gabriel, I understand that
25 the last order that was made was made in March of
26 2016?
27 A Yes.
28 Q And so what's -- what is the -- what was Gabriel's
29 custody status as of that order in March 2016?
30 A I was -- still retained sole custody. Up until
31 that hearing, it was still under terms that I
32 provide reasonable visitation and communication.
33 After that hearing, it changed.
34 Q Did visitation change after -- with that final
35 order?
36 A Yes. The judge determined that that hearing
37 that --
38 Q So I just want to be careful --
39 A Sorry.
40 Q -- how I ask this. Do you have to provide
41 visitation --
42 A No.
43 Q -- as of that order?
44 A Or communication.
45 Q I understand that in April or May of 2016, you got
46 some calls from somebody you believe was Richard.
47 A Oh, yes, sorry. Yes. April 2nd, I received a

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in chief by Mr. Myhre
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1 phone call to my home number. The incoming number
2 was from Tucson, Arizona, and the message that was
3 left was from Richard. It was to Gabriel and it
4 only instructed him to call Richard on his mobile
5 phone. Then April 8th, there was another call to
6 my home, this time from a California number, from
7 a corporation, again a message left from Richard
8 instructing Gabriel to call him on his mobile
9 phone. April 22nd, there was a third call to my
10 home, again with a message from Richard for
11 Gabriel to call him on his mobile. This one was
12 also from California.

13 Q Did those calls cause you any concern?

14 A Yes, absolutely.

15 Q Why?

16 A I didn't know if they were spoof calls. I didn't
17 know if he was actually in the country. I don't
18 know if he was doing it to mess with my head. I
19 don't know if he was doing it to scare me. But it
20 certainly worked.

21 Q Okay. Ms. Capuano, I'm nearing the end of my
22 questions, and obviously we've covered a lot of
23 territory in the last four or five hours that
24 you've been testifying.

25 A Yes.

26 Q Could you summarize for the jury for the period
27 between January 2015 and May 2016, did you have
28 concerns for your physical safety?

29 A Yes, I did.

30 Q Could you summarize what they -- what those
31 concerns were?

32 A The concerns were it was my belief that Richard
33 was crossing into the country on a regular basis,
34 that he had figured out a way to cross into the
35 United States undetected with no issues. He had
36 access to guns and owned firearms under an
37 identity that, in my opinion, could probably be
38 tossed if he needed to. It wasn't his actual
39 birth certificate. It wasn't actually his
40 identity is my understanding.

41 I'd already seen how quickly he could get to
42 Los Angeles in just a matter of days, and he had
43 contacts in Los Angeles that would help him, give
44 him a place to stay, food, shelter,
45 transportation. I live six hours away from those
46 resources, and I know how much he despises me, and
47 all of the times that he told me the world would

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I hereby certify the foregoing to
be a true and accurate transcript
of the evidence recorded on a sound
recording apparatus, transcribed to
the best of my skill and ability.



D. Rochfort
Court Transcriber

27178
Vancouver Registry

In the Supreme Court of British Columbia
(BEFORE THE HONOURABLE MADAM JUSTICE HOLMES AND JURY)

Vancouver, B.C.
June 14, 2017

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT TRIAL
(Excerpt - Testimony of Desiree Capuano)

COPY

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BAN ON PUBLICATION;
INHERENT JURISDICTION

Crown Counsel:

M. Myhre

Appearing on his own behalf:

P. Fox

Defence Counsel:

A.J. Lagemaat
M. Chatha, A/S

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EXHIBITS

Nil

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Nil

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1 that email sat there for three days and then you
2 replied. Can you read your reply, which is just
3 above his email? It's --
4 A Yes. [As read in]:
5
6 I'm not bothering to read this. Not worth my
7 time.
8
9 Q Why even reply? Why not just leave it at that?
10 Why even reply?
11 A Well, I have to read emails that he sends me in
12 case there's any information regarding custody of
13 my son.
14 Q But you said you're not bothering to read it.
15 A Correct.
16 Q So why even bother replying? It sat there for
17 three days. Why not just leave it. Okay. So
18 then he replied to you not that long after [as
19 read in]:
20
21 So educating yourself, improving yourself and
22 increasing your understanding of yourself is
23 not worth your time. See my opinion of
24 complacency.
25
26 Just above that you replied. Is that your reply?
27 A Yes.
28 Q And can you read that in?
29 A
30 Bye.
31
32 Q What did you mean by "Bye"?
33 A It meant that this discussion was irrelevant.
34 Q Okay. So why even reply?
35 A This is not the only email I was receiving at the
36 time. There were multiple emails from him.
37 Q I've seen all of the emails.
38 A Correct.
39 Q So going up in time, and this is the second
40 comment from the top of this page, Friday, January
41 24th, Patrick wrote [as read in]:
42
43 I don't have time for you right now. I'm
44 busily constructing my scheme to slowly
45 destroy you.
46
47 And above that is your reply. Is that what you

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1 A I did not call --
2 Q That's one step above white trash, isn't it,
3 trashy prostitute.
4 A Because I was angry.
5 Q So these messages made you angry.
6 A Yes, of course, I was.
7 Q You weren't fearful at that time, were you,
8 because if you were fearful, you're not going to
9 call a person's mother a prostitute, are you?
10 A Not necessarily. I'm also trying to defend
11 myself.
12 Q That's not defending yourself.
13 A Sure it is.
14 Q That's an offensive.
15 A After years of being insulted by somebody and
16 trying to not respond, I was at --
17 Q Was his mother the --
18 A -- the point.
19 Q Was his --
20 MR. MYHRE: Sorry --
21 THE COURT: You have to let her respond, please.
22 MR. LAGEMAAT: I apologize.
23 Q Sorry, finish, Ms. Capuano.
24 A I was at a point where I wasn't going to just
25 accept. I was going to give back. I was going to
26 try to let him know that I wasn't going to be
27 pushed around. And my goal was maybe if he
28 realized that I wasn't scared, that he would stop.
29 But it didn't mean I wasn't scared.
30 Q When was it you filed the complaint with the RCMP
31 up here and there was no charges?
32 A I filed two. One, I believe, was in April, and
33 then --
34 Q Of what year?
35 A 2015.
36 Q Correct.
37 A Yes.
38 Q And you said yesterday in direct evidence, that's
39 when you decided to stand up, when they didn't
40 follow through.
41 A No.
42 MR. MYHRE: I object to that, My Lady. I don't think
43 that's quite accurate.
44 MR. LAGEMAAT: Okay, I withdraw that comment.
45 Q Did -- was Mr. Fox's mother in this conversation
46 to defend herself from your insults?
47 A No.

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1 A Ah, yes. There were -- after the cease and desist
2 email that I sent, he sent two additional emails
3 to my colleagues, the one to the 687 people, and
4 then the other one was blind carbon copied to
5 1,200 people. So clearly the cease and desist
6 didn't work. So demanding that he stop had no
7 effect. So now I was going to try to insult him
8 and make him see that this is ridiculous, and it
9 needs to stop. And maybe that bravado would make
10 him realize, or give him the impression that it
11 wasn't affecting me, and if it wasn't affecting
12 me, then there was no point for him to continue.
13 Q But you know Mr. Fox quite well. You engaged in
14 all these email banter with him. Do you really
15 think sending an insulting email to him or
16 insulting his mother would make him stop at that
17 time?
18 A I was willing to try anything.
19 Q Did it work?
20 A No.
21 Q So did you stop trying that?
22 A No.
23 Q Okay.
24 A But I also tried other avenues, also.
25 Q So we'll read his reply on Wednesday, May 28th,
26 and he replied the next day [as read in]:
27
28 Good morning. I can neither admit nor deny
29 any of the claims made in your email. I can
30 say, given that emotions are just labels,
31 that simple people put on the physical
32 sensations caused by the self-induced though
33 typically subconscious due to conditioning,
34 or ignorance, suppression of chemicals by the
35 brain, they are highly improbable, your
36 claims, I mean. Most sincerely, Patrick.
37
38 Did you reply to that on May 28th at 9:59 a.m.?
39 A Yes.
40 Q Can you read that in?
41 A Sure [as read in]:
42
43 I think you should probably go back to
44 college and maybe take some courses on human
45 psychology. Hate, bitterness, anger,
46 resentment and --
47

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1 A [As read in]:
2
3 I think you should probably go back to
4 college and maybe take some courses on human
5 psychology. Hate, bitterness, anger,
6 resentment and desire to devote your life to
7 my complete and utter distraction --
8 destruction, are in fact emotions and
9 feelings. Obsession is also a form of
10 emotion. So which chemicals are being
11 secreted from your brain to cause you to have
12 so much hatred and hostility toward me. If
13 you truly were as detached and unemotional as
14 you pretended to be, you would bother -- you
15 wouldn't bother yourself with even thinking
16 about me.
17
18 Q Do you really believe he was obsessed with you?
19 A Yes.
20 Q Wasn't most -- weren't most of these emails about
21 G.?
22 A No.
23 Q No.
24 A Insofar as my inability to parent or be a good
25 person, I suppose they could be.
26 Q Did he respond to that insult?
27 A It's not here, but I don't remember if he
28 responded or not.
29 Q Well, what's the next email. Who's the next email
30 from?
31 A It's from me.
32 Q And can you read that in, please.
33 A [As read in]:
34
35 And by the way, you will never destroy me.
36
37 Q So it's gone from a back and forth banter to you
38 sending again two in a row. So you didn't even
39 wait for a reply and banter back and forth. In
40 this case, you didn't get a response, or whatever,
41 so you decided to send a second email.
42 A According to this. I would have to check my
43 records to see if he did respond.
44 Q Well, I'm going to suggest not, because if the
45 responses are separated by any timeframe, the
46 second email has a time stamp on it. In this case
47 there's no time stamp on the second one. They're

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1 evidence? Seriously, you need to grow up and
2 stop filling every waking hour thinking about
3 me. Creeper [phonetic].
4
5 Q Why do you call him Janet?
6 A Ah, he had used four or five different names by
7 this point. So it was just --
8 Q Did he ever use --
9 A It was a slight.
10 Q Did he ever use Janet?
11 A No.
12 Q So --
13 A It was -- it was an insult.
14 Q Insulted his manhood, perhaps?
15 A Yep.
16 Q Okay, thank you.
17 A You're welcome.
18 Q You say in the second paragraph [as read in]:
19
20 . . . these sorts of blind accusations stated
21 as fact are the same reason I usually don't
22 respond to your melodramatic stupidity.
23
24 But here you are responding to it.
25 A Usually.
26 Q So you usually didn't.
27 A I tried not to, yes, but there were some I got
28 caught in.
29 Q So you would wake up in the morning, check your
30 email, and in this case fire off a response; is
31 that correct?
32 A At this point, yes.
33 Q Thank you.
34 A You're welcome.
35 Q Next is a slightly longer email chain and I'm
36 going to ask that we paginate these 1 to 9. And
37 these are single sided, so it will end up being
38 nine pages, if we all have the same.
39 A Would you like me to number my own?
40 THE COURT: Madam Registrar, would you be able to do
41 that in the original. I can show you where they
42 start. This is "Re Loving home", is that the one?
43 MR. LAGEMAAT: Yes, My Lady, "Re Loving home and
44 parental teaching and guidance".
45 THE COURT: Yes. So that would be page 1.
46 THE CLERK: Okay. And how far do they go?
47 THE COURT: To nine.

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1 THE CLERK: Page 9.
2 MR. LAGEMAAT:
3 Q I'm going to -- starting on page 8 at the bottom,
4 I'm going to refer to the Crown's book of exhibits
5 here, and it's the first email at Tab 11. And
6 it's the same content, but I'm referring you to --
7 because it printed differently in the Crown book,
8 and it's easier to see that this -- this is where
9 Mr. Fox is replying to an email written by Ms.
10 Capuano, and he has -- he has indented her reply
11 with arrows, or the program, the software has done
12 that.
13 So I'm going to use the Crown's book just for
14 the purpose of going through this part of the
15 email. So the first email, Tab 11, "Your loving
16 home" -- Tab 11 of the Crown's book, "Your loving
17 home and parental teaching and guidance". And Mr.
18 Fox says [as read in]:
19
20 As always, I shall address each of your
21 statements and point out as plainly as
22 possible why/how it is wrong.
23
24 You said in direct evidence that you believe
25 Gabriel was cc'd on this. Is that --
26 A Yes.
27 Q You didn't know, though, did you.
28 A I haven't checked my records.
29 Q Yes. So if you say you believe something, you --
30 A Oh, no, this one I did check, "Your loving home",
31 I checked that one overnight and I did verify that
32 he was on it.
33 Q The whole chain? Because this is a lengthy chain.
34 This is a nine-page chain.
35 A I looked at the email thread, when I looked at it
36 in my email, he was on it.
37 Q Okay. So --
38 A I don't know if he was taken off any specific
39 threads.
40 Q Okay. But you were removing him, too, right,
41 isn't that correct? Didn't you say --
42 A There was times, yes.
43 Q Okay. So this message, this email starts out, and
44 correct me if I'm wrong, but your words have
45 arrows to the left and they're indented slightly,
46 so on January 11th at 12:54 p.m., Desiree Capuano
47 wrote [as read in]:

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1
2 Ricky/Richard/Morgan/Patrick/Patricia/Susan
3 whatever your chosen alias is today.
4
5 Do you recall writing that?
6 A Yes.
7 Q Okay. And Mr. Fox replies to that, and what he
8 does, he goes through an email you've sent and
9 puts in replies after everything he feels -- or he
10 is replying to [as read in]:
11
12 I don't get your intended implication here.
13 How is my first name, whether assumed or
14 legal, relevant to anything in my previous
15 message, and in particular whether I am on
16 schedule with my plan against you. An insult
17 is much more effective when the intended
18 recipient is able to infer the reference.
19 Please clarify.
20
21 And then below that, beside an arrow is:
22
23 Are you bored or something?
24
25 And he goes:
26
27 Bored, no. Please be more specific.
28
29 Going down, and read, he says:
30
31 I don't see how you could interpret such
32 intentions as being misguided.
33
34 And that's about halfway down the page, and then
35 there's four lines with arrows that I'm assuming
36 are your writing, because that's how this email is
37 compiled. Could you read "For someone", could you
38 read that in, please?
39 A [As read in]:
40
41 For someone who's so strongly espouses logic
42 and intelligence, I would think that you
43 could have grasped that I'm not interested in
44 you, especially when I directly told you that
45 I'm not interested in you.
46
47 Q And then he says:

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1
2 Whether or not you're interested in me is not
3 relevant to my objectives.
4

5 Can you read your reply to that -- or, not your
6 reply, but the part he was replying to, which is
7 "I realize", and it's four lines with arrows.
8 A [As read in]:
9

10 I realize that I am amazing, but please
11 expend some of that energy toward finding a
12 man or woman, inanimate object, that is
13 capable of coping with your delusional nature
14 and providing some small measure of
15 happiness.
16

17 Q Is this part of your new approach, still,
18 insulting him?

19 A It's giving it back, yes. Yes. There were --
20 there two lengthy emails prior to my response,
21 prior to me responding to him at all.

22 Q Let's turn to -- staying with the Crown's book,
23 for the third page, these are double sided, so
24 just flip over one page. And at the bottom here,
25 "He once asked me", and we're going to go through
26 this. I'm going to read this in. We already went
27 through it yesterday. I'm going to ask you a
28 couple of questions about it [as read in]:
29

30 He once asked me if I would shoot you.
31

32 He's referring to G., here, correct?

33 A Correct.

34 Q Because we went through that yesterday.
35

36 I told him that murder is illegal and immoral
37 and could result in spending the rest of
38 one's life in prison, and that the rest of my
39 life in prison is not a risk I'm willing to
40 take. But otherwise, no, I would have no
41 qualms about it, and that is how much I
42 despise you for the things you've done and
43 continue to do.
44

45 I don't have to read the entire thing in because
46 we did read it yesterday. But going to the --
47 turning the page, the first full paragraph -- or

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1 at the very top of the page [as read in]:

2
3 I am reasonable . . .

4
5 I apologize. Back to the bottom of the previous
6 page:

7
8 There is nothing illegal or threatening about
9 wanting to harm someone, as long as you don't
10 act on it. I am reasonable and rational
11 enough to know the difference, and to refrain
12 from engaging in such activity.

13
14 Would you -- would you agree with that? There's
15 nothing -- there's nothing legal or -- illegal or
16 threatening about wanting to harm somebody, is
17 there?

18 MR. MYHRE: Objection. What's the relevance of that
19 question?

20 MR. LAGEMAAT: The relevance is that this is an
21 important, I would say, you entered it -- the
22 Crown entered it yesterday as part of the element
23 of the offence, the allegations, and I would like
24 to get out of Ms. Capuano how this email made her
25 feel.

26 THE COURT: That's a different question.

27 MR. LAGEMAAT: Okay.

28 Q Did you feel that he was telling you here that he
29 was going to harm you?

30 A I did not feel here that he told me he was going
31 to harm me. What I felt here is that he had the
32 desire that harm come to me at that point. That
33 coupled with purchasing and owning firearms, along
34 with the website, massive mass of email, wording
35 in the email, contacting my work, threats of
36 putting billboards up, Social Security numbers,
37 medical records, destroying my life, contacting
38 anybody else, that all coupled together, along
39 with the desire to cause me physical harm, that is
40 what scared me.

41 Q But he's not saying there he's going to harm you,
42 is he.

43 A In this --

44 Q That's the question I asked.

45 A -- particular paragraph, no, he does not say he's
46 going to physically harm me right here.

47 Q Going back to the defence book, and we're at the

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1 bottom of page 8, is where -- that's the email
2 that I just referred to in the Crown book of
3 exhibits. Were -- were you feeling afraid after
4 that email where he said those things that --
5 A Yes.
6 Q -- we just went through? Okay. So that was on
7 January 11th. It doesn't say what time he wrote
8 that. But on January 11th at 10:08 p.m., you
9 responded. And you say you were afraid, could you
10 please -- is that your response, "I'm still not
11 sure"?
12 A [As read in]:
13
14 I'm still not sure what your current fake ID
15 supported by falsified documents happens to
16 be, so I will address you as Sally. I would
17 generally address your response if it had any
18 merit or purpose other than to allow you to
19 lash out like an impotent child that you've
20 constantly proved yourself to be. However,
21 considering you are regularly -- you
22 regularly spout outright lies and subjective
23 opinions as fact with no true supporting
24 evidence, or basis in reality, and likely
25 when you were drunk and/or high or lonely, I
26 will simply show your thoughts the amount of
27 consideration they deserve. Grow up and have
28 a nice day.
29
30 Q There's one more line, Ms. Capuano.
31 A Oh, sorry:
32
33 Regards of some sort, but again not
34 affection. Don't misunderstand. Desiree.
35
36 Q So here you're calling him an impotent child?
37 You're calling him Sally? You're saying he's
38 likely drunk and/or high and lonely? Would you
39 agree with me this is an attack on his manhood,
40 his -- this is very insulting, isn't it?
41 A Yes.
42 Q Yet you're saying you were -- you were afraid of
43 him at this point?
44 A I'm not going to show him that I'm afraid of him.
45 Q I'm not talking about what you're going to show
46 him. If you're afraid of somebody, are you going
47 to provoke them?

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1 A At this point I don't think it mattered what I
2 did. I didn't feel that it mattered. He was
3 going to do what he was going to do. But at least
4 I was not just taking it lying down. I felt like
5 I was getting beat up every day with the emails,
6 and sometimes multiple times a day. I'm not just
7 going to keep getting beat up. At some point
8 you've got to fight back. You've got to hit back.
9 Not just going to keep taking it. And, yes, even
10 if you're afraid.

11 Q I suggest to you by getting beat up, and again
12 I'll refer to -- I suggest these email chains are
13 banter between two intelligent people who know how
14 to use language very well to hurt each other, and
15 maybe you felt you were getting beat up in the
16 banter. You were losing; is that correct?

17 A Could be, sure. But these are a handful of emails
18 out of hundreds that I've responded to, just a
19 handful.

20 Q I agree. There's hundreds more that you've
21 responded to.

22 A And not all of those were insulting.

23 Q Turning now to page 6 of 9, he has replied on page
24 7, he's replied and says he -- you're lying, he
25 doesn't use drugs, he's not lonely. He says [as
26 read in]:
27

28 How about if you call me Vickie instead of --
29 Vickie better than Sally.
30

31 This is just further banter.

32 A Yes.

33 Q On -- he replied on Monday, January 12th. And
34 then at the bottom of page 6 of 9, on January
35 12th, at 7:30 a.m. So again, I'm assuming you
36 woke up and got on your email and fired off a
37 reply to Mr. Fox, and could you read that in. Is
38 that your reply where it starts with "Perry"?

39 A Yes.

40 Q Could you read that in, please, Ms. Capuano?

41 A Yes.

42 MR. MYHRE: Sorry My Lady, there was just -- there was
43 kind of a question there about when she woke up
44 and responded, and then my friend moved on
45 without --

46 MR. LAGEMAAT: Yes.

47 MR. MYHRE: -- getting an answer.

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1 MR. LAGEMAAT:
2 Q Did you this morning wake up at 7:30 -- or, I'm
3 not asking what time you woke up, but you woke up
4 and got on your email relatively soon after waking
5 up; is that correct?
6 A I get up at 6:00.
7 Q You get up at 6:00.
8 A I have coffee probably, and steel myself for his
9 response.
10 Q Okay.
11 A And realized that I was going to have to respond
12 again.
13 Q You never think to not in a day just wait and not
14 look at this stuff --
15 A Oh, yeah.
16 Q -- if it bothers you?
17 A Oh, there were many times.
18 Q Right.
19 A But a lot of this really angered me.
20 Q Okay. So you're -- you're --
21 A This is a lot of anger in response.
22 Q -- you were angry about this banter, it made you
23 angry; is that correct?
24 A All of the emails made me angry.
25 Q Okay. If you could read that in, starting -- and
26 this is January 12th, 2015 at 7:30 a.m. Is this
27 your response, starting with "Perry"?
28 A Yes.
29 Q If you could read it in, please, Ms. Capuano.
30 A [As read in]:
31
32 Perry, I assume that's a possible next alias
33 for you. Good morning, sunshine. Again, not
34 a term of endearment. I would read the
35 entire novel below, but when the first
36 paragraph immediately began with "Fun facts,
37 the diverse from reality," and I knew -- I
38 know that it isn't worth my time. I never
39 mentioned your face -- false alias, let alone
40 stated it as a special name to us. You had a
41 conversation about that during your
42 interrogation for breaking the law and being
43 here illegally, that had nothing to do with
44 me. I wonder, and so does your rabbi, by the
45 way, if all of your angsty hatred even really
46 relates to me at all. Facts and reality seem
47 to be relatively few. It is quite

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1 troublesome. I also wonder do you fold your
2 hands and cackle malevolently when you talk
3 about destroying me. It seems a bit over the
4 top. Much like all of these sad and pathetic
5 emails you keep sending me. Also hello to
6 the folks reading at home via BCC. Hopefully
7 you all find Ricky Perry's tantrums as
8 amusing and pathetic as I do.
9

10 Q Why are you calling him Perry here?
11 A It's just another name. So many names he'd come
12 up with.
13 Q It seems you're coming up with the names, not him.
14 A Oh, that he could actually use. There were four
15 of them up to this point.
16 Q But you've come up with way more than four; is
17 that correct?
18 A Yes.
19 Q You said yesterday in direct evidence that you did
20 contact -- who's Mr. Riess, Steve Riess?
21 A Steve Riess is his father.
22 Q And you've contacted Steve Riess?
23 A I've been in communication with Steve Riess.
24 Q And you -- and you've denied contacting his rabbi;
25 is that correct?
26 A Yeah, absolutely. That was not true.
27 Q What is not true?
28 A The part where "Your rabbi", "I wonder, and so
29 does your rabbi, by the way". I would have no way
30 of knowing that.
31 Q So you're lying.
32 A Well, I didn't actually say I contacted his rabbi
33 here. I just said, "I wonder, and so does your
34 rabbi", that's all.
35 Q What did you mean by that?
36 A It was just an insult. Honestly, I wondered how
37 he could claim to espouse a religion and how a
38 rabbi would be okay with his behaviour and his
39 actions. But that was just my own.
40 Q And here you say he has "angsty hatred" towards
41 you, or your -- is that what you're saying here?
42 A Toward -- toward me?
43 Q Yes. But earlier on, a couple of emails back, you
44 -- you told me you think he was obsessed,
45 infatuated with you?
46 A Yes.
47 Q But now you're saying he has hatred for you.

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1 any other emotions to him.
2 Q So since your cease and desist request, you've --
3 you've gotten angry, you say they're sad and
4 pathetic, and but you're not telling him ever,
5 "I'm afraid of you, can you stop." Instead,
6 you're engaging in this, what I say again is witty
7 banter back and forth.
8 A I did tell him to cease and desist, that it was --
9 I was fearful.
10 Q But you didn't cease and desist.
11 A I did respond to some of those emails afterwards,
12 yes.
13 Q Okay. Turning to page 5 of 9, and again there's a
14 fairly lengthy email from him where he denies
15 cackling and talks about his rabbi, asks you which
16 one you talked to. And then that was at January
17 12th he wrote that. On January 13th at 10:33
18 a.m., and this is halfway down page 5 of 9, and
19 here you call him Raymond. Is that your reply?
20 A Yes.
21 Q Could you read that in, please, Ms. Capuano.
22 A [As read in]:
23
24 Again, your capacity for transference and
25 random accusations is truly impressive. Go
26 ahead and take that as a compliment, if you
27 like, but not something that [indiscernible/
28 reading quickly] so let me be clear. Citing
29 evidence with you is pointless, but let's go
30 with some low-hanging fruit. It is pretty
31 simple, but I'll go slow so that you can
32 follow. Please try to pay attention. If you
33 truly are Patrick, you lied about your
34 identity with me, presented a false name on
35 legal documents, including Gabriel's birth
36 certificate. If Patrick is your fake
37 identity, then you are being dishonest right
38 now. That was some pretty basic logic backed
39 by examples. Let me know if you need me to
40 diagram in crayon for you. As you have
41 repeatedly failed to provide evidence that
42 you are not a member of a subhuman species
43 previously thought to be mythical, such as a
44 Morlock, I do not feel like I am required to
45 respond or read your tantrum further. What
46 is it like being so wrong and self-assured at
47 the same time. Does it feel blissful? Does

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1 it remind you of home, you know, the trailer
2 park you grew up in?
3
4 Q Yesterday in direct evidence you -- you took great
5 exception to that he continually called you
6 trailer park trash; is that correct?
7 A Yes.
8 Q Did you grow up in a trailer park?
9 A No.
10 Q Did Mr. Fox grow up in a trailer park?
11 A Not as far as I know.
12 Q What -- what's this reference mean, the "trailer
13 park that you grew up in"?
14 A It was giving back his own medicine. I had just
15 been called white trash so many times, I just
16 figured I'd throw it back.
17 Q Right. The second paragraph of this email that
18 you call him Raymond, do you feel you're talking
19 to him like a child, you're insulting him, "please
20 try to pay attention", you offer to draw it out in
21 crayon.
22 A He was trying to tell me he wasn't lying about
23 anything, or that he was actually Patrick Fox from
24 Florida. I was trying to show him how what he was
25 saying was absurd.
26 Q I'm talking about your -- your language, Ms.
27 Capuano, the way you reply to him. You're
28 engaging him. You're provoking him. You're --
29 you're taking part in exactly what you're alleging
30 he was doing, which is insulting, and you're
31 taking part in it; is that correct?
32 A Perhaps. But I'm not saying "Fuck you, you
33 fucking cunt, you fucking idiot, get a life."
34 I -- yes, I am provoking him a little bit. But
35 the insults, I felt, while they were insults, and
36 maybe antagonistic, were nowhere to the level that
37 I had been dealing with for years.
38 Q I suggest it's a difference in language. He might
39 say "Fucking cunt", you insult his manhood, call
40 him a woman's name, tell him you're going to draw
41 diagrams in crayon. I -- I suggest it's
42 difference in language, and again I'll say two
43 intelligent people who know how to use the
44 language, hurting and cutting at each other. Is
45 that an accurate depicting?
46 A It could be. But I also never put up a website
47 about him or called his work.

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1 -- I'll re -- I'll repeat my question. Were you
2 working at this time, Ms. Capuano?
3 A Yes.
4 Q And I'm looking at the time of these emails,
5 they're early in the morning and then between 3:00
6 and four o'clock. So was that your -- your work
7 time, you would get home after 3:00; is that
8 correct?
9 A Well, is January 13th of 2015 a Monday through a
10 Friday?
11 Q I -- I don't know.
12 A I don't either.
13 Q You're correct. Would you reply to these while
14 you were at work?
15 A I would try not to.
16 Q It was a Tuesday, January 13th.
17 A I would try not to. But I also worked from home
18 quite a bit.
19 Q Okay. So in this email you called him Jose.
20 A Yes.
21 Q Correct? Where does that name come from?
22 A Just a name.
23 Q And I'll have -- is this your reply to his email?
24 A Yes.
25 Q Could you read it in, please.
26 A [As read in]:
27
28 I know this is difficult for you, but please
29 try to focus and pay attention here. Think
30 really hard. Make that squinty face you make
31 when that hamster is doing his best to move
32 the wheel inside your head. You asked for an
33 example of when you had been dishonest with
34 me. The *Patriot Act* has absolutely nothing
35 to do with the conversation. Further, it's
36 not -- it is not true, and does not apply. I
37 suppose that sort of logic is why you were
38 thrown in prison by a federal judge for
39 perjury. Perjury happens to be a noun.
40 Perjury is defined as the offence of wilfully
41 telling an untruth in a court after having
42 taken an oath or affirmation. Translation,
43 lying. That is another example. I have now
44 provided you with two examples that you
45 requested. You are welcome. Please don't
46 make me break out the crayon diagram as it
47 only serves to further degrade you.

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1
2 You know what people from the projects and
3 people in trailer parks have in common? They
4 are both, how do you put it, from the lower
5 echelon of society, though the ones who grow
6 up there just never seem to get out of the
7 shadow. As a disclaimer to keep you from
8 being confused now and in the future, when I
9 do not respond to you in part or in full,
10 means that you are so wrongly delusional that
11 it isn't worth my time to respond. You'll
12 just pull something delusional, like
13 something you yourself are guilty of, or
14 feeling guilty about from some orifice and
15 present it as if it were true. Allow me to
16 apply some Richard logic to this
17 conversation. Do you know why you are
18 spending this inordinate amount of time
19 responding to me? Because Cthulhu is a
20 mastermind in a conspiracy against you to
21 force you to initiate pointless conversations
22 with someone you obviously hold a high level
23 of content and unrequited love for, also
24 space aliens. See, I even tried in your
25 persecution complex. Again, you are welcome.

26
27 Q Sorry, I'm going to go back to page 5, and this is
28 just something I am curious about, and this is in
29 your reply on January 13th, halfway through the
30 page. And you read this in, is [as read in]:

31
32 You have repeatedly failed to provide
33 evidence that you are not a member of a
34 subhuman species previously thought to be
35 mythical, such as Morlock. I do not feel
36 that I am required to respond or read your
37 tantrum further.

38
39 Who's Morlock?

40 A I -- it was just a name. It's from a Sci-Fi
41 movie.

42 Q It is an actual mythical creature?

43 A I suppose.

44 Q And you're saying here you don't feel you're
45 required to respond or read his tantrum further,
46 but you did respond, correct?

47 A I did.

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1 Q And back to this one that you just read in, where
2 you call him Jose, you're again, I am -- I -- it's
3 my submission here, you're insulting him [as read
4 in]:

5
6 Make that squinty face you make when that
7 hamster is doing his best to move the wheel
8 inside your head.
9

10 Is that an insult?

11 A Sure, it could be taken as an insult. At this
12 point I was -- I was trying -- having fun at his
13 expense, but only because I was tired of the
14 emails.

15 Q But, Ms. Capuano, you're tired of it, but you're
16 engaging in it.

17 A Yes.

18 Q You're tired of losing at the banter is more
19 correct, isn't it.

20 A No.

21 Q
22 Please don't make me break out the crayon
23 diagram, as it only serves to further degrade
24 you.
25

26 What's -- what are you insulting there, his
27 intellect?

28 A Well, we had indicated previously that I -- I
29 could draw him a diagram in crayon if he was
30 confused about what lying meant. So it was just
31 an illustration that his response to that did not
32 really clarify that he wasn't lying about anything
33 at all.

34 Q Next paragraph:

35
36 You know what people from the projects and
37 people in trailer parks have in common. They
38 are both, how did you put it, from the lower
39 echelon of society. Though the ones who grow
40 up there just never seem to get out of the
41 shadow.
42

43 Are you saying he's trailer park material there?

44 A I suppose you could say that's mainly what I was
45 implying there. Sure.

46 Q Who's, in the bottom paragraph, Cthulhu?

47 A Cthulhu is a made-up mythical god, that I believe,

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1 if I'm not mistaken, looks like an octopus.
2 Q Looks like a what?
3 A Octopus.
4 Q Octopus. And what's the reference to "space
5 aliens"?
6 A It was a reference to the absurdity of a lot of
7 the comments and beliefs that he had.
8 Q So this is language that perhaps maybe you and him
9 might have understood between each other, but I'm
10 now not understanding. Would that be accurate?
11 A I don't know if he understood it or not.
12 Q Okay. But it's insulting, correct?
13 A It -- it only served to illustrate the absurdity
14 of the email threads --
15 Q That's what -- I apologize. Continue.
16 A No, that's --
17 Q I just want to point out right now, I'm getting a
18 way different picture than I was yesterday, where
19 you were reading emails and --
20 A Yes.
21 MR. MYHRE: Again, that's not a question. That's my
22 friend's characterization.
23 MR. LAGEMAAT:
24 Q On Tuesday, January 13th, 2015, Patrick responded,
25 and this is on page 3 of 9, halfway down, and then
26 going over to page 2 of 9, at January 14th, 8:14
27 a.m., and January 14th was a Wednesday, so at 8:14
28 a.m. on Wednesday you respond -- and is this your
29 response, you call him Gary here?
30 A Yes.
31 Q I'll have you read this one in, Ms. Capuano. It's
32 the one beginning with "Gary" on the bottom of
33 page 2.
34 A I know. I just want to make sure that I'm not
35 going to read something out of context. Since you
36 didn't read his response to what I wrote, and then
37 my response to him was not read, I just want to
38 make sure that that's not going to be pulled out
39 of context.
40 Q Feel free.
41 A Thank you. [As read in]:
42
43 Gary, I'm glad that you've learned how Google
44 and copy/paste work. That is precious and I
45 would pat your head like the good boy that
46 you are if you were here. A for effort.
47 However, you have once again failed to read.

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1 mole person. Desiree.
2
3 Q Would you agree that this email goes well beyond
4 what would be a reply to his email, where he's
5 citing United States statutes?
6 A Well, I state in here that obviously we're sniping
7 back and forth.
8 Q Right. What did you mean at the beginning, you
9 called him Gary, again where did that name come
10 from?
11 A Maybe another name he'd used.
12 Q [As read in]:
13
14 I'm glad that you have learned how Google and
15 copy/paste work.
16
17 What did you mean by that?
18 A Well, he had Googled some information and copied
19 and pasted it that was irrelevant to the
20 conversation here.
21 Q But are you saying he didn't know how that worked
22 before?
23 A I wouldn't know.
24 Q You were -- this was an insult; is that correct?
25 A Sure.
26 Q And again you're talking to him like a child, or
27 your -- your language is like a child.
28
29 That is precious and I would pat your head
30 like the good boy that you are if you were
31 here.
32
33 A Yes.
34 Q That's just child, talking to him like he's a
35 child in language you would talk to a child with?
36 A Yes.
37 Q At the bottom of that paragraph:
38
39 Not only were you wrong as you are right now,
40 but you were punished for it. Were you the
41 catcher?
42
43 A Yes.
44 Q What did you mean by that?
45 A That was an insult.
46 Q And turning to page 3 of 9, at the end of that
47 email, the second from last paragraph:

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1
2 You most definitely achieve your goal with
3 this thread if its purpose was to amuse me
4 and instil a sense of pity for you and all
5 those I have shared this with.
6
7 Who had you shared this with?
8 A I didn't share it with anybody.
9 Q So you were amused and felt pity for him as a
10 result of this -- this chain; is that correct?
11 A There were aspects of this email thread that I did
12 feel pity for him, and there were aspects of this
13 email thread that some of the things that he came
14 up with are amusing. But those were not the only
15 emotions that I had throughout the course of this
16 multiple-day, multiple-email long conversation.
17 Q Back to page 2 of 9, on Wednesday, January 14th,
18 Patrick wrote, and he's -- would you agree he's
19 talking about his name change, State of Arizona
20 and California, and at the bottom [as read in]:
21
22 If the day ever arrives that you're right
23 about something that we're disputing, it will
24 be a special day indeed.
25
26 Just -- would you agree this is just more banter
27 back and forth. You guys are insulting each
28 other?
29 A Yes.
30 Q Correct.
31 A Yes.
32 Q January -- and above that, January 15th, 2015, at
33 5:06 p.m., Desiree Capuano wrote -- and here you
34 call him Denise.
35 A Yes.
36 Q That's -- where did that name come from?
37 A Just another name.
38 Q And could you read that email in please, Ms.
39 Capuano.
40 A [As read in]:
41
42 Thanks for playing. You are and were wrong,
43 and you are trying to back all your way out
44 of it now. I had thought that you were used
45 to being wrong, but no . . .
46
47 I thought you were used to being wrong by now

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1 . . .

2
3 It says "by no", but I meant "by now" [as read
4 in]:

5
6 . . . but what a sore loser you are being.
7 Your not lying in open court must sure be why
8 you were jailed for perjury. Yeah, makes
9 total sense. Nice that you're subconsciously
10 -- that you subconsciously feel so guilty
11 about your lies that you continue to respond.
12 That and your stalker-like obsessive devotion
13 to me. Let me just save you. Please try to
14 listen to me when I say that I am not and
15 will never be interested in you, ever. I
16 know you love talking to me, but unless you
17 have some actual business pertaining to
18 Gabriel, you should really go do something
19 productive -- do something productive, more
20 productive, perhaps something other than
21 attempting to reinvent history and reality
22 again. Desiree.

23
24 Q So the first paragraph you say "thanks for
25 playing" and then you call him a "sore loser".
26 I'm suggesting, Ms. Capuano, this was a game to
27 you; is that correct?

28 A In almost all email threads leading up to this, I
29 let Richard have the last word. In a lot of them
30 he was the last one to respond, and I just gave
31 up. This was -- this was one of the first ones
32 where I wasn't going to let him have the last
33 word. I didn't want him to have the last word. I
34 wanted to be the strong one. I wanted to be the
35 one that controlled the conversation. I -- so,
36 yeah.

37 Q Well, Ms. Capuano, this is now January 15th, 2015.

38 A Yes.

39 Q The first email that I entered to you was January
40 26th, 2014. So this has been close to a year of
41 this insulting banter going back and forth; is
42 that correct?

43 A From 2014 to 2015, some of them were, yes. Not
44 all of them, no.

45 Q Not all of them, but the ones I'm pointing out to
46 you are; is that correct?

47 A Correct.

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1 Q And -- and -- okay. January 15th, and this is
2 back to page 1, he replies, and you can take your
3 time to look at it. He's basically rebutting what
4 you said and engaging in insulting and argument,
5 and I'll read the last paragraph of his reply,
6 which is on page 2 of 9 [as read in]:
7

8 Now go ahead and scoff at the above paragraph
9 and tell yourself you're fine. Remind
10 yourself that you've been handling things
11 just fine, and I'm just full of shit. Smiley
12 face. Cheers. Chubby. Exclamation mark.
13

14 It would seem to me and you can -- did you feel he
15 was inviting you to reply again, go ahead and
16 scoff at the above paragraph?

17 A Sure.

18 Q Okay. And you did just that, didn't you. You
19 replied, correct? And that's at the top of page
20 1, January 19th, at 1:35 a.m. you replied, Monday,
21 1:35 a.m., so that would be early Monday. Here
22 you call him Bill. Where does that name come
23 from?

24 A Same, just a name.

25 Q And could you read that email in, Ms. Capuano.

26 A [As read in]:
27

28 Most of what you say is inconsistent with
29 previous statements and actions. You are a
30 habitual liar, but at least it is consistent.
31 You have that going for you, I guess. That
32 and mommy issues and an active transference,
33 all your stalker-ish obsession with me. See.
34 I guess one could say you have a lot going
35 for you. I'm not having difficulty
36 understanding anything, but thank you for
37 checking. Do you happen to have
38 documentation of this supposed overturned
39 conviction? Do you happen to receive . . .
40

41 Did you happen to receive a certificate of
42 actual innocence? I'd be interested to see a
43 copy, though I'm sure it will be forged by
44 you along with the rest of your
45 documentation. Criminals and liars are
46 criminals and liars. So you were provided
47 with a birth certificate? Like when someone

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1 gets a number at a deli counter? Did you get
2 some cold cuts and do a victory dance at the
3 time this supposed birth certificate was
4 provided? Was there a long line? Were you
5 on meth at the time? Do you call ICE to
6 notify them of your intent to enter
7 illegally? If not, I'd assume it is simply
8 because you have not yet been caught in
9 violation. If you'd like to test that
10 theory, please feel free to provide me with
11 an itinerary at least two weeks in advance of
12 your next intended illegal trip stateside.
13

14 Q The first paragraph you talk about his stalker-ish
15 obsession with you.

16 A Mm-hmm. Yes.

17 Q If someone's stalking you, do you engage in banter
18 with them?

19 A During this time of this email thread, Richard was
20 not only trying to convince me that he was Patrick
21 Fox. He was also trying to convince Gabriel, our
22 son, that he was Patrick Fox. I was not going to
23 let him try to continue that, and say that I was
24 willing and I was wrong. It was my understanding
25 that he was, and so, yeah.

26 Q You didn't answer my question. If someone's
27 stalking you, is this the way you would talk to
28 them and reply and get in -- into this email
29 banter with?

30 A If it's a stalker that you do not have to have any
31 communication or interaction with, then, no. But
32 this particular stalker, I was under court order
33 to communicate with, and and had to have
34 interaction with. It had to happen for the sake
35 of the child. So there was no choice with me not
36 engaging in some level of communication. True, it
37 could have been just regarding Gabriel, but I was
38 pretty fed up.

39 Q How many of these emails we've gone through today
40 were about Gabriel?

41 A Well, the ones that you --

42 Q I think we're going to get in --

43 A -- pulled out, were not.

44 Q We're going to -- we will be getting into some,
45 but so far, none of these are anything that would
46 need to be addressed under a court -- a Family
47 Court order, are they.

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1 Q Did you cry?
2 A Yes, I did.
3 Q Okay. And that was sent on January 26th. On
4 January 27th, at 5:45 p.m., you replied, and this
5 is halfway up page 1 of 2. And here you call him
6 Paddy. Where -- where does that name come from?
7 A From Patrick.
8 Q So you're -- you're acknowledging here he's
9 Patrick, you're calling him Paddy, correct?
10 A No. Just that that's the name he's chosen at the
11 time.
12 Q He's never chosen Paddy.
13 A He chose Patrick.
14 Q Okay. January 27th, 2015, 5:45 p.m. Is this your
15 reply where you call him Paddy?
16 A It is.
17 Q Could you read that in, please, Ms. Capuano?
18 A [As read in]:

19
20 I can clearly see that maturity is your
21 strong suit. Do you actually have something
22 of merit to discuss, or is this just another
23 one of your wailing tantrums you have while
24 going through some form of narcotic opiate
25 withdrawal. Honestly, if I gave any merit to
26 any of your proposals or suggestions
27 regarding myself or Gabriel, I can
28 immediately have my head examined. I
29 actually never said that. Maybe you should
30 work on reading comprehension. What I said
31 was that at 14, the courts were set to allow
32 Gabriel to choose. Again, for the record,
33 you robbed Gabriel of the right to choose by
34 relinquishing all of your paternal rights in
35 open court only a month before his birthday,
36 all for what? To pursue some selfish
37 vendetta against me? Or is the truth that
38 you don't actually want Gabriel, and merely
39 see him as a tool and weapon to try to
40 manipulate against me.

41
42 Admit it, Richard. The thought of having to
43 be an actual parent terrifies you. If his
44 eye were such a concern, why did you not take
45 him to the doctor while you had him. You
46 noticed it first. Sad, very sad. As for the
47 rest of your delusional rantings, it was

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1 clear you have some severe mommy issues,
2 transference issues, and a sick fixation on
3 me. It's obvious you miss me, but it isn't
4 flattering, it's just very sad. You should
5 move on with your life, find something that
6 makes you happy and be a better person. It
7 isn't healthy to be so filled with hate. And
8 from the tone of this email alcohol and
9 drugs, all of the time.

10

11 Q You say in here he has a -- due to his rantings,
12 meaning the emails, the -- the multitude of
13 emails, he has a sick fixation on you. Is that
14 what you're saying here?

15 A Well, the emails in addition to the other things
16 that he was doing at the time.

17 Q Isn't it correct you also have a fixation on him
18 at this point?

19 A No, I'm just trying to get him to take the website
20 down. Trying to insult him, trying to show him
21 that -- that I can be just as belligerent as he
22 can be. And -- and it's -- it's not -- there's no
23 point to --

24 Q Explain --

25 A -- any of this.

26 Q Sorry. Explain again how you see insulting him,
27 his manhood, his mother, his alleged drug use, his
28 sanity, his -- his age, meaning talking to him
29 like he's a child, how would that get him to take
30 the website down, in your mind? I --

31 A Well, I know how I felt when he insulted me. And
32 I know how I felt having to read his words, and I
33 know that I didn't want to keep going, and I know
34 that I didn't want to have to keep facing that.
35 So I thought maybe if I presented the same thing
36 to him, he wouldn't want to deal with it, either.

37 Q You didn't want to keep going, but you did keep
38 going, didn't you.

39 A I didn't. Yeah. I know I didn't.

40 Q Pardon me?

41 A I didn't want to. But this was also the same time
42 that my son finally came to me and he said he was
43 proud of me for finally responding, and for not
44 laying down, and for giving it back. So --

45 Q I know -- sorry, finish.

46 A So in his eyes, I wasn't as guilty anymore.

47 Q Finally responding. I -- I say here you've been

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1 motives". And this is a two-page chain, only two
2 emails. On February 7th, 2015, Patrick sent you
3 an email, and again he's insulting you, your
4 college degree, tattoos, going on to say, who's a
5 meth head. He in the first paragraph is -- talks
6 about your alleged he's obsessed with you. And
7 then in the third paragraph he goes back to that
8 about you saying the infatuation and makes several
9 remarks. I'll read the last paragraph of that
10 email in, that's on page -- the second page [as
11 read in]:

12
13 By the way, I was right that around November
14 you started having second thoughts about G.
15 living with you, wasn't I. Good thing I was
16 able to get you all worked up and spiteful so
17 that you didn't discard him yet. Got to keep
18 you hanging in there as long as possible.

19
20 Would you agree with the characterization of that
21 email from Mr. Fox to you?

22 A What characterization?

23 Q Well, what I said, he's basically does some
24 insulting --

25 A Oh, yes.

26 Q -- and talks about your allegations that he's
27 infatuated. That was on February 7. On Sunday,
28 February 8th, at 10:50 a.m., you replied, and here
29 you call him Richard. And is that your reply, Ms.
30 Capuano?

31 A Yes.

32 Q Could you read it in, please.

33 A [As read in]:

34
35 As always every -- every email you have sent
36 is utterly wrong and childish. Don't you
37 have a life, better things to do? In your
38 mind are you Pinky or the Brain? I assume
39 Pinky, given the evident insanity and lack of
40 intellect. Your capacity for lies and
41 cruelty really is astonishing, especially
42 where Gabriel is concerned. You honestly
43 think Gabriel has better things to do with
44 his life than read your venomous, classless,
45 and basest tantrums. Grow up, seriously. I
46 will consistently remove Gabriel from these
47 email threads moving forward, as this, your

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1 obsession with me and deep psychosis is not
2 his burden to bear. P.S. You mad bro. Ha
3 ha.
4
5 Q What's it mean where you had "you mad bro" in
6 capital letters. What do you mean by that?
7 A It was a reference to his continued thinking about
8 my insinuation that this obsession had to do with
9 emotional thinking.
10 Q Okay. Why do you call him Richard here instead of
11 previously, I don't think you've called him a real
12 name up until now, in the ones I have put to you.
13 A Which is only three total conversations. I call
14 him Richard in the vast majority of the emails I
15 sent him.
16 Q Correct. There's been many more than three names,
17 though, would you agree, that you've used?
18 A Three conversations, not three names.
19 Q Yes. But would you agree there's been many more
20 than three?
21 A In that one conversation alone there were many
22 names, yes.
23 Q Every email he sent you is "utterly wrong and
24 childish", and you say "every email you have
25 sent", correct? And I'm sorry, I'm referring to
26 your -- the first paragraph --
27 A I do say that.
28 Q [As read in]:
29
30 As always, every email you have sent is
31 utterly wrong and childish.
32
33 Is that what --
34 A Yes.
35 Q And so you're saying -- today do you agree that
36 here you're saying that every email he has sent is
37 wrong and childish?
38 A I say that here, yes.
39 Q Who's Pinky and the Brain?
40 A Cartoon in the '90s.
41 Q Why would you assume he's Pinky?
42 A Anybody that's seen the cartoon, there's a mouse
43 that thinks that he's smarter than everybody else
44 and is consistently trying to take over the world.
45 And his partner is a cat, who is not the
46 brightest. It was an insinuation into his
47 thinking that he's smarter than everybody and can

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1 control the whole world, when in fact that's not
2 the situation.

3 Q I put to you, Ms. Capuano, that the last sentence
4 of this email, "P.S. You mad bro. Ha ha ha."
5 Isn't that provoking and taunting rather than just
6 leaving it. You get your point across and say,
7 Desiree. But instead your last sentence, is that
8 provoking and taunting him to engage further
9 banter?

10 A He -- you, you're correct, I did not compose every
11 email perfectly. I did let my emotions run away
12 with me at times.

13 Q So at 10:50 a.m. on a Sunday, this was your
14 emotion, to provoke and taunt him in the last
15 sentence of the email?

16 A Well, we did not read in his email, either. We
17 summarized his, so, there was some anger.

18 Q You're angry here.

19 A Yes.

20 Q You weren't afraid, you were angry.

21 A Well, afraid every day of what my life was going
22 to be. Afraid every day of what he was going to
23 do. But he's communicating with me. I'm pretty
24 sure at this point that he's not physically in the
25 U.S. So physical harm at this point, no. But the
26 fear of -- of my life, of everything going on, is
27 always there.

28 Q So there was no --

29 A But, yes, there's anger.

30 Q Sorry. There was no fear of physical harm.

31 A At this -- in this -- at this -- on this day, no.
32 I was also angry he was putting Gabriel on all of
33 these emails.

34 Q And that's why you say "P.S. You mad bro. Ha ha
35 ha." Instead of just ending it, Desiree, and
36 getting your point across, and insult him a little
37 bit and end it?

38 A No, I -- I could have.

39 Q Okay.

40 A But I didn't.

41 Q Moving onto the next email, which is called "Re
42 Service process", and this is a very short email
43 chain. On Tuesday, February 24th, 2015, Patrick
44 wrote [as read in]:
45
46 Good morning, Desiree. The B.C. sheriff just
47 stopped by to serve your papers. But

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1 unfortunately when I showed him my ID, which
2 says Patrick, he pointed out that the service
3 request was for Richard a.k.a. Patrick.
4 Unfortunately, had it been the other way,
5 Patrick a.k.a. Richard, he would have been
6 able to serve me. Sorry. Cheers, Patrick.
7
8 And did you reply to that email on February 24th
9 at 12:39 p.m.
10 A Yes, I did.
11 Q And is this your reply?
12 A Yes, it is.
13 Q Can you read that in.
14 A [As read in]:
15
16 Exactly what I wanted you to do. You're such
17 an idiot. Thank you very much.
18
19 That response is because he lied. He actually was
20 properly served. He did do exactly what he was
21 supposed to do. And he's an idiot for trying to
22 tell me that he wasn't served.
23 Q That's not what you say here. You --
24 A No, it's not. But he -- he was served that day,
25 and I -- I verified that before I responded to
26 him.
27 Q But you say here that he did exactly what you
28 wanted him to do, which was not accept service,
29 because the names were wrong.
30 A He did accept service.
31 Q Did you know that -- but that's not what you're
32 saying here.
33 A And I did know that when I sent this.
34 Q They why didn't you say "You're lying, you
35 accepted service."
36 A Because he's lied about everything, and I've tried
37 to call him out on it. It doesn't matter.
38 Q But I don't understand. You're saying --
39 A It's the simplest response that I can give him
40 where he won't respond back.
41 Q But you're saying here, Ms. Capuano, that what he
42 says he did here is exactly what you wanted him to
43 do, correct?
44 A And it was. He signed for the paperwork.
45 Q That's not what he's saying in the email, that he
46 signed --
47 A Correct.

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1 Q -- for the paperwork.
2 A But there's circumstances around that email. It
3 was for an annulment, and he accepted the
4 annulment paperwork and signed for it, and I
5 verified that with the B.C. sheriffs.
6 Q So let me ask you, Ms. Capuano, what's the purpose
7 of this reply, calling him an idiot, saying,
8 "Thank you very much" and two exclamation marks.
9 What's the purpose of that?
10 A Ah --
11 Q If he did what you wanted, sorry.
12 A To let him that I knew that he was lying.
13 Q And I suggest again to you, to provoke him and to
14 engage in banter back and forth, which is what
15 you're doing here.
16 A I understand that that's your perspective of it.
17 Q Turning to the next email in the chain. This
18 chain is titled "Mail", and this was also in the
19 Crown's book of exhibits. And it starts out on
20 Thursday, April 9th, 2015, and this is on the
21 second page. Patrick says [as read in]:
22
23 Hello, Desiree. I am thinking perhaps you
24 don't understand what the word alias means.
25 Being that there is nowhere my address with
26 the name Richard S., and being that Patrick
27 is my name, not an alias, the only legal
28 course of action in this case would be for me
29 to return the package to the sender. It is,
30 after all, illegal to open and intercept
31 another person's mail, so I've returned the
32 package unopened to the sender, you.
33
34 Did you get that package back?
35 A Yes.
36 Q Now turning to your reply, which is on the first
37 page, halfway down on April 9th, 2015, at 2:17
38 P.M. And this is a Thursday at 2:17 p.m., Desiree
39 Capuano wrote, and you call him Richard here. Is
40 this your reply, Ms. Capuano?
41 A Yes.
42 Q And I'll read in the first sentence [as read in]:
43
44 I enjoy our banter as much as the next
45 person, so long as said person is going
46 through a quadruple root canal without pain
47 medication and multiple broken bones.

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1
2 And that was read in yesterday. Can -- can you
3 explain what that means?
4 A Uh, sarcasm. Because I would assume that most
5 people would not enjoy a root canal with no pain
6 medication while having broken bones.
7 Q Would those people go for a root canal without
8 pain medication if they didn't need to?
9 A No.
10 Q And that's exactly what you're doing here, you're
11 engaging in the banter and you don't need to.
12 A I do need to. I'm trying to get an annulment and
13 somebody that keeps saying that they are not going
14 to accept paperwork under the name that I am
15 married to them under. I am trying to get him to
16 follow a legal process so that I can get an
17 annulment from him. So, yes, it's necessary. I
18 need to communicate with him. I have to, and --
19 Q That's --
20 A -- and the only way to communicate, it always
21 degrades into this. Every -- every time, every
22 attempt, it always degrades.
23 Q That's April 9th, 2015 it might have been
24 necessary to communicate with him, but was it
25 necessary through all these messages we've gone
26 through today which -- and I know you'll say --
27 you've said, pointed out, these aren't all the
28 messages. But in these messages, was it
29 necessary? Was any of this necessary?
30 A There are parts that in the ones that we've read
31 so far, some of them. The previous one that we --
32 that we looked at, the banter back and forth that
33 lasted multiple days, some of that was to get him
34 to give up information, and he did. The longer I
35 kept him talking in those email threads, the more
36 information he gave me. The --
37 Q What information -- sorry.
38 A About communicating the shooting -- shooting with
39 Gabriel. He indicated that. The fact that he
40 told the detective that he wanted me to commit
41 suicide. A lot of these -- these pieces of
42 information are because I kept him talking. A lot
43 of this information about his plan for me, he
44 wouldn't divulge otherwise. And then shortly
45 after that was the email about trying to find some
46 -- hire someone to have sex with me.
47 Q So you're telling me right now, and that you're

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1 able, you engaged in this insulting him, this
2 mother, his manhood, to get information from him
3 now. Whereas before, didn't you say it was to get
4 him to take the website down? But now it's to get
5 information.
6 A Well, obviously, yes, obvious to try to get him to
7 take the website down. But I also need to know
8 what he's planning, what he's thinking and what
9 he's doing. And, no, not all of it was. Of
10 course, not all of it was. Some of it was just
11 banter. Some of it was just irritation, it was
12 frustration and bravado, it was -- there was many
13 reasons.
14 Q Did you ever wonder what would happen if you just
15 stopped?
16 A I tried that.
17 Q For who long?
18 A 2011, 2012, 2013, into 2014, the majority of the
19 communication that happened over the course of
20 multiple years I would not respond to, or it was
21 simple one word answers, or as minimal a response
22 as I could. I tried that. It didn't work. He
23 just kept escalating.
24 Q So in 2014, now, January 2014, which is where we
25 start, this is where you've only just started
26 insulting him, and -- and -- and it basically
27 being --
28 A Bantering back.
29 Q Bantering back. You've only just --
30 A Yes.
31 Q -- started this here.
32 A Yes.
33 Q This -- the emails we have is where it started.
34 A Yes.
35 Q Or the emails I have is where that started. Okay.
36 A I had Gabriel, I had custody, I was not scared of
37 losing my child. The website was up. I was
38 frustrated. I was doing what I could. Yes.
39 Q Scared of losing your child.
40 A He kept taking me back to court.
41 Q Well, because he wanted to see him, isn't that
42 correct?
43 A No. No, he had primary physical custody when we
44 started out in 2011. I had visitation. He had --
45 Q I'm aware of that.
46 A -- he filed to have that revoked. He filed to
47 have all my visitation revoked, and communication

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1 revoked, and --
2 Q But isn't that just --
3 A -- we went back and forth.
4 Q Yeah, and isn't that just Family Court. That's
5 what happens in Family Court. You go in and a
6 judge decides this is who has custody. This is
7 who has access. This is how it's going to play
8 out.
9 A And that was done initially, and then he kept
10 trying to change it.
11 Q So for that reason you thought it was okay to
12 insult him continually for -- we're into --
13 A No, not for that reason. Just that I was -- I was
14 more confident. I was -- I was more secure in --
15 in my standing, and I -- again, I wasn't going to
16 be pushed around.
17 Q And you definitely weren't afraid, were you?
18 A I was afraid. I was afraid what would happen if
19 it just -- if I didn't do anything about it.
20 Q You were afraid of what would -- sorry?
21 A What would happen if I didn't do anything about
22 it.
23 Q If you didn't do anything about what?
24 A About his emails that got sent --
25 Q So you were afraid --
26 A -- [indiscernible/overlapping speakers].
27 Q Sorry to interrupt. Finish.
28 A No, go ahead.
29 Q You were afraid of what would happen if you didn't
30 engage in this banter and -- and also intellectual
31 insulting of each other?
32 A No, that's not what I meant at all.
33 Q What did you mean?
34 A There are many reasons I responded to emails.
35 Sometimes it was for venting. Sometimes it was
36 because I was irritated or frustrated. 2014 was a
37 different approach. It was a different tactic,
38 because nothing had worked up until then. So,
39 yes, I wanted to even the playing field a little
40 bit with this. But the reason that I felt I was
41 able to even the playing field is because I was
42 not as scared of being pushed around. I thought
43 maybe if I was strong enough, I could stop him
44 from doing more.
45 Q Would you say it was a game to show who was --
46 A No.
47 Q -- stronger and and who was better at insulting?

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BAN ON PUBLICATION; INHERENT JURISDICTION

1 A But I'm also not threatening to destroy his life.
2 There might be some insults, but I am not
3 threatening to bring him down, tear him down,
4 destroy his life, ruin who he is, ruin who he's
5 tried to be, who he wants to be, where he wants to
6 go in his life, his future, his present, his
7 friends, his associates. I'm not threatening his
8 life. There might be insults, but there's no
9 threats to him. There's only defence.
10 Q This is defence.
11 A It is defence. I did not initiate that
12 conversation.
13 Q I'm talking about all of these, the tenor of
14 these --
15 A I didn't initiate them.
16 Q My -- my comment to you that you're replying to
17 was about the tenor of the email.
18 A I did not --
19 Q You're saying these are defensive.
20 A Yes. I did not start -- I did not start these
21 conversations.
22 Q I'm talking about the tenor of the conversations,
23 Ms. Capuano. You're saying these are defensive
24 conversations on your part?
25 A I'm defending myself.
26 Q You can't speak for him, on your part.
27 A I'm defending myself. And, yes, there's insults
28 going back and forth. There's also no threats
29 from me.
30 Q Turning over to the second page of this chain, and
31 again, this is an argument about visitation. And
32 you, on May 11th, 2015, at 10:40 a.m., Desiree
33 Capuano wrote, "Oh, don't you know", and can --
34 can you read that one in, please, Ms. Capuano?
35 A I'm sorry, which one?
36 Q Second page of this email chain, three-page chain,
37 and it's May 11th, 2015 at 10:40 a.m., and that's
38 a Monday at 10:40 a.m. "Oh, don't you know", it's
39 -- it's less than halfway up the page, maybe a
40 third of the way up from the bottom.
41 A Do I have the right page? I don't know if I'm on
42 the right page.
43 Q So, okay. Start again at the beginning of "More
44 of what I know".
45 A Oh. Okay.
46 Q And flip over to the second page of that chain,
47 and about --

Desiree Capuano (for Crown)
cross-exam by Mr. Lagemaat
BAN ON PUBLICATION; INHERENT JURISDICTION

1 A Okay. [As read in]:
2
3 So in this case, dictionary.com isn't good
4 enough because it would make you wrong about
5 something, right? I get it.
6
7 Q So you're saying here he's wrong and you're right,
8 because dictionary.com.
9 A I'm saying is it doesn't matter what I say. It's
10 not going to ever be right.
11 Q Does it matter what he says? Will he ever be
12 right?
13 A He's always right, according to him.
14 Q What about according to you?
15 A No.
16 Q Right. And then again, May 11th, 11:39, nine
17 minutes later, Patrick wrote [as read in]:
18
19 No, a dictionary provides definitions of
20 words. In some cases like feeling and
21 emotion, there can be no definition due to
22 the circular reference. So we have to look
23 past the word and consider the concept, which
24 the word attempts to embody. You're really
25 making yourself look incredibly unintelligent
26 here, considering you have a Bachelor's
27 degree, albeit it a pseudo one, and I have a
28 Grade 8. You're really impressing the world
29 with your wit and intellect. Thank god we
30 get to put these wonderful discussions on
31 your website. Patrick.
32
33 And go up above, May 11th, 2015, 11:44 a.m. -- or,
34 sorry -- yes, a.m., five minutes later, you reply,
35 and "This is" -- "This has been fun, really". Can
36 you read that in, Ms. Capuano?
37 A [As read in]:
38
39 This has been fun, really. I understand you
40 think you won your argument and you have
41 proven once again to show how ignorant I am,
42 and gloating about it, how the world is going
43 to see me for the way I really am. You keep
44 thinking that. The arrogance and ignorance
45 will be your undoing. I'm a very patient
46 person. Talk to you later.
47

Desiree Capuano (for Crown)
cross-exam by Mr. Lagemaat
BAN ON PUBLICATION; INHERENT JURISDICTION

1 Q I suggest to you, and I have a pretty good idea of
2 what you're going to say, where you say --
3 MR. MYHRE: Objection.
4 MR. LAGEMAAT:
5 Q -- "This has been fun, really", I suggest --
6 MR. MYHRE: My Lady, my friend can't interject little
7 opinion comments into his questions.
8 MR. LAGEMAAT: I withdraw that.
9 Q "This has been fun really". It would seem that --
10 did you in fact have fun during this particular
11 email chain?
12 A No.
13 Q Then why would you take the time to cut and paste
14 off dictionary.com, and put so much time into the
15 definition of an emotion, it wasn't fun?
16 A Once again, I was no longer going to just accept
17 what he said, with no responses, as an admission
18 of acceptance of what he said was correct.
19 Gabriel is on all of these emails. He's watching
20 this. Up till now, he has seen primarily his
21 father being the one to have these conversations.
22 Now he --
23 Q Playing the game, and trying to win.
24 A I don't know if I'm trying to win. There's no
25 prize. The prize is that he stops emailing me and
26 takes the website down. That's not going to
27 happen. There's no prize.
28 Q "I understand", and I'm reading in [as read in]:
29
30 I understand you think you won your argument
31 and you've proven once again to show how
32 ignorant I am and are gloating about how the
33 whole world is going to see me for the way I
34 really am.
35
36 A That is how I took his message to me.
37 Q That he's gloating that he won this whole --
38 A Yes.
39 Q -- this whole discussion about --
40 A Emotions.
41 Q -- definitions of an emotion. You feel he won
42 this here, or you feel -- no, sorry, you're saying
43 you think he feels that he won this argument at
44 this point; is that correct?
45 A Yes.
46 Q And you don't like that, do you.
47 A It doesn't matter.

Desiree Capuano (for Crown)
cross-exam by Mr. Lagemaat
BAN ON PUBLICATION; INHERENT JURISDICTION

1 Q It didn't matter if he won any of these?
2 A It doesn't matter how I felt about it. [As read
3 in]:
4 Q
5 You keep thinking that. Your arrogance and
6 ignorance will be your undoing. I'm a very
7 patient person [smiley face]. Talk to you
8 later [smiley face].
9
10 A Yes.
11 Q Why the smiley faces?
12 A Because I'm trying to let him see that it's not
13 bothering me. I'm trying to show that it's not
14 bothering me, that his words are not affecting me.
15 Same reason I'm responding. Same reason I'm
16 giving the insults back.
17 Q Wouldn't it -- had you ever thought of if you want
18 him to think his words aren't bothering you, you
19 could not respond, or say "Your words don't bother
20 me," rather than engaging in the back and forth
21 insulting and --
22 A I did that, and he put up a website.
23 Q This isn't about the website right now, Ms.
24 Capuano. This is about --
25 A Responding to him.
26 Q -- what we're doing here.
27 A And I -- there -- for a long time I didn't respond
28 to him, and his solution, or response to that was
29 he put up a website. It doesn't matter whether I
30 respond to him or not, he's going to continue to
31 do what he does. So rather than not respond and
32 get beat up, I'm going to respond.
33 Q So your response to him putting up a website is to
34 insult his stature, his manhood, his mother, what
35 -- whatever else, his intelligence --
36 A I was tired.
37 Q -- his maturity? That's your response.
38 A Well, I was tired.
39 Q Moving on to the next email in my book, and this
40 is another -- this is called "Read the motivation
41 for your behaviour". And we'll -- I'll refer to
42 the Crown's book of exhibits here. Tab 13, at the
43 end of Tab 13, and if you flip six pages in from
44 the back -- I apologize, I'll have to find this.
45 I apologize. It's in Tab -- yes, Tab 13, six
46 pages in from the back, called the -- it's "The
47 motivation for your behaviour", the same email

Desiree Capuano (for Crown)
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1 chain. And in the Crown's book it starts with
2 what my book has on page 2 of 3, which is
3 "Desiree", and we read this when my friend read it
4 in yesterday [as read in]:
5
6 Desiree. The only reason you're being such a
7 stupid cunt right now, well always really, is
8 because you know that G. would rather be with
9 me than you.
10
11 And this goes on, and this was read in yesterday.
12 But what I'd like to point out now, Ms. Capuano,
13 is how that chain continued on. And just above
14 that May 7th, 2015, 4:29 p.m., you replied, and
15 this is halfway up page 2 of three in this chain,
16 of my book [as read in]:
17
18 Oh my god, Richard! You nailed it.
19
20 And these are double exclamation marks. Is this
21 your reply?
22 A Yes.
23 Q Can you read that in, Ms. Capuano?
24 A [As read in]:
25
26 Oh my god, Richard! You nailed it!! I will
27 never have to do any more introspection ever
28 again. In case you didn't -- it didn't come
29 across in email, that was sarcasm.
30
31 Q Again, I ask you, why even reply?
32 A Because my son is on this. As far as I know, my
33 son is reading this, and he keeps telling my son
34 that if I don't respond, that means I think he's
35 right.
36 Q So you're talking to your son through your replies
37 to Patrick; is --
38 A No.
39 Q -- that correct?
40 A No. But I'm standing up for myself.
41 Q How old was your son at this time?
42 A Uh, in May of 2015, he was 14 years old.
43 Q And which son are you referring to?
44 A Gabriel.
45 Q Did your other son also read the website?
46 A No.
47 Q So he was 14 years old, and you didn't have the

Desiree Capuano (for Crown)
cross-exam by Mr. Lagemaat
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1 ability to -- to -- if this was so damaging,
2 you -- you didn't ever think, oh, I can keep him
3 off the internet. He's 14.
4 A These are going to his personal email. I'm not
5 going to not let him check his email. And email,
6 he's communicating with his father through email,
7 also. So I can't prohibit that. They're some of
8 the terms of the custody agreement.
9 Q You never thought of going to court and getting
10 the custody agreement altered because --
11 A I tried.
12 Q -- because of him reading these emails?
13 A I tried. The judge said no. It's the only reason
14 I tried to cease communication through email,
15 ever.
16 Q The only reason what?
17 A I have ever gone to court and requested to cease
18 communication, is because of communication like
19 this, but the judge said no.
20 Q Up above that, May 19th, 10:52 a.m., May 9th,
21 that's -- so this is two days later, Patrick
22 replies [as read in]:
23
24 Desiree. I find it decided telling that your
25 only response was a trite attempt at sarcasm.
26 No attempt to disprove or even rebut of any
27 of what I said. Tell me honestly that you
28 disagree with anything I said below. Tell me
29 that you seriously believe, given the choice,
30 that G. would choose to remain with you.
31
32 So this is him asking you to keep it going, right,
33 four days later -- we've already gone through that
34 you were communicating on multiple email chains,
35 but four days later he says, respond. Tell me
36 that you seriously believe. So he's asking you to
37 continue, and do you continue?
38 A Yes.
39 Q And at May 11th, 2015, at 10:49 a.m., and this is
40 just above, Desiree Capuano wrote, "Richard.
41 Everything you say", and could you read that in,
42 Ms. Capuano?
43 A [As read in]:
44
45 Everything you say is so far off the realm of
46 reality, it doesn't bother a rebuttal. But
47 you keep thinking you're far superior. I'm

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I hereby certify the foregoing to
be a true and accurate transcript
of the evidence recorded on a sound
recording apparatus, transcribed to
the best of my skill and ability.



P. Neumann
Court Transcriber

27178
Vancouver Registry

In the Supreme Court of British Columbia
(BEFORE THE HONOURABLE MADAM JUSTICE HOLMES AND JURY)

Vancouver, B.C.
June 15, 2017

REGINA

v.

PATRICK HENRY FOX

PROCEEDINGS AT TRIAL
(Excerpt - Testimony of Desiree Capuano)

COPY

BAN ON PUBLICATION; INHERENT JURISDICTION

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COPY

BAN ON PUBLICATION; INHERENT JURISDICTION

Crown Counsel:

M. Myhre

Appearing on his own behalf:

P. Fox

Defence Counsel:

**A.J. Lagemaat
M. Chatha, A/S**

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RULINGS

Nil

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1 and this is what you characterized in direct
2 evidence, defining the term "itinerary", and
3 you're basically arguing back and forth about
4 itinerary for Gabriel going to visit Patrick; is
5 that correct?
6 A Yes.
7 Q In this chain. Hence the title.
8 So going a little bit further than we went in
9 direct, and I'll go to the bottom of page 3,
10 Desiree Capuano wrote, April 26th -- I'm assuming
11 May 4th -- you've copy and pasted into there where
12 you have previously asked him for an itinerary; is
13 that correct, Ms. Capuano?
14 A Yes.
15 Q Okay. And then you've put in a dictionary
16 definition, turning the page to page 4 of 7 at the
17 top. It's a continuation of that email. And
18 you've put in a dictionary definition of "full"
19 and "all" --
20 A Yes.
21 Q -- correct? And again, that -- you didn't think
22 he -- you understood he knows what "full" and
23 "all" means; correct?
24 A Well, according to this conversation back and
25 forth, I was just trying to get him to see that
26 what I wanted was the travel plans for my son.
27 Q I suggest you were just doing what you've done in
28 previous emails and just arguing.
29 A I had full control over visitation and determining
30 that visitation. After the website went up, the
31 attacks, the reference to shooting, I was still
32 offering to send Gabriel to him. All I wanted
33 were travel plans. And the fact that it took two
34 weeks to get a plane ticket was very frustrating.
35 I tried many different ways to tell him what I
36 wanted were travel plans.
37 Q Do you know why it took two weeks?
38 A Because he kept saying that what I was asking for
39 he didn't understand, although I referred to it in
40 the same way he had referred to it in previous
41 emails.
42 Q Going over to page 2 of 7, and about halfway up
43 the page, on Thursday, May 7th, 2015, Desiree
44 Capuano wrote -- and can you read -- and you wrote
45 two in a row again here. Can you read those in,
46 please? It starts with "Would you like me to
47 forward". Is that your reply, Ms. Capuano?

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1 A Yes.
2 Q Okay. Could you read those both in, please?
3 There's two in a row.
4 A [As read in]:
5
6 Would you like me to forward you the email
7 thread where I purchased a ticket and it
8 interferes with your work schedule so you
9 denied it? Or the one where I told you the
10 flights were cheaper on a different day and
11 you responded that you didn't care about my
12 financial troubles and it wasn't your fault
13 that I was a white trash person incapable of
14 budgeting my money, and again denied it?
15 Oh, but you probably have them up on your
16 website, so you can just go read it there.
17 Actually, you interfered with almost every
18 visitation I have with Gabriel, from pulling
19 stupid things like refusing to put him on a
20 plane, calling the airlines and changing the
21 plane tickets yourself, filing for a
22 restraining order the day prior to
23 visitation, sending him for a week with
24 nothing but the clothes on his back and a box
25 of Jewish crackers. You and he decided that
26 he would not participate in any event over
27 Christmas break, including eating dinner,
28 because he was Jewish and it was against his
29 religion. You sure as hell never permitted
30 me to have him for a visitation without
31 return plans solidified. I believe I have
32 been extremely accommodating to you, given
33 the hardships you caused me while you had
34 partial custody. Where's your argument
35 again?
36
37 Q Why did you ask at the end, "Where's your argument
38 again?" Is that asking him for a reply?
39 A Because he's telling me in his -- that he's not
40 agreeing to the terms of visitation, meaning that
41 he was requiring that I drive two hours during the
42 work week from Tucson to Phoenix to put him on a
43 plane, and he didn't care that I had to work.
44 Q Did you know if he was working at this time?
45 A I don't know. I assume so.
46 Q Going over to page 1 of 7, and about halfway up
47 the page, May 11th, 2015 -- and again, this is

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1 again May 11, Desiree Capuano wrote [as read in]:
2
3 See, Richard, it doesn't matter.
4
5 Is that your response, Ms. Capuano?
6 A Yes.
7 Q Could you read that in, please?
8 A
9 See, Richard, it doesn't matter what I say or
10 how I say it. You're bound and determined to
11 argue everything I say and you adamantly
12 refuse to even attempt to understand what I'm
13 talking about. So tell me why I should try
14 to defend myself against a person like that.
15 It's a futile effort and I have better things
16 to do. You nitpick like a little old lady.
17 Oh, my God, are you going to say that I'm
18 racist against little old ladies?
19
20 Q And up at the top of the page, "and you're
21 incapable", is that your reply, Ms. Capuano?
22 A Yes.
23 Q Can you read that in, please?
24 A
25 And you're incapable of having a conversation
26 without a dictionary, encyclopedia, or case
27 law book for reference.
28
29 Q And this, again, was at a time when you say you
30 were in fear of Mr. Fox?
31 A Yes, and I still had to determine visitation for
32 my child.
33 Q Pardon --
34 A Was still required to put him on a plane to go see
35 his father. So no matter how scared I was, I
36 still had to communicate with him.
37 Q Well, if he didn't send a ticket --
38 A Then he wasn't getting on the plane.
39 Q Exactly.
40 A Yeah. And then he would take me back to court and
41 say that I prevented visitation. I knew what I
42 was facing.
43 Q Did you have to go out of your way that far to get
44 him to send you the plane tickets --
45 A Yes.
46 Q -- compared -- compared to just leaving it?
47 A Yes. The only time I got him to send me the plane

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1 ticket is when I said, "'Stupid fucking cunt' does
2 not look like an itinerary. Send me the
3 itinerary."

4 Q I -- I suggest, Ms. Capuano, this is just like
5 every other email we went through where it came a
6 point where you did not have to engage but you
7 did. And in this case there's one instance again
8 where you send two in a row.

9 A In 2014, the beginning of 2014 when the website
10 went up, I was not responding. It was not till
11 the end of 2014 that I started going back and
12 forth with him on [indiscernible], as you said
13 yesterday, bickering back and forth, trading witty
14 remarks.

15 In the fall of 2014 -- in the winter,
16 actually, in December, is when one of those two
17 parties brought up shooting the other one. I
18 don't care what reference is around that, I don't
19 care how many times he tells me not to be
20 threatened, the person doing the attacking is the
21 person saying that they think about shooting the
22 other person. At that point every other threat
23 has a different meaning, everything else becomes
24 important. That doesn't mean that I'm going to
25 stop interacting with him the way that I had been.
26 I'm not going to cower and cry and beg and plead
27 for him to stop.

28 Q So instead of --

29 A I'm just going to continue in the same thing that
30 I had been.

31 Q Would --

32 A And in the background I'm going to take steps to
33 protect myself and my family.

34 Q Which is insulting him, provoking him, insulting
35 his family.

36 A I'm just trading back and forth the way that I had
37 been before he said he was going to shoot me.

38 Q Exactly. You're trading back and forth.

39 A But that doesn't mean I'm not taking steps on my
40 own to also protect myself and my family.

41 Q And -- and you said yesterday, I -- I asked you
42 several times, "Why didn't you just stop?" and you
43 gave a period of years where you had just not
44 replied and it hadn't -- it kept on going. What
45 were those years again where you said? And I have
46 it in my notes. I'm wondering if you recall.

47 A It was between 2012, 2013, and beginning of 2014.

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1 Most of the responses, if I had responses, were
2 very civilized in my attempt to be civilized and
3 respectful.
4 Q So you were responding. You said yesterday --
5 A To some -- I had to.
6 Q Okay.
7 A We had a child. We were in a custody battle.
8 Q And --
9 A There was no choice of me not responding to it.
10 Q And would it be a correct characterization to say
11 that communications during that time were more
12 limited to the family court issues about --
13 A Absolutely.
14 Q -- about visitation, about what went back and
15 forth with the child?
16 A From my respect, yes.
17 Q Mm-hmm.
18 A But that doesn't mean that his insults were not
19 there.
20 Q Was there -- was there insults and threats during
21 that period?
22 A Absolutely.
23 Q Thank you.
24 A Yes, there were, and I did not respond to them.
25 Q Next email in the chain is titled "Values" and
26 this was again May 11th, 2015. Do you -- do you
27 have any idea what it was about May 11th that
28 you --
29 A Yes. We were getting ready for visitation travel.
30 Q Okay. This is a two-page chain. At the bottom,
31 the last email, Patrick writes to you [as read
32 in]:
33
34 Desiree, I believe this epitomizes the
35 difference between you and I. In December
36 2013, G. gave me a coffee mug that he picked
37 up at the airport on the way here. I've
38 since used that mug every day, every single
39 time I have coffee at home, which is at least
40 once a day.
41
42 And did you reply to that email?
43 A Yes.
44 Q And that's your reply above, that May 11th at
45 10:50?
46 A Yes.
47 Q And can you read that in?

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1
2 So he confirms where he's employed.
3 A Yes.
4 Q Why is it your job is none of his business but
5 then you go on to ask him where his job is?
6 A I want him to understand that it can work both
7 ways. He's already contacted my employer. He
8 already sent emails pretending to be me. He
9 already created a LinkedIn account, he already
10 created a Facebook account, he already said that
11 he's going to destroy me, he already said he's
12 going to do all of these things. I want him to
13 know that there are risks to him too.
14 Q You want him to know that you can do the same
15 thing. You're threatening here that you can do
16 the same thing; correct?
17 A But I never did it. That's the difference.
18 Q Well, it doesn't matter. You're threatening that
19 you can do it and he's giving you the information
20 you need to do it --
21 A Yes.
22 Q -- correct? Thank you.
23 A Yes.
24 Q Page -- next email chain. This is "G.'s adventure
25 with the RCMP". And at the bottom, he sends you
26 an email on June 30th, 2015, and I'm assuming
27 there's been some kind of discussion about -- I'll
28 go look back. I'm assuming there's been some kind
29 of discussion about the authorities being called
30 and he's saying about you making a frivolous
31 claim. Is that Child Protection Services or --
32 A It's not. I just asked for a home check.
33 Q Pardon me?
34 A I asked for a home check.
35 Q Okay. And then your reply, up above, at 8:46
36 p.m., June 30th [as read in]:
37
38 Richard, when you said ...
39
40 Is that your reply?
41 A Yes.
42 Q Could you read that in, please?
43 A
44 When you said, or would that have been too
45 complicated for you to think of? I believe
46 you meant to use the word "to". You really
47 should use a dictionary. That sort of poor

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1 A Yes. It's --
2 Q -- with Sage?
3 A -- a BB gun.
4 Q It's a BB gun.
5 A It's just a BB gun. It's not real.
6 Q How old was Sage at the time?
7 A Seven; six, seven.
8 Q A BB gun is a real gun, it's just not a firearm.
9 A Correct.
10 Q Correct. One -- one thing about these photos, and
11 perhaps you can explain this -- you work in IT;
12 correct?
13 A Yes.
14 Q You said you didn't post these pictures on your
15 Facebook; Facebook allowed, I'm assuming your
16 friends, because it -- you allege it was through
17 G.'s Facebook account, that Facebook allowed your
18 friends into your photo album?
19 A There's a -- there was a camera roll option in the
20 pictures in Facebook.
21 Q So you selected that camera roll option, so people
22 who were -- who could have access to your Facebook
23 page could have access to your entire camera roll?
24 A Yes. They were people that I knew, family.
25 Q And this at a time when you were concerned about
26 your information being made public, you shared
27 your camera roll on Facebook?
28 A No, I'd already blocked it, but he had gotten
29 these before I put up the privacy.
30 Q Well, I'm saying there was a time when it was all
31 public.
32 A There was, yes. I didn't realize that somebody
33 was going to go in there and try to take
34 everything out of there and use it against me.
35 Q So you're saying --
36 A I just assumed that it was to be -- be a normal
37 Facebook account.
38 Q But you're saying you were very concerned about --
39 A It was in 2014 that I blocked it. As soon as he
40 put this stuff up on the website. And then he
41 would taunt me about how much more stuff he had
42 that he hadn't put on the website, but he got it
43 all before I put up the blocks.
44 Q Speaking of firearms, guns, you said in Tab 10,
45 when we were referring to Tab 10 of the Crown's
46 emails, that you were terrified to learn that
47 Patrick had guns.

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BAN ON PUBLICATION; INHERENT JURISDICTION

1 A That he owned them? Yes.
2 Q But you knew he had guns previously; right?
3 A No.
4 Q When you were together he didn't have guns?
5 A No.
6 Q He never owned firearms when you were married.
7 A Absolutely not. Never once.
8 Q And --
9 A We also never went to a shooting range when we
10 were together.
11 Q I didn't ask --
12 A He put --
13 Q -- if he went to a shooting range.
14 A No.
15 Q He did not own firearms.
16 A He did not own firearms while we were together.
17 He was using a fake social security number at the
18 time.
19 Q I'm going to -- I'm going to go through the
20 custody situation a little bit of Gabriel, just --
21 just to clear it up, get a -- a timeline because
22 -- and this will be brief.
23 So he was born September 27th, 2000, in
24 Phoenix; correct?
25 A Yes.
26 Q You guys both moved -- moved to Los Angeles, or
27 the three of you moved to Los Angeles sometime
28 2001, beginning, March.
29 A Yes.
30 Q October the same year you moved back to Phoenix?
31 A Yes.
32 Q Sometime after that, you said in direct, or I'm
33 asking you now, you went to Florida and you left
34 G. with your mother. You went for a short trip to
35 Florida or whatever, you went to Florida, left G.
36 with your mother.
37 A In December, yes.
38 Q How long were you going to Florida for?
39 A I was only there for a couple days. I already had
40 a plane ticket back to go get him.
41 Q So you -- you made a two-day trip to Florida?
42 A No, it's a two-day drive. It was going to be a
43 week that I was there.
44 Q So you were making a one-week trip to Florida and
45 leaving Gabriel with your mother; correct?
46 A Correct.
47 Q How long did you have Gabriel for at that visit?

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cross-exam by Mr. Lagemaat
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1 had been kidnapped?
2 A Yes.
3 Q And police took no actions on a kidnapping?
4 A I didn't know where he was. I didn't know whether
5 he was in Los Angeles or Phoenix.
6 Q The police couldn't find him?
7 A No. Using what identification? He was Richard
8 Riess in a foreign country.
9 Q But he must have been working; right?
10 A I don't know. I don't know that. I don't know if
11 he was getting contract jobs, I don't know if he
12 was working at all, I don't know where he was -- I
13 don't know.
14 Q So sometime in early 2011 -- well, okay, let's put
15 it this way, then. If you filed a kidnapping
16 report, when they eventually --
17 A I called CPS, I did not file a kidnapping report.
18 Q Okay. You said previously you filed a
19 kidnapping --
20 A I did not file a kidnapping report.
21 Q -- report with police.
22 A I contacted police, I contacted CPS, I contacted
23 attorneys and lawyers.
24 Q Why was he not charged with kidnapping if you --
25 well, you're saying now you didn't file a police
26 report with kidnapping. So sometime in early
27 2011, Patrick wrote you a letter to reinitiate
28 contact; is that correct?
29 A Yes. I did go and see him in 2009 and demand to
30 know where my son was, and he refused to tell me.
31 But, yes, in 2011 he reached out to me.
32 Q And you replied to him in a letter; correct?
33 A Yes.
34 Q Do you recall that letter you sent?
35 A Yes.
36 Q If you were to see it, would you recognize it?
37 A Yes.
38 Q I'm going to pass you a letter and you can take a
39 look and tell me if you recognize this as the
40 letter you sent him on March 8th, 2011. Take your
41 time, Ms. Capuano.
42 A Yes.
43 Q So you accept that's a letter you wrote to him?
44 A Yes.
45 MR. LAGEMAAT: March 8th, 2011? My Lady, I'm going to
46 ask that this letter be made an exhibit.
47 THE COURT: Mr. Myhre, any objection?

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1 Arizona. The one in November 8th was Richard
2 saying that the home state of the child was
3 California --
4 Q Who --
5 A -- and that I should return him.
6 Q Who walked out of that courtroom November 8th with
7 physical custody? 2011.
8 A Physical custody wasn't determined at that, it was
9 only the home state of the child.
10 Q So still with Patrick.
11 A Gabriel was with me at the time.
12 Q Or with you. Sorry. December 6th, 2011,
13 mediation. And where was this mediation? It was
14 in California because that was jurisdiction now;
15 correct?
16 A Correct.
17 Q And what happened during that mediation?
18 A We got joint custody. Primary physical custody
19 was with Richard. I had visitations.
20 Q February 12th, 2012, Patrick petitioned California
21 court to have you do a drug test --
22 A Yes
23 Q -- for -- for your access, right, before you could
24 -- before he would facilitate your access;
25 correct?
26 A Yes.
27 Q Why did he want you to do a drug test?
28 MR. MYHRE: Objection.
29 MR. LAGEMAAT:
30 Q Did you do the drug test?
31 A No.
32 Q And that was to do with your arrest; correct?
33 A Yes.
34 Q Your arrest for marihuana possession?
35 A Yes.
36 Q Were you convicted?
37 A No.
38 Q What happened to that conviction?
39 A They were dropped.
40 Q Or the charge. Sorry.
41 A Charges were dropped.
42 Q Under what program?
43 A I did -- I submitted to a test program that does
44 drug testing, random drug testing, and a fine. So
45 I submitted to multiple months of random drug
46 testing --
47 Q And what's that --

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BAN ON PUBLICATION; INHERENT JURISDICTION

- 1 Q Did you think that would be in your child's best
2 interest for his father to be removed from the
3 country?
- 4 A At this point, yes.
- 5 Q Or would be in your best interest because then you
6 wouldn't have him there bothering you in
7 California courts making applications, trying to
8 take away your time? Isn't that more accurate,
9 Ms. Capuano?
- 10 A He was in the United States using another name,
11 trying to get a job illegally. In my opinion, it
12 was both.
- 13 Q So you're concerned for the economy and -- and
14 immigration --
- 15 A Well, I was just concerned about my son seeing
16 what's right and wrong --
- 17 Q Pardon me?
- 18 A -- and my son being taught that this type of
19 behaviour and going through life lying and
20 pretending is not right.
- 21 Q But you had no concern for your marihuana use with
22 your son?
- 23 A I had a card. I had a medical marihuana card --
- 24 Q At the time you were charged?
- 25 A Before I saw the judge for that -- for that
26 charge, I had my card in hand.
- 27 Q But you didn't have it when they came into your
28 home.
- 29 A When they arrested me, no.
- 30 Q Yes.
- 31 A I had a meeting set up with a doctor already.
- 32 Q Yet -- yet you feel that you need to inform on
33 Patrick when you see him doing something unlawful
34 and knowing the end result could be he's out of
35 the country.
- 36 A I told him and asked him many times if we could
37 work amicably on a resolution for the child. That
38 was not possible. Multiple times he had tried to
39 remove visitation, multiple times he had tried to
40 interfere with custody, multiple times he had gone
41 after me for child support when I was the only one
42 financially providing for him, besides Liz Munoz.
43 Multiple times I had been trying to be a part of
44 my son's life, a good part, and time after time it
45 was negated and torn apart and -- and confusing --
- 46 Q He -- he took it away from you.
- 47 A He tried.

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1 Q Similar to what you did on February 6th, 2013,
2 when you went to court requesting sole custody and
3 no communication between --
4 A Temporarily.
5 Q -- Gabriel and Patrick, exactly what you're saying
6 he's been doing to you.
7 A Only temporarily.
8 Q Temporarily. Well, that day is what you wanted;
9 correct?
10 A Yes.
11 Q Similar to what you're just saying he was doing to
12 you or attempting to do to you. And this -- this
13 is -- this is two months after you call the tip
14 line. I suggest -- when I asked you what was the
15 purpose of the tip, I suggest here's the purpose
16 right here, that two months later you have him
17 removed -- you don't have him removed, you make
18 the tip that results in him being removed, and two
19 months later you're in court saying, "Sole -- I
20 get sole custody, I want sole custody, and no
21 communication."
22 A Here's the difference. Every time that he tried
23 to do that and I defended myself, I won because I
24 was right and I was telling the truth. The one
25 time that I did that to him, he lost because he
26 was lying.
27 Q So it's about winning and losing.
28 A No, it's about telling the truth.
29 Q It's about winning and losing, just like these
30 emails where it was a game between you, a --
31 A No.
32 Q -- banter of who would get the last word. And at
33 this point it had gone beyond emails of trying to
34 get the last word to in court and immigration and
35 deportations and cutting off communications. It
36 had gone beyond what we --
37 A At this point --
38 Q -- read in the email.
39 A -- there was no bantering back and forth. There
40 was none. This is -- this is January of 2013. At
41 this point there's no bantering in emails at all.
42 Q So February 15th, 2013, Patrick was deported
43 again. You -- you'd called ICE again saying he
44 was in the country. He was --
45 A He was in the country again.
46 Q He was deported again. And March 20th, you again
47 called ICE. And this is the day that -- this is

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1 Q Did you laugh?
2 A Amusing in an -- no. Yes, I probably laughed but
3 it was not in amusement.
4 Q It was in -- what was it in?
5 A It was in, "What is this guy thinking?"
6 Q Do you wish you could have been in the courtroom
7 watching or in the courthouse watching when
8 the ICE --
9 A I would have loved to have seen it.
10 Q Why?
11 A Because he was trying to say that there was a
12 court hearing that was on calendar, it was not on
13 calendar. He's standing there arguing. And I
14 know that when he thinks that he's right about
15 something, he does not give up. And so he's
16 challenging them and he's probably arguing back,
17 and then Immigration walks in.
18 Q Probably. You don't know that.
19 A Of course not.
20 Q But you would have loved to have been there to see
21 them come in and get him; correct?
22 A At that point, some small victory.
23 Q Small victory. There we go. Again, you -- you
24 won that part of the game, definitely, because he
25 was removed again.
26 A He was wrong. He was in the country illegally.
27 He was in the country illegally trying --
28 Q Did you --
29 A -- to take my kid and make me pay him child
30 support while living in my country illegally.
31 Q Did you report --
32 A Yes.
33 Q Did you report Mr. Lochner when you knew he was
34 using methamphetamine?
35 A No. No, he did himself in.
36 Q He was doing --
37 A He damaged himself all by himself. He needed no
38 help from me.
39 Q But he was breaking the law and you're
40 concerned --
41 A He wasn't --
42 Q -- you're concerned with laws. He was breaking
43 the law while living in your home.
44 A The drugs that were in the home he had stashed,
45 and when he was breaking the law he was nowhere
46 around. I couldn't even reach him. He wouldn't
47 answer the phone, he wouldn't come back to the

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1 house. He was gone all the time.
2 Q And you didn't turn yourself in when you were
3 using marihuana without a marihuana card, did you?
4 A No. It was the one thing I did that was illegal
5 that I hated, and as soon as it became legal, I
6 got my card.
7 Q That's the one thing you did that was illegal?
8 A Yes.
9 Q You've never been arrested other than that?
10 A For misdemeanour charges back when I was very
11 young.
12 Q So you've done other things that were illegal.
13 A Well --
14 Q That's not the one thing.
15 A Working in an establishment that sold alcohol and
16 getting arrested at the establishment, yes, that's
17 -- that's --
18 Q Arrested because they sold alcohol?
19 A The -- one of the arrests that I had.
20 Q What was the other one?
21 A But that was at 18 years old.
22 Q Well, yeah, but the reason I'm asking you, because
23 you said the marihuana was the one thing you've
24 done illegal.
25 A Yes.
26 Q So there was more things.
27 A I worked in a strip club that got raided. That
28 was one charge at 18 --
29 Q Okay.
30 A -- years old. And then the only other charge was
31 marihuana based.
32 Q So you knew that him being across the border,
33 deported, would be much easier -- or much more
34 difficult for him and easier for you to fight
35 custody battles in court in California; correct?
36 A Him being out of the country meant that I probably
37 would not have to fight many more custody battles,
38 yes.
39 Q And you knew that if it did come down to a custody
40 battle, it would be difficult for him because,
41 look, he's been deported three or four times.
42 That -- that would be difficult for him in getting
43 custody; correct?
44 A No. The judge didn't really care about that.
45 Q I'm going to suggest at this time again that you
46 never, during this time, feared him. This -- this
47 was just a big game, and you've said won and lose;

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1 is that correct?
2 MR. MYHRE: What time?
3 A Thank you.
4 MR. LAGEMAAT:
5 Q During this time that -- that we've gone through
6 all this evidence, the emails that we started
7 with, the ones Crown read in, the ones I read in,
8 these family law hearings, these -- these tips to
9 Immigration, I'm going to suggest this was one big
10 game to you, and you've used the term "win and
11 lose", and that at this point you're winning.
12 You've had him deported, you're winning; correct?
13 Because you were frustrated in the emails, and
14 you've said that. That wasn't getting you
15 anywhere, insulting, demeaning, insulting his
16 manhood, his stature, his family, his
17 intelligence, his maturity, and you weren't
18 winning. But now you're winning, correct? And
19 you've used that term.
20 A You're mixing up dates and times and timelines of
21 events pretty severely.
22 Q I'm not talking about timelines and dates --
23 A During 2013, when I was going through a custody
24 battle with him, there -- I was not insulting his
25 manliness, I was not insulting his stature, I was
26 not calling him names. I was fighting a custody
27 battle in 2012. In 2013, when he was deported, I
28 got custody of our son and, yet, I called a tip
29 line. Yes, the intent was to have him removed
30 from the country. Yes, he came back multiple
31 times and, yes, I called each time. I did end up
32 with custody. But even then he got visitation and
33 I never went after him for child support.
34 The insults and the bantering didn't happen
35 until late 2014, and none of that happened until
36 after the website went up. And I never called for
37 harassment until after the website went up. I
38 never called for fear of my life until the email
39 that said he was -- he thought about shooting me.
40 Q Two --
41 A So, no, what you --
42 Q Two --
43 A -- said was incorrect.
44 Q 2014 --
45 A Yes.
46 Q -- winter visit.
47 A Yes.

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1 Q Do you recall what the -- when that was? It was
2 -- I'm assuming was it his -- G.'s Christmas
3 vacation from school?
4 A Yes. And again, that is when the bantering
5 started, as I said. And I never called for
6 harassment until the website went up, and I never
7 called for physical harm of my safety until after
8 the email was sent that said he was -- he thought
9 of shooting me. That is when the physical fear
10 for my safety started. Never called for that
11 beforehand. And I never called for harassment
12 before the website, even with all of the emails
13 and the custody battle. I put up with a lot.
14 Q But you've said -- you've said in evidence here
15 you've been harassed for years.
16 A Well, yes, to me it's harassment. And even in
17 some of those emails. Finding out how I vote
18 based off of my driver's licence and asking me to
19 confirm if I've changed my voting registration out
20 of the blue, no prompting, that's scary. Telling
21 me that he's got private investigators following
22 me, that's scary. That happened in 2012.
23 Q None of that's against the law, though, is it?
24 A No, but it's still scary. And to me it's
25 harassment.
26 Q And you were scared at the time, and this is also
27 the time when -- I'm not going to go through them
28 again, where there's the emails.
29 A No, that's 2014.
30 Q 2014. You were scared in 2014.
31 A Yes. That was when the harassment started.
32 Q And that's also when you were partaking in -- in
33 this what we -- we're calling banter; correct?
34 A Late 2014. Months after the website went up.
35 Q Well, Ms. Capuano, the emails I started on were
36 January 2014, not late 2014.
37 A He hadn't put the website up in January of 2014.
38 Q That's the -- I'm talking about the emails I --
39 A Which one?
40 Q -- I was going through. So 2014 winter visit for
41 Christmas vacation.
42 A Yes.
43 Q As per the court order; correct?
44 A Yes.
45 Q So you'd had Mr. Fox -- not had Mr. Fox deported,
46 but you'd made -- you'd made the calls that had
47 resulted in him being deported, yet you -- still

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1 in 2014, you followed the court order, you sent
2 Gabriel up there.
3 A Yes.
4 Q Did you not think to try to take away that
5 visitation? Were you not worried of what would
6 happen up there? You've said how worried you were
7 about Mr. Fox --
8 A Yes.
9 Q -- yet you sent your son up there to be with
10 him --
11 A Yes.
12 Q -- correct? 2015 summer visit. And it would
13 seem, from your evidence in direct, that by 2015
14 would you agree things had escalated --
15 A Yes.
16 Q -- in the communications in -- and the
17 communications being the emails because that was
18 the only communication. And in May 2015, you went
19 through this in direct evidence, he sent you an
20 email with his PAL attached.
21 A Yes.
22 Q Which is another acronym. I -- I don't know what
23 it stands for. It's a firearms licence; correct?
24 A Up here in Canada, yes.
25 Q Yes. So you knew he had firearms and you've said
26 you were afraid knowing, and alarmed and --
27 knowing he had this identity and firearms, but you
28 still sent your son up there --
29 A I was still required under law.
30 Q -- to spend the summer with him.
31 A Yes.
32 Q Correct. So you -- I -- I suggest you weren't
33 really afraid of anything at that time because
34 your son, in your evidence, means so much to
35 him -- to you, you wouldn't have sent him up there
36 if you thought there was any danger, would you?
37 A I don't think Richard's going to hurt Gabriel.
38 Q What about keep him?
39 A That is a risk, yes.
40 Q But you sent him. You weren't afraid.
41 A I had to. At that point he hadn't kept him --
42 Q And we --
43 A -- so I had no basis to change that in the court
44 yet.
45 Q And we went through the emails where we talked
46 about the definition of "itinerary". You never
47 got that return ticket. You sent him up there on

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1 a one-way ticket; correct?
2 A Yes.
3 Q Yet you had all these fears, you knew he had
4 firearms, you knew he had a new identity, and you
5 sent your son there on a one-way ticket. Yes or
6 no?
7 A Yes.
8 Q I want to move on a bit to the GoFundMe page which
9 you talked about in direct evidence. I ask you,
10 if this was as terrible for you and your family,
11 everybody, as you make it out to be, and you say
12 what a terrible person Mr. Fox is, why didn't you
13 just go underground? You're -- you work in IT,
14 you've done some court applications on your own,
15 which we've seen, you've -- you're not -- you're
16 not a -- you're a sophisticated person as far as
17 the internet. Why didn't you just change your
18 name?
19 A It's public record.
20 Q If you change your name, it's public record?
21 A Yes.
22 Q Okay. So you looked into that?
23 A Yes.
24 Q So --
25 A So is buying a house.
26 Q So it just simply wouldn't work. You couldn't
27 just change your name and --
28 A He'd find it.
29 Q He'd find it. Then why did you ask the public to
30 give you \$10,000 --
31 A Just the minimum.
32 Q -- to change your name?
33 A That's the typical GoFundMe limit. It's --
34 Q Well, I don't think so, because GoFundMe, you
35 choose the limit.
36 A Asking people for \$10,000, I -- I set the limit at
37 \$10,000 because that was what was suggested. But
38 you actually have to go out and repeatedly ask
39 people for money. I set it up and never sent any
40 additional requests. You're supposed to go and
41 put it on Facebook all the time, and you're
42 supposed to send it out to your friends and
43 family, you're supposed to have them send it out
44 to their friends and family. Never did any of
45 that.
46 Q I'm not --
47 A I put it up once.

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1 continue on or is there, and I don't know, some
2 governing body that would say, "Take that website
3 down"?
4 A Yes. Yes. And that governing body is apparently
5 who I have to go through since he refuses to take
6 it down by court order.
7 Q And why didn't you ever go to --
8 A It's a very long --
9 Q -- take this avenue?
10 A -- complicated process. At the point I was also
11 in the process of trying to get the order of
12 protection. I'm working on it.
13 Q But the \$10,000 you were looking for was to go
14 underground and hide and move, change your name,
15 with your son, not -- not to --
16 A The GoFundMe --
17 Q -- not to remedy the situation and try to take the
18 website down; is that correct?
19 A GoFundMe does not allow you to put up a page if
20 you're requesting money for a lawyer.
21 Q Well, it wouldn't have been for a lawyer. This --
22 you could have had a lawyer do these things too,
23 but you just said, "This is what I need the money
24 for." You could have -- you wouldn't have had to
25 say, "I need a lawyer to do this," could have
26 said, "I need to get this website taken down";
27 correct?
28 A Sure.
29 Q I suggest --
30 A But at the time my thought was hiding.
31 Q What did you do with the \$965?
32 A I paid my lawyer.
33 Q So you didn't do with it what you were -- what you
34 said you were seeking it for; correct?
35 A No.
36 Q So you lied. You said, "I need the money for
37 this," and you didn't even do this or attempt to
38 do this, what you were seeking.
39 A I was trying to get the order of protection. I
40 had other immediate steps. And honestly, with the
41 order of protection, my thought was first step to
42 take the website down, so that's what the money
43 went to. The money went to taking the website
44 down, which is what you suggested I use it for.
45 Q I -- I suggest, Ms. Capuano, this -- this was just
46 another step in this very -- very nasty, intricate
47 game you two were playing with each other where

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1 THE COURT: -- we'll stand down very briefly.
2
3 (WITNESS STOOD DOWN)
4
5 (PROCEEDINGS ADJOURNED)
6 (PROCEEDINGS RECONVENED)
7
8 [PROCEEDINGS IN ABSENCE OF JURY FROM 11:53:32
9 A.M. TO 12:04:03 P.M.]
10
11 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
12 (PROCEEDINGS RECONVENED)
13
14 THE COURT: Please.
15
16 (JURY IN)
17

18 **DESIREE CAPUANO, recalled.**

19
20 **CROSS-EXAMINATION BY MR. LAGEMAAT, CONTINUING:**
21

22 Q Ms. Capuano, I'd just like to clear up one thing.
23 We discussed, before lunch, when I was going
24 through the timeline of custody and court issues,
25 November 7th, 2011, was a hearing. And I'm -- I
26 -- I -- put the words in your mouth, I -- I said
27 it was a jurisdictional issue, that he was
28 returned -- or G. was returned to his father, and
29 you agreed.
30 Isn't it true it was a little bit more than a
31 jurisdictional issue, that there was actually a
32 determination made on the merits at that hearing
33 and, tell me if this is true, Gabriel was going to
34 be returned to you because the court did not want
35 him changing schools a couple months into the
36 year, until it was learned that you in fact had
37 just moved into a different catchment area
38 anyways, so the judge said, "Well, if he's
39 changing schools anyways, he might as well come
40 back to Los Angeles and be with his father"; is
41 that correct?
42 A The judge determined that the home state of the
43 child was California but was content to wait until
44 a break to remove him from my custody, until he
45 learned that we had just moved and, yes, he was
46 not in school yet.
47 Q So it was decided on its merits. It was more than

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1 simply -- and isn't it also true that -- that the
2 judge did not accept as true your allegation that
3 Mr. Fox had hidden him away for nine years?
4 A That wasn't discussed.
5 MR. MYHRE: My Lady, I'm just rising because my friend
6 started a question and I'm not sure if it was a
7 statement or a question. He said it was decided
8 on the merits, and then seemed to move to another
9 question.
10 MR. LAGEMAAT: So I'll go back.
11 Q So it was in fact a determination made on the
12 merits, it wasn't simply a jurisdictional issue.
13 It was a determination made on the merits and that
14 it would not be -- or it was appropriate for him
15 to start the school year a couple months in in Los
16 Angeles; is that correct?
17 A No, the jurisdiction issue was what was at the
18 heart. The timing issue, that that -- that was
19 the only caveat. It was just a matter of when he
20 would be returned, not if. His -- his being --
21 the judge determining to return Gabriel to him was
22 not due to me moving. The judge determined that
23 Gabriel would be returned because California was
24 determined to be the home state, not because I had
25 just moved.
26 Q But there was discussion of him going back to
27 Arizona --
28 A The timing. The timing for him to be returned.
29 Q The timing. But it wasn't an appropriate time
30 because it was two months into the school year;
31 correct?
32 A Yes.
33 Q Thank you. Back to the guns. You said when you
34 received the PAL attached to an email that you
35 were alarmed to learn that he had gun -- firearms
36 and that was the first time you knew he had
37 firearms; correct?
38 A It was the first time I knew that he owned
39 firearms or had the ability to purchase firearms.
40 Q Isn't it true that you knew that sometime in 2000
41 or 2005, 2006, he was in Arizona with a firearm?
42 A He had a gun but that wasn't -- you can get a
43 firearm in Arizona without having a licence or
44 legal permission to buy one. I thought the terms
45 for that were a little bit different in Canada.
46 Q But you said in evidence that you were alarmed to
47 find out that that was the first time -- you

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1 didn't know him to have guns before that. Is
2 it --
3 A His having guns scared me.
4 Q That's not the question I'm asking. I'm asking
5 you --
6 A I don't know if he owned that firearm. I just
7 knew that he was carrying it that day, and I only
8 knew about that because my mother told me. I
9 didn't see him with it. I didn't know if he owned
10 it, I don't know if he purchased it, I don't know
11 if he was carrying it for somebody, I don't know
12 how long he had it in his possession, I don't know
13 anything about it. All I know is that my mom saw
14 him with a gun in a bar, lining up bullets on the
15 table.
16 Q So it wasn't quite accurate to say that when you
17 received the PAL, that was the first time you were
18 aware that he had firearms; correct?
19 A It was the first time I knew he ever was able to
20 purchase them legally.
21 Q Okay. Well, that's not what you said --
22 A -- [indiscernible/overlapping speakers].
23 Q -- in your evidence. But moving on, who's --
24 who's Virginia Tomlin [phonetic]?
25 THE COURT: Mr. Lagemaat, you need to address that by
26 way of a question.
27 MR. LAGEMAAT: Okay. What was -- what was it, My Lady?
28 I just said "moving on".
29 THE COURT: Before you said "moving on". I don't want
30 to repeat it. If you're putting an inconsistency
31 to her, you need to give her an opportunity to
32 respond.
33 MR. LAGEMAAT: Okay.
34 Q You can respond to my last statement about the
35 gun. Isn't it true that when you said in evidence
36 that when you received his PAL was the first time
37 you were aware he had firearms? Is that false?
38 A That he owned firearms.
39 Q So now you're changing it to the first time you
40 knew he owned firearms.
41 A Had firearms --
42 MR. MYHRE: My Lady --
43 A Sorry. Wording.
44 MR. LAGEMAAT:
45 Q Okay, so it's wording.
46 MR. MYHRE: -- I think it's important to be accurate
47 about what was said in direct.

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I hereby certify the foregoing to
be a true and accurate transcript
of the evidence recorded on a sound
recording apparatus, transcribed to
the best of my skill and ability.

K. Lowe

K. Lowe
Court Transcriber