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DEBRA NOVAK,)	SUPERIOR COURT OF NEW JERSEY
)	APPELLATE DIVISION
Plaintiff-Appellant,)	
)	DOCKET NO.: A-003021-11T3
vs.)	
)	CIVIL ACTION
KENNETH C. MORETZ, JR.,)	
)	ON APPEAL FROM:
Defendant-Respondent,)	SUPERIOR COURT OF NEW JERSEY
)	CHANCERY DIVISION-FAMILY PART
)	COUNTY OF BURLINGTON
)	
)	SAT BELOW:
)	Marie White Bell, J.S.C.
)	DOCKET NO: FV-03-876-12

BRIEF AND APPENDIX
OF PLAINTIFF/APPELLANT

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STATEMENT OF FACTS AND PROCEDURAL STATEMENT

Plaintiff/Appellant, Debra Novak, and Defendant/Respondent, Kenneth Moretz, were an unmarried couple who lived together for years, had an 18-year relationship (T. 36:1-11), and had a child together, Alayna, age 12 (Pa1). A custody order was entered on October 25, 2011 (Pa8-9) awarding joint legal custody of Alayna and directing Defendant to be the parent of primary residence with no set parenting time for Plaintiff pending counseling between Alayna and Plaintiff (T. 8:6-22; 54:17 to 55:18).

On December 8, 2011, Plaintiff filed a Domestic Violence Civil Complaint and Temporary Restraining Order against Defendant on the grounds of assault (Pa1). A Final Restraining Order hearing was held on December 22, 2011.¹ During that hearing, Plaintiff was pro se while Defendant was represented by counsel (T. 3:8-10).

The trial judge asked few questions of Plaintiff about whether she wanted an attorney (T. 3:11-22) and focused on the consequences of being found guilty of domestic violence (T. 3:23 to 4:25). The first time the trial judge asked Plaintiff about the consequences Plaintiff told the court of the fact that two

¹ The hearing was consolidated for both parties' cross-restraints under FV-03-864-12 and FV-03-876-12.

matters were pending and could not answer the question (T. 4:3-6). The second time Plaintiff was asked the question, Plaintiff stated that she would not be found guilty and could not answer the question (T. 4:15-19).

At no point did the trial judge inform Plaintiff of the consequences of her Temporary Restraining Order against Defendant being dissolved if the court did not find that an act of domestic violence occurred or that no protection was warranted. What transpired during the hearing on December 22, 2011, made it clear that Plaintiff had not knowingly and intelligently waived her right to counsel, and that hearing should have been recessed to allow her counsel.

The resulting transcript is a product of the failure of the trial court to recess that hearing to protect Plaintiff seeking the serious salutary effects of the entry of a Final Restraining Order against Defendant and the protections such an Order would provide to her. The transcript is tainted by the lack of due process afforded Plaintiff and the lack of any knowing and intelligent "waiver" of right to counsel in this matter. The hearing was permeated with the procedural deficiencies presented therein.

The trial court conducted the direct examination of Plaintiff about the incident in question by asking 13 questions

(T. 72:1 to 73:21). There were no questions posed by the trial court to Plaintiff about her fear of further abuse from or immediate danger of Defendant before the trial court announced "cross examination" (T. 73:22).

Without interruption by the trial court, Defendant's attorney did not let Plaintiff complete her answers to cross examination questions (T. 79:10-19).

During the cross examination, Plaintiff informed Defendant's attorney that "I don't understand what you're saying just like I didn't understand that day [during a prior court appearance]." (T. 80: 22-23). Plaintiff's testimony about not understanding the proceeding at that point was consistent with her prior testimony earlier that day when the trial court inquired of Plaintiff about an objection, and Plaintiff stated "I don't understand. Do - what? I could say you don't have to look at them? No..." (T. 20:6-8). Plaintiff pressed that "I don't understand. I don't understand." (T. 20:12-13).

When pressed by Defendant's counsel for answers, Plaintiff against mentioned that "I don't know what you're talking about." (T. 81:3-5).

The cross examination conducted by Defendant's attorney was replete with compound questions posed to Plaintiff, each of which was posed without interruption by the trial court (T.

77:14-15; 78:18-19; 79:1-3; 79:10-12; 79:14-19; 80:3-4; 80:8-9; 80:11-13; 80:15-19; 81:14-18; 82:17-20; 82:24-25; 83:20-24; 84:1-2; 84:8-9; 84:12-14; 86:7-8; 86:18-19; and 87:16-18).

Plaintiff asked Defendant's attorney to clarify some questions during the cross examination yet the trial court failed to direct a clarification of the questions posed to Plaintiff (83:12-19).

During a crucial point in the cross-examination when Defendant's attorney was questioning Plaintiff about Defendant's assault on her, Plaintiff and Defendant's attorney each spoke over the other (T. 85:3-20) leading an incomprehensible record of that exchange.

At other points, Defendant's attorney would not let Plaintiff answer the questions posed to her (T. 86:18-25) and mischaracterized her testimony (T. 87:24 to 88:4), however the trial court did not intervene.

When Defendant was questioned by his attorney about Plaintiff's domestic violence complaint, Defendant testified about hearsay statements regarding what his daughter allegedly said to him or what she did or did not do or what she had thought (T. 89:23 to 90:3; 90:22-25; 92:20-21; 95:2-4; 96:14-18; 97:7-10; 97:24 to 98:1) without intervention by the trial court. Defendant even testified about what a neighbor said to him about

Plaintiff (T. 96:19-23), again without the intervention of the trial court.

There were compound questions posed to Defendant by his attorney without the intervention of the trial court (T. 91:11-12; 92:4-6; 93:12-14).

There were leading questions from Defendant's attorney to Defendant on direct examination (T. 93:12 to 94:9; 94:13-15; 95:10-12; 96:12-13), all without intervention of the trial court. Those questions dealt with the underlying domestic violence allegation of Plaintiff.

Upon the conclusion of the direct examination of Defendant, and without asking Plaintiff if she wanted to cross-exam Defendant, the trial court ended the proceeding, in the middle of Plaintiff's sentence (T. 99:2-11).

Thereafter, in a seven-line statement, after noting that there was "a conflict in - in testimony with regard to what happened in the Walmart parking lot," the trial court dismissed Plaintiff's request for the entry of a final restraining order. (T. 99:5-11). Plaintiff's Temporary Restraining Order was dissolved (Pa7).

LEGAL ARGUMENT

STANDARD OF REVIEW

This Court's scope of review of a final restraining order issued by a trial court involves a determination of whether, giving due regard to the trial judge's credibility determinations and "feel for the case," sufficient evidence to support the factual findings exist. Cesare v. Cesare, 154 N.J. 394, 411-12 (1998). Where sufficient credible evidence was presented at the hearing to support the trial court's decision, the factual findings of the court are to be affirmed. Rova Farms Resort v. Investors Ins. Co., 65 N.J. 474, 484 (1974).

It is well-established that this Court's review of a trial judge's conclusions of law is de novo. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 278 (1995). When the decision of the trial court is made upon an interpretation of the law that is inconsistent with well-established law, the decision must be reversed. State v. Brown, 118 N.J. 595, 604 (1990); Dolson v. Anastasia, 55 N.J. 2, 7 (1969).

In the present case, Plaintiff submits that the trial court erred as a matter of law in the following respect: (a) finding that Plaintiff failed to prove a predicate act of assault by a preponderance of the evidence; and (b) finding that Plaintiff failed to prove the need for protection in the form of a final

restraining order by a preponderance of the evidence.

Moreover, the trial court's conduct of the final hearing brings into sharp focus the need for this Court to determine once and for all that a plaintiff/victim in a domestic violence hearing is entitled to counsel paid by the taxpayers of the State of New Jersey and that firm, standardized guidelines need to be established for a trial court to follow before a victim can be considered to have made a knowing and intelligent waiver of counsel at the final hearing in a domestic violence matter.

I. THE TRIAL COURT COMMITTED AN ERROR OF LAW BY FAILING TO PROPERLY CONSIDER THE TWO PRONGS OF SILVER V. SILVER.

The Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 to -35 [hereinafter referred to as "the Act"], placed the burden of establishing the propriety of the issuance of a final restraining order upon the party applying for it. The enabling statutory legislation is found at N.J.S.A. 2C:25-29(a) and sets forth six different factors at N.J.S.A. 2C:25-29(a)(1) to (a)(6) for a trial court to consider when ruling upon the entry of a final restraining order.

The task of the trial court, therefore, is two-pronged and as follows: "first, the court must determine whether the plaintiff has proven, by a preponderance of the credible evidence, that one or more of the predicate acts set forth in the definitional provisions of the Act has occurred; and second the trial court is to enter a final restraining order against the defendant only if the restraining order is necessary to protect the victim from an immediate danger or to prevent further abuse." Silver v. Silver, 387 N.J. Super. 112, 127 (App. Div. 2006).

Thus, it was Plaintiff's burden to establish both elements by a preponderance of the evidence: first, a plaintiff must present sufficient credible proof that a "predicate act" as

defined in N.J.S.A. 2C:25-19a has occurred. Once a plaintiff establishes a predicate act falling within the purview of the Act, the second, mandatory inquiry is whether a restraining order is "necessary" based upon an evaluation of the factors set forth in N.J.S.A. 2C:25-29(a) (1) to (a) (6), "to protect the victim from an immediate danger or to prevent further abuse." Id. In the absence of sufficient proof of either element, a final restraining order may not issue. Cesare v. Cesare, 154 N.J. 394, 400 (1998).

In the present case, and in contravention of Silver, supra, the trial court below did not cite let alone analyze any of the six specific factors under N.J.S.A. 2C:25-29(a) (1) to (a) (6). Instead, the trial court made a conclusory statement that Plaintiff had not established a predicate act of domestic violence. Out of a transcript that ran 103 pages, seven sentences in total were "dedicated" to ruling upon Plaintiff's request for the entry of a restraining order against Defendant (T. 99:5-11). The trial court appeared to tire of the matter and gave less than short shrift to Plaintiff's Civil Complaint and Temporary Restraining Order against Defendant (Pa 1-6).

II. THE TRIAL COURT'S "PRONG ONE" FINDING THAT PLAINTIFF'S ALLEGATIONS DID NOT RISE TO THE LEVEL OF DOMESTIC VIOLENCE WAS NOT SUPPORTED BY THE RECORD AND WAS AN ABUSE OF DISCRETION.

In the case before this Court, the allegation of Plaintiff was that Defendant committed the predicate act of assault in a parking lot of a Walmart by driving away while she was still located on his truck (T. 72:12 to 73:20).

N.J.S.A. 2C:12-1a, Simple Assault, reads that an actor commits an act of simple assault if he "(1) Attempts to cause or purposely, knowingly, or recklessly causes bodily injury to another..." Not much harm needs to be established by a preponderance of the evidence and even a slap or stinging sensation is enough. N.B. v. T.B., 297 N.J. Super. 35 (App. Div. 1997). Bodily contact with a door if done intentionally by the defendant is simple assault. State v. Bazin, 912 F. Supp. 106 (D.N.J. 1995).

In the present case, the trial court did not focus on the facts and made little to no findings of fact on this matter. The trial court did not cite let alone analyze N.J.S.A. 2C:12-1a.

III. THE DISMISSAL OF THE TEMPORARY RESTRAINING ORDER SHOULD BE REVERSED AND REMANDED TO THE TRIAL COURT BECAUSE PLAINTIFF WAS CLEARLY UNABLE TO BE EFFECTIVE IN THE HEARING AND SUPPLY EVIDENCE THAT WOULD LIKELY HAVE CHANGED THE OUTCOME OF THE PROCEEDINGS.

This case brings into sharp focus the need for this Court to pick up where this Court left off in Crespo v. Crespo, 408 N.J. Super. 25, 45 (App. Div. 2009), aff'd 201 N.J. 207 (2010), and find that "the imposition of a restraining order of the scope authorized by the Act constitutes a matter of sufficient magnitude to warrant the appointment of counsel..." Domestic violence matters are a societal ill and warrant the maximum protections this state can offer. Domestic violence matters are of "sufficient magnitude" and importance to warrant the right to have counsel appointed.

This Court should also adopt clear and unequivocal guidelines for trial courts to follow when confronted with a plaintiff who seeks to proceed pro se and to waive his or her right to have an attorney. Such standardized guidelines must ensure that the integrity of the proceeding is upheld and that such a waiver of counsel by a putative victim is made knowingly and intelligently.

Unfortunately, there presently exists no formal or informal guidelines for such inquiry to be in a domestic violence matter. Instead, the legal system has piecemeal, judge-by-judge

approaches that cannot protect the integrity of the system or the interests of the putative victims. So the guidelines currently in place for criminal proceedings for waiver of counsel should be adopted.

**A. This Court Should Recognize A Right To Counsel
For Victims In Domestic Violence Proceedings**

This Court is well aware that the issuance of a final restraining order "has serious consequences to the personal and professional lives of those who are found guilty of what the legislature has characterized as a 'serious crime against society.'" Peterson v. Peterson, 374 N.J. Super. 116, 124 (App. Div. 2005). This Court has held in Crespo, supra, 408 N.J. Super. at 15, that our state has "the strong societal interest in protecting persons victimized by domestic violence..."

With the enactment of the Act, the Legislature intended "to assure the victims of domestic violence the maximum protection from abuse the law can provide." N.J.S.A. 2C:25-18. Under the Act, which is remedial in nature, the primary focus is to provide immediate protection to the victim. Ibid. As the Supreme Court noted, "there is no such thing as an act of domestic violence that is not serious." Brennan v. Orban, 145 N.J. 282, 298 (1996).

The Supreme Court recognized how important an interest

society has in protecting victims of domestic violence:

Domestic violence is a serious problem in our society. Each year, three to four million women from all socio-economic classes, races, and religions, are battered by husbands, partners, and boyfriends. The Act and its legislative history confirm that New Jersey has a strong policy against domestic violence. Although New Jersey is in the forefront of states that have sought to curb domestic violence, New Jersey police reported 77,680 incidents of domestic violence in 2000 alone. State v. Reyes, 172 N.J. 154, 163 (2002).

As the Supreme Court further held, the passage of the Act has not decreased the amount of reported domestic violence cases; instead "in spite of decades of careful and consistent enforcement of the Act by our courts, domestic violence remains a significant problem in our society.. [with] reports of domestic violence [having] increased [in 2009]." J.D. v. M.D.F., 207 N.J. 458, 474-475 (2011).

The concept that the public policy behind the Act was to assure victims of domestic violence the maximum protection from abuse that the law can provide was clearly acknowledged by the Supreme Court in Wildoner v. Borough of Ramsey, 162 N.J. 375 (2000). The intent of the Legislature through the Act is to recognize that "[o]ur law is particularly solicitous of victims of domestic violence." State v. Hoffman, 149 N.J. 564, 584 (1997). That "solicitous" nature of treating victims was best revealed by the way that the Act has been amended over the years

to expand the nature of victims, grounds for relief, protections for victims, and encourage training and education for court personnel. See J.D., supra, 207 N.J. at 473.

It has long been held by our courts that counsel is required where "consequences of magnitude" are at stake. Rodriguez v. Rosenblatt, 58 N.J. 281, 295 (1971). Given the Legislative intent regarding domestic violence matters, it is now clear that victims should be afforded counsel.

The right to counsel should also be grounded in Article I, Paragraph 1 of the New Jersey Constitution that provides:

All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, **and of pursuing and obtaining safety and happiness.** (Emphasis added.)

The "safety and happiness" of a victim is imbedded throughout the intent of the Legislature in the Act. It is a natural offshoot to find that the right to counsel to guide a victim through the process of "gathering documentary evidence, presenting testimony, [and] marshalling legal arguments..." Pasqua v. Council, 186 N.J. 127; 145 (2006) should be part of the "maximum protection" given to victims.

The Due Process guarantee of Article I, paragraph 1 of the New Jersey Constitution should be invoked and act as a bulwark

because of the nature of the right and public interest involved.

Given the findings by the Legislature, this Court, and the Supreme Court regarding the serious nature of domestic violence, the interests of victims in protection should be deemed fundamental and constitutionally protected by affording right to counsel. This need for counsel is especially true where as in the present case an indigent victim, unskilled in the law, was pitted against the knowledge and resources of counsel.

**B. But For Plaintiff's Inability To Participate In
The Hearing, The Final Restraining Order Likely
Would Have Been Entered**

Plaintiff testified that she explored the existence of a surveillance tape of the incident between her and Defendant, but that she could not get it from Walmart. (T. 87:3-25; 88:1-12). The trial court dismissed Plaintiff's temporary restraining order finding that there was "a conflict in - in testimony with regard to what happened in the Walmart parking lot." (T. 99:5-8) Moreover, the trial court found that Plaintiff did not supply "any evidence that she was injured or that she was struck by the side mirror or anything of that nature..." (T. 99:9-11). Had counsel been provided to Plaintiff, that tape may have been procured from Walmart to verify her allegations against Defendant regarding the commission of an assault and revealed

the "evidence" that the trial court said was lacking.

The proceedings were flawed because of the lack of an appointment of counsel for Plaintiff. The trial court permitted Defendant's counsel to question Defendant in a leading fashion on direct examination. "Leading questions should not be used on direct examination of a witness except as may be necessary to develop the witness' testimony." N.J.R.E. 611c.

The trial court permitted Defendant's counsel to question both parties with compound questions in violation of N.J.R.E. 102 regarding the development of "evidence to the end that the truth may be ascertained and proceedings justly determined," N.J.R.E. 403 causing "undue prejudice [or] confusion of issues," and N.J.R.E. 611a regarding "presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth...and (3) protect witnesses from harassment or undue embarrassment."

The trial court permitted Defendant's counsel to question Defendant repeatedly about verbal statements, beliefs, and non-verbal actions allegedly attributable to the parties' daughter without any exception being shown, in violation of N.J.R.E. 802 that states "[h]earsay is not admissible except as provided by these rules or by other law." Plaintiff did not know whether to raise such an objection, although it was warranted.

The trial court permitted Defendant's counsel to question Defendant about (a) what a court staffer allegedly said to him, (b) what the police allegedly said to him, (c) what a neighbor allegedly said to him, and (d) what a worker from the Division of Youth and Family Services allegedly said to him, each of which further violated N.J.R.E. 802.

The trial court permitted Defendant's counsel to question Plaintiff with misstatements of the evidence or distortion of the facts, which clearly are impermissible. Matthews v. Nelson, 57 N.J. Super. 515, 521 (App. Div. 1959), certif. den. 31 N.J. 296 (1960). It is arguable that counsel's action ran afoul of R.P.C. 3.4(e) regarding fairness during litigation.

The trial court's failure to allow Plaintiff to cross-exam Defendant on her allegations was a violation of her fundamental due process rights. Cross-examination is "the greatest legal engine ever invented for the discovery of truth." State v. Benitez, 360 N.J. Super. 101, 125 (App. Div. 2003) (dissent), quoting California v. Green, 399 U.S. 149, 158 (1970). The integrity of an adversarial proceeding is called into question when the right to confrontation is denied. Davis v. Alaska, 415 U.S. 308, 316 (1974); Berger v. California, 393 U.S. 314 (1969).

Each error above, either separately or jointly, either in part or in whole, reveals that had Plaintiff been afforded

counsel, the December 22, 2011, would have had been a different procedural and substantive undertaking.

CONCLUSION

For the reasons set forth herein, this Court should Respectfully reverse the dismissal of Plaintiff's Temporary Restraining Order, re-instate it, and order a new hearing before a different judge.

Respectfully submitted,
ADINOLFI & LIEBERMAN, P.A.

By: 
RONALD G. LIEBERMAN

Docket # FV-03-000876-12-W Police Case # _____
 In the Matter of _____ Plaintiff's
 Plaintiff (Victim): NOVAK, DEBRA Sex F Date of birth 08/03/1969

 D Name: MORETZ, KENNETH C Sex M Date of birth 03/03/1970
 E AKA _____ Race CAUCASIAN Wt. 200 Ht. 5'10"
 F Home Address *** CONFIDENTIAL ***
 E 30 Faybrooke Dr Marlton NJ SSN ***-**-2867
 N Work Address _____
 D _____ Hair Color BROWN Eye Color BROWN
 A Other Marks, Scars _____
 N Work Phone No. () - _____ Home Phone No. () - _____
 T*****

The undersigned complains that said defendant did endanger plaintiff's life health or well being (Give specific facts regarding acts, threats, abuse and the date(s) and time(s) they occurred; Specify any weapon(s):

ON 12/06/2011 02:41 PM AT _____ BY _____
PLA WENT TO CHILDS BUS STOP TO SEE HER. CHILD
CALLED DEFT. DEFT ARRIVED AND ACCUSED PLA OF
STEALING A PHONE THAT MAY HAVE BEEN DELIVERED TO
HIS HOME. DEF SAID HE WAS GOING TO CALL THE COPS.
PLA LEFT AND DEFT FOLLOWED HER AND TRIED TO GET HER

which constitute(s) the following criminal offense(s) (Check all applicable boxes; Law Enforcement Officer: Attach N.J.S.P. UCR DV1 offense report(s)):

- () Homicide () Criminal Restraint () Lewdness (X) Harassment
- (X) Assault () False Imprisonment () Criminal Mischief () Stalking
- () Terroristic Threats () Sexual Assault () Burglary
- () Kidnapping () Criminal Sexual Contact () Criminal Trespass

1. Any prior history of domestic violence reported or unreported? (If yes, explain):
 (X) YES () NO TO PULL OVER. BOTH PARTIES PULLED INTO A STORE

PARKING LOT AND PARTIES SPOKE. PLA WAS STANDING
ON THE EDGE OF DEF TRUCK WHEN HE PULLED AWAY. PLA hit side mirror + fell off truck.

- 2. Does defendant have a criminal history? (If yes, attach CCH Summary)
 () YES (X) NO
- 3. Any prior/pending court proceedings involving parties? (If yes, enter Docket #s, County, State) (X) YES () NO FV0386412, FD0348509, FV0337312, FV0350212, FV0386512
- 4. Has a Criminal Complaint been filed in this matter? (If yes, enter Docket #, County, State) () YES (X) NO
- 5. If law enforcement officials responded to domestic violence call, were weapons seized? () YES (X) NO (Describe) _____ Was defendant arrested? () YES (X) NO

- 6. (A) The plaintiff and defendant are 18 years old or older or emancipated AND are
 - 1. () married () divorced, OR
 - 2. () present household members () former household members; OR
 (B) The defendant is 18 years old or older or emancipated AND
 - 1. plaintiff and defendant are () unmarried (X) co-parents () expectant parents OR
 - 2. () plaintiff and defendant have had a dating relationship.

7. Where appropriate, list children (Include name/sex/d.o.b./with whom resides):
MORETZ ALAYNA S F 06/09/99 RESIDES WITH Def

8. The plaintiff and defendant: () presently (X) previously () never resided together
 (X) family relationship NO RELATION & NO RELATION (Specify)

*****CERTIFICATION*****
 I certify that the foregoing responses made by me are true. I am aware that if any of the foregoing responses made by me are willfully false I am subject to punishment.

12/8/11 Date Debra Novak Signature of plaintiff

Pal

DOMESTIC VIOLENCE COMPLAINT/TRO
INCIDENT/HISTORY DESCRIPTION

DOMESTIC VIOLENCE COMPLAINT/TRO INCIDENT /HISTORY
DESCRIPTION

New Jersey Domestic Violence Civil Complaint and Temporary Restraining Order
FV-03-876-12x

The undersigned complains that said defendant did endanger plaintiff's life, health or well being (give specific facts regarding acts or threats of abuse and the date(s) and time(s) they occurred; specify any weapons); continued from page 1

PRIOR HISTORY OF DOMESTIC VIOLENCE

9/1/11 DEF TOLD PLA "DON'T FUCK WITH ME, I'LL BURY YOU". DEFT SENDS PLA TEXT MESSAGES THAT ARE DEGRADING AND ABUSIVE.

IN THE PAST, DEFT HAS PUNCHED, SLAPPED, SPIT, PULLED HAIR AND THROWN THINGS AT PLA. DEFT HAS THREATENED TO SLICE PLA THROAT. DEFT HAS SAID HE WILL KILL PLA MANY TIMES.

9/26/11 DEF GRABBED PLA ARM AND TWISTED IT.

9/1/11 DEF TOLD PLA "YOU'RE GONNA WISH YOU HAD COMMITTED SUICIDE".

1 YEAR AGO, DEFT STUCK A PEN IN PLA OPEN CUT.

DEFT HAS PUNCHED PLA IN HER ARMS AND LEGS.

DEFT HAS TRAPPED PLA IN A CORNER.

DEFT HAS TOLD PLA THAT HE KNOWS PEOPLE WHO CAN TAKE CARE OF THINGS AND NOONE WOULD KNOW.

4/10 DEFT CHASED PLA INTO THE HOUSE LIKE HE WAS GOING TO KILL HER. PLA SLAMMED DOOR AND TRIED TO LOCK IT, DEFT BUSTED THRU THE DOOR. THE DOOR HIT PLA ARM LEAVING A SCRATCH

12/8/11 

Serve this document on the defendant as part of the Complaint/TRO

Pa 2

* PART I - RELIEF - Instructions: Relief sought by plaintiff *

* TRO FRO GRANTED DEFENDANT: *

- * 1. () N/A () You are prohibited from returning to the scene of violence *
- * 2. (X) (X) (X) You are prohibited from future acts of domestic violence *
- * 3. (X) (X) (X) You are barred from the following locations: *
- (X) RESIDENCES OF PLAINTIFF (X) PLACE(S) OF EMPLOYMENT OF PLAINTIFF* *
- (X) OTHER(S) (LIST ONLY ADDRESSES KNOWN TO DEFENDANT): *
- 10 WYDHAM RD VOORHEES NJ *

- * 4. (X) (X) (X) You are prohibited from having any oral, written, personal, *
- electronic or other form of contact with: PLAINTIFF *
- () () () OTHER(S) *

- * 5. (X) (X) (X) You are prohibited from making or causing anyone else to *
- make harassing communications to: PLAINTIFF *
- () () () OTHER(S) - SAME AS #4 ABOVE OR LIST NAMES *

- * 6. (X) (X) (X) You are prohibited from stalking, following or threatening *
- to harm, to stalk or to follow: PLAINTIFF *
- () () () OTHER(S) - SAME AS #4 ABOVE OR LIST NAMES *

- * 7. () () () You must pay emergent monetary relief to (describe amnt & method) *
- PLAINTIFF *
- () () () DEPENDANT(S) *

- * 8. () () () You must be subject to intake monitoring of conditions/restraints *
- Other: (evaluations or treatments, describe) *

- * 9. () () () Psychiatric evaluation: *

- * 10. (X) (X) (X) PROHIBITION AGAINST POSSESSION OF WEAPONS: You are prohibited *
- from possessing any and all firearms or other weapons and must *
- immediately surrender these firearms, weapons, permit(s) to *
- carry, application(s) to purchase firearms and firearms *
- purchaser ID card to the officer serving this Court Order. *
- Failure to do so will result in your arrest and incarceration. *
- Other weapon(s) MAYNOT POSSESS *

* PLAINTIFF: *

- * 11. () () () You are granted exclusive possession of (list residence or *
- alternate housing only if specifically known to defendant): *

- * 12. () () () You are granted temporary custody of: *

- * 13. () () () Oth Relief Pla: _____ *
- () () () " " Children: _____ *

* LAW ENFORCEMENT OFFICER: *

- * You are to accompany to scene, residence, shared place of business, other *
- (indicate address, time, duration and purpose): *
- () () () Plaintiff _____ *
- () () () Defendant _____ *

Ra3

* WARRANT TO SEARCH FOR AND TO SEIZE WEAPONS FOR SAFEKEEPING *
* () TO ANY LAW ENFORCEMENT OFFICER HAVING JURISDICTION: This Order shall serve as *
* a warrant to search for and seize any issued permit to carry a firearm, *
* application to purchase a firearm and firearms purchaser identification card *
* issued to the defendant and the following firearm(s) or other weapon(s): *
* *
* 1. You are hereby commanded to search for the above described weapons and/or *
* permits to carry a firearm, application to purchase a firearm and firearms *
* purchaser identification card and to serve a copy of this Order upon the *
* person at the premises or location described as: _____ *
* 2. You are hereby ordered in the event you seize any of the weapons described *
* above, to give a receipt for the property seized to the person from whom *
* they were taken or in whose possession they were found, or in the absence of *
* such a person to have a copy of this Order together with such receipt in or *
* upon the said structure from which the property was taken. *
* 3. You are authorized to execute this order immediately or as soon thereafter *
* as is practicable: () Anytime; () Other: _____ *
* 4. You are further ordered after the execution of this Order, to promptly provide *
* the Court with a written inventory of the property seized per this Order. *

PART II - RELIEF - DEFENDANT:

- 1. () () () No parenting time/visitation until further ordered;
() () () Parenting time pursuant to _____ suspended until furth Order
() () () Parenting time/visitation permitted as follows:

- 2. () () () Risk assessment ordered (by whom/any requirements/return dates):

- 3. You must provide compensation as follows:
() () () Emergent support for plaintiff: _____
() () () For dependent(s): _____
N/A () () Ongoing support for plaintiff: _____
N/A () () For dependent(s): _____
() () () Compensatory damages for plaintiff: _____
N/A () () Punitive damages to plaintiff: _____
N/A () () To Third Party(ies) (describe): _____

() () () Medical coverage for plaintiff: _____
() () () For Dependent(s): _____
() () () Rent () Mortgage payments (specify amount(s) and recipient(s))

- 4. () () () You must participate in a batterers intervention program:

- 5. () () () You are granted temporary possession of personal property (describe):

PART II - RELIEF - PLAINTIFF:

- 1. () () () You are granted temporary possession of personal property (describe):

COMMENTS: CROSS COMPLAINT PENDING UNDER FV-03-864-12 SCHEDULED FOR 12/14/11.
FD-03-485-09 SCHEDULED FOR MEDIATION 1-24-12. DEFT HAS PRIMARY
RESIDENTIAL CUSTODY UNDER FD-03-485-09. DEF HAS BEEN AWARDED TEMP
CUSTODY UNDER TRO FV-03-864-12

D.Y

() TRO DENIED. Complaint dismissed by Family Part.

() TRO DENIED by Municipal Court, forwarded to Family Part for administrative dismissal, and plaintiff advised of right to file new Complaint in Superior Court, Family Division.

TRO GRANTED: The Court has established jurisdiction over the subject matter and parties pursuant to N.J.S.A. 2C:25-17 et seq., and has found sufficient grounds and exigent circumstances that an immediate danger of domestic violence exists and that an emergency restraining Order is necessary pursuant to R.5:7A(b) and N.J.S.A.2C:25-28 to prevent the occurrence or recurrence of domestic violence and to search for and seize firearms and other weapons as indicated in this Order.

ALL LAW ENFORCEMENT OFFICERS WILL SERVE AND FULLY ENFORCE THIS ORDER. This ex parte Domestic Violence Complaint and Temporary Restraining Order meets the criteria of the federal Violence Against Women Act for enforcement outside of the State of New Jersey upon verification of service of defendant. 18U.S.C.A 2265 & 2266.

* THIS ORDER SHALL REMAIN IN EFFECT UNTIL FURTHER ACTION OF THE COURT AND SERVICE OF SAID ORDER ON THE DEFENDANT.

12/8/11 3:40 PM
Date/Time () via telephone Honorable Michael P. DeBee Court/County Burlington Co.

NOTICE TO APPEAR TO PLAINTIFF AND DEFENDANT

1. Both the plaintiff and defendant are ordered to appear for a final hearing on (date) 12/14/2011 at (time) 08:45 A.M at the Superior Court, Chancery Division, Family Part, Burlington County, located at (address) 4TH FLOOR, COURTROOM 4C
49 RANOCAS ROAD
MT HOLLY, NJ 08060-

NOTE: You must bring financial information including pay stubs, insurance information, bills & mortgage receipts with you to court.

2. () The final hearing in this matter shall not be scheduled until: _____

3. () Interpreter needed. Language: _____
Upon satisfaction of the above-noted conditions notify the Court immediately so that a final hearing date may be set.

IMPORTANT: The parties cannot themselves change the terms of this Order on their own. This Order may only be changed or dismissed by the Superior Court. The named defendant cannot have any contact with the plaintiff without permission of the Court.

NOTICE TO DEFENDANT:

A violation of any of the provisions listed in this Order or failure to comply with the directive to surrender all weapons, firearm permits, applications or identification cards may constitute criminal contempt pursuant to N.J.S.A. 2C:29-9(b) and may also constitute violations of other state and federal laws which may result in your arrest and/or criminal prosecution. This may result in a jail sentence.

You have the right to immediately file an appeal of this temporary Order before the Superior Court, Chancery Division, Family Part, as indicated above, and a hearing may be scheduled.

Pa 5

RETURN OF SERVICE

(X) Plaintiff was given a copy of this Complaint/TRO by:

FCM 3:40pm 12/8/11 Samela Palomo #42 PDM
PRINT NAME TIME & DATE SIGNATURE/BADGE #/DEPT

() I hereby certify that I served the within Complaint/TRO by delivering a copy to defendant personally:

PRINT NAME TIME & DATE SIGNATURE/BADGE #/DEPT

() I hereby certify that I served the within Complaint/TRO by use of:
substituted service as follows: _____

PRINT NAME TIME & DATE SIGNATURE/BADGE #/DEPT

() Defendant could not be served. Explain: _____

PRINT NAME TIME & DATE SIGNATURE/BADGE #/DEPT

DEFENDANT MUST SIGN THIS STATEMENT: I hereby acknowledge the receipt of the restraining Order. I understand that pursuant to this Court Order, I am not to have any contact with the named plaintiff even if the plaintiff agrees to the contact or invites me into the premises and that I may be arrested and prosecuted if I violate this Order.

SIGNATURE OF DEFENDANT TIME & DATE

*THE COURTHOUSE IS ACCESSIBLE TO THOSE WITH DISABILITIES.
PLEASE NOTIFY THE COURT IF YOU REQUIRE ASSISTANCE.

Pa6

Debra Novak

PLAINTIFF

vs.

Kenneth Moretz

DEFENDANT

ORDER OF DISMISSAL

- TEMPORARY RESTRAINING ORDER
- FINAL RESTRAINING ORDER

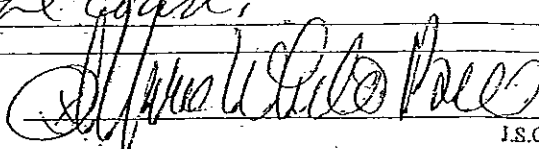
THE COURT having considered the testimony and/or certification at this hearing and the Court having determined that

1. The Plaintiff having requested dismissal of the matter, and
 - Having read "What Dissolving a Restraining Order Means"; (attached)
 - Having read and signed "Certification for Dissolution/Modification of Order; (attached)
 - Having not been coerced or placed under duress to withdraw the complaint and dissolve the Order;
 - Having been advised of the cycle of domestic violence, and of the protective resources available through the Court and the local domestic violence program(s), especially with regard to housing and Court-ordered emergency custody and support;
 - Understanding that withdrawal of the complaint and dismissal of the Restraining Order will eliminate the protection that had been issued under this Order;
 - Being aware that such withdrawals are not prejudicial and if (s)he may need protection in the future, (s)he may apply for a new restraining order; OR
2. The Plaintiff failing to appear for Final Hearing, and
 - The Court having been unable to contact the plaintiff via telephone numbers/address given; OR
 - The Court having determined that plaintiff was contacted and that coercion or duress did not cause the plaintiff's non-appearance; OR
3. Court having determined on appeal of the Temporary Restraining Order that the required burden of proof for a Final Restraining Order has not been met; OR
4. The Court having determined upon the appearance of both parties that the plaintiff's allegation of domestic violence has not been substantiated.

IT IS HEREBY ORDERED on this 22nd day of Dec that the Domestic Violence Complaint, dated 12/8/11 is DISMISSED and the TEMPORARY RESTRAINING ORDER FINAL RESTRAINING ORDER dated _____ is/are vacated, and

IT IS FURTHER ORDERED THAT:

- The complaint is dismissed and present support order under this docket is terminated and any arrears are vacated preserved to _____ [appropriate party(ies)]. Probation to terminate interest and close case.
- The complaint is dismissed. Continue present support order and/or arrears to be:
 - transferred to docket # _____ and paid through Probation (FVD)
 - or paid directly obligee.

Other: Dismissed by the court.

I.S.C.

RETURN OF SERVICE

- Plaintiff was given a copy of the Order by FCM
- Defendant was given a copy of the Order by FCM

Date: 12/22/11
SP8DV
Signature, Title & Department of Office

C- Dept's attorney inc. D22

8180 BC

Filed with the Court

OCT 25 2011

Novak,)
Plaintiff,)
v.)
Moretz,)
Defendant.)

Superior Court Of New Jersey **Kenneth S. Donohue, J.S.C.**
Chancery Division - Family Part
Burlington County

Civil Action
Docket No: FD-03-485-09

ORDER ~~FOR~~ BY CONSENT

RETURNABLE: 10-²⁵~~27~~-11

This Matter being presented to the Court, Plaintiff represented by self-represented Esq. and Defendant represented by D Ryan Nussy, Esq., and the court having reviewed all pleadings filed, considered the arguments of counsel and set forth its findings of fact and conclusions of law upon the record which are incorporated herein, and for other good cause shown:

3x

It Is On This 25th day of October 2011, Ordered That:

- ① The parties shall share joint legal custody of their minor daughter, Alayna Moretz, dob 6-9-99;
- ② Father shall be the parent of primary residence;
- ③ Mother and Alayna to attend counseling through a counselor named on the child's healthcare plan with New Jersey Family Care. Father is seeking reinstatement of policy as of 10/3/11 counseling to address parenting time for Moth
- ④ The parties shall only communicate via email; or text;
- ⑤ Father to have exclusive possession of 30 Faybrooke Drive, Marlton, New Jersey 08053;
- ⑥ In next ~~two weeks~~ ^{six months}, Mother to notify Father's attorney of a date a time she will collect her belongings. Each party to have third person present;
- ⑦ Father shall not seek child support from

DN
DN

K.M
KM

POB

D-N family

Should be wrapped

RE: Novak v. Moratz

DOCKET #: FD-03-485-09

email it was MB

(Continuation/Addendum of Order):

Mother at this time

⑧ ~~The matter scheduled for October 25, 2011 under FD-03-485-09 shall be canceled.~~

⑨ Father to reinstate Mother's phone on the family plan until May 2012. Then the plan to be canceled. Mother's usage to continue as in past, reasonable usage.

⑩ Mother, Alayna to schedule dinner ~~time~~ ^{visits} with Brian Novak, pending counseling, for Mother's parenting time, or Mother's sister.

⑪ Upon Alayna having a level of comfort with Mother, parenting to be ~~and~~ unsupervised.

Debra Novak

Kenneth Moratz

10-25-11

10-25-11

TERRENCE R. COOK, J.S.C.

Debra Novak
Attorney for Plaintiff

Kenneth Moratz
Attorney for Defendant

A.3021-11T3



New Jersey Judiciary
Superior Court - Appellate Division
NOTICE OF APPEAL

Type or clearly print all information. Attach additional sheets if necessary.		ATTORNEY / LAW FIRM / PRO SE LITIGANT (2)			
TITLE IN FULL (AS CAPTIONED BELOW): (1) Debra Novak v. Kenneth Moretz		NAME Ronald G. Lieberman, Esquire, Adinolfi & Lieberman, P.A.			
		STREET ADDRESS 4 Kings Highway East			
		CITY Haddonfield	STATE NJ	ZIP 08033	PHONE NUMBER 856-428-8334
		EMAIL ADDRESS rlieberman@sjfamilylawyers.com			

ON APPEAL FROM		
TRIAL COURT JUDGE (3) Marie White Bell, J.S.C.	TRIAL COURT OR STATE AGENCY (4) Superior Court Family Part Burlington County	TRIAL COURT OR AGENCY NUMBER (5) FV-03-876-12

- (7) Notice is hereby given that (6) Debra Novak appeals to the Appellate Division from a Judgment or Order entered on December 22, 2011 in the Civil Criminal or Family Part of the Superior Court or from a State Agency decision entered on _____.
- (8) If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.
- (9) Have all issues, as to all parties in this action, before the trial court or agency been disposed of? (In consolidated actions, all issues as to all parties in all actions must have been disposed of.) Yes No
If not, has the order been properly certified as final pursuant to R. 4:42-2? Yes No

- (10A) For criminal, quasi-criminal and juvenile actions only:
Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed:
- (10B) This appeal is from a conviction post judgment motion post-conviction relief.
If post-conviction relief, is it the 1st 2nd other _____ specify
- (10C) Is defendant incarcerated? Yes No
Was bail granted or the sentence or disposition stayed? Yes No
- (10D) If in custody, name the place of confinement:

Defendant was represented below by:
 Public Defender self private counsel _____ specify

FILED
APPELLATE DIVISION
FEB 2 2012
CLERK

(11) Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge	Marie White Bell, J.S.C.	February 22, 2012
Trial Court Division Manager	Barbara Sopronyi	February 22, 2012
Tax Court Administrator		
State Agency		
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1(a), (e) or (h)		
Other parties in this action:		

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
Kenneth Moretz, Plaintiff/Defendant	D. Ryan Nussey, 38 Haddon Avenue, Haddonfield, NJ 08033 (856) 428-7469	February 22, 2012

(12) Attached transcript request form has been served where applicable on the following:

	Name	Date of Service	Amount of Deposit
Trial Court Transcript Office	Diana Doman Transcribing	2/2/2012	\$500
Court Reporter (if applicable)			
Supervisor of Court Reporters			
Clerk of the Tax Court			
State Agency			

(13) Exempt from submitting the transcript request form due to the following:

- No verbatim record.
- Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).
List the date(s) of the trial or hearing:

- Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- Motion for free transcript filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief. I also certify that, unless exempt, the filing fee required by N.J.S.A. 22A:2 has been paid.

(14) February 22, 2012
DATE

(15)


SIGNATURE OF ATTORNEY OR PRO SE LITIGANT



New Jersey Judiciary
Superior Court - Appellate Division
CIVIL CASE INFORMATION STATEMENT

Please type or clearly print all information.

TITLE IN FULL (1)

Debra Novak v. Kenneth Moretz

TRIAL COURT OR AGENCY DOCKET NUMBER (2)

FV-03-876-12

Attach additional sheets as necessary for any information below.

(3) APPELLANT'S ATTORNEY EMAIL ADDRESS: rlieberman@sjfamilylawyers.com

PLAINTIFF DEFENDANT OTHER (SPECIFY)

NAME Ronald Lieberman, Esquire			CLIENT Debra Novak		
STREET ADDRESS 4 Kings Highway East		CITY Haddonfield	STATE NJ	ZIP 08033	TELEPHONE NUMBER 856-428-8334

(4) RESPONDENT'S ATTORNEY * EMAIL ADDRESS: drm@klineburgerandnussey.com

NAME D. Ryan Nussey, Esquire			CLIENT Kenneth Moretz		
STREET ADDRESS 38 Haddon Avenue		CITY Haddonfield	STATE NJ	ZIP 08033	TELEPHONE NUMBER 856-428-7469

* Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.

(5) GIVE DATE AND SUMMARY OF JUDGMENT, ORDER, OR DECISION BEING APPEALED AND ATTACH A COPY:

December 22, 2011, Order: FV-03-864-12 dismissed temporary restraining order against Kenneth Moretz and denied request of Debra Novak for the entry of a final restraining order against him.

(6) Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees? YES NO

If so, has the order been properly certified as final pursuant to R. 4:42-2? (If not, leave to appeal must be sought. R. 2:2-4,2:5-6) YES NO

(If the order has been certified, attach, together with a copy of the order, a copy of the complaint or any other relevant pleadings and a brief explanation as to why the order qualified for certification pursuant to R. 4:42-2.)

Were any claims dismissed without prejudice? YES NO

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

(7) Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (R. 2:5-1(h)) YES NO

(8) GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

See Attached Sheet

FILED
APPELLATE DIVISION
FEB 2 2012

CLERK

(9) TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THE APPEAL AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R. 2:6-2(a)(5). (Appellant or cross-appellant only):
Whether the trial court erred in denying a final restraining order in favor of Debra Novak against Kenneth Moretz on December 22, 2011.

(10) IF YOU ARE APPEALING FROM A JUDGMENT ENTERED BY A TRIAL JUDGE SITTING WITHOUT A JURY OR FROM AN ORDER OF THE TRIAL COURT, COMPLETE THE FOLLOWING:

- 1. Did the trial judge issue oral findings or an opinion? If so, on what date? 12/22/2011 YES NO
- 2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ YES NO
- 3. Will the trial judge be filing a statement or an opinion pursuant to R. 2:5-1(b)? YES NO

Caution: Before you indicate that there were neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

DATE OF YOUR INQUIRY: 2/2/2012

1. IS THERE ANY APPEAL NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

- (11) (A) Arises from substantially the same case or controversy as this appeal? YES NO
- (12) (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? YES NO
- (13) 2. WAS THERE ANY PRIOR APPEAL INVOLVING THIS CASE OR CONTROVERSY? YES NO

(14) IF THE ANSWER TO EITHER 1 OR 2 ABOVE IS YES, STATE:

Case Name: _____ Appellate Division Docket Number: _____

Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.


- (15) State whether you think this case may benefit from a CASP conference. YES NO
Explain your answer:
This is a domestic violence matter so settlement is unlikely.

(16) I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

(17) Debra Novak
Name of Appellant or Respondent

(18) Ronald G. Lieberman, Esquire
Name of Counsel of Record
(or your name if not represented by counsel)

(19) February 22, 2012
Date

(20) 
Signature of Counsel of Record
(or your signature if not represented by counsel)

ISSUES ON APPEAL

1. The Trial Court below erred in dismissing a Temporary Restraining Order under Docket Number FV-03-876-12 against Mr. Moretz and denying the request of Ms. Novak for the entry of a Final Restraining Order against Mr. Moretz when Ms. Novak was not permitted to fully testify in prosecution of her demand for the entry of a final restraining order, the Trial Court did not address whether an act of domestic violence had been committed against Ms. Novak by Mr. Moretz, and there was no judicial consideration or review of the totality of the circumstances surrounding the entry of the temporary restraining order in favor of Ms. Novak.

STATEMENT OF PROCEDURAL HISTORY

On December 7, 2011, Plaintiff, Kenneth Moretz, filed a Domestic Violence Complaint against Defendant, Debra Novak, under Docket Number FV-03-864-12 and a Temporary Restraining Order was entered against her on that date. He alleged both harassment and assault.

On December 8, 2011, Ms. Novak filed a Domestic Violence Complaint against Mr. Moretz under Docket Number FV-03-876-12 and a Temporary Restraining Order was entered against him on that date. She alleged assault.

A hearing was held before the Honorable Marie White Bell, J.S.C. (on recall) in the Superior Court of New Jersey, Chancery Division, Family Part, Burlington County, on December 22, 2011 that consolidated both Temporary Restraining Orders.

Following that consolidated hearing, Judge Bell entered two Orders dated December 22, 2011. The first Order issued a final restraining order against Ms. Novak (FV-03-864-12) and the other Order dismissed the temporary restraining order against Mr. Moretz (FV-03-876-12).

It is from the Orders dated December 22, 2011, entered by Judge Bell that Ms. Novak appeals.

STATEMENT OF FACTS

The parties had a dating relationship commencing in or about 1999 and have a daughter in common, Alayna Moretz, now age 12. The parties resided together with their daughter for almost that entire time period but never married.

Prior temporary restraining orders between the parties were dismissed and the parties would then resume their relationship until they finally ended their relationship and separated. Custody and parenting time matters were defined by way of a consent order dated October 3, 2011, filed under Docket Number FD-03-485-09.

On December 7, 2011, Mr. Moretz filed a Domestic Violence Complaint against Ms. Novak, alleging harassment and assault. He alleged that she was at his residence, peered through a window, and punched and smacked him.

On December 8, 2011, Ms. Novak filed a Domestic Violence Complaint against Mr. Moretz, alleging assault. She alleged that he accused her of stealing a phone and they argued. She and he then left in separate vehicles but followed each other and after driving a distance, the two parties pulled their vehicles into a parking lot where the parties continued their argument. After further argument, Mr. Moretz then entered his truck and pulled away while Ms. Novak was standing on the edge of his truck, causing her to hit his side mirror and fall off his truck.

The hearing on cross-complaints was held on December 22,

2011, before the Honorable Marie White Bell, J.S.C. Following the hearing held on that day, Judge Bell entered two Orders. One Order issued a Final Restraining Order against Ms. Novak (FV-03-864-12) and the other Order dismissed the Temporary Restraining Order against Mr. Moretz (FV-03-876-12).

It is from the Order dated December 22, 2011, entered by Judge Bell that Ms. Novak appeals.

BRIEF EXPLANATION AS TO WHY THE ORDERS QUALIFIED FOR
CERTIFICATION PURSUANT TO R. 4:42-2

The Court's Orders dated December 22, 2011, acted to determine the issues of cross final restraining orders. Such rulings were the cornerstones of claims raised by Mr. Moretz against Ms. Novak and by Ms. Novak against Mr. Moretz.

So, both Orders, from which Ms. Novak takes this appeal, constitute final dispositions of her requests for the issuance of a final restraining order against Mr. Moretz and for a dismissal of the temporary restraining order against her.