



NHBP TRIBAL COURT

NOTTAWASEPPI HURON BAND OF THE POTAWATOMI

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TRIBAL COURT CASE NO.
17-046-PPO/ND

PLAINTIFF/PETITIONER

NATHANIEL WESLEY SPURR

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DEFENDANT/RESPONDENT

JOY SPURR AKA JOY JUDGE

v.
Stephen J. Spurr (P76898)
Attorney for the Respondent
1114 Beaconsfield Avenue
Grosse Pointe Park, MI 48230-1345
313-331-2902

OPINION AND ORDER AFTER HEARING ON RESPONDENT'S MOTION FOR RECONSIDERATION OR MODIFICATION OF COURT ORDER

At a session of said Court held in the Courthouse of
the Nottawaseppi Huron Band of the Potawatomi
Tribal Court on the Pine Creek Reservation on the
19th day of April 2017

Honorable Melissa L. Pope Presiding

INTRODUCTION

This case involves a Permanent Harassment Protection Order issued by the Nottawaseppi Huron Band of the Potawatomi (NHBP) Tribal Court with the Respondent challenging both jurisdiction and the grounds for issuance of the Permanent Harassment Protection Order.

JURISDICTION

The NHBP Constitution addresses jurisdiction, providing in pertinent part:

Article II § 1 (a)

The territory of the Band shall encompass the Band's historical land base known as the Pine Creek Potawatomi Reservation in Athens Township, Michigan and all lands now held or hereafter acquired by or for the Band, or held in trust for the Band by the United States, including lands in which rights have been reserved or never ceded by the Nottawaseppi Huron Band of the Potawatomi in previous treaties, or as may otherwise be provided under federal law.

Article II § 2 (a)

Jurisdiction. The jurisdiction and sovereign powers of the Band shall, consistent with applicable federal law, extend and be exercised to the fullest extent consistent with tribal self-determination, including without limitation, to all of the Band's territory as set forth in Section 1 of this Article, to all natural resources located within the Band's territory, to any and all persons within the Band's territory and to all activities and matters within the Band's territory. The Band's jurisdiction shall also extend beyond its territory whenever the Band is acting pursuant to jurisdiction that is created or affirmed by rights reserved or created by treaty, statutes adopted by the Tribal Council in the exercise of the Band's inherent sovereignty, Federal statute, regulation or other federal authorization, or a compact or other agreement entered into with a state or local government under applicable law.

Article II § 2 (a)

Guiding Principles. In exercising the jurisdiction and sovereign powers of the Band, the Tribal Council and other institutions of the Band's government shall be guided by the following principles:

1. Promote the preservation and revitalization of Bode'wadmimen and Bode'wadmi culture;
2. Promote sustainable development strategies and practices to ensure the health and balance of the next seven generations of Tribal Members;
3. Promote the health, educational and economic interests of all Tribal Members, especially our elders and children;
4. Promote efforts that ensure the perpetual preservation and revitalization of the Band's sovereignty and self-determination; and
5. Promote open and transparent governance by providing Tribal Members, and where appropriate, other persons subject to Tribal

jurisdiction, with notice and opportunity to comment on financial, policy or legislative business under consideration.

Article XI, Section 3(a)

The judicial power of the Nottawaseppi Huron Band of the Potawatomi shall be in the Tribal Court system. The judicial power shall extend to all civil and criminal cases arising under this Constitution, all legislative enactments of the Band, including codes, statutes, ordinances, regulations, all resolutions, agreements, and contracts to which the Band or any of its entities is a party, and the judicial decisions of the Tribal Court system.

Article XI, Section 3(b)

The judicial power of the Tribal Court system may be exercised to the fullest extent consistent with self-determination and the sovereign powers of the Band, and, as exercised, shall govern all persons and entities subject to the jurisdiction of the Band under Article II of this Constitution.

The Permanent Harassment Protection Order challenged in this case was issued by the NHBP Tribal Court pursuant to the NHBP Domestic Violence Code with the Petitioner an enrolled NHBP Citizen who resides on NHBP lands. As such, this Court has jurisdiction to hear this matter, including determining whether it has jurisdiction over the Respondent, an individual who is not an enrolled Citizen of NHBP or any other federally-recognized Tribe nor lives on Tribal lands of the NHBP.

FACTUAL HISTORY

The Court has attempted to condense and streamline the factual history of this case while still providing all pertinent information. For some actions, more detailed information can be found in the previous *Orders* issued.

On February 3, 2017, this Court issued an *Ex Parte Personal Protection Order (Non-Domestic) (Stalking)*, also known as *Ex Parte Temporary Harassment Protection Order* under the Nottawaseppi Huron Band of the Potawatomi (NHBP) Domestic Violence Code¹, against the Respondent.

¹ As discussed later in this *Opinion*, the NHBP Tribal Court has mirrored its personal protection order forms to that of the State of Michigan to simplify the process and enhance enforcement. As such, the “Ex Parte Temporary Harassment Protection Order” is formatted to that of Michigan’s “Ex Parte Personal Protection Order (Non-Domestic) (Stalking)” and the “Permanent Harassment Protection Order” is formatted to that of Michigan’s “Personal Protection Order (Non-Domestic) (Stalking)”. This Opinion shall use “Ex Parte Temporary Harassment Protection Order” and “Permanent Harassment Protection Order” in this *Opinion* after the initial paragraphs of this Factual History.

On February 8, 2017, the Respondent was served the *Ex Parte Temporary Harassment Protection Order/Ex Parte Temporary Harassment Protection Order* by the NHBP Police Department on the Tribal lands of the NHBP; the Respondent signed the Proof of Service.

On February 13, 2017, the Court received a letter from the Respondent by facsimile with the letter containing a time stamp that indicates it was sent on February 12, 2017 at 11:55 PM. The letter contained a request for adjournment, as well as other statements relating to the above-referenced case.

On February 14, 2017, the Court issued the *Order Denying Request to Adjourn*, denying the request pursuant to §7.4-75 of the NHBP Domestic Violence Code, but permitting Respondent Joy Spurr to appear by phone as, in subsequent documents faxed to the Court and statements made on the record, Respondent Joy Spurr had to be in a different Court on a different matter the afternoon of February 16, 2017. The Court also advised that a request to the Court must be filed as a motion. Court Staff attempted to expedite service of this *February 14, 2017 Order* by faxing the document to the fax number at the top of the documents sent by Respondent Spurr, but these attempts repeatedly failed. The Court also sent the *Order* via email to both Respondent Joy Spurr and her husband, Stephen Spurr. These emails were not returned.

On February 15, 2017, Respondent Joy Spurr submitted multiple documents by facsimile to the Court over a two (2) hour period, including a request for information as to whether the Court had rescheduled the February 16, 2017 Hearing. Court Staff contacted Respondent Joy Spurr and made repeated attempts, including after the Court closed at 5:00 PM, to send the *Order* by fax, but all attempts failed. Respondent Joy Spurr declined to give her email address to the Court. Respondent Joy Spurr's email address was redacted from the 82-pages of documents she submitted to the Court for the Hearing, including emails.

On February 16, 2017, a Hearing on the issuance of a permanent Personal Protection Order (Non-Domestic – Stalking), also known as a Permanent Harassment Protection Order under the NHBP Domestic Violence Code, was held. Both parties appeared and made arguments to the Court, although Respondent Joy Spurr left before the conclusion of the Hearing. During the Hearing, Respondent Joy Spurr acknowledged that she was having difficulty with receiving documents by fax and was attempting to resolve these problems. Respondent Joy Spurr did not give an email address during this Hearing.

On February 17, 2017, this Court issued the permanent, meaning for a one-year (1-year) duration, *Personal Protection Order (Non-Domestic) (Stalking)*, also known as and hereinafter referred to as the *Permanent Harassment Protection Order*, against Respondent Joy Spurr.

On February 22, 2017, Respondent Joy Spurr was served with this *Permanent Harassment Protection Order*.

On February 23, 2017, the Court received a request for a transcript via fax. With the letter dated February 17, 2017, it should be noted that the date stamp from the fax transmission was also February 23, 2017. There was no fax number for the sender on the document.

On February 24, 2017, the Court received a letter dated February 23, 2017 to the Tribal Court Administrator (“TCA”), advising of two pending gatherings.

On February 27, 2017, the Court received a transcript request filed via fax (dated February 17, 2017 and a hand-written note that states “faxed and mailed” with a checkmark and the date of February 27, 2017). During that same transmission, the Court received another transcript request also dated February 27, 2017, and titled “Second request to previously unanswered communication”. There was no fax number for the sender on the document.

On February 27, 2017, the Court received by mail hard copies of the documents that were faxed to the Court on February 23, 2017 and February 24, 2017.

On February 28, 2017, after the Court had received some, but not all, of the documents referenced above, the Court advised Court Staff to send Respondent Joy Spurr the Court Information Request form and Party Information and Service Request form along with a cover letter that provided instructions for the requests submitted and filing a motion for reconsideration or modification. This letter and forms were sent on March 1, 2017.

On March 2, 2017, the Court received multiple documents by fax transmission. Those received before 5:00 PM included: a filing dated February 27, 2017 with a fax date stamp of March 2, 2017, that related to requests to the NHBP Police Department; what appears to be partial pages of various documents; unidentified “Error Reports”; print-outs of various pages; a copy of a receipt for a mailing; and other unidentifiable documents. There was no fax number for the sender on the document or cover letter or other documentation that identified the various documents being faxed or an overview of the Respondent’s requests to the Court. After the Court received some documents by fax transmission, Respondent Joy Spurr contacted the Court with Court Staff sending the letter and forms attached to the March 1, 2017 mailing to Respondent Joy Spurr’s husband’s email address. Per the request of Court Staff, Mr. Stephen Spurr confirmed receipt via email. The Court also received hard copies of various documents faxed to the Court.

On March 3, 2017, the Court received a fax that was sent after normal business hours on March 2, 2017, that contained partial copies of the Court Information Request form, “Error Reports”, and other unidentifiable documents. There was no fax number for the sender on the document or cover letter or other documentation that identified the various documents being faxed or an overview of the Respondent’s requests to the Court.

On March 6, 2017, the Chief Judge and presiding Judge in the present case, approved the Court Information Request for the February 16, 2017 Hearing transcript, after confirming it was sent by the Respondent through alternative avenues as there was no sender fax number, noting that ex parte personal protection orders are issued without a hearing and on the petition with attachments, if any, as the Respondent had typed on the form “Transcripts requested for BOTH hearings, the initial hearing and the joint hearing”. (emphasis in Respondent’s document).

On March 6, 2017, the Court received by mail an Appearance from Stephen Spurr on behalf of the Respondent. The Court also received by mail hard copies of previous documents faxed to

Court. In addition, the Court received via email from Attorney Spurr a Motion for Reconsideration or Modification of Court Order. In this filing, the Respondent and her attorney requested to appear by phone at the Hearing and provided the Respondent's availability for the immediately coming weeks.

On March 13, 2017, the Court received by mail from Attorney Spurr a copy of the letter he previously sent to the Court with updates on availability and the notation, "Be sure to include the interview in the transcript request by Judge Melissa Pope with Petitioner Nathaniel Wesley Spurr either on February 2 or February 3, 2017 when she issued the ex parte order for the appeal to the NHBPI Supreme Court. It was requested. Call if questions remain" with a phone number and handwritten notation that states "Mailed 3/9/17". A copy of the completed Court Information Request form was included.

On March 13, 2017, the Court received a fax transmission, beginning at 4:58 PM that included: A copy of the letter sent by mail with a handwritten notation that states, "Exhibit 41 7 pages" and an additional arrow to the "March 9, 2017 Update" and the additional notation of "Faxed and mailed"; a five (5) page handwritten letter to a person who is not on the Court Staff or a party to this action, and titled "Exhibit 41"; and a two (2) page Order from a separate case with "Signed on 2-17-17 Mailed from Grand Rapids, I received after the funeral" at the top of the first page and a handwritten note at the bottom that states, "Nathaniel perjured himself when he filled out that paperwork saying Grandma was estranged from her family". There was no fax number for the sender on the document or cover letter or other documentation that identified the various documents being faxed or an overview of the Respondent's requests to the Court.

On March 14, 2017, the Court received by mail an updated list of exhibits, note to the TCA regarding police reports, and other pages that are not discernable, such as a page of paragraphs that begins with "Let it be written into the record..." and other pages that identify the case and reference "Inappropriate contact..." .

On March 14, 2017, the Court issued the *Order Regarding Pleadings & Notice of Hearing on Respondent's Motion*, detailing the communications by the Respondent to the Court, as well as a comprehensive list of documents the Respondent submitted by fax, email, and mail since the *Permanent Harassment Protection Order*, with details as to the problems with these submissions. The Court set the date for the Hearing on the Respondent's Motion, scheduling it later in the afternoon to accommodate the Respondent, approved the Respondent appearing by phone, set the date by which the Respondent was required to file a comprehensive compilation of exhibits with a list of those exhibits, and the date by which the Petitioner could file a written response. The Court specified the requirements under the NHBPI Tribal Court Rules for the attorney of record to communicate with the Court and for the filing of documents with the Court. The Court limited filings by fax to matters deemed urgent by the Court due to the issues with faxes received. The Court also again explained that ex parte personal protection orders are issued without a hearing.

On March 21, 2017, the Court received by mail a copy of the Respondent's Motion for Reconsideration or Modification of Court Order & Brief in Support. On this date, the Court also

received a Court Information Request from the Respondent again requesting transcripts for a hearing on the ex parte petition although the Court stated on the Court Information Request form when the transcript for the February 16, 2017 Hearing was approved and in the *Order Regarding Pleadings & Notice of Hearing on Respondent's Motion* that no such hearing occurred.

On March 21, 2017, the Court received by email an Appearance from Attorney Angela Sherigan on behalf of the Petitioner and the Petitioner's Answer to Motion for Change of Hearing Date.

On March 23, 2017, the Court received by mail a copy of Motion for Reconsideration or Modification of Court Order, Brief in Support, & Proposed Exhibits and a copy of the Respondent's Motion to Request Change of Date of Hearing.

On March 27, 2017, the Court received by mail the Petitioner's Answer to Respondent's Motion for Change of Hearing Date.

On April 10, 2017, the Court received a letter dated April 6, 2017 from Respondent Joy Spurr with attachments stating that the Petitioner is committing a "fraud" regarding his address at White Lake.

On April 12, 2017, the Court received three (3) faxes from Respondent Joy Spurr on behalf of Attorney Stephen Spurr comprised of a Memorandum to the TCA, Page 1 of the Brief regarding the Motion for Reconsideration, and the complete two-page Memo to the TCA.

On April 17, 2017, the Court received by email the Petitioner's Response to Motion for Reconsideration.

On April 18, 2017, the Court received by mail a copy of the two-page Memorandum faxed on April 12 2017 with hand written changes and Page 1 of the Brief from the April 12, 2017 fax. The Court also received a Court Information Request Form from Joy Spurr and deposit for the February 16, 2017 Hearing transcript.

On April 19, 2017, the Court received by fax the Exhibits as discussed in this *Opinion*. The Court also received by mail the Petitioner's Response to Motion for Reconsideration sent by email on April 17, 2017.

On April 24, 2017, the TCA notified Attorney Stephen Spurr via email that the transcript was received with the balance due. That same day, the Court received an acknowledgement from Attorney Stephen Spurr to the TCA's email about the transcript.

On April 26, 2017, the Court received a letter from "Joy Spurr, Administrator for Attorney Stephen Spurr" with the balance due for the transcript with inquiries to the Court.

On April 28, 2017, the TCA sent Attorney Stephen Spurr a copy of the February 16, 2017 Hearing transcript via email, advising that the hard copy would be going out either that day or the next, depending on mail pick-up. Attorney Spurr acknowledged receipt of the email.

On May 3, 2017, Respondent Joy Spurr left a voicemail for the TCA stating that they had not received a hard copy of the transcript, requesting receipts, and inquiring about the previously submitted Court Information Request. That same day the TCA sent a letter via email and mail to Attorney Stephen Spurr advising that she had received an inquiry from Respondent Joy Spurr, reminding him that she had notified him via email that the transcript was being sent by mail with the cost waived, and advising she would not be responding to the Court Information Request with the Respondent being represented by counsel and the Request and not discussing internal procedures. That evening, Respondent Joy Spurr responded to the TCA, acknowledging the letter sent to Attorney Stephen Spurr.

On May 19, 2017, the Court received an email from Attorney Stephen Spurr stating that there were typographical errors in the transcript.

On May 22, 2017, the Court received a Court Information Request form from Respondent Joy Spurr asking for the Register of Actions with a check, copies of envelopes that were “returned to sender” regarding the Petitioner’s White Lake Address, and Page 1 of a redacted police report.

On May 26, 2017, the Court sent the Register of Actions with cover letter and receipt to the Respondent by mail and email.

On May 30, 2017, the Court received a fax from Respondent Joy Spurr indicating it was an emergency fax request regarding challenging service in Wayne County, including secondary authority on jurisdiction from the congressional research service, a page of the Register of Actions with a handwritten challenge about service, and a Court Information Request Form that said, “see attached”.²

On May 31, 2017, the Court received a Court Information Request form from the Respondent by fax asking for all documentation about the entry regarding return of paperwork from Wayne County and the Proof of Service Form returned from Wayne County.

On June 2, 2017, the Chief Judge approved the May 31, 2017 Court Information Request for a copy of the proof of service. The Court sent a copy of the document to Attorney Stephen Spurr by email and prepared a hard copy for mailing.

On June 5, 2017, the Court received from the Respondent by fax a request for the “2017 Ex Parte PPO packet and a standard PPO packet with a hearing” along with directives for filing, processing and service. The Court also received by mail a copy of the fax received on May 30, 2017, the Court Information Request form that the Court had addressed with Attorney Stephen Spurr on May 3, 2017, and a Court Information Request form in reference to obtaining police reports, along with attachments.

² Respondent Joy Spurr takes issue with the authority for service by Wayne County and that a Proof of Service was returned unserved and entered in the Register of Actions; the authority for service and entries in a register of actions are matters for the attorney of record to explain to his client.

On June 8, 2017, the Court received from the Respondent by fax a cancellation of the June 5, 2017 Court Information Request for police reports. The Court also received an error fax report.

On June 12, 2017, the Court received by mail a copy of the June 8, 2017 fax. The Court also received by mail a copy of the letter to the TCA about supplying a missing Exhibit & attachments.

On June 14, 2017, the Court advised Attorney Stephen Spurr of Respondent Joy Spurr's request by mail and email and included a copy of the brochure on personal protection orders.

On June 30, 2017, the Court received from Respondent Joy Spurr by mail a copy of a Court Information Request Form with attachments asking again for a PPO Ex Parte Packet of official Court forms with an envelope self-addressed to her enclosed.

On July 7, 2017, the Court received an email from Stephen Spurr at 4:55 PM with the attachment of a Motion Requesting the Court to Issue Findings of Facts and Conclusions of Law Pursuant to Canon 3(B)(2)(a) of the NHBP Tribal Court Rules of Judicial Conduct. The Court also received multiple incomplete faxes of the Motion from Respondent Joy Spurr, as well a fax error report. After 5:00 PM, the Court received a copy of the Motion with all of the pages, but it was different from the emailed copy. The Motion was signed with “/s/ Stephen J. Spurr”.

On July 10, 2017, the Respondent Joy Spurr left a voicemail for the TCA advising that Attorney Stephen Spurr sent the wrong version of the Motion in trying to reach the Court's deadline and that the correct version was sent by fax, but the number of paragraphs referenced did not match the Motion faxed after 5:00 PM on July 7, 2017. The Respondent also asked about the request for forms; a matter previously addressed and now also addressed in this *Opinion*. The Court also received a copy of the Motion and cover letter, both signed with “/s/ Stephen J. Spurr”, with a notation that a copy was mailed to the Petitioner's Attorney.

On July 12, 2017, the TCA contacted Attorney Stephen Spurr by email regarding the voicemail left by Respondent Joy Spurr.

ANALYSIS

On February 3, 2017, this Court issued an Ex Parte Personal Protection Order against Respondent Joy Spurr on behalf of Petitioner Nathaniel Wesley Spurr. The type of personal protection order issued is a harassment protection order, also known as a “non-domestic” or “stalking” protection order, as the Petitioner and Respondent have not been involved in a domestic partnership, intimate relationship, or have a child-in-common. The Respondent is married to the Petitioner's father, Stephen Spurr. The Petitioner is an enrolled Citizen of the NHBP and resides on Tribal land. Respondent Joy Spurr is not an enrolled NHBP Citizen. Respondent Joy Spurr has also stated that she is not American Indian or enrolled in any federally-recognized Tribe and no evidence has been presented to indicate that she is American Indian or enrolled in any federally-

recognized Tribe. The Respondent resides in Wayne County, Michigan, and not on the Tribal lands of the NHBP.

Although both parties were originally representing themselves, they are now both represented by counsel. The Petitioner is represented by Angela K. Sherigan. The Respondent is represented by Stephen Spurr, the Petitioner's father and the Respondent's spouse. Both attorneys are members of the NHBP Tribal Bar and licensed to practice law in the State of Michigan.

With Respondent Joy Spurr submitting documents to the Court after the date that Attorney Stephen Spurr filed his appearance on her behalf, the Court stated in Paragraph 51 of its March 14, 2017 Order Regarding Pleadings & Notice of Hearing on Respondent's Motion (Hereinafter "*March 14, 2017 Order Regarding Pleadings*") that, "[a]ll communications from the Respondent to this Court shall be made by the attorney of record, Stephen Spurr". Respondent Joy Spurr has continued to submit documents to the Court by fax, email, and mail, and continued to directly contact the Court by phone and email, instead of through her attorney, on occasion referencing that is contacting the Court "on behalf of Stephen Spurr" and using the title "Administrator for Stephen Spurr" at other times.

With multiple individuals having the surname "Spurr", the relationships between Petitioner Nathaniel Wesley Spurr, Respondent Joy Spurr, and Attorney Stephen Spurr, and the need to discuss the actions of these individuals, both with regard to the underlying harassment protection order and interactions with this Court, the Court shall be specific as needed when referencing these individuals in this *Opinion and Order After Hearing on Respondent's Motion for Reconsideration or Modification of Court Order* (hereinafter "*Opinion*") to minimize confusion as much as possible.

This Court notes that it required significant time to draft this *Opinion*. The volume of documents submitted by the Respondent prior to the April 19, 2017 Hearing, the issues that arose at the April 19, 2017 Hearing in relation to those documents, and the subsequent submissions by the Respondent³, created a significant volume of materials to review to determine if they were properly submitted, relevant, admitted, and the significance of the documents admitted. The

³ Respondent Joy Spurr, both directly and through her attorney, has had frequent contact by phone, mail, email, and fax with the Court, including the submission of multiple documents, the majority of which do not conform with the NHBP Tribal Court Rules, and some of which also violate orders of this Court. The form and substance of these communications and documents raise concerns that this Court shall address in this *Opinion*, but are noted here as this Court was required to set aside this *Opinion* each time the Respondent submitted a document or otherwise contacted the Court to determine the purpose of the communication or document, whether it was properly submitted, whether the communication or document affected this *Opinion*, and the appropriate response pursuant to the laws of the Tribe, Rules of this Court, and this Court's goal of incorporating the spirit of the Seven Grandfather Teachings into the day-to-day work of the Court. With the fear that those opposing Tribal Sovereignty have expressed with non-Citizens being held to traditional standards that they do not know, the Court notes here with sincere respect to the sacredness and importance of these Teachings to this Nation, that the Seven Grandfather Teachings are not so foreign that they cannot be understood by any person, regardless of whether they are an NHBP Citizen or even American Indian as they reflect the values of the majority of nations and cultures; The Seven Grandfather Teachings are Love, Respect, Bravery, Truth, Courage, Humility, and Wisdom.

evidence submitted, testimony given and arguments made also involved multiple layers of issues that required careful consideration. With briefs not submitted, this Court also conducted research.

This careful attention to detail was not only required due to the importance of this case to the parties, but the impact of the decision in-and-of-itself. With the NHBP Tribal Court established in its current form in 2006, the majority of opinions issued by this Court address matters of first impression. This Court has consistently taken great care in drafting opinions that fully articulate the reasoning of the Court to build a body of caselaw that provides clear guidance on matters before the Court.

In addition, this Court anticipates that this decision will be appealed to the NHBP Supreme Court as the Respondent has noted “appeal to the Supreme Court” on multiple submissions to this Trial Court. As such, this Court has taken great care to provide detailed reasoning to assist the Supreme Court in its determination of whether this Trial Court properly interpreted and applied the law in this case.

Further, personal protection order matters involve a unique area of the law that can be difficult to understand. With this area of the law being unique and the fact that this case involves the first personal protection order issued by the NHBP Tribal Court, this Court shall give a brief overview of the personal protection order petition process through the NHBP Tribal Court.

Like most jurisdictions, NHBP has focused on multiple components in the development of the personal protection order process with two of those components relevant to this case: 1) incorporating avenues of support and guidance for the petitioner; and 2) incorporating due process protections for the respondent. The NHBP Tribal Court has produced a brochure about personal protection orders that is distributed at various offices and events, as well as to any person who requests information about personal protection orders. Although the Court shall refrain from a detailed analysis of the various types of personal protection orders, it notes here that the types of orders available include: “domestic”, meaning the respondent is the current or former spouse or intimate partner of the petitioner, is or has dated the petitioner, has a child-in-common with the petitioner, a family member related by blood, marriage or adoption or other member in the same household as the petitioner; “harassment”, also known as “stalking” or “non-domestic”, meaning that the respondent does not have any relationship with the petitioner that falls within the definition for “domestic”; and “sexual assault”, meaning the respondent engaged in nonconsensual sexual conduct or nonconsensual sexual penetration against the petitioner. Whether the respondent or petitioner is a juvenile also impacts the processes for petitioning for a personal protection order. As the types of personal protection orders available and the processes for petitioning for such orders through the NHBP Tribal Court may give the impression these orders and processes are especially complicated because it involves a Native Nation, this Court notes that NHBP has mirrored the State of Michigan’s personal protection order processes. Like many state courts, the NHBP Tribal Court has designated a point of contact for personal protection orders, specifically the Domestic Violence Victim Advocate (DVVA), to assist in navigating these processes. If a person would like more information about requesting a personal protection order, he or she first meets with the DVVA.

This meeting is an integral first step in the personal protection order process with the DVVA assisting the petitioner with identifying the appropriate type of personal protection order to request from the multiple types available. The DVVA also assists the petitioner with identifying and collecting any documentation that may assist the Court with determining whether to grant a personal protection order, such as emails, letters, and other communications the respondent sent to the petitioner. In addition, the DVVA compiles information needed for the various systems involved when a personal protection order is issued, such as information required for entry of the order into the Law Enforcement Information Network (LEIN). Completion of a petition for a personal protection order could take more than one meeting, especially if there are any tasks the petitioner wishes to finalize or services the petitioner wishes to access before determining whether to request the personal protection order. When the petitioner is ready to move forward and the petition is complete, the petition for a personal protection order is submitted to the Court Clerk, along with any accompanying documentation⁴.

It should be noted that the DVVA also attempts to identify avenues of support for the petitioner. The DVVA has the training required for a comprehensive understanding of trauma, as well as advanced skills for working with survivors of domestic violence, sexual assault, harassment, and/or stalking. Through a multi-disciplinary approach to victim services, the DVVA takes a victim-centered approach to provide and facilitate access to resources that will empower and enable the victim to live free from domestic violence, sexual assault, harassment, and stalking.

Once the personal protection order case has been created, the Court Clerk forwards the petition and any accompanying documentation to the Judge presiding over the Domestic Violence docket. As is standard in most jurisdictions, a petitioner may request that an ex parte personal protection order be issued. This means that the Court will determine whether to grant the personal

⁴ The Court notes this process, in part, because Respondent Joy Spurr has contacted the Court directly to obtain “1.) 2017 Ex Parte PPO packet and a 2.) standard PPO packet with a hearing” and, both directly and indirectly, asked substantive legal questions with those requests. The Court responded appropriately to her first request by forwarding a copy of the request to her attorney of record, along with a copy of the personal protection brochure referenced in this *Opinion*. This response was appropriate for three reasons. The first reason is that Court Staff was prohibited from addressing her legal questions by Chapter 3 of the Court Rules of Ethics for Court Personnel § 4 (D) (6) which states in pertinent part that “...Court personnel must not give legal advice”. Second, Respondent Joy Spurr is represented by counsel. As such, communications should be between Attorney Stephen Spurr and the Court, a detail the Court noted in the *March 14, 2017 Order Regarding Pleadings*. Third, Respondent Joy Spurr’s request was problematic in form. As explained here, there are multiple types of personal protection orders available with each of these types of personal protection orders having its own petition form. In addition, there are no “ex parte” forms, but rather, a box that can be checked on the petition itself; a detail the Court already explained in *March 14, 2017 Order Regarding Pleadings*. This Court cannot, therefore, fulfill Respondent Joy Spurr’s request. With this Court’s forms mirroring those of the State of Michigan - and identical in there being a box to check if the personal protection order is being requested ex parte – and Respondent Joy Spurr represented by counsel in this active personal protection matter - the appropriate individual to explain these issues to Respondent Joy Spurr is her attorney of record, Attorney Stephen Spurr. Attorney Stephen Spurr should then be the individual to make the request to the Court. However, after the Court sent the brochure to Stephen Spurr, Respondent Joy Spurr submitted additional requests by fax and mail of a Court Information Request form along with a self-addressed envelope to the Court. This *Opinion* is the response to these later requests as the Court has already responded to her substantive request by forwarding her inquiry and the brochure to her attorney. However, Respondent Joy Spurr’s action of filing additional requests with the request by mail, including a self-addressed envelope that circumvents her attorney, is indicative of an overall issue that the Court shall address in this *Opinion*.

protection order without holding a hearing with the decision based solely on the petition and any accompanying documentation. Again, this is the standard process for most states. This is the point in the process where NHBP deviates from the majority of jurisdictions to provide two (2) greater due process protections to the respondent than the majority of states. The Court shall now focus the discussion on the type of personal protection order issued in this case; specifically, a harassment protection order with harassment orders discussed primarily in Sections 7.4-71 through 7.4-78 of the NHBP Domestic Violence Code.

The first deviation from the majority of states, including the State of Michigan, relates to hearings. The NHBP Domestic Violence Code requires in § 7.4-75 B that “[a] full hearing, as provided in this article, shall be set for not later than fourteen (14) days from the issuance of the temporary order”. This provision goes on to state that “[t]he respondent shall be personally served with a copy of the ex parte harassment protection order along with a copy of the petition and notice of the date set for the hearing”. In the NHBP Tribal Court, the Court schedules this required hearing when the ex parte temporary harassment protection order is issued. The date, time and location for this hearing is stated in writing in the ex parte personal protection order to ensure that the respondent receives notice of the hearing when personally served. The petition, and any accompanying documentation submitted to the Court with the petition, is served with the ex parte protection harassment order in compliance with these provisions and the NHBP Tribal Court Rules. This process differs from the majority of jurisdictions, including Michigan, where a hearing is only provided if the respondent files an objection to the personal protection order in writing with the Court within fourteen (14) days of the ex parte personal protection order being issued.

The second deviation involves the expiration of the ex parte personal protection order. In addition to the above, the NHBP Domestic Violence Code provides in § 7.4-75 B that an ex parte temporary harassment protection order shall be effective for a fixed period not to exceed fourteen (14) days. The Court ensures that an ex parte harassment protection order expires as required by stating in the order that the order expires in 14 days, stating the specific expiration date in the order, and entering the expiration date into LEIN. In the majority of jurisdictions, including Michigan, an ex parte personal protection order expires one (1) year after it is entered unless the respondent objects in writing within fourteen (14) days of the order being issued and the Court upholds or modifies the order after a hearing.

Pursuant to § 7.4-76 (A) of the NHBP Domestic Violence Code, “[a]t the hearing within fourteen (14) calendar days after the granting of the ex parte harassment protection order, a permanent order shall be entered prohibiting such harassment if the Court finds by a preponderance of the evidence that harassment exists or has occurred”. This provision goes on to provide that the Court will enter a default judgment if the respondent does not appear and the petitioner has demonstrated “that he or she effected proper service”. It should be noted that the burden is the same, regardless of whether an ex parte temporary harassment protection order has or has not been issued. If the evidence does not demonstrate by a preponderance of the evidence that “harassment exists or has occurred”, the Court will not enter a permanent harassment protection order. No other

action needs to occur with regard to the ex parte temporary harassment protection order, when such an order has been entered, since the order expires on its own.

The Court provides the above overview of the processes for a harassment protection order to provide a comprehensive understanding as the Court turns to the substantive issues currently before the Court in this case, especially with this case being the first harassment protection case filed under the NHBPD Domestic Violence Code. With two hearings having been held and an exceptionally high number of documents submitted to the Court, the Court notes that the April 19, 2017 Hearing was held pursuant to the Respondent's Motion for Reconsideration or Modification of Court Order and following the issuance of the *Ex Parte Temporary Harassment Protection Order*, the holding of the hearing required within fourteen (14) days of the issuance of the *Ex Parte Temporary Harassment Protection Order* as required by the NHBPD Domestic Violence Code, and issuance of the permanent Harassment Protection Order.

A critical, constitutional duty of this Court and fundamental value of this Native Nation is the protection of the due process rights of any individual appearing before this Court. The NHBPD Constitution states in Article VII § 1 (a): "The Band, in exercising the powers of self-government, shall not...Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law."

This Court holds that the processes relating to an ex parte temporary harassment protection order protect the due process rights of the respondent. Most notably, an ex parte temporary harassment protection order must expire no later than 14 days after it is issued with the NHBPD Tribal Court ensuring compliance by providing the expiration date in the ex parte temporary protection order and entering the expiration date into LEIN. This Court also holds that the processes relating to a permanent protection order protect the due process rights of the respondent. A permanent harassment protection order cannot be entered without holding a hearing within 14 days of the ex parte temporary protection order being issued with notice of that hearing in the ex parte temporary protection order itself. As proof of service of the ex parte temporary protection order is required⁵, the respondent has notice of the hearing and the choice of whether to participate. Either way, the ex parte temporary harassment protection order expires pursuant to the order and the NHBPD Domestic Violence Code, limiting the duration that the respondent is restricted. The automatic expiration of the ex parte temporary harassment protection order, the required scheduling and holding of a hearing for a permanent harassment protection order to be entered, and the actual notice of that hearing, provide due process protections that meet the due process requirements of the NHBPD Constitution. They also exceed the due process protections afforded respondents in other jurisdictions, such as the State of Michigan. Should NHBPD amend the process in the future to mirror the majority of jurisdictions, the Court notes for the record that the process in the majority of jurisdictions for obtaining an ex parte personal protection order that is valid for one (1) year unless the respondent files a written objection within fourteen (14) days of the ex

⁵ The NHBPD Domestic Violence Code provides in § 7.4-75 (B) that a subsequent ex parte temporary harassment protection order may be entered if the respondent has not been served, as well as provides for alternate service if service is problematic.

parte personal protection order being issued, has not been held to violate the due process rights of the respondent in those foreign jurisdictions.

The Court found it important to detail the manner in which the constitutional due process rights of respondents are protected as the protection of these due process rights is a critical cornerstone of the NHBP Tribal Justice System. The Court now turns to the specific questions presented in this case with the first being whether this Court has jurisdiction over Respondent Joy Spurr.

In the present case, Respondent Joy Spurr is not an enrolled Citizen of the NHBP. There has also been no evidence presented that the Respondent is a Citizen of any federally-recognized Tribe or otherwise American Indian. The Respondent, by and through her attorney, has argued that this Court should dismiss or terminate the Permanent Harassment Protection Order entered as it does not have criminal jurisdiction over the Respondent since she is not an enrolled citizen of a federally-recognized Tribe and does not live on the Tribal lands of the NHBP. Although Attorney Spurr acknowledged that personal protection orders are civil orders, he argued that the proper analysis was whether this Court has criminal jurisdiction over the Respondent because the Court has the authority to impose penalties for violations of a harassment protection order that are criminal in nature, such as incarceration. The fact that this Court may impose criminal penalties for violation of a harassment protection order, however, does not change the status of a personal protection order as a civil order. The proper analysis, therefore, is whether this Court has civil jurisdiction over Respondent Joy Spurr to enter a personal protection order. This Court holds that it does.

Although personal protection orders have some unique characteristics, the fact that this Court may impose criminal penalties for violations of personal protection orders is not a unique practice. The majority of foreign courts - whether tribal, state or federal – recognize the authority to hold a person accountable for violating a civil order of that court. It is an inherent authority that is exercised through a process created by that court that reflects and incorporates that jurisdiction's constitution, laws and caselaw.

The NHBP Tribal Court recognizes the inherent judicial authority of this Court to enforce orders it issues in Tribal law and Tribal Court Rules. In addition to provisions in specific Court Rules that provide processes for alleged violations of court orders within specific areas of the law, the Court has adopted Chapter 17 – Court Rules for Contempt of Court Proceedings which provides the specific requirements for a contempt of court action in the NHBP Tribal Court. In both situations, the law and court rules provide the specific processes for accountability when a person is accused of violating a court order. These laws and court rules include the critical component of protecting the due process rights of the individual accused of violating a court order, most frequently through a hearing where the moving party has the burden of proof and the accused has the right to challenge evidence, cross-examine witnesses, introduce evidence, present testimony, testify, and make arguments to the court. If found guilty or responsible, the law and court rules also provide the penalties that can be imposed. The processes at NHBP are similar to that of foreign jurisdictions, although the specific requirements as they relate to harassment

protection orders actually provides greater protections for the respondent than in state court, a topic to be discussed in further detail later in this *Opinion*.

The Court provides this discussion to highlight that the NHBTP Tribal Court, like most tribal, state and federal courts, recognizes the inherent authority of a court to enforce its orders, as well as provides avenues for accountability that protect the due process rights of the accused and ensure criminal penalties are not imposed without due process. Understanding these concepts is important when analyzing the Respondent's arguments. In essence, the Respondent argues that this Court must have criminal jurisdiction over an individual in order to issue a civil personal protection order against him or her because criminal penalties could be imposed if the individual violates the civil protection order. This Court shall use a hypothetical scenario that does not involve a civil protection order to begin to illustrate the multitude of problems with this line of reasoning:

Ms. Smith is not an enrolled citizen of any federally-recognized Tribe or American Indian. Ms. Smith lives off of Tribal lands in the City of Battle Creek. Ms. Smith received a civil infraction ticket from Tribal Police for parking in a handicap parking space at FireKeepers Casino Hotel without displaying a handicap parking placard. The Court sent a notice of hearing to Ms. Smith advising that she was required to appear in Tribal Court on a specific date and time if she did not admit responsibility and submit the signed ticket with payment of the fine. Ms. Smith did not sign the ticket and submit it with payment of the \$155.00 fine nor did she appear in Court on the day and time set for the hearing. The Court issued a Default Judgment because Ms. Smith did not appear, and ordered her to pay the \$155.00 fine plus \$50.00 in court costs within fourteen (14) days or face further possible action. Ms. Smith did not pay the fine and court costs. With Ms. Smith failing to pay the fine and court costs, the Court Clerk submitted a Motion to Show Cause thirty (30) days after the date the Default Judgment was entered. The Court scheduled a Show Cause Hearing and mailed Ms. Smith a copy of the Motion and notice of the date and time set for the Show Cause Hearing fourteen (14) days before the date of the Show Cause Hearing. Ms. Smith did not appear for the Show Hearing nor otherwise contact the Court. The Court issued a bench warrant for Ms. Smith for failure to appear at the Show Cause Hearing that provided Ms. Smith could be released without being arraigned if she posted a \$205.00 bond. Ms. Smith was pulled over for speeding by the Battle Creek Police Department, arrested and released when she paid the \$205.00 bond.

In the above hypothetical scenario, the underlying case involves civil jurisdiction; Ms. Smith has not been charged with a crime, but rather, received a citation for the civil offense of parking in a handicap parking space without displaying a valid handicap parking placard in the parking lot at FireKeepers Casino Hotel, a business enterprise owned by the Tribe and located on

Tribal lands. Although the substantive case is civil, Ms. Smith was ultimately arrested on a bench warrant for her failure to appear at the Show Cause Hearing; an action that would most frequently be classified as a criminal penalty or consequence.

If the reasoning of the Respondent was applied, this Court would not have jurisdiction over Ms. Smith because she ultimately experienced the criminal penalty of being arrested. The Respondent's argument involves an analysis of possibilities: if the person may eventually, after numerous actions or inactions, as well as multiple opportunities to address the Court, experience a criminal penalty, then the Court must have criminal jurisdiction over the person and, if it does not, then the Court does not have jurisdiction over the original civil case. In the hypothetical scenario of Ms. Smith, the Court would not have jurisdiction to issue a civil citation to Ms. Smith for illegally parking in a handicap parking space in the parking lot at FireKeepers Casino Hotel because, after Ms. Smith failed to admit responsibility for the civil citation and pay the fine, failed to appear at the hearing on the civil infraction, failed to pay the fine and court costs as ordered in the Default Judgment, and failed to appear at the show cause hearing as ordered, Ms. Smith was arrested pursuant to a bench warrant. Put another way, this Court would not have jurisdiction over Ms. Smith because the imposition of a criminal penalty - here, her arrest – converts the civil infraction case to a criminal matter with this Tribal Court not having criminal jurisdiction over Ms. Smith because she is not an enrolled citizen of a federally-recognized Tribe.

The Respondent did not present any persuasive authority, nor could this Court find any persuasive caselaw or other support, for the Respondent's argument that the appropriate inquiry is whether this Court has criminal jurisdiction over an individual who is not enrolled in a federally-recognized Tribe for this Court to issue a civil personal protection order because the individual could eventually experience a criminal penalty; a criminal penalty that would only be imposed if the individual committed a violation of the order and the burden of proof had been met after the individual had the opportunity to challenge the evidence, cross-examine witnesses, present evidence, present testimony, testify if desired, and make arguments to the Court.

It is critical to note that applying the interpretation advocated for by the Respondent would have a far-reaching impact because the NHBP Tribal Court has the inherent judicial authority to enforce its orders, there is a possibility for any matter before the Court to involve the imposition of criminal penalties upon individuals who have either been proven to have violated a court order or failed – in some cases repeatedly – to participate in the avenues of due process provided in the law and court rules. The adoption of the Respondent's argument would, therefore, ultimately prohibit jurisdiction over any individual who is not enrolled in a federally-recognized Tribe because there is the potential for criminal penalties to apply in any matter.

Such an approach would erode the ability of this Nation to protect the health, safety, and general welfare of its Citizens and those who visit Tribal lands, including the business enterprises of this Nation. It would also be inconsistent with the NHBP Constitution, Tribal laws and the caselaw of this Nation. Further, it is generally inconsistent with federal laws, federal caselaw, and the principles of federal American Indian law and specifically violates the Violence Against Women Reauthorization Act of 2013 (VAWA 2013).

Through VAWA 2013, Congress restored partial Tribal criminal jurisdiction, referred to as “special domestic violence criminal jurisdiction” (hereinafter “SDVCJ”), over individuals who are not enrolled citizens of a federally-recognized Tribe who commit the crime of domestic violence on Tribal lands. There are limitations on this criminal jurisdiction, primarily related to the status of the batterer, such as the batterer’s relationship to the victim and the batterer’s relationship to the Native Nation. In addition, there are several requirements a Tribe must meet to exercise this criminal jurisdiction over individuals who are enrolled citizens of a federally-recognized Native Nation. NHBP began exercising this restored criminal jurisdiction on March 17, 2016 with the adoption of the NHBP Domestic Violence Code. Notice that NHBP is exercising criminal jurisdiction pursuant to VAWA 2013 can be found in § 7.4-11 and § 7.4-12 of the NHBP Domestic Violence Code. This Court shall refrain from an in-depth analysis of NHBP’s criminal jurisdiction over an individual who is not an enrolled Citizen of a federally-recognized Tribe, however, as the present case does not involve the exercise of criminal jurisdiction. This case involves the exercise of civil jurisdiction by this Court for issuance of a harassment protection order against an individual who is not an enrolled Citizen of a federally-recognized Tribe. With VAWA 2013 also addressing Tribal Court-issued personal protection orders, a limited analysis of VAWA 2013 is required.

VAWA 2013 provides in 18 U.S. Code § 2265 (e) states:

For purposes of this section, a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person, including the authority to enforce any orders through civil contempt proceedings, to exclude violators from Indian land, and to use other appropriate mechanisms, in matters arising anywhere in the Indian country of the Indian tribe (as defined in section 1151) or otherwise within the authority of the Indian tribe.

The language of VAWA 2013 clearly affirms the authority of Native Nations to issue protection orders against any person, regardless of whether the individual is or is not an enrolled citizen of a federally-recognized Tribe, when the matter relates to the Tribal lands of the issuing Native Nation.

In the present case, the Petitioner, an enrolled NHBP Citizen who resides on NHBP Tribal lands, has sought a harassment protection order against the Respondent, an individual who is not an enrolled Citizen of NHBP or any other federally-recognized Tribe and does not reside on Tribal lands. With 18 U.S. Code § 2265 (e) providing that “a court of an Indian tribe shall have full civil jurisdiction to issue and enforce protection orders involving any person”, the status and residency of the Respondent is not a determining factor for this Court to have civil jurisdiction for an issuance of a harassment protection order. The foundational inquiry is whether the matter arises in the “Indian country of the issuing Tribe”. This Court holds that the NHBP Tribal Court has jurisdiction

pursuant to 18 U.S. Code § 2265 (e) as this matter arises in the “Indian country of the issuing Tribe” with the Petitioner being an enrolled NHBP Citizen who resides on NHBP Tribal lands.⁶

In addition to clearly confirming that Tribes have the authority to issue protection orders over any person, VAWA 2013 provides full faith and credit in 18 U.S. Code § 2265 (a) as follows:

Any protection order issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) shall be accorded full faith and credit by the court of another State, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were the order of the enforcing State or tribe.

The State of Michigan also provides full faith and credit to Tribally-issued protection orders in Michigan Court Rule 2.615:

- (A) The judgments decrees, orders, warrants, subpoenas, records, and other judicial acts of a tribal court of a federally recognized Indian tribe are recognized, and have the same effect and are subject to the same procedures, defenses, and proceedings as judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts of any court of record in this state, subject to the provisions of this rule.
- (B) The recognition described in subrule (A) applies only if the tribe or tribal court:
 - (1) enacts an ordinance, court rule, or other binding measure that obligates the tribal court to enforce the judgments, decrees, orders, warrants, subpoenas, records, and judicial acts of the courts of this state, and
 - (2) transmits the ordinance, court rule or other measure to the State Court Administrative Office. The State Court Administrative Office shall make available to state courts the material received pursuant to paragraph (B)(1).
- (C) A judgment, decree, order, warrant, subpoena, record, or other judicial act of a tribal court of a federally recognized Indian tribe that has taken the

⁶ Although this Court is holding that it has jurisdiction to issue a harassment protection order against the Respondent, an individual who is not an enrolled Citizen of any federally-recognized Tribe, including NHBP, nor otherwise American Indian, pursuant to the NHBP Constitution, NHBP Domestic Violence Code, and VAWA 2013, 18 U.S. § 2265 (e), this Court notes that it may also have jurisdiction over the Respondent pursuant to her relationship to the Petitioner. The NHBP Domestic Violence Code defines “Family or Household Member” in § 7.4-8 as: (A) Persons who are related by blood, marriage, or adoption; (B) Minor children, by blood, marriage, or adoption; (C) Minor children who are part of the household; (D) Person who reside or have resided together in the past who are not or have not been intimate partners. The parties likely meet the definition of “Family or Household Member” as the Respondent is married to the Petitioner’s father.

actions described in subrule (B) is presumed to be valid. To overcome that presumption, an objecting party must demonstrate that

- (1) the tribal court lacked personal or subject-matter jurisdiction, or
- (2) the judgment, decree, order, warrant, subpoena, record, or other judicial act of the tribal court

- (a) was obtained by fraud, duress, or coercion,
- (b) was obtained without fair notice or a fair hearing,
- (c) is repugnant to the public policy of the State of Michigan, or
- (d) is not final under the laws and procedures of the tribal court.

- (D) This rule does not apply to judgments or orders that federal law requires be given full faith and credit.

In addition to the NHBP Tribal Court having adopted Chapter 8 – Court Rules for Recognition and Enforcement of Foreign Court Actions, Warrants, and Subpoenas, NHBP fulfills the requirements in MCR 2.615 for full faith and credit in § 7.4-66 of the NHBP Domestic Violence Code which states:

A. The purpose of this article is to ensure compliance with the full faith and credit provision of the Violence Against Women Act of 1994 (VAWA) as set forth in 18 U.S.C. § 2265, as it may be amended from time to time, and to ensure that victims of domestic violence are able to move across state and Tribal boundaries without losing the ability to enforce protection orders they have previously obtained to increase their safety.

B. A harassment protection order or a sexual assault protection order issued by the NHBP Tribal Court will be enforceable throughout the State of Michigan pursuant to MCR 2.615.

C. To ensure that harassment and sexual assault protection orders issued by the NHBP Tribal Court are enforced outside of the boundaries of the Reservation, harassment and sexual assault protection orders issued in the courts of the State of Michigan, or a Tribal Court within the State of Michigan, will be enforced within the boundaries of the Reservation pursuant to NHBPCR Chapter 8, Court Rules for Recognition and Enforcement of Foreign Court Actions, Warrants, and Subpoenas.

D. Notice of reciprocal enforcement pursuant to this section shall be printed on all harassment and sexual assault protection orders issued by the Court.

This Court, therefore, holds that protection orders have full faith and credit pursuant to the NHBP Constitution, NHBP Domestic Violence Code, the NHBP Tribal Court Rules, VAWA 2013 and MCR 2.615.

The reference on personal protection orders to full faith and credit has created confusion for the Respondent that this Court must address. The Respondent has erroneously argued that the

reference to MCR 2.615 on the personal protection order itself somehow requires this Court to apply Michigan law and caselaw to personal protection proceedings in the NHBP Tribal Court. The Respondent provides no authority, persuasive or otherwise, for how a reference to Michigan's full faith and credit of a Tribally-issued order indicates that the issuing court is adopting Michigan law or caselaw. The purpose for stating on the personal protection order that full faith and credit applies pursuant to federal law and MCR 2.615 is to communicate that Tribally-issued personal protection orders are valid and fully enforceable. Communicating to law enforcement that a Tribally-issued personal protection order is valid is critical to enforcement of that order. As such, the effect of this reference is actually the opposite of the Respondent's argument with the State of Michigan affirming the sovereignty of Native Nations to issue an order by enforcing the order outside of tribal lands.

It should be noted that there is also a provision in the personal protection order advising that the order will be entered into the Law Enforcement Information Network (LEIN). The purpose of this provision is two-fold; it provides the directive required from the Court to enter the order into LEIN, as well as provides notice to the respondent that the order will be entered into LEIN. This provision also does not equate to the application of any non-Tribal body of law, although the order itself must conform to the requirements of LEIN for entry into the system.

With the Respondent arguing that the laws and caselaw of another jurisdiction apply simply because there is a reference to the full faith and credit afforded federally and by the State of Michigan, the Court finds it necessary to emphasize the efforts that were made in streamlining processes, procedures and documents. This Court purposefully mirrored the format of Michigan personal protection orders in the development of its personal protection orders to ensure that the Court has met all requirements for entry into LEIN and to assist law enforcement officers by having a familiar format. For example, the reference to entry of a personal protection order into LEIN is a standard provision on Michigan personal protection orders. The primary differences between and NHBP personal protection order and those issued in Michigan courts are the full faith and credit provisions.

With holding that the NHBP Tribal Court has jurisdiction over the Respondent and this matter, that protection orders issued by the NHBP Tribal Court have full faith and credit outside of Tribal lands pursuant to federal law, that protection orders issued by the NHBP Tribal Court have full faith and credit pursuant to Michigan law and protection orders issued by Michigan have full faith and credit pursuant to NHBP law, this Court shall now turn to the issue of whether the requirements in the NHBP Domestic Violence Code have been met to uphold the Harassment Protection Order issued in this case.

The Respondent makes several arguments in her challenge of the issuance of the *Permanent Harassment Protection Order* by this Court. To begin the analysis of the multiple layers of issues that must be addressed in this case, this Court shall first turn to the requirements in the NHBP Domestic Violence Code to define the purpose, parameters of, and requirements for the issuance of a permanent harassment protection order by this Court, not only to present this

critical information, but to address the Respondent's implied argument that physical violence is or should be an element required for the issuance of a harassment protection order.

The NHBP Domestic Violence Code defines the purpose of a harassment protection order in § 7.4-71 as follows:

The NHBP finds that the prevention of harassment is important to the health, safety and general welfare of the tribal community. This article is intended to provide victims with a speedy and inexpensive method of obtaining civil harassment protection orders preventing all further unwanted contact between the victim and the perpetrator.

The NHBP Domestic Violence Code defines a harassment protection order in § 7.4-72 as follows:

For the purpose of this section, "harassment protection order" means a Court order restricting a person from harassing, threatening, contacting, or approaching another specified person for a period of time.

At the April 19, 2017 Hearing, the Respondent cited specific Michigan cases that involved significant physical harm to the victim, arguing that the presence of such physical violence in these cases reflected the extreme conduct harassment protections are meant to prohibit. The Respondent initially argued that this Court was required to apply Michigan caselaw under the theory that the references to MCR 2.615 and LEIN on the Harassment Protection Order meant that NHBP must apply Michigan law and caselaw to these NHBP Tribal Court proceedings. When advised that this was not the correct interpretation, the Respondent then argued that this Court may seek guidance from Michigan law and caselaw.

It should be noted that the Petitioner argued that the Respondent was not properly interpreting these cases, including noting that these cases involved violations of protections orders and not the issuance of protection orders. Although this Court questions the Respondent's interpretation of the Michigan cases cited, it shall not engage in an in-depth discussion of these cases as it is not necessary to seek guidance from a foreign court on this issue with the NHBP Domestic Violence Code making clear that physical violence is not required for issuance of a harassment protection order.

As noted in the NHBP Domestic Violence Code excerpts above, the purpose of a harassment personal protection order is to prevent "unwanted contact". There is no requirement, explicit or implied, that the unwanted contact must involve physical violence. Further, the NHBP Domestic Violence Code authorizes the prohibition of conduct that is not physical in providing that a harassment protection order may restrict a person from "harassing, threatening, contacting, or approaching another specified person". While physical violence may certainly accompany the prohibited conduct specified in these provisions of the Code, the prohibition on contacting the victim makes clear that the Code both recognizes that physical violence is not required to constitute

unwanted conduct, as well as authorizes the prohibition of unwanted contact that does not involve physical violence.

The conduct that a harassment protection order may restrict provides further support for this holding. The NHBP Domestic Violence Code discusses the content of a permanent harassment protection order in § 7.4-76 (D) as follows:

The Court, in granting a harassment protection order, shall have broad discretion to grant such relief as the Court deems proper, including but not limited to:

- (1) Restraining the respondent from making attempts to contact the petitioner and all persons listed in the petition.
- (2) Restraining the respondent from making any attempts to monitor the petitioner by actual or electronic surveillance.
- (3) Requiring the respondent to stay a specified minimum distance from the petitioner's residence, workplace, and/or school.

Although NHBP is a sovereign nation with the authority to establish the parameters of personal protection orders issued by the NHBP Tribal Court, this Court notes that there are also other jurisdictions that authorize the Court to consider and prohibit conduct that does not involve physical violence in the petition for and granting of harassment protection orders. Michigan is one such jurisdiction. The format for a harassment protection order, referred to as “non-domestic” or “stalking” personal protection order under Michigan law, specifically includes “sending mail or other communications to the petitioner”, “contacting the petitioner by telephone”, and “posting a message through the use of any medium of communication, including the Internet or a computer or any electronic medium” as conduct that the Court may prohibit. While there are additional provisions that authorize the Court to consider and prohibit various forms of physical violence, the inclusion of contact by mail, phone, and electronic avenues makes clear that Michigan also recognizes that harassment does not require physical violence.

The Court further notes that a focus on physical violence lacks an overall acknowledgement of the use of electronic communications as an avenue for harassment. Electronic communications, including the multiple avenues available to communicate electronically, have a significant impact on day-to-day life. A person may perform a multitude of tasks electronically with the range of those actions so vast, that it would be impossible to list them all here. In addition, there are more-and-more tasks that can only be performed electronically; from restaurants that require an online order for take-out to some foreign courts that only accept electronic filings, the impact of electronic avenues of communication cannot be overstated.

One unfortunate by-product of the presence of electronic communications in everyday life is the ever-growing problem of the use of electronic communications to engage in inappropriate – and sometimes criminal - conduct. A comprehensive discussion of cyber-based crime is neither

possible nor appropriate for this *Opinion*. However, it is critical to acknowledge and include electronic avenues of communication, as well as the use of the Internet generally, in a discussion about what conduct can constitute harassment.

Through electronic avenues, a person can obtain a significant amount of personal information, such as phone numbers, current and previous addresses, the names of other persons living at a person's residence, and even a satellite view of a person's home in real-time, to name but a few examples. Depending on a variety of factors, this information can be quite detailed, from a person's birthdate to work history to names of friends and even hobbies. Whatever the specific avenue utilized, the Internet provides a multitude of possibilities for information gathering.

Electronic forms of communication, including popular social networking sites, provide avenues where information can be posted for public viewing with little to no regulation, including requiring that the information posted is true. Unlike spreading by word of mouth over a period of time, the Internet facilitates transmission of information on a world-wide venue in a matter of seconds at any time, day or night. Even when an offending comment is removed, the fact that it was posted on the Internet means that it can never be fully retracted. In addition, electronic avenues of communication frequently provide anonymity. This anonymity enables a person to engage in conduct electronically without fear of consequence.

The speed and anonymity of electronic communications and the characteristics of the Internet have provided new avenues for harassment. For the purposes of this discussion, the Court is identifying the impact of harassment and, therefore, identifying the person targeted as the victim. This harassment can include: sending a high volume of emails to the victim; threatening the victim via email or posts on social networking or other sites; gathering personal information about a victim without their permission; anonymously posting comments or information about a victim that embarrasses the victim on social networking and other sites; anonymously posting comments or information about a victim on sites the victim's family or friends frequent; sending electronic communications directly to the victim's friends or family to weaken relationships and isolate the victim; forwarding emails to the victim's friends or family; etc. Electronic harassment can also include conduct involving the finances of a victim, from gathering financial information to engaging in conduct that hurts the victim financially. With access to the Internet, a person can harass another through electronic avenues of communication and the Internet with the possibilities for electronic harassment primarily limited by time and creativity.

A discussion of the Internet as an avenue to harass in a manner that does not involve physical violence provides the opportunity to illustrate that the harm sustained from harassment may not involve physical injuries by turning to the discussions on cyberbullying. Cyberbullying, has become a topic of critical importance. A brief search on the Internet of the effects of cyberbullying yields a plethora of results from formal studies conducted by such entities as the United States Department of Health and Human Services, Centers for Disease Control and Prevention and the Cyberbullying Research Center to statistics, trends and strategies from such non-profit organizations as National Voices for Equality, Education, and Enlightenment (NVEEE) and the Tyler Clementi Foundation. The statistics vary in number and presentation. For example,

the Centers for Disease Control and Prevention reports that “[d]uring the 12 months before the survey, 15.5% had been electronically bullied”⁷ while NVEEE reports that “33% of teenagers have been victims of cyberbullying”⁸. In 2015, the Cyberbullying Research Center published “Cyberbullying Prevention and Response: Expert Perspectives”, a book that “reviewed 234 articles published in peer-reviewed academic journals. One hundred and twenty-two of those included cyberbullying victimization rates and 88 included cyberbullying offending rates”, finding that “about one out of every four teens has experienced cyberbullying, and about one out of every six teens has done it to others”.⁹ One particularly relevant summary of the resources reviewed is that “Cyberbullying is related to low self-esteem, suicidal ideation, anger, frustration, and a variety of other emotional and psychological problems”¹⁰. The most tragic of these effects is, of course, suicide.

Numerous articles reviewed by this Court referenced a 2008 study involving the review of 37 studies from 13 countries conducted by researchers at the Yale School of Medicine and published in the International Journal of Adolescent Medicine and Health¹¹. In a July 16, 2008 Yale News article, Young-Shin Kim, M.D., lead author of the study and assistant professor at Yale School of Medicine’s Child Study Center (in 2008) was interviewed and shared that “[a]lmost all of the studies found connections between being bullied and suicidal thoughts among children”, that “[f]ive reported that bullying victims were two to nine times more likely to report suicidal thoughts than other children were”, and that “[t]he perpetrators who are the bullies also have an increased risk for suicidal behaviors”.¹² A 2012 article entitled “Social Media and Suicide: A Public Health Perspective” published in the American Journal of Public Health discusses the multiple ways that the Internet may impact suicide, including cyberbullying and cyberharassment, as a public health issue.¹³

In including this information, the Court is not making any specific findings on the rate of cyberbullying or cyberharassment, a definitive list of the effects of cyberbullying or cyberharassment, or the content contained in the resources referenced. The purpose is to affirm that harassment can be conducted through electronic avenues and that the impact of harassment through electronic avenues can have the same traumatizing effect as other forms of harassment. For the purposes of this *Opinion*, the Court notes that electronic harassment has become so

⁷ U.S. Department of Health and Human Services Centers for Disease Control and Prevention, “Youth Risk Behavior Surveillance – United States 2015” (Morbidity and Mortality Weekly Report June 10, 2016 Vol. 65. No. 6 @ 1) at https://www.cdc.gov/healthyyouth/data/yrbs/pdf/2015/ss6506_updated.pdf

⁸ National Voices for Equality, Education, and Enlightenment at <http://www.nveee.org/statistics/>

⁹ Cyberbullying Research Center at <https://cyberbullying.org/facts>

¹⁰ Cyberbullying Research Center, with reference to (Brighi et al., 2012; Hinduja & Patchin, 2010; Kowalski & Limber, 2013; Patchin & Hinduja, 2010; Wang, Nansel, & Iannotti, 2011), at <https://cyberbullying.org/facts>

¹¹ Yale News article available at <https://news.yale.edu/2008/07/16/bullying-suicide-link-explored-new-study-researchers-yale>; Abstract of Bullying and Suicide. A Review, authored by Kim and Leventhal (Int J Adolesc Med Health. 2008 Apr-Jun;20(2):133-54.) at <https://www.ncbi.nlm.nih.gov/pubmed/18714552>

¹² <https://news.yale.edu/2008/07/16/bullying-suicide-link-explored-new-study-researchers-yale>

¹³ Social Media and Suicide: A Public Health Perspective, authored by Luxton, June & Fairall (Am J Public Health. 2012 May; 102(Suppl 2): S195–S200) Article available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3477910/#bib14>

pervasive that it has been added to personal protection orders in numerous jurisdictions, including both the NHBP and the State of Michigan.

It should be noted that the discussion about the use of electronic avenues to harass was not discussed at the April 19, 2017 Hearing. Although this Court interpreted the Respondent's arguments to advocate for establishing a standard that requires physical violence for issuance of a harassment protection order, this Court does not intend to imply that the Respondent made specific arguments in relation to this Court's discussion on the use of electronic avenues for harassment or the impact of harassment through electronic avenues of communication or the Internet in general.

For the reasons discussed thus far in this *Opinion*, this Court holds that physical violence, actual or perceived, is not required for issuance of a harassment protection order, pursuant to § 7.4-71 and § 7.4-72 of the NHBP Domestic Violence Code. This Court further holds that communications by mail, phone, and electronic avenues, including use of the Internet generally, can be considered by this Court as evidence of harassment. In addition, this Court holds that it may prohibit conduct involving communication by mail, phone, and electronic avenues, including use of the Internet in general, in a harassment protection order.

These holdings are important in relation to the arguments of the Respondent. The Respondent, by and through her attorney, has argued that Petitioner Nathaniel Wesley Spurr has nothing to fear from Respondent Joy Spurr, characterizing her as an elderly woman who could not physically harm the Petitioner with the Petitioner being both a man and a person younger than she is. By virtue of holding that physical violence is not required for issuance of a harassment protection order, the Court holds that evidence for a harassment protection order does not require that the respondent has made or is making threats of physical violence, does not require the respondent to have the physical characteristics to physically harm the petitioner, and does not require that the petitioner be in fear of physical violence or physical harm from the respondent. Like the holding pertaining to physical violence, the Court may consider these factors, if present, in determining whether to issue a harassment protection order.

With now having the foundation for defining “unwanted contact”, the Court has the parameters necessary to address the evidence presented, beginning with the context of the evidence presented.

Prior to the April 19, 2017 Hearing, the Respondent was frequently submitting documents to the Court. The majority of the documents submitted, both those submitted directly by Respondent Joy Spurr and those submitted by Attorney Stephen Spurr, did not conform to the NHBP Tribal Court Rules, making it difficult to identify the purpose of the communication. In addition, the Respondent submitted multiple copies of the same document to the Court, most frequently via fax, inserting “second request”, “third request”, etc. on the document, on occasion sending the “second” or “third” document in the same day. Several documents also involved requests that were not within the authority of the Court.

On March 14, 2017, the Court attempted to address the multiple problems with the documents submitted by the Respondent, among other issues, by entering the *Order Regarding*

Pleadings & Notice for Hearing on Respondent's Motion. While there are a significant number of paragraphs addressing the above issues, the Court is limiting quoting of the *March 14, 2017 Order Regarding Pleadings* to the most pertinent for this *Opinion* (with the paragraph numbers reflecting the paragraph number in the *March 14, 2017 Order Regarding Pleadings*):

[32] With the ongoing improper submission of documents to the Court, including after the Appearance of Stephen Spurr for the Respondent was filed, the volume of these improperly submitted documents, the failure to identify the purpose of the documents submitted, and the ongoing failure to include the fax number of the sender on fax transmissions, the Court finds a comprehensive submission of exhibits for the Respondent's Motion is necessary. The Court notes that simply adding an exhibit number to a document does not suffice as a proper filing. Further, this ongoing improper submission of documents creates confusion, as well as the risk that the Court will not have the ability to fully consider documents the Respondent deems important to her Motion.

[33] Respondent Joy Spurr, by and through her attorney shall submit a comprehensive submission of exhibits for her Motion to the Court by mail or email by 4:00 PM on Friday, April 7, 2017. This filing must include a List of Exhibits with all exhibits attached and either properly marked as "Respondent's Exhibit No." or separated by a sheet of paper with "Respondent's Exhibit No." included. With the volume of exhibits referenced in the March 14, 2017 mailing, the comprehensive submission of exhibits must be done via mail through the United State Postal Service or email; a faxed transmission will not be accepted. Again, if sent by mail, the submission need only be received on April 7, 2017.

[35] To be clear, the Court will not consider any documents that have not been properly filed with the Court. This not only includes the documents submitted to date that were not properly filed, but the submission of documents after the date of this *Order*. The Court is providing the Respondent with a specific opportunity to properly file pleadings so that the Court may consider all matters and information she deems important to her Motion. Currently, the only properly filed documents include the documents faxed by Respondent Joy Spurr on February 15, 2017, the Appearance filed by Stephen Spurr, and the Motion filed by Attorney Stephen Spurr.

[38] The Court finds it necessary to no longer accept filings by fax transmission from the Respondent or her Attorney unless it is an emergency as deemed by the Court. The fax received by the Court on March 13, 2017 was problematic due to form as it did not contain a fax number for the sender.

It was also problematic with regard to content as it contained a letter written by an individual who is not a party to the present case and addressed to an individual who is not a party to the present case with a handwritten notation from a person who is not identified.

[39] If the Court deems a matter urgent in the present case and accepts a fax transmission the fax will only be accepted if the fax number appears on the transmission, the document is clearly identified, and the reason for its submission is clearly identified, including the submission of a motion if appropriate.

[40] With the sender of the March 13, 2017 fax transmission not identifiable, the Court reminds the Respondent and her Attorney that all submissions to the Court should be done by the attorney of record, Stephen Spurr.

[42] The Court notes that any filings received from either party after 4:45 PM or as stated in this Order or as otherwise ordered by Court shall be filed with the Court on the next business day that the Court is open unless it involves an emergency as deemed by the Court. The Court finds this necessary due to the number of fax transmissions that have begun at or minutes before 5:00 PM when the Court closes.

Despite the specific directives in this Order, the documents submitted by the Respondent for the April 19, 2017 Hearing failed to follow the Orders of this Court or the NHBTP Tribal Court Rules including, but not limited to: documents submitted without indicators as to what the document was; documents without explanations as to the reason it was being submitted to the Court; handwritten documents from individuals who were not a party to the case and not called to testify that were not sworn statements; and a variety of documents with handwritten notes with serious conclusions that have legal meaning, without legal proceedings having occurred for those conclusions to be made.

The Court identified these issues at the April 19, 2017 Hearing, advising that the failure to properly submit documents to the Court had resulted in the Court not being able to identify what requests the Respondent believed were before the Court. The Court then asked the Respondent to identify all outstanding requests. The Respondent, by and through her attorney, advised that the requests of the Respondent related only to the two matters raised in the Respondent's Motion for Reconsideration or Modification of Court Order: 1) that the Permanent Harassment Protection Order should be dismissed for lack of jurisdiction, an issue already addressed in this *Opinion* with this Court holding that it does have jurisdiction; and 2) if the Court held it had jurisdiction over the Respondent, that the Permanent Harassment Protection Order should be dismissed on the grounds that the Respondent's conduct did not rise to the level of a harassment protection order being issued. The Court confirmed at the April 19, 2017 Hearing that these two issues were the

only matters or requests from the Respondent before the Court as of April 19, 2017; a fact that this Court will address after discussing the evidence.

The Court reviewed the exhibits submitted by the Respondent on the record at the April 19, 2017 Hearing. In total, there were forty-five (45) documents that the Respondent submitted as exhibits to the Court. The majority of these documents were also submitted for the February 16, 2017 Hearing, but were not so noted for the April 19, 2017 Hearing. The Court notes, however, that it did not make this request in its *March 14, 2017 Order Regrading Pleadings*. Many of the documents submitted by the Respondent were problematic. The first issue was handwritten letters or type-written statements that were not affidavits. Attorney Stephen Spurr withdrew these exhibits. The second issue was emails that did not show the email addresses of all of the individuals on the email thread or that were cut-and-pasted and, therefore, not the complete email. The Court recessed so that the Respondent could submit the full emails. The third issue was relevancy. The Court notes that Attorney Stephen Spurr was not able to address the relevancy of the majority of documents and requested that Respondent Joy Spurr explain the relevancy at the Hearing. Although the Petitioner objected to several of the documents, he also noted for the vast majority of the documents submitted by the Respondent that, if admitted, the document supported the Petitioner's argument that the Respondent has harassed the Petitioner. The Respondent advised that the compilation of documents submitted was necessary to defend herself. The Respondent's arguments at the April 19, 2017 Hearing that the Petitioner forced her into the position of having to show that the *Permanent Harassment Protection Order* is not warranted as an explanation for the vast amount of information she has compiled about the Petitioner is not supported by the evidence.

To begin, Respondent Joy Spurr's statements and arguments at the April 19, 2017 Hearing were not consistent with the evidence she has presented in this case regarding the actions she took in gathering the documents she submitted. In addition to conflicting testimony, the number of documents submitted, the time it took to gather them, and the range in time period of these documents make clear that Respondent Joy Spurr has spent considerable time collecting "evidence" against the Petitioner.

The explanation that the Respondent has gathered these documents simply as a defense to this action is also not supported by the content of the documents submitted. The documents submitted by the Respondent are an attack on the character of the Petitioner. For example, the Respondent submitted as Exhibit 32a a document containing a compilation of cut-and-pasted comments in which the Petitioner criticizes the Court and the Tribe as a whole. Setting aside the fact that there is nothing that identifies the origin of these comments, as well as the provision in the NHBP Constitution protecting the right to freedom of speech, comments about the Court and Tribe are completely unrelated to these proceedings. The explanation of the inclusion of these types of documents as a defense against the *Permanent Harassment Protection Order* is, simply put, not legitimate.

The Respondent further argued that Respondent Joy Spurr's statements, referring in part to a letter the Respondent wrote to the Petitioner entitled, "Nathaniel Spurr: A dose of the truth" and

included as Exhibits 31a, 31 b, and 31c, were not harassment, but rather more like the “scolding” of a child by a parent. This Court does not agree.

The evidence shows that Respondent Joy Spurr has gone far outside of the realm of what could be considered a communication in the spirit of family responsibilities to cross the line into harassment for a significant period of time. A particularly revealing action that Respondent Joy Spurr consistently takes is writing serious legal conclusions, without benefit of the legal processes required for reaching those conclusions, on documents, some of which contain confidential information. For example, Exhibit 45c is a type-written statement entitled “Nathaniel Wesley Spurr: Perjury in Court, 2/16/2017”. Perjury is a crime that requires a criminal case to be filed and the full course of the criminal case to occur to the extent that a verdict is issued by a judge or jury to state that a person perjured himself or herself in a court of law. While the Respondent argues that these types of documents indicate that the Petitioner is not truthful, the fact is that her notes contain her opinion and her opinion is not a verdict.

The exhibit referenced above is but one example of the Respondent engaging in such conduct. There are numerous documents submitted as exhibits that contain such legal conclusions. Even the Exhibit List identifying the documents submitted by the Respondent contains such problematic accusations as “Unemployment Fraud” in the title of the exhibit.

For Respondent Joy Spurr to present her opinions about the Petitioner as legal conclusions to the extent that it appears the Petitioner has been convicted of crimes he has never been charged with has potential consequences far beyond these proceedings. For the purposes of these proceedings, the conduct of the Respondent in writing legal conclusions on documents, or dispersing documents with comments such as these regardless of whether she wrote them, is further evidence of her harassment of the Petitioner.

The Respondent also submitted numerous financial documents, both of the Petitioner and other individuals. Again, her testimony was not consistent with explaining how she obtained these documents. And, again, many of these documents contained serious legal conclusions noted without the Petitioner having been charged with or found guilty of the crime noted. The conduct of the Respondent in gathering these documents, as well as making or disbursing statements in association with these documents, is evidence of her harassment of the Petitioner.

The NHBP Domestic Violence Code states in pertinent part in § 7.4-76 (A) that the Court shall enter a permanent harassment protection order “if the Court finds by a preponderance of the evidence that harassment exists or has occurred”. Based on the evidence submitted by the parties, including testimony presented, and arguments to the Court, this Court finds by a preponderance of the evidence that Respondent Joy Spurr has harassed Petitioner Nathaniel Wesley Spurr, and that the Permanent Harassment Protection Order restricting Respondent Joy Spurr from harassing, threatening, contacting, or approaching Petitioner Nathaniel Wesley Spurr shall remain in effect until it expires. Prior to the expiration of the Permanent Harassment Protection Order, a petitioner is eligible to file a motion requesting renewal pursuant to § 7.4-76 (D) which states:

At any time within three (3) months prior to the expiration of the order, the petitioner may apply for a renewal of the order by filing a motion for renewal with the Court. The motion for renewal shall state the reasons why he or she seeks to renew the order. Upon receipt of the motion for renewal, the Court shall order a hearing which shall be held within fourteen (14) days from the date of motion. The Court shall grant the motion for renewal unless the respondent proves by preponderance of evidence that he will not resume harassment of the petitioner when the order expires. The Court may renew the harassment protection order for another fixed period or may enter a permanent order.

It should be noted that a harassment protection order restricts the conduct of the respondent and not the petitioner. The Court provides this notation as the Respondent has submitted various documents to the Court regarding a family reunion that both the Respondent and Petitioner are eligible to attend with the Respondent being married to the Petitioner's father. Setting aside the fact that the documents relating to this topic have not been properly submitted, this Court notes here that, in situations where both a petitioner and respondent are invited to the same event, it is the respondent who is prohibited from attending the event. This is not, however, a direct ruling as the Respondent did not properly file a motion pertaining to this subject.

The Respondent submitting documents that do not conform to the NHBP Tribal Court Rules has been a consistent problem in this case. In addition, the Respondent has consistently submitted documents with the Court that do not conform with Orders of this Court. As such, the documents filed by the Respondent consistently contain substantive defects. For example, the Respondent submits documents with little or no indication of the purpose of the document, such as conforming a request to the proper format of a motion.

The Court shall discuss the most recent submission to illustrate the issue. The Court has not accepted the document submitted due to the defects that will be discussed. However, in an effort to be transparent, the Court notes at the onset of this discussion that the document submitted by the Respondent related to the period of time that it has taken this Court to issue this *Opinion*. The Court acknowledges, as it did at the start of this *Opinion*, that it has taken a significant period to draft this Opinion due to the multiple layers of issues to address, research that had to be conducted, the significant number of documents that had to be reviewed, and frequent submissions from the Respondent. This Court provides this acknowledgement to, in part, make clear that this Court has declined to accept the Respondent's filing due to form and not content.

On Friday, July 7, 2017, Attorney Stephen Spurr sent a document by email. This was followed by faxes of several partial documents and then a complete document that Respondent Joy Spurr began transmitting at approximately 4:55 PM with what was initially referred to as the final document received after 5:00 PM. This submission both violates the *March 14, 2017 Order Regarding Pleadings* and fails to conform to the NHBP Tribal Court Rules. It violates the *March 14, 2017 Order Regarding Pleadings* because it was not received by 4:45 PM. A consequence for violating this provision in the *March 14, 2017 Order Regarding Pleadings* is that the submission

would not be considered filed – if it had been accepted by the Court – until Monday, July 10, 2017. An additional consequence would have related to the content of the filing with the Respondent attempting to impose a timeline upon the Court for issuance of this *Opinion*. With the Respondent's timeline dependent upon the date it was filed with the Court, the counting of days would have been incorrect since the document would have been considered filed on July 10, 2017 and not July 7, 2017.

In addition, Respondent Joy Spurr violated the *March 14, 2017 Order Regarding Pleadings* by sending documents by fax. Typically, the Court would give a party the benefit of doubt that the party thought it was allowable to send the document by fax as an emergency, but Respondent Joy Spurr has sent over ten (10) separate documents by fax since the *March 14, 2017 Order Regarding Pleadings* was entered. As such, Respondent Joy Spurr has demonstrated a complete lack of respect for the Court's Order.

Further, the Court is aware that Respondent Joy Spurr sent the fax transmissions as she left a voicemail for the TCA which stated that the wrong document was sent by email and the correct document was sent by fax, although the paragraph numbers she referenced still did not align with the faxed document. With receiving multiple versions of the document and inconsistent follow up information as to which document was the final version, this Court does not know which document is the “correct” version. The host of problems discussed, coupled with the fact that the Court has multiple documents with conflicting information about which document is the “correct” document, means that the document has not been properly filed with the Court.

Another issue is that Attorney Stephen Spurr failed to sign the document as required by the NHBP Tribal Court Rules. Although the document contained “/s/ *Stephen J. Spurr*”, the fact that he did not have any contact with the Court in submission of this document, including Respondent Joy Spurr making all follow up contact regarding the “correct” version of the document, and Attorney Stephen Spurr using only “/s/ *Stephen J. Spurr*” on the mailed copy of the document means the Court cannot confirm this “electronic” signature. The concerns about Attorney Stephen Spurr’s signature reflect an overall concern based on a consistent pattern of Respondent Joy Spurr communicating with this Court, including on behalf of Attorney Stephen Spurr.

The Court addressed the issue of the Respondent’s attorney of record submitting documents to the Court in the *March 14, 2017 Order Regarding Pleadings*. In addition to the paragraph referenced above, the Court ordered in Paragraph 51 that, “[a]ll communications from the Respondent to this Court shall be made by the attorney of record, Stephen Spurr”. Despite the attorney of record being the point of contact between the party and the Court under the NHBP Tribal Court Rules, the Court giving specific directives that communication should be between Attorney Stephen Spurr and the Court, and the general standards of the legal profession, Respondent Joy Spurr has continued to attempt direct communication with the Court through a variety of avenues.

The requirement that the attorney of record communicate with the Court is not an arbitrary rule; there are a multitude of reasons that this requirement exists with one such reason being the

protection of the party. As an example, a party may inadvertently reveal information pertinent to his or her case that, because of legal strategy or other considerations, the attorney did not want revealed. This is but one possible example of the many issues that are created when a party represented by counsel communicates directly with the Court.

The Court further notes that some of the communications it has received from Respondent Joy Spurr involve the asking of substantive questions. This Court has responded appropriately pursuant to the NHBP Tribal Court Rules and standard court practices by forwarding these types of inquiries to Attorney Stephen Spurr. However, in one instance, as discussed in Footnote 4 of this *Opinion*, Respondent Joy Spurr sent a follow up communication with a self-addressed envelope. This response highlights the concerns of this Court.

There are also issues related to the practice of law that arise when a represented party initiates contact with the Court with regard to whether the attorney is fulfilling his or her duties under the NHBP Tribal Court Rules, as well as whether the party is engaging in the unauthorized practice of law. The Court notes these issues here due to the concern that has grown as this case has progressed, including with Respondent Joy Spurr adding the title of “Administrator for Stephen Spurr” on many of her communications with the Court.

With noting these concerns, the Court affirms its previous holdings that communications shall be between the attorney of record and the Court and that all documents submitted to the Court must be submitted by the attorney of record and include the signature of the attorney. With both parties represented by attorneys, this Court returns the burden of service to the attorneys, with a proper proof of service required. This Court also affirms that documents submitted to the Court must be in compliance with the NHBP Tribal Court Rules and Orders of this Court including, but not limited to: all documents shall be properly titled; with previous notice that both attorneys of record have access to a scanner, any urgent submissions to the Court shall be via email; all electronic submissions must be received by the Court by 4:45 PM on a date that the Court is open and comply with the NHBP Tribal Court Rules to be filed that day; and if a document is received after 4:45 PM and/or on a date the Court is closed, it shall be considered filed on the next business day if it complies with the NHBP Tribal Court Rules.

CONCLUSION

The Court has addressed multiple issues in this *Opinion*. The Court has held that harassment protection order cases involve civil jurisdiction with this Court having jurisdiction over individuals who are not enrolled NHBP Citizens, not enrolled in any other federally-recognized Tribe, or otherwise American Indian pursuant to the NHBP Constitution, NHBP Domestic Violence Code, and VAWA 2013, 18 U.S. Code § 2265 (e).

The Court held that protection orders issued by the NHBP Tribal Court have federal full faith and credit pursuant to VAWA 2013, 18 U.S. Code § 2265 (a). This Court also held that protection orders issued by the NHBP Tribal Court have full faith and credit in Michigan pursuant

to MCR 2.615 and that protection orders issued by Michigan Courts have full faith and credit within the jurisdiction of NHBp pursuant to the NHBp Tribal Court Rules.

The Court held that the reference to MCR 2.615, Michigan's full faith and credit provision for Tribal Court orders, on protection orders issued by the NHBp Tribal Court do not mean that Michigan law and caselaw apply to protection order proceedings in the NHBp Tribal Court nor does NHBp adopt Michigan law and caselaw pursuant to the reference to the Law Enforcement Information Network on protection orders issued by the NHBp Tribal Court.

For the reasons discussed thus far in this *Opinion*, this Court holds that physical violence, actual or perceived, is not required for issuance of a harassment protection order, pursuant to § 7.4-71 and § 7.4-72 of the NHBp Domestic Violence Code. In addition, this Court holds that evidence for a harassment protection order does not require that the respondent has made or is making threats of physical violence, does not require the respondent to have the physical characteristics to physically harm the petitioner, and does not require that the petitioner be in fear of physical violence or physical harm from the respondent. This Court further holds that communications by mail, phone, and electronic avenues, including use of the Internet generally, can be considered by this Court as evidence of harassment. This Court also holds that it may prohibit conduct involving communication by mail, phone, and electronic avenues, including use of the Internet in general, in a harassment protection order.

This Court found by a preponderance of the evidence submitted by the parties, including testimony presented, and arguments to the Court, that Respondent Joy Spurr has harassed Petitioner Nathaniel Wesley Spurr, and that the *Permanent Harassment Protection Order* issued restricting Respondent Joy Spurr from harassing, threatening, contacting, or approaching Petitioner Nathaniel Wesley Spurr shall remain in effect through February 17, 2018 unless a motion to renew is submitted and granted pursuant to the NHBp Domestic Violence Code § 7.4-76 (D).

The Court further affirmed its previous Orders in this case with regard to all communications and filings in this case being required to conform with the NHBp Tribal Court Rules and Orders of this Court.

IT IS HEREBY ORDERED:

1. That this Court has civil jurisdiction to issue personal protection orders against individuals who are not enrolled NHBp Citizens, not enrolled in any other federally-recognized Tribe, and who are not otherwise American Indian pursuant to the NHBp Constitution, NHBp Domestic Violence Code, and VAWA 2013, 18 U.S. Code § 2265 (e);
2. That personal protection orders issued by the NHBp Tribal Court have federal full faith and credit pursuant to VAWA 2013, 18 U.S. Code § 2265 (a);

3. That personal protection orders issued by the NHBP Tribal Court have full faith and credit in Michigan pursuant to MCR 2.615;
4. That personal protection orders issued by Michigan Courts have full faith and credit within the jurisdiction of NHBP pursuant to the NHBP Domestic Violence Code and NHBP Tribal Court Rules;
5. That physical violence, actual or perceived, is not required for issuance of a harassment protection order, pursuant to § 7.4-71 and § 7.4-72 of the NHBP Domestic Violence Code;
6. That evidence for a harassment protection order does not require that the respondent has made or is making threats of physical violence, does not require the respondent to have the physical characteristics to physically harm the petitioner, and does not require that the petitioner be in fear of physical violence or physical harm from the respondent;
7. That this Court may consider communications by mail, phone, and electronic avenues, including use of the Internet generally, as evidence of harassment;
8. That this Court may prohibit conduct involving communication by mail, phone, and electronic avenues, including use of the Internet in general, in a harassment protection order;
9. That the Respondent's Motion for Reconsideration or Modification of a Court Order is denied with this Court having held it has jurisdiction over the Respondent pursuant to the NHBP Constitution, NHBP Domestic Violence Code, and VAWA 2013, 18 U.S. Code § 2265 (e), and having found by a preponderance of the evidence submitted by the parties, including testimony presented, and arguments to the Court, that Respondent Joy Spurr has harassed Petitioner Nathaniel Wesley Spurr, and that the *Permanent Harassment Protection Order* issued restricting Respondent Joy Spurr from harassing, threatening, contacting, or approaching Petitioner Nathaniel Wesley Spurr shall remain in effect through February 17, 2018 unless a motion to renew is submitted and granted pursuant to the NHBP Domestic Violence Code § 7.4-76 (D);
10. That communications shall be between the attorney of record and the Court pursuant to the NHBP Tribal Court Rules;
11. That all documents submitted to the Court shall conform to the NHBP Tribal Court Rules and *Orders* of this Court, be filed by the attorney of record, be properly titled, and contain the signature of the attorney of record;
12. That, with both parties represented by counsel, the attorney of record shall perform service on opposing counsel and file a proper proof of service pursuant to the NHBP Tribal Court Rules;
13. That emergency matters shall be filed electronically by the attorney of record with receipt by the Court of a filing that conforms to the NHBP Tribal Court Rules and *Orders* of this Court by 4:45 PM on a date that the Court is open required to be filed that same day;

14. That the Court shall not accept any documents or communications filed by fax transmission;
15. That a document received after 4:45 PM and/or on a date the Court is closed, shall be filed on the next business day if it complies with the NHBP Tribal Court Rules; and
16. That all previous *Orders* issued in this case consistent with this *Opinion* remain in effect.

July 21, 2017

Date



Hon. Melissa L. Pope, Chief Judge

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