

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

Brian P. Carr  
Plaintiff

versus

Sam Reed, in his official capacity as Secretary of State of the State of Washington, and Rob McKenna, in his official capacity as Attorney General of the State of Washington and representing in their official capacity as representatives of the State of Washington and, separately, as private individuals the Honorable Robert L. Harris, John F. Nichols, Barbara D. Johnson, Kenneth Eiesland, Rich Melnick, John Hagensen, Kelli E. Osler, Joel Penoyar, (J.) C. C. Bridgewater, J. Robin Hunt, Gerry L. Alexander, Barbara Madsen, Mary E. Fairhurst, Susan Owens and James M. Johnson as well as other currently unnamed parties as determined by the Court  
Defendants

Civil No. 3:07-cv-05260-RJB

DECLARATION of  
Brian P. Carr

I, Brian P. Carr, am the Plaintiff in this matter, have knowledge of the facts of this matter, and make the following statements under oath and penalty of perjury.

- 1 1. On the evening of October 15, 2004, I was at a Mensa social function at the Mandarin House  
2 restaurant in Portland, OR when my wife, hereafter referred to as Karyn, arrived and had one  
3 of her friends at the function serve me with a Temporary Order for Protection of the same date  
4 issued by the Clark County Superior Court in case [04-2-008824-4](#).

- 1 2. On October 27, 2004, a hearing was held before Defendant Melnick at a session of the District  
2 Court where an Order for Protection in case [04-2-008824-4](#) was granted for the crimes of  
3 trespass and stalking. My birth month was incorrectly listed as October on the Order though I  
4 did not notice at the time. The hearing was held in Clark County District Court Room  
5 Number 3 and was announced as a session of the District Court before Judge Melnick. There  
6 was no explanation of how Orders of the Superior Court could be issued in this environment.  
7 The docket was not available for viewing, but was kept by security guards who directed  
8 people to correct court room. I was not permitted to testify (no one was under oath, so only  
9 allegations were heard by the court) and the court made its decision before I closed and over  
10 my objections. The court found me guilty of the crimes of trespass and stalking. The court  
11 routinely accessed the Judicial Information System to access police reports and such without  
12 insuring the parties had had notice or service of the material reviewed.  
13
- 14 3. On November 5, 2004, I was at the same Mensa social event at the Mandarin Restaurant in  
15 Portland, OR with Karyn not present when, apparently, one of Karyn's friends notified her of  
16 my presence there and she went to the restaurant and called the police claiming a violation of  
17 the Order while remaining outside the restaurant and while I was unaware of her presence. I  
18 was arrested and remained in custody for more than three days. The incorrect birth month on  
19 the order was first noticed when I was arrested. The Multnomah County District Attorney did  
20 not prosecute the case because of a lack of evidence that I knew of Karyn's presence  
21 (Multnomah Circuit Court Clearing 0923389). My arrest record which is widely available  
22 includes the arrest listed as for trespass, domestic violence, and violation of a civil restraining  
23 order.  
24
- 25 4. The record of the Domestic Violence Orders as well as the subsequent arrest has restricted my  
26 ability to seek alternative employment. In 1975, I graduated with honors with a B.E. from  
27 U.S.M.A., West Point, NY. In 1977, I received a M.A. in Computer Science (Applied  
28 Mathematics) from M.I.T., Cambridge, MA. I served in the Signal Corps with a Top Secret  
29 security clearance until 1982 when I left the U.S. Army as a Captain. I have an otherwise

1 spotless record and the Domestic Violence Order and the Oregon arrest have had a significant  
2 detriment in my ability to seek employment as well as making me a likely candidate for  
3 searches as a potential terrorist.

4  
5 5. On all job applications for permanent positions which I have completed in the last decade I  
6 have been asked if I have ever been arrested. The job market is quite competitive in the areas  
7 where I work and negative responses to applicants are always general such as 'another  
8 candidate was found to be more qualified for the position'; no specific reason for the negative  
9 response is ever provided. In face of the highly competitive nature of each position, the  
10 requirement that I explain my criminal records makes me virtually unemployable in most of  
11 the positions to which I would otherwise be eligible.

12  
13 6. For the tax year 2000, I received wages of \$108,322 from Verizon as a database analyst. I left  
14 that position in 2001 to pursue other interests. From May 2003, I worked as a driver / mover  
15 with Active Moving (an affiliate of United Van Lines) for 15 months with an hourly rate of  
16 \$14 an hour and annual wages of about \$31,000 due to variable hours. I returned to work as a  
17 database specialist with @Once.com on September 20, 2004 at an annual salary of \$45,000  
18 per year. After 15 months my annual salary was \$48,595 and I would have liked to seek  
19 another position comparable with my previous position with Verizon as my technical skills  
20 were then current and the economy had improved to the point that there were available  
21 positions for which I was well qualified. However, applying for such positions was not  
22 warranted with my criminal record which would preclude my being offered such a position  
23 and failed applications could establish myself with a reputation as a violent criminal and  
24 unemployable.

25  
26 7. My computations of the damages of lost wages caused by the criminal record are ( 108,322 –  
27 48,595 ) / 12 or \$4977 per month since January 1, 2006. It is expected that it would take me  
28 three months to complete the process of changing jobs so that if my criminal record were to  
29 be cleared on October 1, 2007, my estimate of damages would be \$119,448. While I have

1 received pay raises since January 1, 2006, it is expected that I would have received a lesser  
2 percentage but greater dollar amount in the new position and these are not considered in these  
3 computations.

4  
5 8. While I was incarcerated, I missed one day of work (November 8, 2004) and needed to use  
6 leave with out pay for a loss of \$173.06, but was incarcerated for 72 hours which I would  
7 value as an inconvenience of \$1,558 (same hourly rate extended for 72 hours).

8  
9 9. My experience with the Domestic Violence Order and arrest has made be fearful of police and  
10 other figures of authority. Since 2005 to the present, I have not been able to use automated  
11 check in for flights and am subjected to more intensive scrutiny as I have been identified as a  
12 potential terrorist due to the Order in case 04-2-008824-4 and its aftermath. I have lost my  
13 trust that it is enough to simply insure that I obey the law. I have now experienced that my  
14 life can be turned upside down without me doing anything illegal or improper. These  
15 reactions are not a rationale response, but rather a tightness in the gut and general unease. I  
16 value this loss of peace of mind at \$25,000.

17  
18 10.I have been banned from the Mensa social functions which I had attended, not for any action  
19 on my part, but due to the assumptions people make about the moral character of a person  
20 who has been the subject of a Restraining Order and arrested. This is in spite of the fact that I  
21 have been a member of Mensa for over a decade. It was stated that the other people were 'not  
22 comfortable' with my presence and while I argued that was not a good basis for banning my  
23 attendance, there was no recourse.

24  
25 11.In addition, the Order itself delayed my divorce from Karyn for over a year, primarily because  
26 I was not allowed to communicate with her except by mail and exclusively about issues  
27 related to the divorce. There were several items which Karyn needed to return to me, some of  
28 them too heavy and bulky for her to move. However, Karyn would insist that I make  
29 arrangements to retrieve the items, but I was prohibited from that form of indirect contact.

1 This put my social life into a sort of limbo as I could not really explain about the delays in the  
2 divorce without explaining the Domestic Violence Order with the natural reaction of listeners  
3 that I must be some kind of brute. I value this disruption of my social life and loss of self  
4 esteem (a feeling that I am some kind of pariah) at \$60,000.

5  
6 12. The total value I put on the damages I have received because of the contested Order in case  
7 04-2-008824-4 and its aftermath is \$206,006 if my criminal record were cleared on October 1,  
8 2007.

9  
10 13. I applied to have the record of the arrest in Oregon sealed (Multnomah Circuit Court [Clearing](#)  
11 [0923389](#)), but this was denied. I have appealed to the Oregon Court of Appeals (case  
12 [A132012](#)), but this appeal is still pending.

13  
14 14. After having been 'ambushed' and arrested when I was completely unaware of Karyn's  
15 presence outside the restaurant, I submitted a [Petition](#) for an Order for Protection on  
16 November 12, 2004 before 11AM so that the matter could be heard that day. It was later  
17 assigned case number 04-2-008908-9. At 2PM on November 12, 2004 all parties waiting for  
18 their Temporary Orders for Protection were directed to District Court Room 6 where we  
19 waited. On inquiry we were told that the Orders would be distributed after the judge had  
20 reviewed them and that we wouldn't actually speak with the judge. At about 4:30PM the  
21 Orders were distributed. The person who distributed the Orders appeared to be a clerk of the  
22 District Court and explained that the Petitioners should not ask the other clerks about the  
23 status of the Orders as the petitions are reviewed by the various District Court Judges as they  
24 were available and repeated questions to the clerks just slow the process. My petition was  
25 denied. The clerk mentioned the judge (referred to as he) said that it was not appropriate  
26 unless the stalking/arrest was repeated.

27  
28 15. After the denial of my Petition in case 04-2-008908-9 on November 12, 2004, I inquired at  
29 the District Court Clerk's office as to the process of appealing decisions of the District Court

1 and ordered a copy of the transcript of the hearing of October 27, 2004. A copy of the tape  
2 request is attached as Exhibit A. The CD should have been completed by November 19,  
3 2004, but was not completed until the afternoon of November 22, 2004. On the morning of  
4 November 23, 2004 I went to the District Court Clerk's Office to pick up the CD and file the  
5 Notice of Appeal. I picked up the CD without incident and inquired where I would file the  
6 Notice of Appeal. I was directed to the Cashier's station where I placed the Notice of Appeal  
7 (Exhibit B is a copy of the Notice of Appeal) in front of the clerk. I had previously seen the  
8 clerk at the Cashier's station, but only at other stations. The Cashier's station was usually  
9 staffed by a more senior (older) clerk who was often consulted on more complex issues while  
10 the clerk at the Cashier's station at this time was more junior (younger) and most often needed  
11 to consult other clerks about more complex issues. The clerk did not look at the Notice of  
12 Appeal but asked me for \$150 cash. I commented that I thought it was \$110 as I was counting  
13 out \$150 and was told that it was \$40 for the transmittal of the transcript. I replied that that  
14 was good as I had completed that form as well (Exhibit C is a copy of that form). After I had  
15 counted out the required funds, the clerk still did not look at the Notice of Appeal but instead  
16 looked away at another person (perhaps her supervisor) and informed me that she could not  
17 accept the Notice of Appeal as it was a Superior Court matter.

18  
19 16. I replied that the Decision appealed from was definitely made by a District Court Judge and  
20 that, as such, she should accept the Notice of Appeal from that Decision. However, if it was a  
21 Superior Court Decision, then I would adjust the Notice of Appeal as necessary to file it. At  
22 that point another woman was called in. That woman explained that as the case was already a  
23 Superior Court matter I could not appeal to the Superior Court. Also, I could not appeal to the  
24 Court of Appeals as the decision only had the signature of a District Court Judge. The only  
25 thing that I could do was submit a Motion for Revision so that the matters could be heard by a  
26 Superior Court Judge. On that basis I completed the Motions to Review (or for Revision on  
27 portion of scheduling form completed by clerk) which were scheduled for December 10, 2004  
28 and which were included in the record in cases 04-2-008824-4 and 04-2-008908-9.

29

1 17. On December 10, 2004, I reviewed the record in case 04-2-008824-4 and observed that the  
2 my birth month had been corrected on the court's copy of the Order from October to  
3 November. There was nothing in the record for this case to authorize or support that change.  
4

5 18. Starting on January 23, 2007, I reviewed recent RCW 26.50 (domestic violence) decisions in  
6 Clark County Superior Court including cases 06-2-08344-3 through 07-2-07040-4 and found  
7 that 103 of the 118 cases could be clearly classified as female seeking protection from male  
8 (FM) or male seeking protection from female (MF). 84 were FM with 37 withdrawn, 39  
9 granted, and 8 denied. 19 were MF with 12 withdrawn, 3 granted and 4 denied. In no cases  
10 was the deciding authority recorded in the record. From the signatures and conversations with  
11 the District Court clerks I was able to guess the deciding authority for all of them, but there  
12 was no conclusive method of making that determination.  
13

14 19. These rates are exactly what one would expect if men were about ten times more likely to  
15 commit domestic violence than men. However, peer reviewed studies have repeatedly shown  
16 that men and women are about equally likely to commit acts of violence in domestic relations  
17 as this time. See Change In Spouse Assault Rates From 1975 to 1992: A Comparison of  
18 Three National Surveys in the United States, Murray A. Strauss and Glenda Kaufman Kantor.  
19 Numerous other studies have found similar results. When U.S. Census Bureau figures are  
20 used to compute the estimated number of eligible victims and assuming a normalized  
21 distribution of applicants, the discrepancy between the rates of eligible victims and orders  
22 granted clearly demonstrates and deeply rooted sexual bias in the entire RCW 26.50 domestic  
23 violence process.  
24

25 20. Over the last several decades there have been numerous portrayals in the media of the scenario where  
26 'Man says something which Woman finds offensive, Woman slaps Man, Man is silenced by this  
27 justified response to his offensive behavior, and, later, through the typical sort of karmic retribution,  
28 terrible things happen to Man for his prior offensive behavior'. The problem with this scenario is that  
29 it has the effect of condoning and even encouraging criminal physical abuse of men in domestic  
30 relations (with the inherent emotional abuse of such physical abuse) while at the same time

1 convincing men that any abuse they receive must be justified and that they have no real alternative to  
2 accepting their abuse in silence. The reverse scenario when a man strikes a woman is uniformly  
3 portrayed as a heinous act. This abhorrence of abuse by men is consistent with the values of our  
4 society and the law itself. However, the sexually discriminatory acceptance of the physical abuse of  
5 men is an example of the inconsistencies in our society's values, but the law does not and should not  
6 reflect these inconsistencies.

7  
8 21. Over the last forty years there has been an almost hysterical concern with domestic violence against  
9 women, presumably being fed by the inconsistent values of society as described above, but also  
10 feeding these same inconsistencies. There are numerous serious publications where it is stated that  
11 the primary cause of injury and death to adult women is domestic violence to include the Bell  
12 Atlantic HR News before the merger to form Verizon. The claim is patently absurd. A trivial check  
13 of the figures from the U.S. Center for Disease Control demonstrates that the actual causes are  
14 automobile accidents and cancer respectively. However, even an otherwise scholarly work such as [A](#)  
15 [Process Evaluation of the Clark County Domestic Violence Court](#) by Kleinhesselink and  
16 Mosher claims that domestic violence '*is the leading cause of injury to women ages 15 to 44*'.  
17 Instead of listing the original source, though, it is just a quote from Mills, L. (1998).  
18 *Mandatory arrest and prosecution policies for domestic violence*. Criminal Justice and  
19 Behavior 25:306-318.

20  
21 22. Ms. Mills made what appears to be an intentionally inaccurate quote from the Surgeon  
22 General, Ms. Novello, U.S. Public Health Service, JAMA, 267(23), 3132 which states 'One  
23 study found violence to be ... the leading cause of injuries to women ages 15 through 44 years  
24 ([Am J Epidemiol. 1991;134:59-68](#)). That study, conducted for a 1-year period by the  
25 Philadelphia Injury Prevention Program, examined injuries to women resulting in emergency  
26 department visits or death.' While that study has numerous flaws, not the least of which is  
27 the very limited and skewed sample (ghetto demographics and no correction for the endemic  
28 non domestic violence in such areas), at no point did Ms. Novello imply that this very limited  
29 result could be generalized to a much larger population as Ms. Mills did or that non domestic  
30 violence could be ignored in these results. It appears that the truth was not extreme enough

1 for Ms. Mills and she found it necessary to knowingly publish false claims. Now those  
2 attempting to generate additional hysteria concerning domestic violence against women  
3 simply cite this and similar false sources ad nauseum.

4  
5 23. While these academic fabrications may be of little interest outside of academic circles, their  
6 repercussions extend far beyond the academic environment. For example, the very title of the  
7 U.S. [Violence Against Women Act of 1994](#) encourages sexual bias by ignoring the plight of  
8 men. By 1992 it was well established that men were victims of domestic violence as often as  
9 women. However, in the hysterical environment created by these false claims there can be  
10 little hope of equal protection under the law.

11  
12 24. In particular, everyone involved with prosecuting domestic violence matters from police to  
13 clerks and adjudicators is often given 'training' which has the effect of developing and  
14 increasing this sexual bias. They are often taught that even if the women and man both deny  
15 that there is any abuse of any kind they should assume that the man is beating the woman and  
16 look for evidence to support that conclusion. Until this needless sexual bias is removed from  
17 the process, any findings which result are suspect.

18  
19 25. An example of how Clark County Superior Court discriminates against men is the  
20 instructional videos which are posted on their web site at:

21 <http://www.co.clark.wa.us/courts/dvvideo.html>

22 In that video the victim is a woman and the offender is a man. This is just one of the subtle  
23 ways in which our society tells men that they are not entitled to equal protection under the law  
24 in these matters.

25  
26 26. I as deeply concerned about the seriousness of Domestic Violence, being a victim myself, and  
27 I do not in any way condone or encourage this criminal behavior. However, an extremely  
28 biased judicial process can not effectively address this very complex and multi-faceted  
29 problem. Corrections are required to promote a safe and healthy environment for everyone,

1 men and women.

2

3 I certify under penalty of perjury under the laws of the state of Washington and the United States  
4 that the foregoing is true and correct.

Dated August 15, 2007 at Vancouver, Clark County, WA.

*s/ Brian P Carr*

Signature of Plaintiff

Brian Carr

11301 NE 7th St., Apt J5

Vancouver, WA 98684

503-545-8357

#### CERTIFICATION

I hereby certify that on August 15, 2007, a true and accurate copy of the foregoing Plaintiff's Declaration was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system as all parties have elected electronic filing as indicated on the Notice of electronic Filing. Parties access this filing through the court's CM/ECF System.

*s/ Brian P Carr*

Signature of Plaintiff

Brian Carr

11301 NE 7th St., Apt J5

Vancouver, WA 98684

503-545-8357

360 397-2424  
397-2060

### TAPE REQUEST

I hereby request a copy of the following court tape(s)/CD(s) of which a pre-paid cost of Ten Dollars (\$10.00) per tape and Twenty Dollars (\$20.00) per CD is required. I understand the tape(s)/CD(s) will be copies only after payment is made in full.

Carr, Brian  
DEFENDANT'S NAME  
Reed respondent

04-2-08824-4  
CASE NUMBER(S)

JUDGE  
10-27-04

TAPE/CD NUMBER(S)

HEARING DATE(S)

NO. TAPES \_\_\_\_\_ X \$10.00 = \_\_\_\_\_  
NO. CDs 1 X \$20.00 = 20.00

[Signature]  
PERSON TAKING ORDER

NAME OF APPLICANT: Brian Carr

ADDRESS: 11301 NE 7th St. Apt 15  
Vancouver, WA 98681

TELEPHONE: 360-607-0556

Brian P. Carr  
APPLICANT'S SIGNATURE

Nov 12, 2004  
DATE

RELATIONSHIP TO DEFENDANT: Spouse

COPIES ARE MADE WITHIN THREE (3) TO FIVE (5) WORKING DAYS. THEY MUST BE PICKED UP WITH THIRTY (30) DAYS.

In the District Court of Clark County  
State of Washington

Karyn <hr style="width: 100%; border: 0.5px dashed black;"/> Petitioner  versus  Brian Patrick Carr Respondent		Number  04-2-08824-4  Notice of Appeal  Consolidation with  04-2-08908-9
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The Appellant, Brian P. Carr seeks review by the Clark County Superior Court of the decisions rendered in District Court under Case Number 04-2-08824-4 entered on October 15, 2004 and October 27, 2004 and Case Number 04-2-08908-9 on November 12, 2004 in the above named court. The parties in the two cases are the same and there is no reason to treat them as separate matters.

The type of case appealed is an Order For Protection, Domestic Violence and Petitions for Order for Protection. I am appealing the granting of the Orders of October 15, 2004 and October 27, 2004 as there were not the required allegations of domestic violence or threats of domestic violence or stalking (in accordance with the relevant statutes). It was an administrative error to assign a new case number to the Petition of November 12, 2004 as RCW 26.50.060(4) authorizes 'the realignment the designation of the parties' and the parties and court are otherwise the same. The Petition of November 12, 2004 should have been granted as it met the statutory requirements for allegations of domestic violence. Further, the declining to issue an Order for Protection was defective as the court did not state in writing on the order the particular reasons for the court's denial.

  


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 Signature of Appellant  
 Brian Carr  
 11301 NE 7th St., Apt J5  
 Vancouver, WA 98684  
 360-607-0556

Respondent:  
 Karyn  


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IN THE DISTRICT COURT OF CLARK COUNTY  
STATE OF WASHINGTON

[ ] STATE OF WASHINGTON )  
[ ] CITY OF Karvin )  
Plaintiff, )  
v. Petitioner )  
Brian Patrick Carr )  
Defendant. )  
Respondent )

Case No. 04-2-08824-4

DESIGNATION OF THE RECORD  
ON APPEAL

TO: Clerk of the District Court

Please prepare the following documents and exhibits for transmittal to Superior Court:

- A copy of the ~~Complaint/Citation~~ Petition
- A copy of the Court Docket
- A copy of the electronic recording logs.
- Copies of the following documents and/or exhibits (identify by the title):
  - Order For Protection, Oct 27, 2004
  - Temporary Order For Protection, Oct 15, 2002
  - Petition For Order For Protection, Oct 15, 2002
  - {Petition For Order For Protection} Nov 12, 2004
  - {Temporary Order For Protection} case no. 04-2-08908-9

Record Preparation Fee - \$40.00:

This fee must be paid within 10 days of notification that the record is ready to be transmitted.

Dated: Nov 16, 2004 Brian P. Carr  
Signature of Appellant