

ANDVSA CLE 2018  
Mock Litigation Scenario

Amanda and Brian have a 4-year old son, Cole. Amanda and Brian have been separated for about a year. Right after their separation, Amanda filed for a long-term domestic violence protective order and also filed for custody. The DVPO and custody cases were consolidated in front of the same judge, who held a combined hearing on domestic violence and interim custody. At the hearing, Amanda presented testimony and evidence of domestic violence, and the court made findings that Brian had committed multiple DV crimes - including assaults (strangling and punching Amanda in two separate incidents where the police were called) and criminal mischief (punching holes in the walls of their home and destroying Amanda's cell phone). The court granted Amanda's request for a long-term DVPO. The court found that the domestic violence rebuttable presumption applied and awarded Amanda interim primary physical and sole legal custody, with weekly supervised visits to Brian. Visits are supervised by Brian's cousin, who also acts as a third party for communications about Cole. The court ordered Brian to attend a 36-week batterers' intervention program.

Amanda and Cole moved out of the apartment she had shared with Brian. Brian has been exercising his visits with Cole for about 6 months and has been regularly attending the batterers' intervention program. The court has set a status hearing for February 20, 2018 to discuss Brian's progress and determine if Brian should start unsupervised visits. Amanda is concerned about Brian moving to unsupervised visits because she believes that Brian has been stalking and contacting her in violation of the protective order.

Amanda has been getting calls from blocked numbers or numbers she does not recognize on a fairly regular basis. Amanda usually lets her calls go to voicemail, but the few times she has answered a call from an unknown number she can only hear background noise; the caller never says anything. Amanda thinks it is Brian calling her so she downloaded a free trial of an app called "Trap Call," which says it can unmask blocked numbers. The one day Amanda had access to the app, it unmasked 5 calls from Brian's number. Amanda cannot afford to pay for the app on an ongoing basis, so she only has a record of the calls from that one day. The calls from unknown numbers have continued.

Amanda has seen Brian driving past places where she has been that Brian would have no reason to know she was going. For instance, Amanda scheduled a meeting with her lawyer and saw Brian parked near the lawyer's office when she went there. Amanda also saw Brian drive past the nail salon while she was getting her nails done at least 3 different times. Amanda thinks that Brian may have accessed her Gmail account, which she used to set up and confirm these different appointments. Amanda did a security search of her Gmail account and learned that her Gmail had been accessed on her Samsung Tablet, which she had left behind at Brian's house when she moved out. Amanda changed her email password and she stopped seeing Brian so frequently.

Most recently, Amanda started getting intermittent text messages from a number she does not recognize. The texts don't say anything threatening, but they make Amanda uncomfortable because she does not know who is sending them. Amanda thinks the texts are from Brian because each message ends with 2 periods, which is how Brian always ends his texts.