

1 Superior Court of California  
2 County of El Dorado  
3 295 Fair Lane  
4 Placerville, CA 95667

EL DORADO CO. SUPERIOR CT.

FILED JUL 18 2024

BY se  
Deputy

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7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 COUNTY OF EL DORADO

9 JAMES SUPPLE

Case No: 23CV2214, 24CV0030

10 vs.

11 ROBERT BORTHWICK

STATEMENT OF DECISION IN

12 and

COMBINED

13 RICHARD DUFFY

CIVIL HARASSMENT RESTRAINING

14 vs.

ORDER

15 JAMES SUPPLE

16 REQUESTS

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23 **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

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27 JAMES SUPPLE V. ROBERT BORTHWICK  
RICHARD DUFFY V. JAMES SUPPLE  
28 23CV2214, 24CV0030

STATEMENT OF DECISION

1 James Supple filed a request for civil harassment restraining order on 12/18/23  
2 alleging respondent had committed assault with a deadly weapon by intentionally hitting  
3 a wheel barrel in the front of Mr. Supple's property in proximity to Mr. Supple. The  
4 wheel barrel allegedly struck Mr. Supple and Mr. Borthwick also hit the family dog with  
5 his vehicle causing significant injury to the dog. The dog's leg was amputated as a result  
6 of the injury. Supple alleged that Borthwick was a contractor performing work on his  
7 neighbor's (Mr. Duffy) property and that he had harassed and threatenED him prior to the  
8 incident. Additionally, Supple claimed Borthwick continued to come onto his property  
9 after the incident and harassed him.  
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12 Petitioner Richard Duffy filed a request for civil harassment restraining order on  
13 1/9/24. Duffy alleged that Supple had harassed himself and his wife on many occasions  
14 over the course of years. Supple had done things including threaten to kill Duffy's dog if  
15 it came on their property, intimidate and harass contractors who come to do any work on  
16 their property resulting in Duffy needing to be present outside throughout any contractors  
17 work, stood in the road and blocked Duffy's car from exiting the road while screaming at  
18 Duffy and his wife, harassed Duffy by screaming anytime he steps outside in his front  
19 yard.  
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21 Supple was granted a temporary order on 12/18/23 restraining Borthwick. Duffy  
22 was also granted a temporary order restraining Supple on 1/10/24. Both petitions were  
23 heard in a combined evidentiary hearing on 7/9/24.  
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### 25 **CONTESTED PROCEEDING**

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27 JAMES SUPPLE V. ROBERT BORTHWICK  
RICHARD DUFFY V. JAMES SUPPLE  
28 23CV2214, 24CV0030

STATEMENT OF DECISION

1           Supple testified that Baralee Road was part of his property but there is a non-  
2           specific public use easement for the road. Supple testified Duffy had engaged Borthwick  
3           to replace the fence between their properties. Supple did not like the choice of fence and  
4           stated he had not been consulted about the fence replacement. Supple testified he tried to  
5           speak to Borthwick regarding the fact he had not agreed to the fence replacement and  
6           claimed the fence was on his property. Supple testified Borthwick was aggressive and  
7           threatened he would beat him with a bat. Duffy was present but did not intervene in the  
8           interaction. The same day, Supple stood in the road blocking the car Duffy and his wife  
9           in their car asking him to stop and talk about the issue. Duffy refused to get out of the car  
10          and after about 5 minutes Supple moved and Duffy left. Supple denied trying to harass or  
11          intimidate either Borthwick or Duffy in any of these interactions. Supple denied he  
12          blasted music to harass Duffy after he installed security cameras or any of his actions  
13          were for the purpose of harassing Duffy or Borthwick. Supple testified that several days  
14          after these incidents, Supple saw Borthwick driving erratically down the road in front of  
15          his house. He placed a wheel barrel and compressor on each side of the road to narrow it  
16          claiming he intended to slow Borthwick down. When Borthwick drove by, Supple was  
17          working in his front yard with his dog. Borthwick struck the wheel barrel which Supple  
18          claimed struck him and also struck his dog with the car. His dog was injured and had an  
19          amputation.  
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24           Borthwick testified Supple began causing issues quickly when he began work on  
25          the fence. Duffy undertook a survey of the property line costing \$1200 because of  
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1 Supple's complaints and Borthwick's information was the fence was entirely on Duffy's  
2 property, but they moved the fence back further onto the property due to Supple's  
3 harassment. Supple was outside watching them work constantly, staring them down and  
4 yelling. Supple screamed at Borthwick and his employees about the fence issue.  
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6 Borthwick testified Supple threatened to shoot his dog if it went on his property.  
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8 Borthwick denied ever threatening Supple and stated he was intimidated and threatened  
9 by Supple and made a comment to Supple that Supple may have a bat and Borthwick did  
10 not want to have a physical altercation. Borthwick testified he was confronted in his car  
11 by Supple. Borthwick recorded the interaction. Supple can be seen yelling at Borthwick  
12 claiming he threatened to attack him with a bat. Borthwick states he did not threaten  
13 Supple, and he does not want to have any physical or other type of altercation. Supple can  
14 be seen approaching Borthwick and attempting to actually striking Borthwick or  
15 attempting to forcefully grab the phone out of Borthwick's hand. Borthwick also testified  
16 he at no time was speeding on the road. Several days after the recording of Supple  
17 appearing to strike Borthwick, Supple blocked the road with the wheel barrel. Borthwick  
18 testified he could not get by and was afraid to exit the car based on Supple's past  
19 behavior. Borthwick testified he only intended to move the wheel barrel out of the way  
20 but hit the dog who was not on a leash and ran out into the road. Borthwick called the  
21 police himself to report the incident.

24 Duffy and his wife both testified Supple had engaged in a long string of harassing  
25 behavior toward them. Supple appeared to try and control everything on the street  
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1 repeatedly insisting the road was his property and the Duffy's could not engage in the  
2 work on their property without his agreement. They noted his blasting the music,  
3 harassing and intimidating multiple contractors they hired, yelling and swearing at them  
4 repeatedly. Duffy began supervising when contractors were present to try and buffer the  
5 harassment by Supple. Duffy testified about Supple confronting himself and his wife in  
6 the road, blocking the car for 5 minutes, while yelling and attempting to intimidate them.  
7 The court viewed a recording clearly demonstrating Supple both blocking the vehicle for  
8 minutes straight and behaving in a manner that was clearly intended to intimidate. Also  
9 of note, the video depicted Supple's dog wandering in the road, not on a leash.

#### 12 LAW AND RULING

13 There are three types of behavior listed in the definition of harassment in Code of  
14 Civil Procedure 527.6. First, "[u]nlawful violence" refers to "any assault or battery, or  
15 stalking as prohibited in Section 646.9 of the Penal Code, but does not include lawful acts  
16 of self-defense or defense of others." (§ 527.6, subd. (b)(7).) Second, a "threat of  
17 violence" may be communicated in a statement or by a course of conduct and is  
18 "[c]redible" if it "would place a reasonable person in fear for his or her safety or the  
19 safety of his or her immediate family" and if it serves no legitimate purpose. (§ 527.6,  
20 subd. (b)(2).) Third, "course of conduct" means "a pattern of conduct composed of a  
21 series of acts over a period of time, however short, evidencing a continuity of purpose."  
22 (§ 527.6, subd. (b)(1).




1 future harm). CCP §527.6(i) must be read to include the requirement that the petitioner  
2 show that great or irreparable harm is likely to occur absent the order because the  
3 petitioner is required to make such a showing under CCP §527.6(d) to obtain a TRO or a  
4 permanent order; the order should not serve just as punishment for past acts. *Id.* at 112  
5 CA4th at 402– 404. A change in circumstances at the time of the hearing may render  
6 injunctive relief moot or unnecessary. *Id.* at 112 CA4th at 401. Borthwick completed his  
7 work months ago. The parties have not crossed paths even incidentally nor is there any  
8 expectation there would be such contact. For all the reasons, stated the court denies  
9 Supple’s request for restraining order.  
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12 The court grants Duffy’s request for restraining order. The court finds by clear  
13 and convincing evidence Supple engaged in a course on conduct which was harassing  
14 pursuant to Code of Civil Procedure §527.6 (b)(3). Additionally, the court finds the order  
15 is necessary to prevent future harassment. Supple has harassed the Duffy’s on and off for  
16 several years significantly impacting their ability to enjoy they own property without  
17 interference. Supple believes he is entitled to control the Duffy’s choices regarding any  
18 changes to their property, whether he is entitled or not. Supple’s conduct in the videos  
19 presented demonstrate his behavior would be harassing and intimidating to anyone, as he  
20 is aggressive and hostile and is relentless in his “policing” of the street and everything  
21 that happens on it. The court notes the behavior ceased when the temporary order was put  
22 in place. While the Duffys’ attempts to mollify, accommodate, or ignore Supple’s  
23 conduct had no effect, the temporary order was successful in ending Supple’s conduct.  
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Therefore, the court grants Duffy's restraining order request in case 24CV000.  
The order will expire on 7/19/27 at midnight. As previously stated, the court denies  
Supple's request for restraining order in case 23CV2214.

Dated this 18th day of July, 2024



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Hon. Jana Balfour