

**FILED**

JUL 17 2017

**BAINBRIDGE ISLAND MUNICIPAL COURT**  
**Kitsap County, Washington**

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**MORIWAKI, CLARENCE B.**

Plaintiff,

vs.

**RYNEARSON, RICHARD LEE**

a.k.a RICHARD LEE

Respondent.

Case No: 12-17

**FINDINGS OF FACT AND CONCLUSIONS  
OF LAW ON STALKING PROTECTION  
ORDER**

THIS MATTER having come before the undersigned Judge of the above-entitled Court, and the Court having reviewed the records filed and testimony presented, makes the following **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

**I. PROCEDURAL HISTORY**

1. On March 10, 2017, Petitioner, Clarence Moriwaki (herein referred to as Petitioner or "Moriwaki"), filed a Petition for Order of Protection, alleging Stalking and Harassment by the Respondent, Richard Rynearson a.k.a. Richard Lee (herein referred to as Respondent or "Lee").
2. On March 13, 2017, the Court held a hearing on the Petition and granted an Ex Parte Stalking Protection Order and set a hearing for March 27, 2017.
3. On March 15, 2017, Respondent was served with the Temporary Stalking Protection Order.
4. On March 27, 2017, the Temporary Order was reissued after the Respondent's attorney requested a continuance.
5. At a hearing on April 24, 2017, Moriwaki filed a "Statement for Petition for a Permanent Protection from Harassment and Stalking and Request for an Immediate Surrender of Weapons." The Court granted the Petitioner's request for Surrender of Weapons and increased the stay-away distance from 100 feet to 300 feet in an order dated 4/24/17. The Court granted a request by the Respondent to continue the case in order to determine whether criminal charges would be filed against the Respondent for the underlying allegations.
6. On April 24, 2017, the Respondent complied with the Order to Surrender through his wife, Hyland Hunt, by surrendering nine firearms.

7. On April 27, 2017, Moriwaki filed a Motion requesting an increase of the stay-away distance to 430 feet. The Court denied the Motion to Reconsider in a written order dated April 28, 2017.
8. On May 12, 2017, Moriwaki filed a motion alleging violations of the Court's order. Petitioner requested that the Respondent be required to "remove any and all mentions of my name, images, memes, or any combination thereof of my identity from any and all webpages of which the respondent has created, participates in or posts to online comments." The Court did not take any action and deferred further discussion to the full order hearing.
9. On May 23, 2017, the case was continued to June 20, 2017 for a status conference.
10. On June 20, 2017, the case was continued to July 17, 2017 for a full order hearing.
11. On July 11, 2017, the Respondent filed a lengthy Response to Petition for Order of Protection and Exhibits (Volume 1 and 2).

## **II. FINDINGS OF FACT**

1. Petitioner, Clarence Moriwaki resides on Bainbridge Island, WA. Respondent, Richard Lee Ryneerson, III a.k.a. Richard Lee ( herein referred to as "Lee") also lives on Bainbridge Island. (Petition for Order of Protection dated 3/10/17, attachment p. 1; Respondent's Response Brief, dated 7/10/17, Exhibit A) Their homes are in close proximity to one another, with Lee living in a neighborhood located behind Moriwaki's and roughly 300 feet away. (Petitioner's Motion dated 4/27/2017, Map #4.)
2. Moriwaki is a private citizen, not a publically elected official. He is a volunteer director of the Bainbridge Island Japanese-American Exclusion Memorial Association, a non-profit organization that oversees a permanent National Memorial site on Bainbridge Island and promotes education about the internment of Japanese Americans during World War II. The goal is to prevent any future unlawful detention of US citizens and the group motto is "Let it Not Happen Again." (Petition for Order of Protection, attachment p. 1; Respondent's Response Brief, Ex. 6.)
3. Moriwaki's Linked In page says he is the Owner and Principal of a private consulting firm, Forest Edge Communications. He applied, but was not appointed to be a Kitsap County Commissioner in 2011 and ran a unsuccessful Campaign for Washington State Senate in 1992. He has worked for a variety of government agencies over the years, including working for Congressman Jay Inslee and Governor Mike Lowry, but has not been employed by any government organization since 2007. (Response Brief, Ex. 9).

4. On November 20, 2016, Moriwaki accepted a Friend request on his personal Facebook page entitled, "Clarence Moriwaki" from the Respondent using the name of "Richard Lee". It appears the Respondent knew of Moriwaki's volunteer work, but had not personally met him before when he asked to "Friend" Moriwaki on Facebook. Lee told Moriwaki, "Clarence, thanks for the add. I've seen you work with the memorial on the island and I'm grateful (seen via YouTube as I've only lived on the island for 4 months..." (Response Brief, Ex. 1, p. 1.)
5. Over the next couple months, Lee participated on Moriwaki's personal Facebook page about various light hearted topics such as a ferry accident, the Winslow Green where Moriwaki lives, the Boy Scouts, holiday movies, crows, and a few political conversations.
6. On December 14, 2016, Moriwaki commented "Nice to meet you in person Richard Lee!" after he came to a movie screening fundraiser for the Memorial Association. (Response, Exhibit 1, p. 33) Later on the same day, Moriwaki further asked Lee to meet up in person for coffee or beer in a private message via Facebook. They exchanged phone numbers and a few messages but the two did not find a mutually agreeable time to meet up.
7. Lee first mentioned Obama's support for the "National Defense Authorization Act (NDAA) of 2012" on December 14, then again on January 1, January 6, and January 24. It was after this fourth mention, that Moriwaki stated, "Richard Lee, you've made this point many times, often to the point of hijacking a comment thread... now where's your pivot?" and made the suggestion, "Direct it to the person and administration that can do something about it." (Response, Ex. 1, p. 90.) Moriwaki also suggested taking it offline for an in person conversation. Lee suggested numerous days and times to get together, but none worked for Moriwaki.
8. The next day, on January 25, 2017, Lee wrote a review on the Bainbridge Island Japanese American Exclusion Memorial Facebook Page criticizing Moriwaki for supporting Jay Inslee and Obama and for "censoring non-liberal viewpoints on this page." (Response, Ex. 1, p. 103).
9. On January 27, 2017, Moriwaki and Lee got into a contentious discussion on Moriwaki's Facebook page and Moriwaki told him he was offended. (Response, Ex. 1, p. 110).
10. On January 29, 2017, Moriwaki private messaged Lee, telling him, "You have crossed a line... You are not conversing but trolling...my Facebook page is like me hosting a party. Friends are welcome to comment, but as the host I have a responsibility to all my guests to try to keep it civil, and if someone at the party keeps butting in, trying to monopolize conversations, I as the host have the right to ask them please cease and desist. You are clearly a passionate person, but please promote your ideas and attract people to your own wall. Create your own party. Stop the bullying and attempts to hijack my party." (Response, Ex. 1, p. 115-16).

11. Later in the day on January 29, 2017, Lee posted on Moriwaki's page, "Clarence Moriwaki, I think my comment got deleted from your wall even though it's the same question I've asked over the past several days with no reply from you..." What followed is a lengthy post explaining his concerns with the NDAA of 2012 and demanding Moriwaki to explain why he didn't fight against the law and why he isn't working to support proposed Senate Bill 5176, which would counteract the provisions of the NDAA. (Response, Ex. 1, p. 118-19.)

12. Moriwaki responded to this January 29, 2017 post via private Facebook message, where Lee responded, "It is your right to delete posts from your wall, I get that, but why can't we have a debate about the NDAA or the bill to stop Washington resources to being used to comply with it or such things opening on your wall?" Moriwaki responded, "Your post, re-post and this very comment are the definition of trolling, relentless contact that harasses. Along with being insulted and offended, you don't get to define when I feel harassed." (Response, Exhibit 1, p. 120-121).

13. On February 4, 2017, Lee posted a long comment <sup>or</sup> Moriwaki's page about Obama and Inslee's support of the NDAA and mentioning Moriwaki, stating, "just because someone is different than you, Clarence Moriwaki, doesn't make them a "troll" or somebody who "harasses" or a "threat" or a "subversive." Let's celebrate diversity, Clarence." Lee then posted five other comments immediately thereafter complaining about Moriwaki not being interested in Lee's point of view. (Petition, attachment p. 10-16.)

14. Moriwaki responded in private message telling Lee "you are doing real time trolling. Can't you control yourself? You are bullying... you are also a bit of a sociopath..." Lee responded, "Clarence I am not trolling or bullying...now you are about to cross my line. I highly advise you to reconsider. my line is one of diversity and free speech. I promise you with everything that I am, your efforts to stifle free speech will fail you massively." (Response, Ex. 1, p. 139.)

15. The next day, on February 5, 2017, Lee sent Moriwaki a private message complaining that his posts had been deleted, saying, "So you recognize that you censoring the speech of others who are different from yourself is wrong... But then you repeat it by doing it again the next day? If you censor my viewpoint yet again, you will have crossed my line of diversity and mutual respect... I hope that you do not cross that line." (Response, Ex. 1, p. 140.)

16. Moriwaki noticed that Lee began reposting any deleted comments by posting screenshot photos back onto Moriwaki's page. Moriwaki responded in private message to Lee, "Stop trolling. Stop it. You are harassing, bullying and relentless. Stop. Your self-righteous reposting is the definition of harassment... Dude, I am going to report you to Facebook. KNOCK IT OFF!" (Response, Ex. 1, p. 140-41.) The two then argued back and forth, Moriwaki again repeating, "KNOCK IT OFF!" and "I have asked you to stop posting on MY PAGE!" (Petition, attachment p. 1-2; Response, Ex. 1, p. 157, 167).

17. Moriwaki finally stated, "We are done." Lee replied, "Oh, we're not done. What follows next is done with love. You need my help to celebrate diversity. Should you reflect upon your behavior and your fear of those who are different and should you come to celebrate free speech and discourse in the future, please let me know." Moriwaki then blocked Lee from posting on his personal Facebook page.

18. The same day, shortly after blocking Lee, Moriwaki received a text message from Lee stating, "Mr. Moriwaki, I'm doing an initial story for a new up and coming blog (ClarenceMoriwakiBainbridgelsland.com) about your role as president of the memorial and your support for multiple politicians who expressly voted to make internment happen again. Looking forward to your comment for the story if you are interested. Thanks." Moriwaki responded to the text, "Yeah, and this isn't trolling or harassment. Richard, your obsession is getting disturbing... start respecting me by leaving me alone." (Petition, attachment p. 18, Response, Ex. 1, 143-46.)

19. After being blocked, Lee posted a comment on the Facebook page of Bonnie McBryan, a friend of Moriwaki's, stating, "I'm outside on the street, in Clarence's analogy, after Clarence put his hand over my mouth and threw me out. So I'm out on the public street now in front of his house talking to some of his guests (our mutual neighbors) as they leave his house, some of which appreciated my comments." Ms. McBryan responded, "I am really concerned about your statement that you are outside Clarence Moriwaki's house and talking to his guests and mutual neighbors. I assume that is rhetorical; if not it sounds a bit threatening." (Reponse, Ex. 1, page 173-75). Ms. McBryan then messaged Moriwaki, telling him, "Richard announced he is outside your house. You might unblock him to take a screen shot-- and consider calling the police." (Petition, attachment p. 19).

20. By February 5, 2017, Lee had published a public Facebook page entitled "Clarence Moriwaki of Bainbridge Island", declaring "This page is meant to be a discussion concerning our view that public figure, Clarence Moriwaki, President of the Bainbridge Island Japanese American Exclusion Memorial, is unfit to be President or board member for our memorial." (Petition, attachment p. 22) The page title was later changed to "Not Clarence Moriwaki of Bainbridge Island."

21. On the Facebook pages titled, "Clarence Moriwaki of Bainbridge Island" and "Not Clarence Moriwaki of Bainbridge Island" there are a variety of memes, many bearing Moriwaki's photo. One has his photo with barbed wire and a message that Moriwaki supports "politicians who made indefinite detention without charge or trial "legal"." (Petition, attachment p. 21.; Response, Exhibit 2, page 1).

22. Lee posted on the "Not Clarence Moriwaki of Bainbridge Island" Facebook page almost daily, sometimes numerous times a day, until Lee was served the Stalking Protection Order

on March 15. Lee even posted the private conversation between Lee and Moriwaki where Moriwaki said, "We are done." and Lee said, "Oh, we're not done..." (Ex. 2, p. 51)

23. Lee paid for advertising of the site and those ads for the site appeared in feeds of people who did not sign up to see it. (Ex.2, p. 41, p. 57, 58.)

24. Moriwaki's original petition claims he feels "constant anxiety, sleeplessness, fear of potential contact, upset over impact to my reputation, intimidated." After discovering more information about Lee on the internet, Moriwaki states he is "truly frightened for my physical safety- and life- from Richard Lee Rynearson III" and that he has had "far too many stressful, anxious days, sleepless nights and upsetting nightmares." (Moriwaki Petition dated 3/10/17, p. 4; Motion dated April 20, 2017, p. 12, 15.)

25. Numerous people messaged or posted, asking Lee to stop harassing Moriwaki through the Facebook page: Gregory Wernhoff, "you slander this man just because he is your neighbor and he does not do as you would have him do." (Ex. 2, p. 100) Christine Rolfes: "The name of this page falsely assumes the identity of Clarence. While I don't support your vendetta, I do suggest you rename your page. It may or may not violate identity theft laws." (Ex. 2, p. 177) William Bauer: "I am not sure Clarence is a public figure in this capacity... he appears to be a private citizen leading a private non-profit group." Danny Grever defined Vendetta for Lee, "an often prolonged series of retaliatory, vengeful, or hostile acts or exchanges of such acts." (p. 178). Keith Brofsky: "This is really shameful Rick Rynearson, a.k.a. "Richard Lee"... you're attacking a private person who is respected in the community, who's not an elected official... it strikes me as slanderous and wrong... this is over the top in judgment and vitriol. Take it down voluntarily, or FB will do it for you." (p.186) Shannon Evans: "They are a 501(c)(3) non-profit PRIVATE organization, and as such they can not endorse candidates, campaigns or issues, so all this ranting about going after elected officials is out of bounds." Bob Garrison: "Having a... page devoted to attacking someone seems a bit sketchy... He is a private citizen not a public figure... Having discussions and disagreement are great but that doesn't seem to be your goal." (p. 199). Bonnie McBryan: "Richard its time to stop commenting on Clarence Moriwaki. Dude, this is not cool or fair. The man you attack is gentle, kind, and patriotic... Please move on to another topic." (p. 203)

26. Lee made the "Not Clarence Moriwaki of Bainbridge Island" page non-public after being served with the Stalking Protection Order. (Response, Rynearson Affidavit, p. 19-20.)

27. Lee has a documented history of angry, inappropriate, name-calling, aggressive online comments to the point he has been banned from multiple online discussion forums. Lee also has a history of retaliating against those forum owners who have banned his participation through angry comments, personal attacks, and creating memes to taunt them. (Moriwaki Petition dated April 20, 2017.)

28. Lee admits he has a car that is outfitted with bullet proof windows, armoring, electrified door handles, a smoke screen, cameras, flashing strobes, sirens and a public address system. (Moriwaki Petition dated April 20, 2017, page 10; Hunt Affidavit, p. 7, Ryneerson Affidavit, p. 5.)

29. Lee is an admitted gun owner and 2nd amendment advocate. He served in the military for many years and eventually resigned after a disagreement over completing a mission. He has a documented history of being disciplined over disagreeable, argumentative behavior. However, none of those disciplinary actions involved violent or threatening behavior or inappropriate use of his firearms.

30. Lee made online statements about the Judges that ruled against him in his federal case, "I have killed many foreign enemies overseas who were far better men than Judges Reavley and Southwick." He also presented a rant comparing the Judges to tapeworms who destroy America from the inside out and stated, "There isn't enough tar or feathers in this world to sufficiently coat these two worthless deserters." ) However, there were no other direct threats to harm these Judges. (Moriwaki Petition dated April 20, 2017.

31. Lee has no criminal history that the court is aware of.

32. The Court further incorporates the exhibits filed by the parties of the websites, Facebook pages, and online conversations. There does not appear to be any dispute about the content of these exhibits and they appear to be correct printed versions of what was contained online.

### **III. CONCLUSIONS OF LAW**

1. The Bainbridge Island Municipal Court has jurisdiction over this matter pursuant to RCW 7.92.050(4), RCW 10.14.150, and Bainbridge Island Municipal Court Local Rules LARLJ 7 and 10.

2. The Government has a compelling interest in preventing Harassment and Stalking. RCW 10.14.010 ("The legislature finds that serious, personal harassment through repeated invasions of a person's privacy by acts and words showing a pattern of harassment designed to coerce, intimidate, or humiliate the victim is increasing. The legislature further finds that the prevention of such harassment is an important governmental objective. This chapter is intended to provide victims with a speedy and inexpensive method of obtaining civil antiharassment protection orders preventing all further unwanted contact between the victim and the perpetrator."); RCW 7.92.010 ("Stalking is a crime that affects 3.4 million people over the age of eighteen each year in the United States. Almost half of those victims experience at least one unwanted contact per week. Twenty-nine percent of stalking victims fear that the stalking will never stop. The prevalence of anxiety, insomnia, social dysfunction, and severe depression is much higher among stalking victims than the general population.")

3. Prohibitions against harassing and stalking behavior do not infringe on First Amendment free speech rights. See e.g. State v. Smith, 111 Wn.2d 1 (1988); State v. Bradford, 175 Wn.App. 912 (2013); State v. Noah, 103 Wn.App. 29 (2000); US v. Matusiewicz, 84 F.Supp.3d 363 (2015) (speech that is integral to criminal cyberstalking is not protected). The Court finds that the Stalking and Harassment Protection Order laws are not unconstitutional as applied to the Respondent.

3. The Court finds that Lee engaged in a course of conduct directed at Moriwaki, where Lee repeatedly contacted, harassed, stalked, and cyberstalked Moriwaki. The court finds that all the elements of Stalking (RCW 9A.46.110), Cyberstalking (RCW 9.61.260(1)(b)(repeated contacts)), and Unlawful Harassment (RCW 10.14.020) have been proven by a preponderance of the evidence.

4. As described in detail in the findings above: Lee repeated contacted Moriwaki by posting on his Facebook page after being specifically asked to stop; Lee reposted screenshots that had been deleted by Moriwaki; Lee sent a message implying he was outside Moriwaki's home to Moriwaki's friend; Lee sent a text message to ~~the~~ Moriwaki threatening to start a blog about him on a webpage named after Moriwaki; Lee created a public Facebook page bearing a title with Moriwaki's name; Lee created numerous memes with Moriwaki's image without his permission; Lee paid Facebook to advertise the page with Moriwaki's name and image- which then went out to Moriwaki's friends and others that did not seek out the page. The court finds that these acts were done with the intent to harass, embarrass, intimidate, torment, and retaliate after being limited and blocked from Morikawi's personal Facebook page. The acts were also done to cause damage to Moriwaki's reputation.

5. The Court finds that Lee's behavior caused Moriwaki to feel threatened, intimidated, and frightened; Moriwaki has experienced extreme stress, anxiety, and fear that Lee will damage his reputation and continue to stalk him. The Court finds these feelings are reasonable under the circumstances given the facts, circumstances, and the extremely brief and limited relationship between Lee and Moriwaki. See State v. Askam, 120 Wn.App. 872 (2004).

6. The Court finds that Lee has no lawful or free speech purpose in carrying out these actions. The Court rejects his claim that these actions cannot be prohibited under the First Amendment right of free speech. The Court rejects his claim that he has a right to attack Moriwaki as a public figure. Moriwaki is not an elected official and his volunteer role has not rendered him a limited purpose public official. Lee has no right to forcibly converse with Moriwaki on his personal Facebook page. Moriwaki has the right to limit contact with any person who he finds offensive.

7. The Court finds that the true purpose of Lee's course of conduct is to harass, intimidate, torment, and embarrass Moriwaki and to cause harm to his community reputation. The Court



finds that Lee began these actions as retaliation after being limited, rejected, and eventually blocked from Moriwaki's personal site.

8. Lee knew or reasonably should have known that his behavior intimidated, frightened, or threatened Moriwaki due to Moriwaki's requests to stop as well as the attempts of numerous community members to get him to stop.

9. Because the Court finds that Lee has stalked Moriwaki by repeatedly contacting, stalking, cyberstalking, and harassing Moriwaki, it is reasonable to place limits on his contact and conduct towards Moriwaki as outlined in the Protection Order.

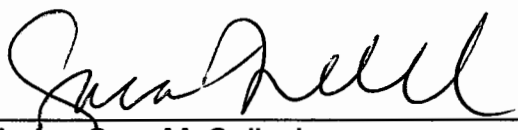
10. The Court finds that Lee is likely to continue acts of harassment and cyberstalking upon the expiration of a one year order and that a Permanent Stalking Protection Order is appropriate. This is based on Lee's refusal to stop his online harassment of Moriwaki after being told to stop; his stated intent to continue his harassment via a website in Moriwaki's name after being blocked; and his prior harassing behavior on various online forums that resulted in him being banned; his prior retaliatory behavior toward another individual who banned him online.

11. Pursuant to RCW 9A.18.005(5), this Court must find that possession of a firearm or dangerous weapon presents a serious and imminent threat to public health and safety or the health and safety of Mr. Moriwaki. The Petitioner has informed the court that he is fearful for his safety and life due to his harassment by Lee and the information he discovered online about him. However, the Petitioner has not proven by a preponderance of the evidence that the Respondent presents a serious and imminent threat to public health and safety or Moriwaki's health and safety by his possession of a firearm.

Although the Respondent has engaged in cyberstalking and harassing conduct towards the Petitioner, there must be more threatening, violent, or assaultive behavior for the Court to remove the Respondent's firearms. The Respondent has no criminal history and has not made any threats implying physical violence towards Mr. Moriwaki. Further, this Court cannot find any incidents of threats or violence in his past. This Court cannot find that his mere possession of an armored car, prior military reprimands, and prior argumentative, obnoxious, and harassing online behavior are sufficient to prove his firearm possession poses a serious and imminent threat.

12. The Court further incorporates its oral findings of fact and conclusions of law.

Dated: July 17, 2017

  
Judge Sara McCulloch