

STATE OF MICHIGAN  
27TH CIRCUIT COURT (NEWAYGO COUNTY)

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CHERYL L. MCCLOUD,

Petitioner,

File No. 17-055485-PH

v

LORI SHEPLER,

Respondent.

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RESPONDENT'S MOTION TO SET ASIDE PERSONAL PROTECTION ORDER  
BEFORE THE HONORABLE GRAYDON W. DIMKOFF, CIRCUIT COURT JUDGE  
White Cloud, Michigan - Monday, January 18, 2018

APPEARANCES:

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WITNESSES

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EXHIBITS

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White Cloud, Michigan  
Monday, January 18, 2018 - beginning at 10:52  
a.m.

THE COURT: The Court will take up the McCloud,  
Shelper -- Shepler matter, that'd be File 17-055485-PH.  
Good morning, Counsel.

MR. JACK: Good morning, your Honor.

MR. THOMAS: Morning.

THE COURT: You each want to put your appearance  
on the record?

MR. THOMAS: I think I am on the record already,  
but I did file an appearance.

THE COURT: Okay.

MR. THOMAS: Terrence Thomas, attorney for --

THE COURT: But, see, I forget who people are.  
And so, I like them to announce themselves in open court.

MR. THOMAS: Okay.

THE COURT: It's one of those memory things, you  
know?

MR. THOMAS: This is Mrs. McCloud.

THE COURT: Hi, Cheryl. How are you doing?

THE PETITIONER: Hi, how are you?

MR. THOMAS: That's why you don't see me very  
often.

MR. JACK: I'm Bill Jack, your Honor, on behalf

1 of the respondent.

2 THE COURT: Okay. Have a seat. Counsel, have  
3 you had a chance to talk about this?

4 MR. JACK: Just briefly. I wasn't aware that  
5 Judge Thomas was going to be on the file until this  
6 morning.

7 THE COURT: As you know, Judge Thomas was a  
8 judge here for many, many years.

9 MR. JACK: I appeared before him many times.

10 THE COURT: I not only practiced in front of him  
11 but then I became a judge myself and, in a sense,  
12 practiced with him. Does that cause either of you to have  
13 any desire to have me disqualified because you feel I may  
14 be bias either for you or against you?

15 MR. JACK: No, your Honor.

16 MR. THOMAS: Mr. Jack, I think, tried his first  
17 circuit trial in front of me.

18 THE COURT: Is that right? For heaven's sake.

19 MR. THOMAS: Twenty, 30 years ago.

20 MR. JACK: Longer.

21 THE COURT: Cheryl, I've known you off and on  
22 for many years as well.

23 THE PETITIONER: Yep.

24 THE COURT: I can't remember the last time I saw  
25 you. It's probably been a long time.

1 THE PETITIONER: A long time. Time flies.

2 THE COURT: Like years and years?

3 THE PETITIONER: Yep.

4 THE COURT: Does that cause you to have any  
5 qualms about me handling this situation one way or  
6 another?

7 THE PETITIONER: No -- no. Nope, not at all --  
8 nope.

9 THE COURT: Counsel, I think you ought to be  
10 able to sit down and talk about this. It's a sticky-  
11 wicket. Frankly, as I read it I thought, wow, what would  
12 I do if this was an abortion case, abortion studio or  
13 something. People get so inflamed about these things and  
14 you go to media and it's easy to stir things up. And when  
15 you do that, do you have some culpability, do you have  
16 some responsibility when you do things like that? What if  
17 one of those people would have murdered an abortionist  
18 doctor, which has happened in our past. So, to me, as I  
19 was trying to think of an analogy to what's going on here,  
20 that's what came to my mind. That, wow, this -- on the  
21 one hand, I'm not sure from reading the pleadings that Ms.  
22 Shepler is entirely responsible at all. But, on the other  
23 hand, words have meaning, and they can cause difficulties.  
24 If that were true, probably President Trump would be the  
25 most popular president in all of human history. But his

1 words so shake people up that he's not all that popular at  
2 all. I'd hope I didn't have to try this case, to be  
3 honest with you. But if I have to I will. But I really  
4 think it ought to be born of some understanding that is  
5 worked out by counsel.

6 MR. JACK: Your Honor, I have great respect for  
7 Judge Thomas and always have, and I am more than happy to  
8 sit down with him and see if we can't find a middle  
9 ground. I'm not a fan of social media. I'm too old. And  
10 I think part of this is social media has sort of taken a  
11 very passionate issue and blown it up.

12 THE COURT: I don't have Facebook. I email and  
13 do a few other things. Someone -- on more than one  
14 occasion as a judge, I've had people come in here and say  
15 you should see what somebody said about you on the  
16 internet, and I always say I don't care what people say.  
17 The last thing I'm going to do is go look at it. I don't  
18 want to be prejudiced one way or another if I ever have a  
19 case and somebody posted something. I don't even want to  
20 know about it. I have loaded guns in my house and I keep  
21 them there and they're accessible. I don't have any kids  
22 in the house anymore. I believe I can take care of  
23 myself. I think people, by and large, put too much value  
24 on social media. In fact, I read the other day of the  
25 five main stressors in peoples' lives. Social media is

1 one of the chief five. So, just from that attitude, I  
2 think people are way too much into it. But, again, I  
3 think you two are both reasonable men. You ought to be  
4 able to figure something out.

5 I -- Cheryl, I can tell you I don't know if PPOs  
6 are the way to go on these types of things. A PPO, it's  
7 almost like handing an arrest warrant to the person who  
8 got it. The law, technically, says that you can complain  
9 to the cops and say that this lady did something to you  
10 and they shall go arrest her. Whether we like it or not,  
11 most cops don't go out and just automatically arrest the  
12 defendant or respondent but that's kind of something we've  
13 lived with and worked out. It's a lot of power to give  
14 somebody, and I am always hesitant to see these things  
15 continue. There may be some alternative.

16 MR. THOMAS: A veterinarian who was contacted  
17 advised her to file this.

18 THE COURT: Yep.

19 MR. THOMAS: That was not my advice. I didn't -  
20 -

21 THE COURT: Yeah. Well, and I can understand  
22 why she would. Heaven's, I read all that stuff in there.  
23 Holly moly, people say that about we ought to tie her up  
24 and cut off her fingers and thumb, for heaven's sake?

25 MR. THOMAS: Well, the point is, we're

1           contesting because, one, the PPO worked and even though  
2           this lady said she didn't control -- there's like a  
3           hundred people who contacted her, interfered with her  
4           funding source, and it was far beyond vilifying her  
5           personally. It, essentially, shut down her operations or  
6           threatened the whole operation. Not only that, I  
7           understand she lives in California, and I understand the  
8           effect of this PPO is we'd have to go to -- if we had it,  
9           we could go and get full faith and credit. So, just from  
10          the very fact that it worked, and we might, if it starts  
11          again --

12                         THE COURT: As you know, it's just as effective  
13          in California as it is here in Michigan.

14                         MR. THOMAS: If we get full --

15                         THE COURT: When I issue one of these things  
16          they have national effect.

17                         MR. THOMAS: I wasn't aware of that. I thought  
18          we --

19                         THE COURT: That's true, federal government.

20                         MR. THOMAS: Well, I thought we'd have to go to  
21          get full faith and credit in --

22                         THE COURT: I don't think you have to do that at  
23          all. I think that's already built in. I think there's a  
24          federal statute.

25                         MR. THOMAS: Is that true, do you know?



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MR. JACK: I don't know that.

THE COURT: No, I think there's a federal statute.

MR. JACK: But, your Honor, if I may be heard? People have immense respect for Cheryl McCloud and everything that she's done with Lake Haven. This isn't about all of the good works that she has done for her entire life. This is about this very narrow issue and an attempt to try to balance what is, I think, a right to criticize business practices versus some people who have taken social media well beyond the respondent's education piece of it and turned it into something that the respondent never, ever wanted it to be.

THE COURT: That's good to hear.

MR. JACK: And I -- that was the first thing I was going to say if I was going to make an oral argument. And that is, there is immense respect for Ms. McCloud.

THE COURT: The Court will take a recess in this matter. Give you folks an opportunity to talk about it.

MR. THOMAS: Just one thing. If you look at 750.411s, it's a five-year felony. And I really think there's enough evidence before the Court to prove that already, you know. So, this is a great option to -- some type of a felony.

THE COURT: Well, you're welcome to use the jury

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room here or one of the counsel rooms out in the hallway.  
So, this matter is in recess at this point.

(At 11:00 a.m., proceedings concluded)

1 STATE OF MICHIGAN )

2 COUNTY OF NEWAYGO )

3

4 I certify that this transcript, consisting of 11 pages, is  
5 a complete, true, and correct record of the proceedings and  
6 testimony taken in this case on Monday, January 08, 2018.

7

8

9 DATED: April 09, 2018

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Nicole M. Shick, CER 7993

11

27<sup>th</sup> Circuit Court

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