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C.G.,
Plaintiff,

SUPERIOR COURT OF NEW JERSEY
OCEAN COUNTY
CHANCERY DIVISION
FAMILY PART

v.

DOCKET NO. FV-1921-16

E.G.,
Defendant.

CIVIL ACTION
OPINION

Decided: June 30, 2016

Plaintiff, pro se
Defendant, pro se

L.R. Jones, J.S.C.

This case addresses intentional economic abuse as a form of domestic violence. For the reasons set forth in this opinion, the court finds that defendant's attempted interference with plaintiff's employment constitutes purposeful harassment and coercion, and warrants the issuance of a final restraining order under New Jersey's Prevention of Domestic Violence Act.

FACTUAL BACKGROUND

Plaintiff and defendant are estranged spouses. Plaintiff credibly testifies that she had recently been collecting Social Security Disability (SSD) benefits, but felt that she was able to return to work. She wished to resume her former employment as a waitress in a restaurant where she previously worked before her disability. Plaintiff further represents, however, that over the past month, her estranged husband has been threatening her with text messages such as the following:

... I've only begun to fuck with you, you're fucked up, my new mission is to fuck you up. You're done, don't go to work, your services are looking for you. . . ."

Plaintiff further represents that within the past month, she contacted her former employer, and was successful in obtaining an offer of re-employment. She contends that since that time, however, defendant has been intentionally attempting to obstruct and interfere with her new employment by calling plaintiff's workplace without plaintiff's consent, bothering her employer as well as the employer's wife, and embarrassing plaintiff by alleging that plaintiff and the employer are having an affair.¹

¹ Parenthetically, no evidence was presented by defendant that any such affair existed at any time.

Regarding prior history, plaintiff further represents that defendant has repeatedly called her derogatory names such as “piece of shit” and “cunt”, and that many years ago defendant punched her and gave her a black eye. Plaintiff seeks a domestic violence final restraining order against defendant.

At the final hearing, defendant did not admit to plaintiff’s allegations, but offered no credible defense, opposition, or alternate version of events for the court’s consideration. Ultimately, the court found plaintiff’s testimony and version of events to be persuasive and true, and, that defendant was improperly attempting to impair plaintiff’s job.

LEGAL ANALYSIS

Interference with Employment as Harassing and Coercive Form of Domestic Violence

When one mentions the term, "domestic violence", there is often a tendency for people to think only of acts of physical abuse. This case, however, illustrates how domestic violence may occur in non-physical, but equally harmful alternate forms as well.

One such non-physical form of domestic abuse is economic harassment, including purposeful acts which a defendant perpetrates while intending that such acts either (a) impair or obstruct a plaintiff’s actual or prospective job

or job-related duties, or (b) threaten to do so with the purpose of controlling plaintiff , and/or pressuring or intimidating plaintiff into submitting to defendant's demands or wishes.

In the context of domestic violence, an ex-partner's acts of obstructing, interfering with, or threatening to endanger one's job and economic stability can be as fear-inducing to a victim as physical abuse. In fact, there are arguably few threats more potentially harassing and coercive than threatening one's livelihood or employment. For tens of millions of Americans, the primary financial resource for self-support is the income earned at work. Yet, we live in an era of recent and significant economic downturn in the United States. Piscitelli v. Classic Residence, 408 N.J. Super 83, 114 (App. Div. 2009). Benjamin v. Benjamin, 430 N.J. Super 301, 305 (Ch. Div. 2012). For people simply trying to make a living and pay their bills, employment stability and security is an extremely important issue. Hence any potential damage to such stability through an estranged, vindictive or controlling ex-partner's wrongful and purposeful actions may logically hurt a victim, and naturally cause significant anxiety and distress, and constitute economic abuse.

For certain, there may be occasions when a person appropriately contacts a partner or former partner's employment for objectively legitimate and law-

upholding purposes, such as truthfully reporting stealing, misappropriation, or other illegal activity which the employee may be conducting against the employer. There are other cases, however, where the evidence reflects that a defendant's contact with an estranged partner's employment is made for no objective purpose other than pure economic harassment. Against this backdrop, there are various ways which a defendant may improperly and coercively attempt to control, dominate, pressure, or intimidate a victim by directly and purposefully interfering with his or her employment. These methods may commonly include, by way of illustration and not limitation, the following:

- 1) Directly threatening to contact the victim's place of employment and attempting to get the victim fired, either by making false allegations, or improperly publicizing private, personal and embarrassing information about the victim;
- 2) Actually contacting the place of employment and following through with actions designed to damage the victim's status, and stability at his or her job ;
- 3) Repeatedly appearing uninvited at the victim's place of employment and causing a disturbance, or otherwise acting in a manner which is disrespectful of, and/or embarrassing to, the victim, and disruptive to the victim's job responsibilities and performance, and/or standard business operations.

Sometimes, a defendant may unilaterally decide to repeatedly start calling a plaintiff's employer, or begin repeatedly "showing up" uninvited at a former

partner's workplace, as a way to either harass the target, or figuratively but coercively corner him or her into interacting or submitting to certain demands. In such circumstance, a defendant might intend or count on the fact that the particular victim may feel forced into agreeing to speak with the defendant, simply to avoid the embarrassment of a publicly upsetting scene that might have a negative impact on the person's status at work. Other times, as in the present case, the interference occurs by telephone rather than in person, and spreads not only to the employer but the employer's spouse or other members of the employer's family or circle.

In the context of an ongoing hostile or abusive relationship between current or former spouses or dating partners, such interference with employment may constitute harassment as well as coercion. Indeed, it is difficult to imagine any employee, in any job position which he or she values, voluntarily consenting to an estranged partner contacting his or her employer with nasty, malicious, and unwelcome comments. Work is a place to concentrate on work, and an objectively reasonable person most likely and logically does not appreciate or want an ex-partner phoning the employer, or appearing unannounced at the jobsite to cause disturbance. In the present case, it is more than reasonable to assume that defendant was well aware of the highly unwelcome nature of his communications.

The concept of economic abuse is gaining recognition as a genuine form of domestic violence. According to the United States Department of Justice website:

We define domestic violence as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

<https://www.justice.gov/ovw/domestic-violence>. (last visited June 30, 2016).

According to a factsheet previously published by the National Coalition Against Domestic Violence:

Economic abuse can manifest itself in many different ways, and abusers can victimize their partners even after they have left the abusive relationship. Some abusive behaviors include: interfering with the victim's work performance through harassing activities, such as frequent phone calls or unannounced visits. . . .

[http://www.uncfsp.org/projects/userfiles/file/dce-stop now/ncadv economic abuse fact sheet.pdf](http://www.uncfsp.org/projects/userfiles/file/dce-stop%20now/ncadv%20economic%20abuse%20fact%20sheet.pdf).

(last visited June 30, 2016);

<http://www.ncadv.org/files/Domestic%20Violence%20and%20Economic%20Abuse%20NCADV.pdf>.

(last visited June 30, 2016, updating prior fact sheet on economic abuse, supra.)

In a more general sense, the New Jersey Supreme Court has recognized that the basic protection which the law seeks to assure victims is the right to be left alone. See State v. Hoffman, 149 N.J. 564, 584-85 (1997). This right is particularly important when a person is at work, simply trying to do the duties of his or her job description. A person has a basic right to be left alone by an estranged or former spouse or dating partner at his or her place of employment.

As a matter of logic, common sense, fairness, and social decency, a person's job and workplace is implicitly entitled to a line of sanctity which former partners are expected to properly and reasonably honor and respect rather than improperly cross. A defendant who intentionally violates a plaintiff's rights and space in this regard without an objectively legitimate and acceptable purpose arguably demonstrates not only a disturbing self-centeredness and potentially dangerous lack of self-control, but also a fundamental disregard of the victim and well as, when applicable, the victim's employer, co-employees, clients, customers, and any other third persons transacting business at the particular jobsite.

In the present case, the evidence supports a finding, by a preponderance of the credible evidence, that defendant phoned plaintiff's place of employment against plaintiff's wishes, with the purpose and tactic of causing her harm as

expressed and desired in his text message, and/ or otherwise wearing plaintiff down into submission. In doing so, defendant knew or should have known that he was improperly encroaching on plaintiff's new employment, while potentially subjecting her to public embarrassment in front of her employer and co-workers. Defendant's actions constitute harassment of plaintiff under the totality of the circumstances. under N.J.S.A. 2C:33-4. His conduct fits within the terms and spirit of the amendment of the Domestic Violence Act, which was designed in part to protect victims from this type of sustained and unfairly harassing and economically abusive and threatening behavior.

COERCION: A NEWLY RECOGNIZED FORM OF DOMESTIC VIOLENCE

In addition to harassment, defendant's conduct constitutes a form of economic coercion as well.

Historically, under N.J.S.A. 2C:25-19(a), there have been multiple different offenses which may constitute domestic violence under New Jersey's Prevention of Domestic Violence Act. The Act has referenced and utilized the statutory definitions of certain offenses contained in New Jersey Criminal Code in order to define certain acts of domestic violence, when committed against a spouse, dating partner, or any other person who qualifies as a victim under the Act. Traditionally, these offenses have included the following:

- (1) Homicide N.J.S.A 2C:11-1 et seq.
- (2) Assault N.J.S.A 2C:12-1
- (3) Terroristic threats N.J.S.A .2C:12-3
- (4) Kidnapping N.J.S.A 2C:13-1
- (5) Criminal restraint N.J.S.A 2C:13-2
- (6) False imprisonment N.J.S.A 2C:13-3
- (7) Sexual assault: N.J.S.A 2C:14-2
- (8) Criminal sexual contact: N.J.S.A 2C:14-3
- (9) Lewdness: N.J.S.A 2C:14-4
- (10) Criminal mischief: N.J.S.A 2C:17-3
- (11) Burglary: N.J.S.A. 2C:18-2
- (12) Criminal trespass:. N.J.S.A 2C:18-3
- (13) Harassment: N.J.SA. .2C:33-4
- (14) Stalking: N.J.S.A. 2C:12-10

In August, 2015, the New Jersey Legislature formally amended the Domestic Violence Act to include certain additional definitions of domestic violence, including coercion under N.J.S.A. 2C:25-19(a)(15), as defined by N.J.S.A 2C:13-5. This new amendment is particularly relevant in the present case, in that its language arguably provides one with legal protection from

unwarranted economic abuse from a defendant who either interferes with a victim's employment or otherwise threatens to do so.

Criminal coercion is defined under N.J.S.A. 2C:13-5, which sets forth the following seven categories of threats made to unlawfully restrict freedom of action, with a purpose to coerce a course of conduct from a victim which defendant has no legal right to require², by threatening to:

- 1) inflict bodily injury on anyone or commit any other offense;
- 2) accuse anyone of an offense;
- 3) expose any secret which would tend to subject any person to hatred, contempt or ridicule or to impair credit or business repute;
- 4) take or withhold action as an official or cause an official to take or withhold action;
- 5) bring about or continue a strike, boycott or other collective action except that such a threat shall not be deemed coercive when the restriction compelled is demanded in the course of

² Except for the threats in the categories of threat to inflict bodily injury on anyone or commit any other offense and threat to bring about or continue a strike, boycott or other collective action, there is an affirmative defense consisting of two requirements. First, defendant believed the accusation or secret to be true or the proposed official action to be justified. Second, defendant's purpose must be limited to compelling the victim to behave in a way reasonably related to the circumstances which were the subject of the accusation, exposure or proposed official action, as by desisting from further misbehavior, making good a wrong done, or refraining from taking any action responsibility from which the actor believes the other disqualified. The state must prove three material elements to obtain a conviction. First, defendant made a threat encompassed by one of the seven categories. Second, defendant's purpose was to restrict another person's freedom of action to engage or refrain from engaging in conduct. Third, defendant's purpose was unlawful. Criminal coercion is a crime of the fourth degree unless the threat is to commit a crime more serious than one of the fourth degree, or if the defendant has a criminal purpose, then it is a crime of the third degree.

negotiation for the benefit of the group in whose interest the defendant acts;

6) testify or provide information or withhold testimony or information with respect to another person's legal claim or defense;

7) perform any other act which would not in itself substantially benefit the defendant but which is calculated to harm another person with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships.

As relating to cases involving a defendant's interference or threats to interfere with a plaintiff's employment, subsections (3) and (7) of the coercion statute are two subsections which may be particularly relevant. Under subsection (3), a defendant commits coercion when he or she threatens to expose any secret which would tend to subject the victim to hatred, contempt or ridicule or to impair credit or business repute. For example, if one threatens to contact a victim's employer, supervisor or co-employees without the victim's consent, and to share personal and embarrassing information about the victim at his or her job which is unrelated to the job itself, such a threat is implicitly one which may logically cause emotional distress, and place a victim in fear of damage to reputation and security. A defendant who is looking to intimidate or control a victim, may commit coercion by improperly attempting to damage the victim's job performance or reputation.

Under subsection (7) of the statute, a defendant may commit coercion when he or she threatens or performs any other act which would not in itself substantially benefit the defendant but which is calculated to harm another person with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships (emphasis added). By enacting this provision to the Domestic Violence Act, the Legislature has inferentially emphasized the reality that in the realm of domestic violence, a defendant may attempt to wrongfully coerce, intimidate, control, and harass a target through not only physical abuse, but through economic abuse as well.

The court finds in this case that defendant's actions were intentional, harassing, and coercive in nature. There is absolutely no objectively persuasive evidence of any legitimate and acceptable reason for the defendant's contact with plaintiff's employer. In fact, the true purpose of defendant's conduct is reflected by his text to plaintiff expressing a clear desire to cause her harm. Moreover, his text to plaintiff is relevant not only with reference to intent, but to prior recent history as well.³ As noted in Cesare v. Cesare, 154 N.J. 394, 401-02 (1998), a defendant's past history is relevant in a domestic violence

³ During the proceeding, plaintiff also testified in detail about the parties' prior history and relationship, and various harassing comments which defendant made to plaintiff at different times. While defendant did not admit making such comments, the court found plaintiff's testimony to be credible regarding same.

proceeding regarding the nature of parties' relationship. Defendant's actions demonstrate the need for the entry of a restraining order to protect plaintiff and her right to be left alone.

Pursuant to Silver v. Silver, 387 N.J. Super 112 (App. Div. 2006), there is a two-pronged test in determining whether to enter a final restraining order. Under the first prong, the court must determine by a preponderance of the evidence whether a predicate act of domestic violence has occurred. Id. at 125-26. Under the second prong, the court must decide whether a restraining order is necessary to protect the victim from further ongoing abuse. Id., citing N.J.S.A. 2C:25-29(b). Here, the evidence is compelling that unless a restraining order is entered, defendant will more likely than not continue a pattern of economic harassment and coercion by attempting to disrupt plaintiff's employment and life.

A restraining order is warranted under the facts and circumstances of this case. The Domestic Violence Act is remedial in nature, and it is therefore to be liberally construed in order to achieve its salutary purpose, Cesare v. Cesare, 154 N.J. 394, 400 (1998). Our law is particularly solicitous of victims of domestic violence, and our Supreme Court has noted that those who commit acts of domestic violence may have an unhealthy need to control and dominate their

partners. See State v. Hoffman, 149 N.J. 564, 585 (1997). The fears of a domestic violence victim and the turmoil she/he has experienced should not be trivialized. Id. at 586 Rather, the State encourages broad application of the Act to confront the widespread cancer of domestic abuse. See State v Harris: 211 N.J. 566, 579 (2012). There is no such thing as an act of domestic violence that is not serious. Brennan v. Orban, 145 N.J. 282, 298 (1996). Moreover, victims of domestic violence are often at their highest risk of injury when, they try to leave unhealthy relationships. See State v. Hoffman, supra, 149 N.J. at 585.

The court finds that plaintiff has met both prongs of the Silver test, and grants plaintiff's application for the issuance of a final restraining order against defendant.