

1 HON. BRENDA R. GILBERT  
2 District Court Judge  
3 Sixth Judicial District  
4 414 East Callender Street  
5 Livingston, Montana 59047  
6 406-222-4130

PARK COUNTY CLERK  
OF DISTRICT COURT  
JUNE LITTLE  
2017 DEC 22 PM 3 34  
FILED  
BY *Jamie Parker*

MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY  
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7 MEMBERS OF THE BOARD, )  
8 OF GLASTONBURY )  
9 LANDOWNERS ASSOCIATION )  
10 INC., a Montana Non-Profit )  
11 Corporation, DENNIS RILEY, )  
12 DANIEL KEHOE, CHARLENE )  
13 MURPHY, GERALD DUBIEL, )  
14 RICHARD JOHNSON, LEO )  
15 KEELER, KEVIN NEWBY, )  
16 and MARK SEAVER, Individuals, )  
17 )  
18 )  
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Cause No. DR 17-135

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND INTERIM ORDER OF PROTECTION

Petitioners,  
vs.

DANIEL O'CONNELL and  
VALERY O'CONNELL,  
Respondents.

Petitioners filed their Sworn Petition for Temporary Order of Protection and Request for Hearing. Petitioners alleged that they believed they were in danger of harm if the Court did not enter a Temporary Order of Protection immediately. The Petition was initially filed in the Park County Justice Court, and that Court entered a Temporary *Ex Parte* Order Granting Temporary Order of Protection and Setting for a Hearing. The Petitioners requested that the matter be transferred to District Court. This Court continued the Temporary *Ex Parte* Order of Protection in effect pending a hearing and set a new date for the hearing.

1 The Respondents filed their Affidavit & Motion to Terminate the "Temporary Ex Parte  
2 Order of Protection." Respondents also filed a request that the matter be heard on November 1,  
3 2017, the date that the Justice Court set for the hearing initially. This request was denied, given a  
4 conflict in the Court's calendar regarding previously scheduled hearings.  
5

6 A hearing on the Petition was held on November 8, 2017. The Petitioners were represented  
7 by Alana Griffith. Daniel O'Connell and Valery O'Connell appeared as self-represented litigants.  
8 The Court heard testimony and admitted evidence. Having considered the testimony and evidence  
9 presented, the Court file, and applicable legal authority, the Court now makes the following:  
10

#### 11 FINDINGS OF FACT

12 1. The Petitioners are the Board of Directors of Glastonbury Landowners Association,  
13 Inc., a Montana Non-profit Corporation (hereinafter referred to as "the Association") and eight  
14 individuals who are Members of the Board of Directors of said Association. Dennis Riley signed  
15 the Petition individually, and as President of the Glastonbury Landowners Association, Inc. The  
16 remaining seven Board Members who signed the Petition did so in their individual capacities.  
17

18 2. The Respondents, Daniel O'Connell and Valery O'Connell own property within the  
19 area governed by the Glastonbury Landowners Association Inc.  
20

21 3. The Association held a meeting on August 14, 2017. Dennis Riley testified that, at  
22 this meeting, Daniel O'Connell shook his finger and said his motto was to "have a plan to kill  
23 everyone you meet." Mr. Riley testified that he and other board members and attendees at the  
24 Association meetings feel threatened. He further testified that the Association has one part-time  
25 employee who is very shaken by these events and is afraid to come to the meetings.  
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1           4.       Mr. Riley further testified that the O'Connells have been belligerent at meetings of  
2 the Association, repeatedly interrupting him and other board members and participants. He testified  
3 that the Association has had to end at least one meeting early because Ms. O'Connell was running  
4 around the back of the room and would not be quiet. Mr. Riley testified that she went crazy,  
5 yelling and screaming and calling him a liar.  
6

7           5.       At the August 14, 2017 Board Meeting, Mr. Riley lost his temper, as Ms. O'Connell  
8 continued to yell even after he closed the meeting. He pounded his fist on the table once. When he  
9 closed the meeting, he came around the table and walked to within 10 feet of Ms. O'Connell and  
10 told her, "You can leave now." At the September 11, 2017 Association meeting, Mr. Riley  
11 testified that he apologized for losing his temper. Mr. Riley's testimony regarding this incident  
12 was credible.  
13

14           6.       Ms. O'Connell has attempted to characterize Mr. Riley's conduct toward her at the  
15 August 14, 2017 meeting as an assault. Following the meeting Ms. O'Connell wrote a letter to the  
16 Board Members and attorney for the Association that begins with the statement,  
17

18                        "As most of you are well aware at last nights board meeting  
19                        (August 14, 2017), GLA President Dennis Riley publicly  
20                        assaulted my character and person in front of a dozen of my  
21                        peers, the act of which (if not the intent) had the design to  
22                        hold my person to ridicule, denigration and cruel hatred.  
23                        Riley also verbally attacked me and physically menaced and  
24                        threatened me causing me to fear bodily harm.

25           Ms. O'Connell's characterization of Mr. Riley's conduct toward her at the August 14, 2017  
26 board meeting is not credible in light of the testimony at the hearing. Even the O'Connell's own  
27 witness concerning this matter, Charles Barker, testified that when Dennis Riley walked toward  
28 Ms. O'Connell after the August 14 meeting, that he was not concerned about Valery. He knew

1           14.     The Petitioners represent that the O'Connells conduct at the meetings consists of  
2 stalking and intimidation. The record reflects that the O'Connells have filed at least four lawsuits  
3 against the Association. In Park County Cause No. DV 11-114, the Honorable David Cybulski  
4 presiding, the Court found the O'Connells and their children to be vexatious litigants that are  
5 prohibited from filing any cases against the Association or its Board Members, past or present,  
6 without first obtaining Court approval.  
7

8           15.     In addition to such litigation, the O'Connells repeatedly file Complaints with the  
9 Association, make claims of assault to law enforcement, and barrage the Board Members with  
10 chastising communications.  
11

12           16.     The O'Connells resist the requested Order of Protection. The O'Connells deny  
13 threatening or stalking the Petitioners. The O'Connells assert that the Petition for an Order of  
14 Protection is false and submitted in retaliation for the Petitioners being portrayed in a negative light  
15 by Ms. O'Connell's candidate bio.  
16

17           17.     The O'Connells provide, as Exhibit 4 to the Affidavit & Motion to Terminate the  
18 "Temporary Ex Parte Order of Protection," a recording and typewritten transcript from the  
19 September 2017 Board meeting of the Association. At this meeting, Daniel O'Connell stated,  
20

21                   "I would like to dissuade you President Riley and anyone else  
22 here that I am not a pacifist. In fact think of me as an anti-  
23 pacifist where I live by a kind of code where I embrace a motto  
24 you may have heard of – to be courteous, professional but you  
25 have a plan to kill every person you meet right? When I heard  
26 about what happened last month to my wife it brought you  
27 know a lot of rage in me I must admit and I kind of have some  
28 of that rage now. But if you come against my wife you come to  
my wife again your gonna have to come against me. And I will  
defend and protect. I said if. I will defend and protect every  
square inch of my territory."

1           18.     Tad Dykstra, a Deputy with the Park County Sheriff's Department testified at the  
2 hearing. Deputy Dykstra testified that Ms. O'Connell filed a complaint against Dennis Riley for  
3 assault. No evidence was presented of charges filed as a result. Deputy Dykstra further testified  
4 that he was presented with the audio recording of Daniel O'Connell's statement at the September  
5 2016 Board Meeting. He testified that this is taken from a fairly well-known quote by a famous  
6 general. It is a defensive statement. The reference is to what he (Mr. O'Connell) would do if his  
7 wife was threatened in the future.  
8

9           19.     The testimony at the hearing reflects that the Petitioners who heard the statement  
10 interpreted it as threatening. From observing the demeanor of the witnesses testifying on behalf of  
11 the Petitioners, the Court finds that the Petitioners have experienced reasonable apprehension of  
12 bodily harm. The concern voiced by the Petitioners is that the circumstances created by the  
13 O'Connells are escalating in terms of their intensity and impact upon the Petitioners and others who  
14 are present at the Association meetings.  
15  
16

17           20.     Charlotte Haley Mizzi testified for the O'Connells at the hearing. She has been a  
18 board member for the last two years and was previously a board member for four years. She  
19 testified that she has never seen the O'Connells stalk or threaten anyone, except threatening legal  
20 proceedings. She testified that she never felt threatened or harassed. She testified that she would  
21 not sign the Petition for an Order of Protection because she was "not there" and does not feel that  
22 everybody is treated equally.  
23

24           21.     It appears from the record that the conduct of the O'Connells that led to the  
25 Petitioners filing their Petition for an Order of Protection is both long-standing and escalating.  
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1 22. The conduct of the O'Connells has caused the Petitioning Board Members  
2 reasonable apprehension of bodily injury or death by repeatedly harassing, threatening and  
3 intimidating them.

4  
5 23. The demeanor of Ms. O'Connell and her conduct at the hearing was intimidating  
6 and uncontrolled and had a visible emotional impact upon the witnesses that she was questioning.

7 24. The Board has reached the point of hiring a private security guard to attend the  
8 meetings in an effort to keep the peace. The Court construes the testimony of Mr. Kehoe as  
9 representing that there are individuals who have concealed carry permits attending the meetings  
10 armed with guns as well. The Court is not compelled to wait for a catastrophic occurrence to grant  
11 the Petitioners' requested relief.  
12

13 25. As owners of real property with the Glastonbury Landowners' Association, the  
14 O'Connells have a right to meaningfully participate in the Association meetings, if they can do so  
15 without disrupting the right other members have to meaningfully participate as well.  
16

17 Based upon the foregoing findings of fact, the Court now draws the following conclusions  
18 of law:

19 **CONCLUSIONS OF LAW**

20 A. This Court has jurisdiction over the parties, and the subject matter at issue herein.

21 B. The Respondents are not partners or family members in terms of their relationship to  
22 any of the Petitioners, as those terms are defined in §45-5-206, MCA.  
23

24 C. Petitioners seek their Order of Protection on the basis of stalking by the O'Connells,  
25 as defined by §45-5-220 MCA. Stalking involves a person purposely or knowing causing another  
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1 person substantial emotional distress or reasonable apprehension of bodily injury or death by  
2 repeatedly harassing, threatening, or intimidating the stalked person...”.

3 D. The individual Petitioners have established that the O’Connells have purposely or  
4 knowingly caused them substantial emotional distress or reasonable apprehension of bodily injury  
5 or death by repeatedly harassing, threatening, or intimidating them.  
6

7 E. The individual Petitioners are all entitled to an Order of Protection, which Order  
8 should remain in place for a period of two years. At the end of the two-year period, the Petitioners  
9 may seek extension of the Order, but if they fail to do so, the Order should expire by its own terms.  
10

11 F. Petitioners have presented no authority supporting the granting of an Order of  
12 Protection that protects a corporate entity. A corporate entity cannot, itself, experience reasonable  
13 apprehension, emotional distress, harassment threats or intimidation in the manner contemplated by  
14 the provisions of §40-15-201, MCA. Accordingly, to the extent the Petition for an Order of  
15 Protection seeks protection for the Association, a Montana Non-Profit Corporation, the Petition  
16 should be denied.  
17

18 G. The O’Connells shall be entitled to attend meetings of the Association  
19 telephonically, shall be entitled to vote, and shall have specific, limited periods of time in which to  
20 interject their comments and opinions. Given that the Petitioners have familiarity with how the  
21 meetings are run, Petitioners shall submit a proposed Order delineating their specific proposal for  
22 the O’Connell’s participation in Association meetings, elections and any other pertinent aspects of  
23 the business of the Association. The O’Connells shall have an opportunity to respond and the  
24 Court will, thereafter enter an Order in this regard. This Order will provide that all delineated  
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1 means of participation in the Association by the O'Connells shall not be deemed a violation of the  
2 Order of Protection.

3 H. Based upon the foregoing Findings of Fact and Conclusions of Law, the Court now  
4 enters the following Order:  
5

6 **INTERIM ORDER OF PROTECTION**

7 I.

8 To the extent the Petition for an Order of Protection seeks protection for the Glastonbury  
9 Landowners Association Inc., a Montana Non-Profit Corporation, the Petition is DENIED.  
10

11 II.

12 The Petitioners Dennis Riley, Daniel Kehoe, Charlene Murphy, Gerald Dubiel, Richard  
13 Johnson, Leo Keeler, Kevin Newby, and Mark Seaver, in their individual capacities, are entitled to  
14 an Interim Order of Protection, which is set forth, specifically, as follows:  
15

16 A. This Order prohibits the Respondents from having any contact with said Petitioners,  
17 including in person contact, contact by any electronic or telephonic means, any contact  
18 through third-parties, any contact by U.S. Mail, or contact by any other means  
19 whatsoever.

20 B. The Respondents shall stay three hundred feet away from the said Petitioners at their  
21 homes, at their places of employment, at Association Meetings, or at any other location.  
22

23 III.

24 Petitioners shall, within twenty days, submit a proposed Order delineating their specific  
25 proposal for the O'Connell's participation in Association meetings, elections and any other  
26 pertinent aspects of the business of the Association. The O'Connells shall a period of twenty days  
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1 to respond to the Petitioners' proposed Order, from the date said proposed Order is filed. The  
2 Court will, thereafter enter a Final Order of Protection incorporating the delineated means by  
3 which the O'Connells may participate in the Association. This Interim Order of Protection is not  
4 subject to appeal, however said Final Order of Protection will be appealable. Said Final Order  
5 will provide that all delineated means of participation in the Association by the O'Connells shall  
6 not be deemed a violation of the Order of Protection.  
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8  
9 IV.

10 Pending the entry of the Final Order of Protection with provisions delineating the  
11 O'Connells' means of participating in the Association, the Association shall not make any  
12 substantive decisions, in the absence of a bona fide emergency.

13 Dated this 22<sup>nd</sup> day of December, 2017.

14  
15 Brenda R. Gilbert  
16 Hon. Brenda R. Gilbert, District Judge

17 CC: Alana Griffith copy and certified copy for service on Respondents  
18 Daniel O'Connell and Valery O'Connell

19 mid 12/22/17 P.P.  
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