



**2007 PENNSYLVANIA STATEWIDE
HIGH SCHOOL MOCK TRIAL COMPETITION**

Jamie Anderson

v.

Taylor Williams

**SPONSORED BY THE YOUNG LAWYERS DIVISION
OF THE PENNSYLVANIA BAR ASSOCIATION**

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Mock Trial Office: Illinois State Bar Association

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Problem Questions & Contact Information

Questions concerning these case materials should be sent to David Keller Trevaskis at the Pennsylvania Bar Association (PBA). Case material questions will be answered in cooperation with the Statewide Mock Trial Executive Committee. Questions regarding mock trial procedure, including any questions involving the Rules of Competition or Rules of Evidence (Pennsylvania Mock Trial Version), should be directed to your District or Regional Mock Trial Coordinators.

Answers to legitimate and non-repetitive questions will be posted in a supplemental memo on the mock trial website www.pabar.org under the Young Lawyer's Division (YLD) link (direct access at www.pabar.org/yldstatewidemock.shtml). The supplemental memo will be updated periodically.

You may begin submitting questions anytime. **The deadline for submitting questions is 12:00 noon on January 26, 2007.** The final update to the supplemental memo will be posted no later than January 30, 2007. The final memo will become the official supplemental memo and may be used in the competition. Please consult Rule of Competition 3.3 concerning the evidentiary value teams are to give the final official supplemental memo.

Questions must be sent in writing by one of the methods listed below. Please be sure to include return contact information in the event we need to reach you to clarify a question.

NO QUESTIONS WILL BE CONSIDERED UNLESS SUBMITTED UNDER THIS PROCEDURE.

E-mail: david.trevaskis@pabar.org

Regular Mail: David Keller Trevaskis
Pennsylvania Bar Association.
100 South Street
PO Box 186
Harrisburg, PA 17108-0186

Fax: 717.238.7182 (C/O David Trevaskis)

Teams without access to the website can request paper copies of these case materials from Maria Engles at the PBA (maria.engles@pabar.org). She can be reached at the same address and fax number as above. Please be sure to include your return address.

INTRODUCTION AND ACKNOWLEDGMENTS

Welcome to the 2007 Statewide High School Mock Trial Competition -- one of the premier high school academic competitions in the Commonwealth. This competition, begun in 1984 and sponsored by the Young Lawyers Division of the Pennsylvania Bar Association (PBA/YLD), exposes high school students to the American judicial system with an unforgettable hands-on experience. Mock Trial is just one of a series of law-related and civic education programs conducted by the PBA aimed at demystifying the law for Pennsylvanians; others include Celebrate the Constitution, Project PEACE, Law Day and Stepping Out for Seniors. This year's case, *Jamie Anderson v. Taylor Williams*, is a civil action that centers around cyberstalking, a timely topic in today's computer age.

The plaintiff is Jamie Anderson, a Lincoln High School senior, who used the school's chat room as a means to stay on top of her/his academic pursuit of the highly coveted valedictorian scholarship. The plaintiff was tied with defendant Taylor Williams for top spot in the class until his/her concentration was completely wracked after reading threatening postings in the chat room between March 6 and March 10, 2006. The cyberstalker sent Jamie additional threats on March 11, 2006 via an anonymous e-mail, a message that also included a link to a threatening web page. The plaintiff contends that these statements caused her/him severe emotional distress, resulting in lower grades and loss of the valedictorian scholarship. Anderson alleges that the defendant was the person who posted the threatening remarks in order to cause Anderson to lose the valedictorian scholarship. Williams' actions, according to Anderson, violated the State of Barrister's recently enacted civil cyberstalking statute. All events, characters and documents created for the 2007 case are fictional.

The 2007 mock trial case was initially drafted by the Illinois State Bar Association as a criminal case. It has been substantially re-written for this competition by Jonathan A. Grode, a third year evening student at Temple University James Beasley School of Law. Jane Meyer, Esq., a prior Mock Trial Committee Chairperson and current member of the National High School Mock Trial Championship Board of Directors, completed the final version of the problem in collaboration with Mr. Grode. Our sincerest thanks go out to Mr. Grode and Attorney Meyer for their tireless and enthusiastic review, re-creation and editing of this problem.

Thanks also go to Jennifer J. Clark of Lackawanna County, Co-Chair of the Mock Trial Committee and Immediate Past Chair of the PBA/YLD, for editing the final pleadings, jury instructions and court opinion portions of the materials, and to District Attorney Bill Higgins of Bedford County, Mock Trial Committee Co-Chair and Chair-Elect of the PBA/YLD, for his continued efforts in organizing, reviewing, and implementing the many facets of this competition.

Mr. Grode thanks: Professor Mark Rahdert, Esq. of Temple University James Beasley School of Law for his valuable assistance in enhancing the modification of the original problem and for providing organizational assistance; Roberta West, LEAP Program Advisor Temple University, for suggesting the topic and discussing various legal elements and case organization; Michael I. Metz-Topodas, a third year evening student at Temple University James Beasley School of Law, for reviewing the first draft of the problem; Michael O. Krause (B.A. Political Science Temple University 2005) for his assistance in the initial draft of the complaint and response; and the entire Young Lawyers Division of the Pennsylvania Bar Association for their valued assistance, suggestions and guidance.

The PBA/YLD also extends thanks to attorney volunteers Donna Adelsberger, Amy Niedzalkowski, and Anne Panfil for their review of early versions of the case materials. As usual, the YLD also thanks David Trevaskis, PBA Pro-Bono Coordinator, for his continued involvement and experienced guidance in implementing the 2007 Mock Trial Competition.

The Mock Trial Committee would like to express their appreciation to Justin Goldstein, Esq. of Allegheny County, Chair of the PBA/YLD, for his continued support of and valued input into this year's competition.

Finally, we thank the hundreds of volunteers who annually contribute their time and energy to the overall organization and running of the program, spearheaded by Mock Trial Co-Chair Bill Higgins. Last, but certainly not least, we thank the PBA staff, headed by Executive Director Barry Simpson and Deputy Executive Director Fran O'Rourke, and the many PBA staffer members, too numerous to mention, who provide valuable time and talent throughout the mock trial season. Without their assistance, this competition would not be the tremendous success that it is each year. Special thanks to Maria Engles, the YLD Coordinator at the PBA, who serves as the main point of contact for the entire program, beginning to end.

We hope you find these materials interesting, and wish you all the best of luck!

JAMIE ANDERSON,
Plaintiff

v.

TAYLOR WILLIAMS,
Defendant

: **IN THE COURT OF COMMON PLEAS**
: **NEW TEMPLE COUNTY, BARRISTER**

:

: **NO. 2006 CV 527**

:

:

: **CIVIL ACTION – LAW**

COMPLAINT

1. Plaintiff, Jamie Anderson, files this civil action against Taylor Williams seeking to recover damages for losses sustained as a result of defendant's violation of 24 BCS § 76.
2. Plaintiff is an 18 year old adult individual residing at 447 St. Mark's Street, New Temple, Barrister, 76853.
3. Defendant is an 18 year old adult individual residing at 1194 Mayfair Avenue, New Temple, Barrister, 76431.
4. At all times relevant hereto, both defendant and plaintiff were high school seniors at Lincoln High School, New Temple, Barrister.
5. At all times relevant hereto, both plaintiff and defendant were participating members of the Lincoln High School On-Line Student Chat Room ("Chat Room"), which was supported, sponsored, and maintained by Lincoln High School.
6. For purposes of identification in the Chat Room, Plaintiff was, at all times relevant hereto, associated with the user identification "jammin@LincolnHS".
7. At all times relevant hereto, Plaintiff was associated with the electronic mail address "jammin@LincolnHS.edu".
8. For purposes of identification in the Chat Room, Defendant was, at all times relevant hereto, associated with two user identifications, "Shockwave" and "Fatalflaw".

9. At all times relevant hereto, Defendant was associated with the electronic mail address "user94040@KZMail.com".
10. On several occasions between March 6, 2006 and March 10, 2006, Defendant harassed Plaintiff by knowingly transmitting to Plaintiff threatening remarks via Chat Room postings.
11. Defendant harassed Plaintiff on March 11, 2006 by knowingly and intentionally transmitting a threatening message via electronic mail.
12. As a result of Defendant's conduct referred to in paragraphs 10 and 11 herein above, Plaintiff suffered substantial emotional distress including, but not limited to, sleeplessness, nightmares, general anxiety disorder, inability to eat, paranoia, panic attacks and fear of immediate and future bodily harm as well as financial loss.
13. As a result of Defendant's conduct referred to in paragraphs 10 and 11 herein above, Plaintiff's academic performance drastically deteriorated in the last quarter of the 2005-2006 academic school year, resulting in Plaintiff losing the Lincoln High School "Gugel" valedictorian scholarship.

COUNT I
CYBERSTALKING

14. Plaintiff incorporates the allegations in paragraphs 1-13 herein as though fully set forth at length.
15. Defendant is liable for the damages suffered by the plaintiff for cyberstalking under 24 BCS § 76 for knowingly and intentionally harassing Plaintiff through the use of electronic communications on at least two separate occasions, causing Plaintiff to suffer substantial emotional distress and fear of imminent or future bodily harm.
16. On or about March 6, 8, 9, 10 and 11, 2006, Defendant knowingly identified Plaintiff in the Chat Room and electronically transmitted threats directed specifically at Plaintiff without lawful justification, causing Plaintiff substantial emotional distress and fear of bodily injury.

17. Specifically, on March 6, 2006, Defendant wrote: "Jam's in the window. Exercise all you want, my friend, you won't be able to run fast enough." A copy of the transcript from the Chat Room dated March 6, 2006, is attached hereto as Exhibit 1.
18. Specifically, on March 8, 2006, Defendant wrote: "Jamming's been seen wearing school colors all week. Be careful, water bottles, sideline bottles, they don't always contain water, they can be deadly." A copy of the transcript from the Chat Room dated March 8, 2006, is attached hereto as Exhibit 2.
19. Specifically, on March 9, 2006, Defendant posted: "Anticipation is what it's all about, and building fear. You never know when you'll be forced to face your greatest fear...suffocation, poison, torture, painful prolonged death... Time is running out, my Jammin friend. You should really watch what you drink. Water can be poisonous, when its not water." A copy of the transcript from the Chat Room dated March 9, 2006, is attached hereto as Exhibit 3.
20. Specifically, on March 10, 2006, Defendant stated: "I admit to being a bit mad, by some people's standards, but madness can be a good thing. It gives me direction, focus and an outlet for my aggression" and "Anyone wanna talk some pain and suffering? Time is running out, my Jammin friend. Maybe we can meet? ... Jam will rot just like Jelly if buried long enough." A copy of the transcript from the Chat Room dated March 10, 2006, is attached hereto as Exhibit 4.
21. On or about March 11, 2006, Defendant transmitted an electronic mail message ("the e-mail") from the user name "user94040@KZMail.com" to Plaintiff, which e-mail contained the following threats intended to harass Plaintiff: "FF may lose control at any time ... longs to test your control. How long will you last, my jammin friend? If you're afraid, you better stay locked up in your 2nd floor roost and not go out to play. You could be sorry. You could be dead." A copy of the e-mail message sent by Defendant on March 11, 2006 is attached hereto as Exhibit 5.

JAMIE ANDERSON,
Plaintiff

v.

TAYLOR WILLIAMS,
Defendant

: **IN THE COURT OF COMMON PLEAS**
: **NEW TEMPLE COUNTY, BARRISTER**

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: **CIVIL ACTION – LAW**

DEFENDANT’S ANSWER WITH NEW MATTER

TO PLAINTIFF’S COMPLAINT

1. Denied. The allegation in paragraph 1 is a conclusion of law to which no response is required. As such, said allegation is deemed denied.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted in part and denied in part. Admitted that Defendant was associated with the user identification “Shockwave” during all relevant times in the complaint. Defendant specifically denies any association with the user identification “Fatalflaw” during the times relevant to the allegations in the complaint, and demands strict proof thereof at trial. Defendant avers, by way of further information, that Defendant was associated with the user identification “Fatalflaw” during the 2004-2005 academic school year.
9. Denied. Defendant specifically denies being associated with the email address user94040@KZMail.com, and demands strict proof thereof at trial.

10. Denied. It is specifically denied that Defendant knowingly or intentionally harassed plaintiff via any type of electronic transmission. Strict proof thereof is demanded at trial.
11. Denied. It is specifically denied that defendant sent any electronic mails to Plaintiff. Strict proof thereof is demanded at trial.
12. Denied. It is specifically denied that Defendant knowingly or intentionally engaged in any harassing conduct directed toward Plaintiff. Strict proof thereof is demanded at trial. By way of further answer, the allegation in paragraph 12 is a conclusion of law to which no response is required. That allegation is therefore deemed denied. To the extent that a responsive pleading is required, Defendant lacks sufficient information or knowledge to form a belief as to whether or not Plaintiff suffered substantial emotional distress, fear of bodily harm or financial loss.
13. Denied. It is specifically denied that Defendant engaged in any conduct directed toward Plaintiff that resulted in Plaintiff's deteriorated academic performance. Strict proof thereof is demanded at trial.

COUNT I

CYBERSTALKING

14. Defendant incorporates herein the responses to paragraphs 1 through 13 of Plaintiff's Complaint as if fully set forth at length.
15. Denied. Defendant specifically denies knowingly or intentionally harassing Plaintiff through any electronic transmissions. Strict proof thereof is demanded at trial. By way of further answer, the remaining averments of this paragraph constitute conclusions of law to which no response is required. Those allegations are therefore deemed denied. To the extent that a responsive pleading is required, Defendant lacks sufficient information or knowledge to form a belief as to whether or not Plaintiff suffered substantial emotional distress or fear of bodily harm.

16. Denied. Defendant specifically denies electronically transmitting threats directed toward Plaintiff in the Chat Room. Strict proof thereof is demanded at trial. By way of further answer, the allegations in paragraph 16 constitute conclusions of law to which no response is required. As such, those allegations are deemed denied. Further, Defendant lacks information or knowledge sufficient to form a belief as to whether Plaintiff suffered substantial emotional distress and fear of bodily injury.
17. Denied. Defendant specifically denies authoring the transmission cited in paragraph 17 of Plaintiff's Complaint. Strict proof thereof is demanded at trial.
18. Denied. Defendant specifically denies authoring the transmission cited in paragraph 18 of Plaintiff's Complaint. Strict proof thereof is demanded at trial.
19. Admitted in part, denied in part. Defendant admits authoring the following statement:
"Anticipation is what it's all about, and building fear. You never know when you'll be forced to face your greatest fear...suffocation, poison, torture, painful prolonged death...." By way of further answer, Defendant maintains that such a statement is lawfully justified, and thus is excepted from coverage under the applicable cyberstalking statute. Further, Defendant specifically denies authoring the following statements, demanding strict proof thereof at trial:
"Time is running out, my Jammin friend. You should really watch what you drink. Water can be poisonous, when its not water."
20. Admitted in part, denied in part. Defendant admits authoring the following statement: "I admit to being a bit mad, by some people's standards, but madness can be a good thing. It gives me direction, focus and an outlet for my aggression." By way of further answer, Defendant maintains that such a statement is lawfully justified, and thus is excepted from coverage under the applicable cyberstalking statute. Further, Defendant specifically denies authoring the following statements, demanding strict proof thereof at trial: "Anyone wanna talk some pain and suffering? Time is running out, my Jammin friend. Maybe we can meet? ... Jam will rot just like Jelly if buried long enough."

APPLICABLE LAW

(24 Barrister Consolidated Statutes § 76)

§76 **Cyberstalking.**

(a) A person commits the civil offense of cyberstalking when, knowingly and without lawful justification, and on at least 2 separate occasions, he/she harasses another person through the use of an electronic communication.

(b) Any offense committed under this section may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.

(c) Definitions: As used in this Section,

"Electronic communication" means any transfer of signs, signals, writings, sounds or data of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. "Electronic communication" includes transmissions by a computer through the Internet to another computer.

"Harass" means to engage in a knowing and intentional course of conduct directed at a specific person that alarms, torments, or terrorizes that person. The course of conduct must be of a kind that would cause a reasonable person to suffer substantial emotional distress, or be in fear of bodily injury.

"Lawful Justification" means any peaceable, nonviolent, or non-threatening activity expressing political views or providing lawful information to others.

(d) In a civil action brought pursuant to this section, the plaintiff shall establish by a preponderance of the evidence that the defendant committed the offense of cyberstalking against the plaintiff.

(e) Damages: in a civil action under this section, plaintiff may seek to recover any and all compensatory damages.

(f) No action shall be commenced under this section more than two years after the most recent conduct prohibited under this section.

JAMIE ANDERSON,
Plaintiff

v.

TAYLOR WILLIAMS,
Defendant

: **IN THE COURT OF COMMON PLEAS**
: **NEW TEMPLE COUNTY, BARRISTER**

:

: **NO. 2006 CV 527**

:

:

: **CIVIL ACTION – LAW**

OPINION

Currently, before the court is a summary judgment motion filed by Defendant, Taylor Williams. For the reasons set forth below, Defendant's motion is denied.

Background

Plaintiff, Jamie Anderson, claims that s/he suffered damages as a result of cyberstalking committed against her/him by the Defendant, Taylor Williams, while both were senior students at Lincoln High School. Specifically, Plaintiff alleges that between March 6 and March 11, 2006, Defendant knowingly and intentionally transmitted a series of threats via postings made to a school administered chat room, an M_space internet web page and an anonymous electronic mail message sent directly to Plaintiff. These communications allegedly caused Plaintiff substantial emotional distress, including fear of bodily harm, and financial loss by virtue of Plaintiff's inability to maintain a high grade point average resulting in the loss of a school scholarship. Plaintiff's Complaint seeks a jury trial for compensatory damages under the applicable cyberstalking statute, 24 BCS § 76.

Defendant, in the Answer and New Matter in this case, denies transmitting any of the allegedly actionable statements, instead proffering that he/she was a victim of identity theft. Moreover, Defendant alleges that the two transmissions he/she did send to Plaintiff were lawfully justified by his or her course of study, and that any injury Plaintiff sustained from receipt of those transmissions was not reasonable, but was an exaggerated reaction based upon Plaintiff's pre-existing anxiety disorder and general fears.

Legal Discussion

Summary judgment is a means available to litigants for prompt and expeditious disposition of a controversy without a trial, when there is no genuine dispute as to any material fact and the party seeking judgment is entitled to judgment as a matter of law.¹ Since relevant discovery has been conducted in this matter, and both parties have fully briefed the issues, Defendant's summary judgment motion is ripe for disposition.

¹ Rules of Civil Procedure 1245.1

By way of background information, with the advent of the world wide web and all its new technological means for communication, the civil cyberstalking statute at issue here is a recently enacted one designed by our legislative branch to curb the ever-expanding opportunities for the untoward harassment of our citizens. In order to succeed in a civil action under 24 BCS § 76, the Plaintiff must establish, beyond a preponderance of the evidence, that another person “knowingly and without lawful justification, and on at least 2 separate occasions, . . . harasses another person through the use of an electronic communication.” 24 BCS § 76(a). The statute defines “harasses” as engaging in a “knowing and intentional course of conduct directed at a specific person that alarms, torments, or terrorizes that person.” 24 BCS § 76(c). Further, the conduct at issue must be one that would cause a “reasonable person to suffer substantial emotional distress, or be in fear of bodily injury.” Id.

As the statute plainly states, there exists an exception to the types of covered conduct in subsection (a), by inclusion of the phrase “without lawful justification.” 24 BCS § 76(a). Subsection (c) defines “lawful justification” as “any peaceable, nonviolent, or non-threatening activity expressing political views or providing lawful information to others.” 24 BCS § 76(c).

Here, in Defendant’s view, two separate grounds warrant the entry of judgment in his/her favor: first, Defendant claims that he/she did not send the transmissions that Plaintiff has attributed to Defendant by virtue of (1) identity theft of his/her user identification and password in the Chat Room, (2) that he was not the user associated with the electronic mail address user94040@KZMail.com, and (3) that he/she did not create or contribute to the M_space internet web page at issue; and second, that (1) the two transmissions Defendant admits sending to Plaintiff as “Shockwave” are lawfully justified as non-violent communications, and (2) that neither of those communications could cause a reasonable person to suffer “substantial emotional distress” or fear of bodily harm as required by the statute - Defendant claims that Plaintiff’s particularly fragile emotional state and pre-existing general anxiety disorder exaggerated any reasonable reaction to those two communications.²

In order to prevail at trial, Plaintiff must prove, by a preponderance of evidence, that (1) Defendant did, in fact, intentionally electronically direct at least two threatening transmissions to Plaintiff and, if successful with that venture, (2) that Plaintiff, under a “reasonable person” standard, suffered substantial emotional distress or fear of bodily harm as a result of those transmissions.³ If Plaintiff prevails on both fronts, the jury will then reach the issue of damages.

The record before the Court cannot be said to be free from genuine issues, or disputes, regarding the material facts of this case. First, Plaintiff must demonstrate that Defendant knowingly directed, on two separate occasions, threats to Plaintiff via electronic means. The evidence of record, which consists of various sworn witness statements and other associated exhibits, does not conclusively establish either that Defendant, or someone *other* than Defendant, authored and transmitted the threatening communications to Plaintiff, either as

² Defendant also raises the defense that, since he was not prosecuted by the New Temple District Attorney’s Office for the crime of cyberstalking due to the apparent untraceability of both the electronic mail address user and the M_space internet web page posting, he/she is somehow immune from civil proceedings as well. Of course, since the burden of proof in criminal proceedings is far greater than that of civil proceedings, *i.e.*, proof of one’s case beyond a reasonable doubt versus by a preponderance of the evidence, the lack of a criminal prosecution has no bearing on the viability of a civil lawsuit challenging the same conduct. Therefore, such reasoning is not a proper basis for the entry of judgment in Defendant’s favor.

³ Here, however, the parties have agreed that the issues of liability and damages will be bifurcated, such that only the issue of liability will be tried to a jury and, in the event that Plaintiff establishes liability, a second phase of that jury trial will separately address the issue of damages.

“Fatalflaw”, electronic mail address user94040@KZMail.com, or via the M_space internet web page posting. It is not the responsibility, nor the ability, of the judge to rule on genuine issues of fact at the summary judgment stage – that is the sole province of the jury. Since there is conflicting evidence of record, the Court cannot, and will not, rule in either party’s favor on this issue at this stage of the proceedings.

The same can be said regarding the second argument in Defendant’s motion for summary judgment. Whether Defendant’s admitted transmissions to Plaintiff as “Shockwave” qualify as harassing statements under the act, or are lawfully justified excepting them from the reach of the statute, is an issue of fact for the jury to determine, not an issue of law for the judge to decide. Similarly, whether Plaintiff, as a reasonable person, suffered substantial emotional distress or fear of bodily harm as a result of receiving these transmissions, as a matter of liability distinct from the issue of damages, is also a matter of fact for the jury to determine.

This is a case of first impression in this Court, and one raising important questions of vast public importance based on a recently enacted statute. In accordance with our adversarial system of justice, a jury of the parties’ peers will hear all admissible evidence, weigh it accordingly, and reach conclusions of fact to which this new law will be applied.

Therefore, this court enters the following Order:

JAMIE ANDERSON,
Plaintiff

v.

TAYLOR WILLIAMS,
Defendant

: **IN THE COURT OF COMMON PLEAS**
: **NEW TEMPLE COUNTY, BARRISTER**

:
: **NO. 2006 CV 527**

:
: **CIVIL ACTION – LAW**

PRE-TRIAL ORDER

AND NOW, this 3rd day of January, 2007, Defendant Taylor Williams' summary judgment motion is hereby DENIED. This case is scheduled for a one-day trial during the February/March 2007 Civil Trial Term.

BY THE COURT:

J.J. Clark
Honorable J.J. Clark

Distribution:
Plaintiff's counsel
Defendant's counsel

WITNESS LIST

The prosecution and defense must call each of these witnesses. All witnesses can be played by either males or females. Teams may choose to have the plaintiff or the defendant seated at the counsel table. Please consult the Rules of Competition as to any limits on communication between counsel and those seated at the counsel table.

For the plaintiff:

Jamie Anderson, alleged victim of cyberstalking

Phoenix Hopp, New Temple County police investigator assigned to the criminal case

For the defendant:

Taylor Williams, alleged cyber stalker

Pat Clifford, Lincoln High School computer instructor

JAMIE ANDERSON,
Plaintiff

v.

TAYLOR WILLIAMS,
Defendant

: **IN THE COURT OF COMMON PLEAS**
: **NEW TEMPLE COUNTY, BARRISTER**

:
: **NO. 2006 CV 527**

:
: **CIVIL ACTION – LAW**

STIPULATIONS

The parties have stipulated to the following:

1. This case will be bifurcated. Only the issue of whether the defendant's action(s) caused plaintiff's alleged harm is before the jury. The issue of damages is not before the jury.
2. All pleadings and exhibits (and their pre-markings) are authentic. The parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than to authenticity.
3. All signatures in these materials are authentic.
4. Only registered student users of the Lincoln High School computer network system can access the system by logging into the system using a designated username and password. Once logged on, the registered student user can access school email and school sponsored chat rooms.
5. All students registered to use the computer network system must be logged on to view or participate in live chat room discussions. The contents of any chat room discussion remain viewable for the entire day that they are posted. The contents are not viewable to registered users after midnight of the day they are posted.
6. Any registered student user who logs onto the school computer network system can not log on again at the same or another computer, using the same username and password, until they log out and cease their current session.
7. During the week of March 6 through 10, 2006, Shockwave, Fatalflaw and Jammin@LincolnHS logged onto the senior class chat room only at the times indicated in Exhibits 1 through 4.
8. All times depicted on chat room dialogue and emails, in Exhibits 1-5, are accurate.

9. Plaintiff's bedroom window, as shown in Exhibit 6, is the larger window with the air conditioner in it. The picture was taken at some time prior to October 2005. There was no air conditioner in the window in March 2006.
10. The crossed off word on the inside cover of Defendant's eleventh grade science textbook, depicted in Exhibit 8, is visible upon close inspection. The crossed off word appears to be "Kingcrag."
11. Plaintiff waives any doctor/patient or psychotherapist/patient privilege that might otherwise be asserted to Exhibit 9.

JURY INSTRUCTIONS

At the conclusion of a jury trial, the judge will instruct the jury how to apply the law to the evidence. Hypothetically, if the judge in your mock trial case were to provide instructions to the jury they would look something like the following. Please note: A copy of these instructions may not be used as an exhibit during the mock trial competition; however students may use these concepts in fashioning their case and making arguments to the jury.

- **Burden of Proof:** In civil cases such as this one, the plaintiff has the burden of proving those contentions that entitle [him] [her] to relief. When a party has the burden of proof on a particular issue, the party's contention on that issue must be established by a preponderance of the evidence. The evidence establishes a contention by a preponderance of the evidence if you are persuaded that it is more probably accurate and true than not.

To put it another way, think, if you will, of an ordinary balance scale, with a pan on each side. Onto one side of the scale, place all of the evidence favorable to the plaintiff; onto the other, place all of the evidence favorable to the defendant. If, after considering the comparable weight of the evidence, you feel that the scales tip, ever so slightly or to the slightest degree, in favor of the plaintiff, your verdict must be for the plaintiff. If the scales tip in favor of the defendant, or are equally balanced, your verdict must be for the defendant.

In this case, the plaintiff has the burden of proving defendant committed cyberstalking. If, after considering all of the evidence, you feel persuaded that these propositions are more probably true than not true, your verdict must be for the plaintiff. Otherwise, your verdict should be for the defendant.

- **Civil Cyberstalking:** A defendant commits cyberstalking when [he][she] knowingly and without lawful justification, and on at least 2 separate occasions, harasses the plaintiff through the use of an electronic communication. To prevail, the plaintiff must prove each of the following propositions by a preponderance of the evidence:
 - That plaintiff received at least two electronic communications [defined as any transfer of signs, signals, writings, sounds or data of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system. ("Electronic communication" includes transmissions by a computer through the Internet to another computer)]; AND
 - That the defendant was responsible for transferring the electronic communications alleged to have harassed the plaintiff; AND
 - That the electronic communications transferred by defendant harassed the plaintiff; AND
 - That the defendant knowingly harassed the plaintiff; AND
 - That the harassing communications were specifically directed to the plaintiff; AND

- That there was no lawful justification for the communication [defined as any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others]; AND
- That the communications alarmed, tormented or terrorized the plaintiff; AND
- That plaintiff, as any reasonable person would, suffered substantial emotional distress as a result OR that plaintiff, as any reasonable person would be, was in fear of bodily injury.

If you find, after consideration of all the evidence, that all of the above elements more likely than not occurred, you should find the defendant liable.

- **Direct and Circumstantial Evidence.** Evidence may either be direct evidence or circumstantial evidence. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw, heard, or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence. You may decide the case solely based on circumstantial evidence.

1 **STATEMENT OF JAMIE ANDERSON**

2 I am Jamie Anderson and I graduated from Lincoln High School (LHS) in June 2006. I'm
3 currently nineteen years old and enrolled at the local extension of Penn State's main campus for
4 the Spring term. I live with my parents at 447 St. Mark Street in New Temple, Pa. I had to
5 delay college for a semester due to all the problems caused by Taylor Williams. I hope to
6 transfer to the main campus if I can recover some more; I am still having trouble sleeping and
7 have nightmares. I would have gotten into a better school if Taylor had not set out to sabotage
8 me. I was on the verge of being class valedictorian which would have won me a scholarship
9 and helped me afford tuition at one of two Ivy League schools I had been accepted to. But,
10 when all of this happened, I could not concentrate and had a real poor final quarter and lost the
11 scholarship. I think after this court stuff is resolved I can move on with my life. I need closure. I
12 need to know it will not happen again and that Taylor Williams will be held accountable.

13 This all started because our school sponsors a chat room. I didn't even use the chat room
14 though until like in January of my senior year when I needed to find out the next week's math
15 assignment. So I logged on to the senior class chat room from home and I got an immediate
16 response. After that experience, I became kind of hooked. My chat room and email user
17 names were the same, Jammin@LincolnHS and Jammin@LincolnHS.edu. My best friend
18 Casey Waller, who graduated with me, always called me Jam or "the Jam" because my room at
19 home was so messy that the door jammed up against stuff. My real name is Jamie, so it fit.

20 Prior to the start of every school year, before we register to use the school's chat room and
21 email accounts, we have to read and sign the usual release that says school authorities monitor
22 user activity. In each chat room, there is a "red button" scheme to protect students from sleazy
23 activities. We were warned to remain anonymous and not reveal personal information.
24 Thinking back, I should have been much more careful in choosing user name and email
25 address. I think Taylor knew who I was by my name and targeted me.

26 This whole nightmare started last March 6, right before third quarter exams. I was logged on to
27 the senior class chat room and students were talking about joggers running outside. Someone
28 named Fatalflaw wrote a really weird post: "Jam's in the window. Exercise all you want, my
29 friend, you won't be able to run fast enough." Someone else on the thread asked if I was on the
30 track team and after I said no, Fatalflaw chimed in with this even weirder post: "Not on the
31 team, but practices nonetheless. In the window." I had never seen Fatalflaw post in the senior
32 class chat room before but I thought whoever it was had been watching me at home. The night
33 before Casey Waller had been at my house and we'd been uploading music and pictures to
34 each of our M_Space profiles. After that, we started goofing around in my room, doing jumping
35 jacks and running in place. I rarely close the drapes, so anyone could have seen us through the
36 window. A lot of kids walk by my house since it is only a few blocks from the high school. I
37 assumed Fatalflaw saw us exercising. I called Casey, who hadn't been logged on and Casey
38 kind of shrugged it off.

39 I kind of forgot about Fatalflaw until two days later, Wednesday March 8, when he or she sent
40 me more weird messages. The first said "Jammin has been seen wearing school colors all
41 week. Be careful, water bottles, sideline bottles, they don't always contain water, they can be
42 deadly." That shook me up because I thought the line about school colors and water was
43 directed at me. I'm kind of known for carrying a water bottle everywhere at school and also, I
44 had been wearing my soccer team warm ups, which are orange and black. Our team was doing
45 fundraising at school all week to travel to a California tournament. Shockwave then joined the

46 thread and said he or she knew Fatalflaw somehow and thought the whole thing was “gentle
47 ribbing.” If only.

48 By the way, Shockwave was someone who had posted in the senior class chat room all year,
49 though I didn’t know it was Taylor Williams at the time, I began to suspect

50 : There was an incident earlier that Wednesday (March 8) in the cafeteria, that thinking back,
51 connected Taylor to Shockwave and Fatalflaw. Over lunch, Casey and I walked by Taylor who
52 began laughing and pointing at us. Taylor said, and we both heard it perfectly, "there goes
53 Jammin@LincolnHS, The Jam." Then Taylor said menacingly, “Jam better watch what s/he
54 eats, might not be able to get away so fast next time.”

55 Although I was a bit scared by the posts I felt like a sleuth looking for evidence to determine for
56 sure if someone was earmarking me for trouble. Casey was also drawn to it, even though it was
57 freaking us out. It really never occurred to me to press the red button though I felt panicky.

58 The next day, March 9, I logged onto the chat room from home. There was a flurry of chatter
59 about our history class topic on terrorism and the law. It was a pretty stimulating discussion
60 actually. But then I saw another reference to "Jam," this time from Shockwave, who wrote:
61 "Anticipation is what it's all about, and building fear. You never know when you'll be forced to
62 face your greatest fear ... suffocation, poison, torture, painful prolonged death." I made the
63 mistake of calling Shockwave a freak. Shockwave responded by saying “Jam is full of fear.
64 Would make a great experiment.” And then Shockwave wrote "You can keep your friends
65 around you, but the clock is ticking. Time is on my side." It sounded almost the same as the
66 messages from Fatalflaw. And then Fatalflaw joined in again saying something that really
67 scared me: "Time is running out, my Jammin friend. You should really watch what you drink.
68 Water can be poisonous, when its not water."

69 A day later, March 10th, I twice logged on after school and saw more scary postings, this time
70 by both Shockwave and Fatalflaw. The first time I was on for only a few minutes. I read back a
71 few posts and saw that someone had just responded to Shockwave’s comments from the day
72 before regarding suffocation and torture, saying that the language was inappropriate and scary.
73 I was glad others recognized what I thought. Shockwave was logged on and tried to defend
74 his/her comments saying, "I admit to being a bit mad ... but madness can be a good thing. It
75 gives me direction, focus and an outlet for my aggression." Also, Shockwave basically admitted
76 knowing my identity. Then, as soon as Shockwave noticed that I was logged on, Shockwave
77 asked me whether I could come out of my second floor roost to play. That really alarmed me
78 because it tied in to Fatalflaw’s comment about seeing me exercise in the window. I thought
79 Shockwave and Fatalflaw were part of a conspiracy.

80 As soon as I read those comments, I logged off. I called Casey’s mobile and locked the
81 bedroom door. Casey calmed me down. I said I wanted to tell my parents, but Casey wasn’t
82 sure. Casey thought we could figure it out on our own. Anyway, I logged back on about an
83 hour later because I was curious. I saw that while I was off, Fatalflaw and Shockwave had been
84 talking about torture, though Fatalflaw had since logged off. Shockwave immediately noticed I
85 was back on and made a remark about my exercising and how everyone will become a victim. I
86 stayed quiet because I was petrified and logged off right after Shockwave did.

87 I told my parents about the chat room threats and they took me to the police station that night.
88 We met with officer Phoenix Hopp. And that is her/his real name. After I gave my story, which

89 was pretty much everything I mentioned above, Officer Hopp said police would investigate after
90 the weekend, they didn't think I was in imminent danger.

91 I thought the worst was over, but the next day, Saturday March 11, was the most unnerving
92 part. I'd received an incoming KZMail from a sender named user94040@KZMail.com. It was
93 sent to my school account and had "Fear" in the subject line. I'm aware KZMail.com gives out
94 free email accounts and is often used by spammers. It's pretty much anonymous, so far as I
95 can tell. The sender figured my school email address, I guess, by just adding ".edu" to my
96 name Jammin@LincolnHS. Against my better judgment, I opened the mail. The message said,
97 "FF may lose control at any time ... longs to test your control. How long will you last, my jammin
98 friend? If you're afraid, you better stay locked up in your 2nd floor roost and not go out to play.
99 You could be sorry. You could be dead." The sender then told me to check out a link to an
100 M_Space page. My heart was pounding.

101 I clicked the link and the page that came up bowled me over: it was all about me and how I was
102 the subject of some bizarre experiment. The page included Fatalflaw's chat room messages
103 from that week, including some I hadn't seen, like that Jam would be buried and rot, and talk of
104 pain and suffering. Most unnerving of all was a picture of my bedroom window! It was the
105 same digital photo I had uploaded and posted on my own my M_Space page a few months
106 back but which I had since taken down. I was frozen there in front of my computer calling for
107 my parents. I was trembling. Taylor had gone way too far with this stuff.

108 I believe Taylor chose to stalk me because Taylor has a deranged interest in fear and also
109 because we were competing with about ten others for the school's valedictorian scholarship. I
110 don't think it is a coincidence that right after Taylor was arrested those chat room messages
111 stopped and the M_Space page was never completed.

112 The valedictorian scholarship is a really big deal at LHS. Former Lincoln grad Sue Gugel, who
113 made piles of money in Silicon Valley, endowed the fund. The valedictorian can get up to
114 \$15,000 per year for four years. Co-valedictorians split the funds. I was pretty sure I would get
115 the whole 15K. I thought Taylor and I had a friendly competition, but Taylor must have been
116 intimidated by my grades and sought to sabotage my last semester, which s/he did. My GPA
117 fell from perfect 4.0 through seven semesters, to a 3.33 my last semester. My final GPA fell to
118 3.83 and my class rank with it, from a tie with Taylor for number one to number nine. I lost the
119 Gugel. Taylor was certainly capable of it. We have kind of a long history.

120 Taylor and I grew up in the same neighborhood and s/he knows where my room is. In
121 elementary school, we often played together. When we got to middle school, we sort of drifted
122 apart. I became interested in sports and Taylor got involved with computers and psychology.
123 We still talked but one day in 8th grade when we were at the bus stop, Taylor showed me a
124 bottle filled with clear liquid that had a chemical symbol on it. Taylor then "accidentally" spilled
125 some on my arm. I was obviously scared but Taylor just stood there laughing, telling me it was
126 only water. S/He told me that s/he just wanted to see my reaction. Taylor commented on how it
127 was the fear that is almost worse than the injury itself, especially if the anticipation lasts for a
128 long time. I just looked at Taylor like s/he was an alien. After that startling episode, I kept
129 Taylor at bay.

130 Something strange happened again in English class during our junior year. Taylor was
131 frustrated that none of the main characters in assigned readings presented challenging
132 psychological profiles. The teacher permitted Taylor to do an extra-credit report on Jack the

133 Ripper, which I thought was an unfair advantage the rest of the class didn't get. The
134 presentation was horrible, but I guess I can be a bit more sensitive than some. The report was
135 unnecessarily graphic. Taylor seemed to enjoy the class' discomfort with some of the
136 descriptions and photographic materials circulated during the report. I asked the teacher if I
137 could be excused in the middle of the report, I was that upset. I was given permission, but had
138 to explain to the teacher why I was so upset. I did not discuss the incident with my parents
139 when I got home and was actually sort of embarrassed that a report could make me so upset.

140 I must say that all these messages from Taylor about me being some guinea pig in a bizarre
141 experiment took a terrible toll on me. I mean, Taylor threatened to impose future bodily harm on
142 me, to poison my water, that kind of stuff. While this was occurring, I couldn't sleep or eat and
143 had frequent panic attacks and lots of nightmares. I would often get out of bed and look across
144 the street to see if someone was watching. During the day, I would constantly look over my
145 shoulder and made sure Casey was always with me. Eventually, I got help from a psychologist
146 and family doctor. They both diagnosed me with general anxiety disorder and prescribed
147 medication and psychotherapy sessions, which have helped, though I am still suffering. I had to
148 stop the therapy when my parent's insurance ran out.

149 Witness Addendum: I have reviewed this statement and I have nothing of significance to add. The
150 material facts are true and correct.

151 **DATE** November 10, 2006

152 Signed

153 *Jamie Anderson*

154 Jamie Anderson

155
156 Signed and Sworn before me

157
158 *Loretta Sinclair*

159 Loretta Sinclair, Notary Public, State of Barrister

160 My commission expires December 31, 2006

STATEMENT OF PHOENIX HOPP

1

2 I am Phoenix Hopp, a New Temple City Police Officer assigned to our elite cyber crimes squad,
3 which means I've received special training in computers and on-line security issues. I have a
4 degree in computer science from New Temple University and graduated with honors ten years
5 ago. I served four years in the Navy as a computer technician on board the U.S.S. Reliant.
6 This is my 6th year on the force. I spend much of my time investigating cyber crimes, including
7 identity theft and child predation. It is a growth industry.

8 I was on duty the night of March 10, 2006, when Jamie Anderson and her/his parents filed a
9 criminal complaint concerning a cyberstalker. Jamie was, at the time, a high school senior at
10 Lincoln High School (LHS). Jamie presented as highly agitated, nervous, shaking and at times
11 crying. Jamie's parents tried to tell me what happened, but they were unsure. So, I set out to
12 calm Jamie down by offering soda and making small talk about her/his school soccer team.
13 Jamie relaxed a bit but remained on edge, occasionally wringing her/his hands and pacing.
14 Jamie was clearly frightened.

15 After about fifteen minutes, I was able to interview Jamie. S/he said that over the past week at
16 school, between Monday March 6 and Friday March 10, persons using the pseudonyms
17 Fatalflaw and Shockwave had threatened her in an LHS chat room. Jamie didn't have printed
18 dialogue, but claimed the chat room communications indicated these persons had been
19 watching Jamie both at school and through Jamie's bedroom window. S/he stated that talk of a
20 painful and prolonged death were directed at her/him and that Jamie was warned to watch out
21 because her/his water bottle might be poisoned. Jamie offered that s/he is known for carrying a
22 water bottle at school. I asked Jamie if s/he had contacted or complained to any school officials
23 or personnel, and s/he replied s/he had not.

24 Jamie offered that there had been an incident in the school cafeteria two days earlier, on
25 Wednesday March 8, involving fellow senior Taylor Williams that had also upset Jamie.
26 According to Jamie, Taylor saw Jamie and teased Jamie about being nicknamed "the Jam." I
27 asked Jamie if s/he believed Williams could be one of the chat room perpetrators and Jamie
28 said yes. Jamie went on to describe Taylor Williams as a "freak" and "loser" who had a bizarre
29 interest in the macabre and who, four years earlier, had "accidentally-on purpose" spilled liquid
30 on Jamie that Williams said was poison, but was water. Jamie said that at the time Taylor
31 spilled water, Taylor acted very strangely, as if Taylor were conducting an experiment on Jamie.
32 Jamie believed the allusions to poisonous water bottles in the chat room discussion was
33 connected to that event.

34 I concluded the interview and told Jamie's parents I would investigate more in the next week. I
35 advised Jamie to stay out of the chat room and inform me of new developments. It seemed like
36 a fairly simple investigation though since I assumed that this school-run chat room was only
37 accessible to a defined set of registered users and that generally, if you aren't registered and
38 logged on, you can't even view the chat. These assumptions were later confirmed by the school.
39 My plan was to inform the school of Jamie's complaints and find out who was registered as
40 Fatalflaw and Shockwave, and obtain the relevant chat room discussions.

41 On Monday morning March 13, I received a call from Jamie's dad who said someone identified
42 as "FF," who he assumed was Fatalflaw, emailed Jamie over the weekend with a threatening
43 message that included a link to an alarming M_Space page. I gave Jamie's dad my email
44 address and told him forward the email to me.

45 On Tuesday March 14, I contacted LHS administration and met with the computer instructor and
46 webmaster Pat Clifford. Instructor Clifford provided me copies of all chat room dialogue that
47 involved Jamie's pseudonym Jammin@LincolnHS, as well as Fatalflaw or Shockwave from the
48 week of March 6. I read the print outs and found relevant dialogue on March 6, 8, 9 and 10.

49 Instructor Clifford, or Sensei Cliff as s/he's known, accessed school computer records and
50 confirmed that Jammin@LincolnHS was registered to Jamie Anderson and Shockwave was
51 registered to Taylor Williams. Shockwave's password is "Jtripp06." Curiously, Clifford
52 discovered Fatalflaw had not been registered for the 2005-2006 school year which completely
53 perplexed the Sensei. However, s/he recalled the pseudonym Fatalflaw from monitoring LHS
54 chat rooms the prior school year. Sure enough, Clifford discovered Fatalflaw had been
55 registered to Taylor Williams the year before with "Kingcrag," the associated password.
56 According to Clifford, that username and password should have been automatically deactivated
57 at the end of the 2004-05 school year. Clifford discovered that March 6, 2006 was the first time
58 Fatalflaw had logged onto the school computer system during the 2005-06 school year.

59 During my investigation, Sensei Cliff confirmed that before any student can use school email or
60 school chat rooms, they must log on with their school username and password. They don't
61 need to do this to access the internet though. In addition, any student who seeks access to
62 school email or school chat rooms from non-school computers via the internet must also logon
63 using the school username and password. All chat room and email logon history is available to
64 the school, including which school computer was used if the student used a school computer.
65 Using this logon history, I was able to determine that every chat room posting made by
66 Shockwave and Fatalflaw, between March 6 and March 10, was made from LHS computers. I
67 also discovered that all postings made by Shockwave were made from computers located in the
68 LHS computer lab. Same for Fatalflaw's postings except for one. The March 6 posting was
69 made from a Library computer, 2nd floor student lounge. The lab and library are about a one
70 minute walk from each other.

71 With regard to the computer lab, Sensei Cliff informed me s/he was usually the on-site after-
72 school "babysitter" in charge of monitoring the computer lab, and had been so the week of
73 March 6. S/He indeed recalled that Taylor Williams, who was a regular presence in the lab, had
74 been in the lab after school every day that week, though Cliff did mention that Taylor left early
75 Thursday evening to do an interview with the school news.

76 With this information in hand, I met with Taylor at the police station after school on Wednesday
77 March 15. I showed her/him the chat room dialogue from March 6 through 10. Williams readily
78 admitted being Shockwave but denied posting as Fatalflaw, though s/he admitted that had been
79 her/his LHS username during junior year. Asked how this could have happened, Williams
80 suggested her/his identity had been stolen by someone out to get Taylor or even Jamie. Taylor
81 quickly recalled that during her/his junior year, s/he wrote the Fatalflaw username and Kingcrag
82 password in a science textbook. Taylor believed I could track it down.

83 Later that week, on March 17, I got around to opening the email and M_Space page link. I found
84 them much more disturbing than the chat room postings. The content included an actual threat
85 of future bodily harm against Jamie on the M_Space page and alluded to the fact that Jamie
86 was the subject of an experiment in creating fear. The major problem posed was that both the
87 KZMail and M_Space page were most likely untraceable, which they were. The email had been
88 generated through a KZMail.com account under the username user94040@KZMail.com and
89 sent to Jamie Anderson at her/his school email address. KZMail.com is a company like

90 Yahoo.com that allows anyone to register and obtain a free email account. All you need to do
91 so is an internet connection to do so. Under the law, KZMail doesn't have to make any real
92 attempt to verify that the account users are in any way traceable to real people. Indeed,
93 according to KZMail records, the user94040 account was created Tuesday March 7 and the
94 account deleted on March 11. According to KZMail, the only email sent from the account was
95 the one to Jammin@LioncolnHS.edu. The person who registered the account did so under the
96 name Jammin Gugel, used the password \$15Kx4nyet, identified as a female, listed DOB as
97 1/1/50 and postal code of 94040. Under the security question for a lost password, the registrant
98 chose the security question as "who was your childhood hero" with the answer JTR.

99 As for the M_Space page, it was also a dead end. M_Space.com, by the way, is a hugely
100 popular social networking website. It is basically a way for mainly kids to advertise themselves
101 by creating their own web pages and listing their network of friends, creating personal profiles,
102 and uploading photos, music and videos. It has an astounding number of registered users, over
103 100 million English speakers by last count. Kids basically go to the website, logon and fill in key
104 fields provided by M_space. There is no fee. The only information required to join is a valid
105 email address.

106 I was able to find out from M_Space.com that the page in question was created Tuesday March
107 7, 2006 and updated once, on Friday March 10, times unknown. The person who registered did
108 so under the name of Jammin Gugel, the password \$15Kx4nyet and used the email address
109 user94040@KZMail.com, which registered as valid, according to M_Space. M_Space has
110 since deleted the page.

111 Prior to seeing the KZMail and M_Space page, I thought the chat room discussions were a
112 school disciplinary issue. Now, it was looking like a cyberstalking crime with Taylor the prime
113 suspect. Possibly the first such prosecution in our state under the new cyberstalking law. Both
114 the KZMail and M_Space page directly connected the sender of the KZMail and the creator of
115 the M_Space page to Fatalflaw, who is Taylor Williams. The M_Space page in particular
116 incorporated the content of Fatalflaw's LHS chat room discussions and Fatalflaw fit the profile of
117 someone who had access to all the chat room discussions at issue. Less directly, but still
118 convincingly, the content of Fatalflaw's chat room discussions further connected these items to
119 Shockwave's chat room discussion, who is admittedly Taylor Williams. I thus went back to
120 investigate whether it was possible someone other than Taylor had logged in as Fatalflaw in the
121 chat room.

122 First, I spoke with Clifford again, on March 17, about how, if Fatalflaw and Shockwave were the
123 same person, they could both have been logged on to the senior class chat room at the same
124 time on March 10. Clifford explained that only one computer can be logged on to school email
125 or chat room at a time and also that only one registered school user can be logged in to the
126 school system at any time. Sensei Cliff offered to get me a print out of the log on history but I
127 didn't really need to know which computers Fatalflaw and Shockwave had posted from since the
128 pertinent information was that they had posted from different computers in the same room.

129 I also tried to talk to Taylor again about where s/he had been and what s/he had been doing
130 Saturday March 11 when the KZMail was sent with the M_Space page link, but her/his parents
131 refused any more contact. I eventually obtained a search warrant for Taylor's home computer.
132 Our experts searched it and found no relevant connections to the KZMail.com or M_Space.com
133 websites, basically because it had never supported an internet connection. This was no surprise
134 though since Taylor probably accessed both websites using the school-provided internet. Or,

135 s/he could easily have used a public computer with internet access. There are three internet
136 café's and a public library in the downtown area alone that provide free internet access.

137 Next, I investigated Taylor's claim that someone stole her/his Fatalflaw name and password
138 from a school book. I checked with the eleventh grade science teacher who discovered that the
139 textbook used by Taylor, which had a school identification number on it, had not been assigned
140 to a current junior class student. Since it was an extra copy, it had been shelved in the library
141 with other school texts available for students who needed access to their text books, but who
142 didn't have them. I did find, inside the cover of Taylor's old textbook, the Fatalflaw username
143 and underneath was a writing almost entirely crossed out with permanent marker, though upon
144 closer inspection, I could still read a word that looked like Kingcrag. Library staff informed me
145 that students used the textbooks occasionally, though they had no way of knowing which
146 students or how many students looked in any one text book.

147 Since I had no basis to believe someone other than Taylor was Fatalflaw and the author of the
148 KZMail and M_Space page, I decided to go ahead with criminal cyberstalking charges.
149 Ultimately, the District Attorney's Office decided to drop the prosecution, mainly because the
150 lack of traceability to the KZMail and M_Space page. This is a problem our legislators need to
151 deal with. Going into cyberspace, whether it be chat rooms, interactive internet sites or sending
152 and receiving emails from unknown persons, can all be like going into the rabbit hole; there is
153 no way to tell if anyone is who they say they are in the cyberspace universe. It's a dangerous
154 cauldron of anonymity, full of predators, identity thieves and other criminals. Little good comes
155 out of cyberspace anonymity. Hopefully, someday, our legislators will wake up to this and make
156 some laws that require verifiable traceability of all electronic communication. If such laws
157 existed when this incident occurred, we would have definitive proof that Taylor Williams sent the
158 KZMail and created the M_Space page, and Taylor Williams would have been convicted.

159 Witness Addendum: I have reviewed this statement and I have nothing of significance to add. The
160 material facts are true and correct.

161 **DATE** November 9, 2006

162 Signed

163 *Phoenix Hopp*

164 Phoenix Hopp

165
166 Signed and Sworn before me

167
168 *Loretta Sinclair*

169 Loretta Sinclair, Notary Public, State of Barrister
170 My commission expires December 31, 2006

1 **STATEMENT OF TAYLOR WILLIAMS**

2 I am Taylor Williams and am almost 19 years old. I graduated from LHS in 2006. I live at home
3 with my parents and plan to go to college next year. A lot of the schools I applied to would not
4 let me in with criminal charges pending. Since my name was cleared this Fall, I should be able
5 to go to any school I want. Unfortunately, I didn't get the valedictorian scholarship due to Jamie
6 Anderson's bogus charges, and really thin skin. I graduated third overall, nonetheless. It's
7 looking like I'll be able to afford tuition with some of the aid packages I've been offered.

8 I plan to major in psychology with a minor in law enforcement. I am very interested in studying
9 first-hand accounts of how victims survive traumatic events, their thought processes, their
10 physical strengths and stuff like that. I mean, if we all knew what it took to survive a terrible
11 situation, we'd be able to learn to withstand just about any terror we could ever expect. I think
12 my research is going to be very useful someday. I have an honest curiosity about these things.
13 I think most people have some interest in this topic, though not my LHS classmates.

14 When I was at LHS, I often used the computers in the lab to conduct internet research or to
15 access the LHS senior class chat room or school email. My parents are very caring, but they
16 believe it is a waste to spend money on computers and other tech stuff. Plus, buying a new
17 computer would have been an economic burden on my parents. They did permit me, however,
18 prior to my senior year, to accept a used computer so I could write my papers and stuff but it
19 didn't have internet connection which really limited its usefulness. As a result, I was still a
20 regular in the computer lab my senior year while school was in session, plus I was friendly with
21 Sensei Cliff, the lab monitor. When school was out of session and during weekends, my only
22 option was to access the internet at the public library downtown.

23 The school chat room was a great way to share my thoughts. Student reaction to my posts
24 often provided me great insight into my area of interest. My interest has always been purely
25 academic. That said, I absolutely deny ever writing anything, under my senior year pseudonym,
26 Shockwave, with intent to threaten any specific person. I only ever posted during my senior
27 year as Shockwave, period. I was not Fatalflaw and had nothing to do with Fatalflaw's chat
28 room threats to Jamie or with the KZMail, or the M_Space page. Fatalflaw was a name I used
29 my junior year that someone obviously stole and used to set me up.

30 Anyone with half a brain who reads my posts in context will immediately discover that Jamie's
31 claims are bogus. It's when you pull the dialogue apart and start looking for ugliness that it
32 appears possibly threatening. On March 8, I made only two comments. The first was right after
33 Fatalflaw had posted something about "Jammin" wearing school colors all week. My immediate
34 thought was that it was strange someone had resurrected my username Fatalflaw from my
35 junior year. I guess I assumed someone recalled the name and thought it really cool, which I
36 guess was kind of an honor. Anyway, looking back, I should have suspected a set up of some
37 kind and reacted more strongly, but hindsight is 20/20. Someone even asked if I knew Fatalflaw
38 and I said "Aware of flaw." What I meant was kind of a double meaning: I knew of "a flaw" that
39 allowed use of my old username.
40

41 On March 9, I posted some discussion specifically related to a history class discussion on
42 criminals and crime. I interjected my philosophy about how some criminals use fear to control.
43 Lots of students are often upset by this reality. I also wondered out loud how we students could
44 handle being victims and suffering from pain, noting that doctors study that stuff all the time. My
45 comment about whether "Jam" would volunteer to be the subject of such a study was just a

46 tweak at Jamie. I pretty much knew Jamie was Jammin@LincolnHS given the name Jammin
47 and because we'd both been posting on the senior class chat room all year. Jamie pretty much
48 provided clues to her/his identity over the course of the year by stating that s/he ran on cross
49 country, played soccer, was in certain classes, etc. I bet you that by the end of our senior year
50 I could have identified half the regular posters. Our class was only about 200 students anyway,
51 so the pool wasn't that large. Like I said, I was only joking about whether Jam would volunteer
52 for a study.

53
54 This discussion from March 9 continued and I tried to steer the conversation to the area of my
55 academic interest, fear and victimization. Our history class had discussed torture camps.
56 Anticipating something dreadful is often worse than the actual happening, when it finally occurs.
57 Like going to the dentist. You think how awful it's going to be, but then you do it and it's not all
58 that bad. Fear gets to you, as I posted in the chat. Jamie, not surprisingly, called me a "freak,"
59 and I just kind of overreacted and said "Jam is full of fear. Would make a great experiment." I
60 was poking fun at Jamie again, kind of an inside joke at how scared Jamie is of her/his own
61 shadow. Let me explain.

62
63 Jamie and I used to be friends back in elementary school, but we lost contact. As kids, when
64 we played together, Jamie was always afraid of doing things. Anyway, we had an incident at a
65 bus stop in seventh grade when a friend and I were pretending we had some chemicals in a
66 water bottle. My friend spilled the water on Jamie and s/he became hysterical, thinking it was
67 poison or something. S/he wouldn't get on the bus and Jamie's parents had to pick her/him up.
68 I thought it was hilarious, but it did kind of end our friendship.

69
70 Plus, there was an incident our junior year. Jamie was mad because I was allowed to do an
71 extra credit report in English class on Jack the Ripper. As I was giving my report Jamie became
72 so unsettled that s/he got up and walked out during my presentation. Can you imagine
73 someone doing that! Actually, I think what most upset Jamie was that a few students, including
74 Jamie's sidekick Casey, were enthralled by my report, asking all kinds of questions about Jack
75 the Ripper. It was really cool actually to have inspired that response. I don't quite understand
76 why Jamie and some others freaked out. I wasn't exposing any deep dark psychological secret
77 or showing pictures you can't see every day on regular television programs. But, that's the kind
78 of stuff that interests me; some of us are weaker than others and can't handle the darker side of
79 life. Anyway, I logged out on March 9 after I made the comment about Jam being full of fear.

80
81 On March 10, I logged on to discover that students were re-hashing the chat from the day
82 before about pain and suffering. Someone accused me having identified Jammin, which I
83 admitted. They also raised the same old stuff about how I was nuts. I prefer the word "mad."
84 It's so much more poetic, somehow. Loads of highly productive and famous people have been
85 thought to be mad, but they still gain fame and fortune for their thought processes. I tried to
86 explain that I was just expanding upon the history class discussion. I also played along with
87 their lack of sophistication and stereotype of me, admitting I was "a bit mad" but that madness
88 gave me "direction, focus and an outlet for my aggression." When I saw Jam log on again, I
89 needed Jam to come out and play with the rest of us. All I meant was for Jam to join the
90 conversation.

91
92 I stayed logged on while Fatalflaw joined the group. I was surprised again to see that name -
93 my name actually - from the year before. Flaw seemed interested in the substance of the
94 discussion about pain and the like. I discussed how many of us will be victims at some point in
95 our lives. Flaw didn't stay with the discussion for long though and logged off. I was
96 disappointed; I thought I had a compatriot out there. I then accused Jammin of chickening out

97 by not posting. I tried to keep the discussion going but no one would bite. Then I logged off.
98 And for all this, I was almost prosecuted for a crime and am sitting her today.

99 I understand that the main reason this case exists is because Jamie believes I was Fatalflaw on
100 the chats, and the person who created the KZMail and M_Space page. I was not. As noted,
101 my senior year I registered the username Shockwave with password Jtripp06, after Jack the
102 Ripper. The year before I registered as Fatalflaw with the password Kingcrag. I thought initially,
103 when this whole situation arose, that someone just re-registered my old username Fatalflaw,
104 and used their own new password. I later found out from Officer Hopp that wasn't the case.
105 Our old usernames and passwords were supposed to expire the end of each school year. I
106 guess the school technology staff really screwed that up.

107 Nonetheless, whoever was Fatalflaw had stolen my identity somehow. As I explained to Officer
108 Hopp, I'm absolutely positive that I had written Fatalflaw/Kingcrag information inside my science
109 book from junior year and I had turned it in without erasing the information. This had been my
110 "flaw." I understand that book was found in the library and that lots of students have seen it. I'm
111 also absolutely positive that the person Jamie is looking for looked in that book. Another thing.
112 Whoever found my name in the text book probably knew Fatalflaw was me. During my junior
113 year, I was, as Fatalflaw, a well known and frequent poster, not only in the junior class chat
114 room, but in other chat rooms. I was just one of those people who could dominate a chat room
115 discussion. I know for a fact that lots of regular posters figured out that I was Fatalflaw,
116 because they would ask me around school.

117 There are just too many other reasons I am not the guilty party here. How could I be two people
118 at one time? For instance, on March 10, both Fatalflaw and me, as Shockwave, logged on to
119 chat at the same time. It would be so obvious something were up if I had been hopping around
120 from computer to computer. Also, there is a posting from March 9 at 4:32 by Fatalflaw. Problem
121 is, I wasn't near a computer then. I had logged off at 4:16 p.m. and ran across the hallway for a
122 4:15 interview with the Sensei. I was writing an article for our on-line newspaper about on-line
123 research, which I'd was becoming an expert at. The meeting lasted about half an hour then I
124 went home. I'm sure Sensei Cliff recalls it. I told this to Officer Hopp. Furthermore, I don't have
125 the technology at home, or the expertise, to have opened a KZMail account or to have created
126 the M_Space page. Plus, no way I could have sent that KZMail on Saturday. I was driving
127 around all day delivering food from 12:30 p.m. to 8:30 p.m. for a downtown Chinese food place I
128 worked for on weekends. This could have all been cleared up if someone would have just
129 checked.

130 Why would I do this anyway? Jamie thinks I tried to knock her/him out of the top spot in class
131 rankings and win the Gugel scholarship, worth \$15K per year. But Jamie and I were not the
132 only ones trying to win the scholarship. There were probably over a dozen students who could
133 have won the big money if Jamie and I were out of the way. Nonetheless, the school and police
134 never questioned any of the other top students, they just went straight for me because it was
135 easy and they didn't want to upset all the parents. Like I said, I ended up ranked third. Even
136 Jamie's sidekick Casey, who ended up eighth, was ahead of Jamie. That must of killed Jamie.

137 I think this is all a ploy and that Jamie may even been involved. Jamie certainly had a motive to
138 get me in trouble. Jamie probably never forgot about the bus stop incident, which I admit was a
139 little bit mean, but it was over five years ago, for goodness sake. Maybe it was the Jack the
140 Ripper incident junior year. Jamie seems to think we have some sort of feud ever since seventh
141 grade, but really all of this drama is going on inside her/his head. Jamie, I guess always saw

142 me as some sort of competition for her/him and needs excuses for her/his inadequacies. Really
143 s/he is not that smart. It's funny how the popular athlete types always think things should go
144 their way. That's not the way the world works and the sooner they learn it the better off they will
145 be. You can't blame someone else for your own problems.

146 Finally, I have to clear up one thing Jamie alleged, which is that I threatened Jamie in the school
147 cafeteria while this alleged cyberstalking was happening. Never happened.

148 If anyone is the victim here it is me. Not only was I actually arrested, but I was like the first
149 person ever to be charged with cyberstalking in the entire state. Plus, my grades suffered, I lost
150 the Gugel, I couldn't get into college this year, and on top of that, Jamie is suing me. I guess
151 this is what you get for being too smart, for wanting to enlighten classmates, for wanting to
152 excel. Everyone is jealous and I am paying the price. My future has been placed in jeopardy
153 because Jamie got spooked by things I did not even write.

154 Witness Addendum I have reviewed this statement and I have nothing of significance to add. The
155 material facts are true and correct.

156 **DATE** November 3, 2006

157 Signed

158 *Taylor Williams*

159 Taylor Williams

160

161 Signed and Sworn before me

162

163 *Loretta Sinclair*

164 Loretta Sinclair, Notary Public, State of Barrister

165 My commission expires December 31, 2006

STATEMENT OF PAT CLIFFORD

1
2 My name is Pat Clifford and I was a computer instructor at LHS from 2004-2006. I started there
3 right after college where I majored in computer engineering with a minor in computer systems
4 analysis. I really have the Midas touch with computers. I was so good, in fact, that my friends
5 call me Sensei Cliff. Plus, I'm kind of into Eastern philosophy. Anyway, I couldn't find a job
6 initially that was worthy of my degrees, so LHS was more than happy to have me. It was a good
7 first job, as it turned out. The kids were fun. I left LHS though at the end of last year and
8 started up my own business called Sensei-tional Technologies. I've been at it for less than a
9 year but I'm already raking in more than at LHS, though I don't get summers off.

10 I'm proud of what I accomplished at LHS though. I pushed for more computers dedicated to
11 student use and rehabbed a dozen or so computers that were on the shelf. I was like my own
12 MASH unit for disabled computers. I created the school chat room system, added students to
13 the school email system and doubled the number of internet connections for student computers.
14 I'm still amazed how many students didn't have internet access from their homes. It was the
15 only way to keep the playing field somewhat even, though.

16 Computers dedicated for students only were housed two places at LHS: the computer lab and a
17 lounge just off the library, on the second floor. Thanks to me, I had all thirty-five lab computers
18 up and working last year, plus another ten in the library. From any of these computers, students
19 could access the internet without needing to log on. The web browser was right on the desktop.
20 The reason access was so easy was that internet surfing was pretty strictly monitored by Super
21 Scout, a program that collects logon data and blocks inappropriate websites, downloads of MP3
22 files, for instance, or uploads of videos or picture files; you know, all the things students really
23 like to do. We didn't spoil all their fun though; they could still visit sites like UTube and
24 M_Space.

25 Students could also access the LHS network from any computer. That network had two main
26 features; access to school email and school chat rooms. These were log on only resources
27 though. In order to log on, the student had to have registered a username and password of
28 their choice. The great thing about the LHS network was that students could access it from
29 non-school computers via the internet.

30 The best part of my job was setting up this stuff; the worst part was monitoring the computer lab
31 after school, when it was especially busy. It was more like babysitting actually. Fortunately, my
32 office and desktop were across the hallway from the lab, which was convenient since kids could
33 come over to me when they needed my expertise. I was also responsible for logging into the
34 chat rooms from time to time to make sure the kids were discussing appropriate topics; I was
35 supposed to provide an adult presence.

36 The lab computers were arranged in cubby holes and provided students some privacy. Unless
37 you were standing right behind them, you couldn't see what a student was writing or reading.
38 The library computers are monitored by library staff but they didn't have much to do since most
39 students preferred the lab because the library computers were out in the open for anyone to
40 see. The school computers were available until 6 p.m. on school days.

41 I first became aware of this incident between Jamie and Taylor on Tuesday March 14 of 2006.
42 The Principal introduced me to a cyber crimes investigator named Phoenix who told me s/he

43 was investigating alleged cyberstalking claims made by senior Jamie Anderson against
44 registered users Fatalflaw and Shockwave arising in an LHS senior class chat room. Although I
45 didn't say anything to Phoenix, I just about laughed out loud at the notion cyberstalking could
46 happen in a school chat room. All the users are registered and all chat is traceable. Who would
47 be so stupid? I mean, in the pantheon of chat rooms, school chats are romper rooms compared
48 to what might await a poor teenage student on open internet chats, where no one is who they
49 say they are. Surprisingly, I kept my mouth shut and dutifully printed out copies of all chat room
50 dialogue involving Jamie's pseudonym, Jammin@LincolnHS, and Fatalflaw and Shockwave.

51 Upon request, I accessed records that showed Shockwave was Taylor Williams with the
52 associated password Jtripp06. I couldn't find Fatalflaw's registration which confounded me. The
53 name looked familiar though and I recalled that Taylor Williams had been Fatalflaw the year
54 before. I think everyone who visited chat rooms knew that. Taylor had a real unique voice in the
55 chat rooms. Anyway, I went back and verified Taylor was Fatalflaw and Kingcrag the password.

56 The Fatalflaw username and password should have been automatically deactivated at the end
57 of Taylor's junior year. For the life of me, I never did figure that one out. Some day, when I can
58 meditate on it, I'll find the answer. In the meantime, I checked for Phoenix and discovered that
59 during the 2005-06 school year, Fatalflaw's first log on was not until March 6, 2006. I thought
60 Fatalflaw's March debut pretty odd, and suggested to Phoenix that someone must be using
61 Taylor's old username, or, God forbid, had hacked the system.

62 I also checked the logon history from the week of March 6 of all the chats involving Jammin,
63 Shockwave and Fatalflaw. I discovered that Jammin/Jamie posted exclusively from non-school
64 computers and that Shockwave/Taylor's postings were all done from LHS computers located in
65 the lab. Fatalflaw also made all her/his postings from the lab, except for the March 6 posting,
66 which was from a library computer. I could even tell from which computer the postings were
67 made since in new the IP address. An IP address (Internet Protocol address) is a unique
68 number assigned to a computer and other devices, like printers, fax machines, etc. so they can
69 identify and communicate with each other on a computer network. It's kind of equivalent to a
70 street address or a phone number.

71 I told Officer Phoenix that I saw Taylor Williams in the lab after school every day that week. The
72 lab, in fact, had been very busy the week of March 6 because it was right before third quarter
73 exams. It was filled pretty much filled to capacity every day, even on Friday, though most of the
74 students were gone by 5:00 or 5:30 that day. If you ask me specifically who was there that
75 week, I couldn't tell you because it was well over a hundred kids. If I had the log on history
76 though, I could at least identify students who had logged on to chat rooms or email from school
77 computers, though not if they just went on the internet. Phoenix never asked for it though, but
78 must have known such a list likely existed, given s/he's a cyber crimes expert.

79 Phoenix did ask me if I noticed Taylor moving around a lot in the lab, and I said no. I told
80 Phoenix that Taylor did leave the lab early on Thursday March 9 because s/he was interviewing
81 me for an article s/he was writing for the school newspaper about on-line research. I told
82 Phoenix that the meeting had been scheduled for 4:15, though we started a few minutes late.
83 I'd guess about 4:20 p.m. It lasted about half an hour after which I chased Taylor home.

84 Taylor was, by the way, a regular in the lab and chat rooms during the two years I was at LHS.
85 Taylor was an extremely serious student who was one of the few kids who used the chat rooms
86 as an educational tool. Taylor's folks couldn't afford a computer so the school resources were a

87 godsend. I kind of grew fond of Taylor last year even though s/he could be too serious and
88 occasionally brooding, which was not my style. Actually, I trusted Taylor so much that before
89 this happened, I would let Taylor stay and work in the lab beyond 6 p.m. so long as Taylor
90 turned off the lights and locked up. Taylor never once betrayed my trust.

91 This little high school drama between Jamie and Taylor made some of the LHS big wigs
92 consider closing the chats. I got sucked into that bureaucratic black hole, attending meeting
93 after meeting with the Principal, Superintendent, other staff and Jamie's mother. The students
94 clearly like the chats and since they used pseudonyms, they were at liberty to discuss topics
95 they wouldn't otherwise discuss. LHS eventually sided with me, but have since adopted a policy
96 that all students sign in, with pen and paper, to both the computer lab and library lounge. Might
97 as well have them chisel their names in stone. As I told Phoenix, the log on history for email
98 and chat room usage was basically the same as a pen and paper sign in sheet. And it was
99 actually better since it identified which computer was used by the IP address. S/he said all she
100 needed to know was that Fatalflaw and Shockwave had both posted threats from school
101 computers. Anyway, that log on information is gone now, having been deleted out of the system
102 at the end of the school year in June 2006. LHS needed the space.

103 I do need to mention that, before they register, students agree to adhere to written guidelines,
104 including an obligation that they hit the "panic" or "red button" in case something alarms them in
105 a chat room. The panic button was used a few times during my time monitoring the LHS chat
106 rooms and on one occasion, I had to deactivate a user account. That was the time when a
107 student, I'll call Larry, left a computer workstation without logging out of a chat room. The next
108 student, I'll call Moe, sat down and saw an opportunity. Moe posted a message that Larry was
109 madly in love with another student, let's call her Curly. This embarrassed both Larry and Curly,
110 who were not really in love at all, though they were a bit co-dependent. Curly hit the panic
111 button and I ended up deactivating Moe's account.

112 Same thing here: Jamie could have controlled this situation early on by hitting the panic button
113 after the first or second message from Fatalflaw. Had Jamie followed the guidelines, I would
114 have deactivated Fatalflaw. Or even better, had Jamie hit the panic button early on, I could
115 have set up the system so that I would be alerted on my desktop if Fatalflaw logged on. I would
116 have been able to discover which computer Fatalflaw was using and discover her/his identity.

117 I do find it very feasible that someone stole Taylor's Fatalflaw username and password from a
118 textbook. It's just very common for students to forget their passwords. They will often write their
119 usernames, passwords, email addresses and other information on the covers of books or
120 notebooks. I've even found this kind of information written on mirrors in the restrooms. It may
121 be a bit surprising, but identity theft does not only occur with credit cards. We try to tell them to
122 keep that kind of information strictly confidential, but kids these days, can't make 'em listen.
123 Seems to me, Taylor is the victim here, guilty only of not protecting her/his identity.

124 As to who the identity thief might have been, I'm not quite sure. Maybe it was one of the kids
125 competing with Taylor for the 2006 Gugel scholarship. One of my extracurricular jobs at LHS
126 was as a member of the academic awards committee. The only actual reason I joined was
127 because I got to meet Sue Gugel, a former LHS grad and current Silicon Valley goddess, who
128 endowed the scholarship. Anyway, the competition for the 2006 scholarship was exceedingly
129 fierce. There were about fifteen students at the beginning of that school year who had a
130 legitimate shot to win. There was just way too much pressure on the kids, and the teachers too,
131 who had to worry about every grade they gave out. I think competition is a good thing, but

132 truthfully, it made this particular group turn nasty. Teachers who'd been at LHS a long time
133 commented on how ugly things were at the top of the class. There was just a bad vibe all year
134 long, and not just between Taylor and Jamie.

135 Another reason someone might have tried to set Taylor up is because Taylor was kind of an
136 easy target. I mean, her/his areas of interest were pretty dark, and just too different given the
137 sometimes stifling conformity that appeals to many high school students; plus, I don't think
138 Taylor had a whole lot of friends, so far as I could tell. As for Jamie, I only know a little bit about
139 her/him from reading her/his posts in the chat rooms. I couldn't get a good feel for Jamie except
140 that s/he seemed a bit meek. I thought Jamie should have confronted Fatalflaw when this all
141 came about. Casey Waller I didn't know at all. Casey had been registered in the school
142 network as CWALLYRICH, but records showed Casey never used the chat rooms, only email.

143 I've since had the chance to read through all the chat room dialogue at issue and there is
144 nothing in there written by Taylor, as Shockwave, that is remotely inappropriate. I should know
145 since it had been my job to make such judgments as the chat room monitor. The stuff Fatalflaw
146 wrote does seem to cross the line, especially when considered with the KZMail and M_Space
147 page that Fatalflaw created. But it's pretty clear to me that this case is about identity theft.

148 Witness Addendum. I have reviewed this statement and I have nothing of significance to add. The
149 material facts are true and correct.

150 **DATE** November 13, 2006

151 Signed

152 Pat Clifford

153 Pat Clifford

154

155 Signed and Sworn before me

156

157 Loretta Sinclair

158 Loretta Sinclair, Notary Public, State of Barrister

159 My commission expires December 31, 2006

Exhibit List

- Exhibit 1 Senior Class Chat Room Dialogue Excerpt, May 6, 2006
- Exhibit 2 Senior Class Chat Room Dialogue Excerpt, May 8, 2006
- Exhibit 3 Senior Class Chat Room Dialogue Excerpt, May 9, 2006
- Exhibit 4 Senior Class Chat Room Dialogue Excerpt, May 10, 2006
- Exhibit 5 Email to Jamie Anderson, May 11, 2006
- Exhibit 6 M_Space Page
- Exhibit 7 Jamie Anderson's High School Transcript
- Exhibit 8 Inside Cover of Defendant's 11th Grade Science Textbook
- Exhibit 9 Jamie Anderson's Medical and Psychological Examination

Exhibit 1

LINCOLN HIGH SCHOOL – SENIOR CLASS CHAT ROOM DIALOGUE EXCERPT
Monday 6, March 2006

* * *

Jammin@LincolnHS enters chat room at 4:57 p.m.

Jammin@LincolnHS: 4:58 p.m. Hi everyone. Is our history assignment from pp 399 to 414? BTW^a - Anyone in here seen the student play? Hamlet? 2B or not 2B

Cannonball: 4:59 p.m. Nope. Shakespeare ain't my bag. :(

Fatalflaw enters chat room at 4:59 p.m.

Southernbell enters chat room at 4:59 p.m.

Butters: 4:59 p.m. I heard it was good, but haven't seen.

Cannonball: 5:02 p.m. I'd rather be outside than in on a day like today.

Chancy5: 5:03 p.m. You already said that Cball, why don't you get off the computer and do something about it.

Micahforce: 5:05 p.m. Just walked by track on my way to lab. Joggers out in force. Go track team.

PhoebeS: 5:11 p.m. So why R we on our computers?

Jammin@LincolnHS: 5:11 p.m. I'm going out now. Get some p.m. sunshine and exercise.

Fatalflaw: 5:11 p.m. Jam's in the window. Exercise all you want, my friend, you won't be able to run fast enough.

Micahforce: 5:12 p.m. Jam, you run with the track team?

Southernbell: 5:12 p.m. If you do, run fast and win!

Jammin@LincolnHS: 5:13 Not on track team but on X country team in Fall. Come Spring, I'm a soccer star

Fatalflaw: 5:14 p.m. Not on the team, but practices nonetheless. In the window.

Cannonball 5:15 p.m. Fatalflaw, you're creeping me out. You are new here, aren't you. Don't I remember you from last year. Where'd U come from anyway? Gotta go ...

Jammin@LincolnHS exits chat room 5:15 p.m.

Canonball exits chat room at 5:17 p.m.

Fatalflaw exits chat room at 5:25 p.m.

* * *

^a By the way

Exhibit 2

LINCOLN HIGH SCHOOL - SENIOR CLASS CHAT ROOM DIALOGUE EXCERPT
Wednesday March 8, 2006

* * *

Jammin@LincolnHS enters chat room 3:18 p.m.

Southernbell: 3:19 p.m. Anyone know if school doing a flag day celebration again?

Zulu: 3:21 p.m. Don't know but last year's celebration was a gas. Check the student bulletin board?

Southernbell: 3:21. did that. Nothing there.

Jammin@LincolnHS: 3:23 p.m. Last year's was cool. The color guard was awesome.

Fatalflaw enters chat room 3:23 p.m.

Fatalflaw: 3:24 p.m. Speaking of color, Jamming's been seen wearing school colors all week. Be careful, water bottles, sideline bottles, they don't always contain water, they can be deadly.

Southernbell: 3:24 p.m. What's that all about, why you keep talking about Jammin?

Fleetstreet: 3:25 p.m. Yeah, what's up?

Southernbell: 3:25 p.m. Talk like that can prompt a panic button alert, you goof.

Fatalflaw exits chat room at 3:26 p.m.

Shockwave enters chat room 3:27 p.m.

Shockwave: 3:28 p.m. Just read the chain. Nothing wrong with some gentle ribbing. No harm done. You guys should drop it.

Southernbell: 3:29 p.m. Guess you were not watching the other day, seems like Flaw is out to get Jammin. That's not what this chat room is for. You know teachers read this stuff, you goin' to get kicked off.

Jammin@LincolnHS: exits chat room 3:30 p.m.

Southernbell: 3:30 p.m. Fatalflaw been resurrected from last year, apparently. Hey Shockwave, you know FF2002? You two should get together sometime.

Shockwave: 3:31 p.m. Aware of Flaw. Not interested.

Shockwave exits chat room 3:32 p.m.

* * *

Exhibit 3

LINCOLN HIGH SCHOOL - SENIOR CLASS CHAT ROOM DIALOGUE EXCERPT
Thursday March 9, 2006

* * *

Shockwave enters chat room at 3:45 p.m.

Jammin@LincolnHS enters chat room at 3:50 p.m.

TravellerX: 3:55 p.m. Anyone on from history? Some pretty strange stuff in that class.

Striker8: 3:55 p.m. like what?

Allthumbs enters chat room 3:57 p.m.

TravellerX: 3:58 p.m. like lots of talk about killing. Really freaky.

Shockwave: 3:59 p.m. Some criminals used fear as control; fear is stronger than chains and fences.

TravellerX: 4:00 p.m. Upset quite a few students in the class. Some had relatives who had been victimized. It was a sad class.

Southernbell: 4:01 p.m. My neighbor survived an assault. She absolutely never talks about it.

Striker8: 4:01 p.m. understandable not to talk about pain and suffering when it's been so close.

Shockwave: 4:03 p.m. Wonder if anyone our age would handle the situation well. Would be interesting to try to re-create the atmosphere.

Southernbell: 4:03 p.m. U R kidding? Who would want to do that?

Striker8: 4:04 p.m. Someone not quite right in the head.

Shockwave: 4:04 p.m. Don't call me crazy.

Striker8: 4:05 p.m. I didn't. But the thought of studying pain and suffering? Come on.

Shockwave: 4:06 p.m. It would be amazing to study pain and suffering. Doctors must do it all the time. Long-term effects of suffering could produce some interesting data. Volunteers? Hey, Jam you still here?

Jammin@LincolnHS: 4:08 p.m. just listening

Allthumbs: 4:09 p.m. Don't respond to that kind of comment.

Southernbell: 4:10 p.m. Yeah, Shok is as crazy as that Flaw character

Shockwave: 4:12 p.m. Listen good and respond or don't. Anticipation is what it's all about, and building fear. You never know when you'll be forced to face your greatest fear ... suffocation, poison, torture, painful prolonged death.

Jammin@LincolnHS: 4:13 p.m. You're a freak

Shockwave: 4:14 p.m. Thanks for the compliment. Jam is full of fear. Would make a great experiment.

Allthumbs: 4:14 p.m. Shockwave, you're about crossing the line there with all that torture talk.

Shockwave: 4:15 p.m. Don't be such babies. It's talk. GG.^a and study for exams.

^a Gotta go.

Shockwave signs off at 4:16 p.m.

TravellerX: 4:16 p.m. What a freak, not even worth reading his nonsense.

* * *

Fatalflaw signs on at 4:32 p.m.

Fatalflaw: 4:33 p.m. Jammin is still there. Time is running out my Jammin friend. You should really watch what you drink. Water can be poisonous, when its not water.

Jammin@LincolnHS signs off at 4:34 p.m.

Fatalflaw signs off at 4:36 p.m.

* * *

Exhibit 4

LINCOLN HIGH SCHOOL - SENIOR CLASS CHAT ROOM DIALOGUE EXCERPT Friday March 10, 2006

* * *

Talon: 3:35 p.m. Hey all, there's been talk at school that someone in the chat room is freaking people out. Anyone on line a witness. Was thinking of writing something about cyberstalking for our online school paper.

Allthumbs: 3:36 p.m. I think you are referring to fatalflaw and this other person, Shockwave, they have been really trying to scare people.

Talon: 3:37 p.m. Why would someone do that?

Shockwave enters chat room 3:38 p.m.

Coreforce: 3:38 p.m. Who knows? Shockwave, you nuts or what?

Shockwave: 3:39 p.m. I was just talking about a history class. I can't help if people take things out of context.

Allthumbs: 3:40 p.m. You were crossing a line. You obviously ID'd Jammin and have been trying to freak em out. you crazy?

Shockwave: 3:41 p.m. 1st Q: U and me and everyone on system pretty much know who we all are by now. School year's almost over, genius. 2nd Q: I admit to being a bit mad, by some people's standards, but madness can be a good thing. It gives me direction, focus and an outlet for my aggression. Ever wonder bout pain and suffering?

Jammin@LincolnHS enters chat room 3:43pm

Shockwave: 3:44 p.m. Jamming, can you come out of your 2nd floor roost and play?

Jammin @Lincoln exits chat room 3:47pm.

* * *

Fatalflaw enters chat room at 4:31 p.m.

Fatalflaw: 4:32 p.m. NE1^a talking bout torture yet? Pretty cool stuff, eh?

LaLa: 4:32 p.m. not me :-(

HMSPinafore: 4:33 p.m. me neither. :-(:-(

Southernbell: 4:33 p.m. Not that again. Flaw, U R seriously messed. I am really considering hitting the panic button. No one but you and Shok talk about this stuff. GIAR^b already. Get your own room and leave us all alone.

CATGIRL: 4:35 p.m. What was going on? Free speech?

Shockwave: 4:36 p.m. discussion on pain and torture and what can be learned from fear. Hey Bell, why are you so afraid of what you don't want to understand? Statistics say almost all of us going to be victims at some point in our lives.

^a Anyone

^b Give it a rest

LaLa: 4:38 p.m. So what? You can't let fear guide your whole life.

CATGIRL: 4:39 p.m. No kidding. What a waste of time. I guess, even though it's not worth thinking about, Shockwave is entitled to say whatever. We don't have to listen.

Fatalflaw exits chat room 4:39 p.m.

Jammin@LincolnHS enters chat room at 4:40 p.m.

Jammin@LincolnHS: 4:41 p.m. Not this again. Glad Flaw is off though.

Shockwave: 4:42 p.m. You chickened out before.

Jammin@LincolnHS: 4:42 p.m. Had better things to do.

Shockwave: 4:42 p.m. Like what, more exercising?

Jammin@LincolnHS: 4:42 p.m. Inappropriate question.

Shockwave: 4:43 p.m. Not really, but never mind. Back to the discussion. Everyone's going to be a victim. Even all of us. I've actually been one already so statistically I may be out of the picture.

LaLa: 4:43 p.m. What happened to you?

Shockwave: 4:44 p.m. to quote someone above, inappropriate question.

LaLa: 4:44 p.m. sorry

Shockwave: 4:45 p.m. Just remember, the clock is ticking. Time is on my side. Time is running out my friend.

LaLa: 4:45 p.m. What's that supposed to mean?

Shockwave: 4:46 p.m. Just that statistically, all of you are going to have to endure. GG.^a

CATGIRL: 4:46 p.m. Same here. Wkd starting.

Shockwave exits chat room at 4:47 p.m.

Jammin@LincolnHS exits chat room at 4:50 p.m.

Fatalflaw enters chat room 4:55 p.m.

Fatalflaw: 4:56 p.m. Hello? NE1ER^b? Anyone wanna talk some pain and suffering? Time is running out, my Jammin friend. Maybe we can meet?

* * *

Fatalflaw: 5:09 p.m. Jam will rot just like Jelly if buried long enough.

Fatalflaw exits chat room 5:10 p.m.

^a Gotta go

^b Anyone here?

Exhibit 5

Hopp, Phoenix

Page 1 of 1

From: Anderson, Jamie
Sent: Monday, March 13, 2006 8:32 a.m.
To: Hopp, Phoenix
Subject: FW: Fear

From : user94040@KZMail.com
Sent : Saturday, March 11, 2006 2:54 PM
To : "Jammin" <jammin@lincolnHS.edu>,
Subject : Fear

FF may lose control at any time...longs to test your control. How long will you last, my jammin friend? If you're afraid, you better stay locked up in your 2nd floor roost and not go out to play. You could be sorry. You could be dead.

Hey check out: http://www.m_space.com/jammin@lincolnHS – sometimes it really all is about you!

Exhibit 6

M_SPACE Jammin@lincolnHS experiment

[Home](#) | [Browse](#) | [Search](#) | [Invite](#) | [Film](#) | [Mail](#) | [Blog](#) | [Favorites](#) | [Forum](#) | [Groups](#) | [Events](#) | [Videos](#) | [Music](#) | [Comedy](#) | [Classifieds](#)

jammin@lincolnHS experiment



View My: [Pics](#) | [Videos](#)

SUBJECT:

High School Senior New Temple, Barrister United States

Last Login: 3/10/2006

An Experiment in Creating Fear

[jammin@lincolnHS's Latest Blog Entry](#) [[Subscribe to this Blog](#)]

private profiles ([view more](#)) NONE

Top 8, 16, 20, 24 friends :) ([view more](#)) **jamming@lincolnHS** has 0 friends.

LOCATION: 447 St. Mark's Street New Temple, Barrister SECOND FLOOR WINDOW. (pictured).

jammin@lincolnHS experiment Blurb

About the experiment:

Subject Jammin@lincolnHS has been subjected to various veiled threats through high school academic chat room with goal of creating fear and anticipation of bodily harm in order to study subjects reaction. The subject is unaware of experiment or source of comments.

Hypothesis: The fear of the harm will be more painful both physically and mentally to the subject than the actual harm that occurs.

BLOG ENTRIES:

The following entries document the date and exact language of threat made to the subject. Reactions to the threats in general and reaction to actual bodily harm imposed will be added at the conclusion of the experiment. Viewers of this page and those interested in this subject are welcome to comment their own personal reaction to the threats listed below. Your participation and suggestions are greatly appreciated.

3/6 5:11pm: Jam's in the window. Exercise all you want, my friend, you won't be able to run fast enough.

3/6 5:14pm: Not on the team, but practices nonetheless. In the window.

3/8 3:24pm: Speaking of color, Jamming's been seen wearing school colors all week. Be careful, water bottles, sideline bottles, they don't always contain water, they can be deadly.

3/9 4:33pm: Jammin is still there. Time is running out my Jammin friend. You should really watch what you drink. Water can be poisonous, when its not water.

3/10 4:56pm: Anyone wanna talk some pain and suffering? Time is running out, my Jammin friend. Maybe we can meet?

3/10 5:09pm: Jam will rot just like Jelly if buried long enough.

Contact: the jammin@lincolnHS experiment

 [Send Message](#)

 [Forward to Friend](#)

 [Add to Friends](#)

 [Add to Favorites](#)

 [Instant Message](#)

 [Block User](#)

 [Add to Group](#)

 [Rank User](#)

M_Space URL:

http://www.m_space.com/jammin@lincolnHS

Exhibit 7

<p>TRANSCRIPT</p> <p>Anderson, Jamie 447 St. Mark's Street New Temple, Barrister, 76853 DOB: 10.15.1987 PHONE: 678.555.1212</p>	 <p>Lincoln High School 101 Freedom Drive New Temple, Barrister, 76866</p>																																																																																																																																												
<p>Academic Year Fall 2002/Spring 2003</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Course</th> <th>1st</th> <th>2nd</th> <th>MID</th> <th>3rd</th> <th>4th</th> <th>FIN</th> <th>AVE</th> <th>GRADE</th> <th>PTS</th> </tr> </thead> <tbody> <tr><td>Fr.ENG</td><td>97</td><td>95</td><td>96</td><td>93</td><td>98</td><td>97</td><td>96</td><td>A</td><td>4.0</td></tr> <tr><td>Alg. 1</td><td>93</td><td>93</td><td>94</td><td>96</td><td>92</td><td>95</td><td>94</td><td>A</td><td>4.0</td></tr> <tr><td>Science</td><td>99</td><td>98</td><td>97</td><td>99</td><td>94</td><td>97</td><td>97</td><td>A</td><td>4.0</td></tr> <tr><td>ScoSt</td><td>98</td><td>97</td><td>94</td><td>95</td><td>97</td><td>99</td><td>97</td><td>A</td><td>4.0</td></tr> <tr><td>Span 1</td><td>100</td><td>100</td><td>99</td><td>100</td><td>98</td><td>97</td><td>99</td><td>A</td><td>4.0</td></tr> <tr><td>PE 1</td><td>97</td><td>98</td><td>100</td><td>95</td><td>96</td><td>96</td><td>97</td><td>A</td><td>4.0</td></tr> </tbody> </table> <p>GPA: 4.0 Class Rank: T1/228</p> <p>ADVISOR COMMENTS: Jamie is extremely bright and athletic. Jamie is working hard and to potential. A serious and motivated student. Keep up the good work next year!</p>	Course	1 st	2 nd	MID	3 rd	4 th	FIN	AVE	GRADE	PTS	Fr.ENG	97	95	96	93	98	97	96	A	4.0	Alg. 1	93	93	94	96	92	95	94	A	4.0	Science	99	98	97	99	94	97	97	A	4.0	ScoSt	98	97	94	95	97	99	97	A	4.0	Span 1	100	100	99	100	98	97	99	A	4.0	PE 1	97	98	100	95	96	96	97	A	4.0	<p>Academic Year Fall 2003/Spring 2004</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Course</th> <th>1st</th> <th>2nd</th> <th>MID</th> <th>3rd</th> <th>4th</th> <th>FIN</th> <th>AVE</th> <th>GRADE</th> <th>PTS</th> </tr> </thead> <tbody> <tr><td>So.ENG</td><td>98</td><td>99</td><td>97</td><td>99</td><td>95</td><td>97</td><td>97</td><td>A</td><td>4.0</td></tr> <tr><td>Alg. 2</td><td>94</td><td>92</td><td>96</td><td>94</td><td>94</td><td>93</td><td>94</td><td>A</td><td>4.0</td></tr> <tr><td>Biology</td><td>98</td><td>100</td><td>98</td><td>99</td><td>96</td><td>97</td><td>98</td><td>A</td><td>4.0</td></tr> <tr><td>W. Civ</td><td>95</td><td>92</td><td>96</td><td>95</td><td>93</td><td>96</td><td>95</td><td>A</td><td>4.0</td></tr> <tr><td>Span 2</td><td>100</td><td>100</td><td>100</td><td>100</td><td>100</td><td>97</td><td>100</td><td>A</td><td>4.0</td></tr> <tr><td>PE 2</td><td>95</td><td>98</td><td>94</td><td>95</td><td>98</td><td>92</td><td>96</td><td>A</td><td>4.0</td></tr> </tbody> </table> <p>GPA: 4.0 Class Rank: T1/223</p> <p>ADVISOR COMMENTS: Jamie had another excellent year. Jamie is a role model to her/his fellow students. Not many people are so gifted in so many areas. There is no doubt Jamie will continue to excel.</p>	Course	1 st	2 nd	MID	3 rd	4 th	FIN	AVE	GRADE	PTS	So.ENG	98	99	97	99	95	97	97	A	4.0	Alg. 2	94	92	96	94	94	93	94	A	4.0	Biology	98	100	98	99	96	97	98	A	4.0	W. Civ	95	92	96	95	93	96	95	A	4.0	Span 2	100	100	100	100	100	97	100	A	4.0	PE 2	95	98	94	95	98	92	96	A	4.0
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Exhibit 8
Inside Book Cover

uname: FatalFlaw

psswd: ~~XXXXXXXXXX~~

Exhibit 9

Dr. Michael R. Robertson, M.D.
75 Central Ave.
New Temple, Barrister 76801

555-1001 (phone) | 555-1002 (fax) | info@drrobertson.com | www.drrobertson.com
specializing in family medicine since 1982

Re: Medical and Psychological Evaluation of Jamie Anderson

April 25, 2006

1) HISTORY OF PRESENT CONDITION:

Jamie has been a patient of mine since s/he when was 6 years old and has had routine physical examinations throughout her/his life. S/He does not possess a history of severe physical ailment or medical conditions. Jamie has never displayed any symptoms of mental illness in the past. In 2000, Jamie was treated for a broken nose as a result of getting hit in the face with a soccer ball.

2) PRESENT CONDITION:

As a direct result of stress caused by repeated threats received by Jamie over an internet chat room s/he complains of a host of physical and mental ailments. Jamie has experienced trouble sleeping at night (insomnia and night terrors), weight loss, trouble concentrating in class, raised anxiety levels, fear of bodily harm, lack of motivation and loss of self-esteem. On two occasions, Jamie has described episodes commonly considered a panic attack. The description of these attacks includes symptoms such as heart palpitations, chest pain or discomfort, sweating, trembling, tingling sensations, feeling of choking, fear of dying, fear of losing control, and feelings of unreality. The most recent panic attack occurred on March 17, 2006 at approximately 4:30 p.m.

3) PHYSICAL EXAM FINDINGS

A series of physical examinations over the past two months including MRI readings and CAT scans reveal no life threatening or life altering physical ailment. All tests came back at normal levels. However, on several occasions Jamie displayed signs of exhaustion due to a lack of sleep. Between the time of Jamie's last routine physical exam (Dec. 12, 2005) and her/his most recent examination, Jamie has lost 13 lbs.

4) MENTAL EXAM FINDINGS

Jamie appears to have difficulty concentrating. Jamie continually appears nervous and disoriented. S/he also has displayed and continues to display signs of anxiety disorder and severe

emotional distress. These symptoms have improved lately, but have not abated over the course of the ongoing medical evaluation and treatment conducted to date.

5) DIAGNOSIS

Jamie is suffering from **general anxiety disorder**. Results from independent psychological evaluation conducted at the St. Winston Mental Health Facility on March 21, 2006 confirm this finding.

6) TREATMENT PRESCRIBED

On March 24, 2006 I prescribed Jamie a dose of 15mg, twice a day, of the selective serotonin reuptake inhibitor, Lamaprox. On April 3, 2006 Jamie began twice weekly therapy sessions at my suggestion. I have suggested that Jamie remain on the medication and continue therapy for at least one year regardless of whether or not the symptoms of her/his anxiety disorder cease.

7) LONG TERM PROGNOSIS

Jamie should be able to overcome her/his anxiety disorder if s/he continues taking Lamaprox and therapy treatment. I anticipate that Jamie should have no problem attending college or with concentration, but currently separation from her/his family and established support network is not advisable at this juncture. There is a possibility that Jamie will never overcome the disorder completely and may be prone to panic attacks for the rest of her/his life.

Dr. Michael R. Robertson, M.D.