

## Attachment 9 - Justification or Excuse

I deny that I yelled "extremely gross profanities" and threw a "scalding hot container of coffee" at petitioner's "face and torso." I also deny stalking him, and sending him obscene e-mails.

Although I yelled at petitioner on 3-8-13, I did not yell any profanities, and while I did throw a cup of coffee at him, it was lukewarm, purchased 30 to 40 minutes before, and I threw it at his chest, and not his face, and he did not even flinch. If I had thrown scalding coffee at him he would have been in pain and suffered 2nd degree and possibly 3rd degree burns, and I would never do anything like that. My throwing liquid at him was in response to several things he had done to me, including converting my property to his own, shoving me, pulling me out of a car and throwing me into the street, yelling profanities at me, undermining me to a client, and violating a court order to cooperate with me in regard to a pending appeal. I was simply reacting as a person that had been pushed and bullied by him one too many times. That morning, he said he would not be returning my phone to me, he got nasty with me, and he would not explain why he was undermining me to our client. (Immediately prior to said incident, I was a patron at the Starbucks on the northwest corner of Lake Avenue and California, where I typically work three to five days a week, as I have a home office and like to work out of the house during part of the day. I saw petitioner drive into the parking lot, and enter Winchell's Donut Shop, which is next door to Starbucks. I thereafter walked into Winchells, and asked Petitioner to return my cell phone to me. That is when the incident occurred.)

Petitioner and I had a 10 month affair that ended in mid-January of 2013, after his wife learned we had gotten back together for a second time. Petitioner, by his own admission, had been infatuated and obsessed with me. He followed me on the Find Friends GPS on his phone for many months, monitoring my activities throughout the day and night when we were not together, and constantly professed his love for me. The day after we broke up, his wife told him to move out of the house. Since then he has turned on me and he has been extremely mean and nasty to me, he has used physical force against me, he has bullied me and tried to intimidate me, and he refused to uphold his professional responsibilities in regard to our mutual client. Also, on more than one occasion, he has yelled at me calling me a "bitch," "slut," "whore," and "fucking cunt." He has also on at least four occasions, told me to go jump off a bridge and die, and said he would feel absolutely nothing if I did so.

In late November of 2012, I lent petitioner my second iPhone. After we ended our relationship in mid-January, I asked him to return it. He has refused to do so, and instead, threatened to blackmail me with a photograph that is purportedly on the phone. On 1-26-13, I filed a theft by embezzlement report with the Glendale Police Department in regard to my iPhone that petitioner has converted to his own property. (DR 13-1383 - see attached police report.) I have repeatedly requested the return of my cell phone, and two attorneys in petitioner's office informed me by e-mail on 1-28-13 that they were looking to try and find the phone, and hopefully they would have it in the next few days. On 2-17-13 I sent petitioner an e-mail, again requesting return of my phone. On 2-19-13 he e-mailed me back and stated, "iPhone constitutes evidence of false report that must be preserved," and he stated that he would consider deducting the cost from money advanced on an expected payment. He has still not returned my phone or paid me for the phone.

On 3-7-13 petitioner undermined me to our mutual client, and refused to uphold his professional responsibilities. I am appellate counsel on a case, and petitioner was one of the trial attorneys, and as such, he has a duty to cooperate with me in regard to the case. Since we broke up in mid-January, he refused to do so, which necessitated me filing a motion. I have asked him on numerous occasions to separate our personal relationship from our professional one, and uphold his ethical and professional duties, but he has refused to do so. On 2-25-13, the Court of Appeal granted my motion and ordered petitioner to cooperate with me (see attached order). I had been contacting him by e-mail about the case, and again when I saw him on 3-8-13 to obtain his compliance. Nevertheless, he has continued to refuse to fully cooperate with me, thereby violating the court order and working against the best interests of our client.

Now that petitioner has obtained a TRO, he apparently believes that allows him to refuse to cooperate with me on the appeal, despite the court order requiring him to do so. After 3-13-13 he ceased all e-mail communication with me and refused to answer my questions about the case, even though I had an upcoming due date of 2-25-13 for the brief. As I told him all along, I was requesting a telephone conference about the case, and e-mail communication - I never requested a face-to-face meeting with him. Due to his violation of the court order, I was forced to file appellant's opening brief without information I needed from him. Now, in considering whether to file a writ for my client, I still need information from petitioner, and there is still a valid court order for his cooperation. *Therefore I need to a method of lawfully communicating with him, and if this court grants a restraining*

*order prohibiting all contact with him, I have no means of doing so.* When petitioner filed a response with the Court of Appeal, he indicated he was willing to communicate with me in writing, but then he turned around and obtained the TRO, knowing full well he was subject to an order to cooperate with me about the case.

I have not "stalked" petitioner. We have often gone to the same restaurants and locations, and I often work at various Starbucks, so it is not unusual for us to run into each other. Petitioner claims I stalked him on 1-14-13 in Century City. We talked on the phone that morning, and he agreed to meet with me at lunch, and I drove to Century City with his knowledge. When he finished his business there, we met in a parking lot, and it was very cold so he asked me to get into his car to talk to him. I did, and he thereafter became very angry and mean during our conversation, and he kept pounding the steering wheel, and repeatedly yelled, "I feel like hitting you." After I exited his car he threw my keys at me.

On 1-22-13, I went to the Men's Central Jail to visit our mutual client. My client had called me twice in the middle of the night, and again that morning, with medical complaints that needed immediate attention. I had called the commander, and then I went down to the jail to follow-up on the medical issues and meet with my client. I have no idea why petitioner considers that to be stalking him. Petitioner's son was with him, and when I opened the door to see my client, petitioner's son turned around, saw me, and then got up and physically charged at me. I had no idea he would take his son to the jail, because he is not an attorney for our client or with petitioner's firm. (I had received threatening texts from petitioner's son during the prior weekend, after he learned about his father's affair with me and his parents' separation. He blamed me for his parents' problems.) After the jail incident I filed a battery report against petitioner's son. Despite the fact that my client witnessed the incident, and there were other witnesses, petitioner claims that I filed a false battery report against his son, and he has tried to retaliate me ever since that day.

Petitioner characterizes each incident as "getting progressively more violent." The only thing I did was throw tepid coffee on him on 3-8-13. Petitioner, however, has used physical force against me. On 2-5-13, I was working at a Starbucks in Glendale, when I saw petitioner pull into a parking lot across the street and enter a deli. (Again, he claims this was stalking him, as if I would have known he would go to the deli that day.) When I saw him I walked across the street, and asked him to return my cell phone. He refused and shoved me out of his way. I opened the back door of his car, and sat

down and asked him again to "please" return my phone. He said he was going to drive me to the Glendale PD. I said fine, because that was where I filed my police report about the phone. After driving around for awhile, while yelling degrading things at me, he pulled over, got out of this car, opened the back door, pulled me out of the car and flung me into the street. He drove off while I was laying in the street. He went to the Glendale PD and made an incident report. I went there also, and reported the fact he had thrown me into the street. On 3-8-13 I was contacted by the Glendale PD, and was informed they were turning the file over to the DA for possible battery charges against petitioner. I incurred injuries in that incident and sought medical attention when I returned home that evening. (My house key had been run over and was broken in half when petitioner flung me into the street so I was locked out of my house for several hours until I could locate a friend who has a spare house key.)

I have not sent petitioner "obscene e-mails." Petitioner had twice threatened to file a declaration in the Court of Appeal, attaching text messages that I sent him during the course of our relationship, in response to motions I had pending seeking his cooperation. I sent him some e-mails with screen shots of text messages he had sent him, and suggested that they were not appropriate items to bring before the Court of Appeal. If he deems said e-mails obscene, he was the author of such texts, so he should not be complaining about them. Copies of four of his texts that I e-mailed him are attached hereto.

Petitioner has sent me inappropriate e-mails, which he has his secretary type. I sent him an e-mail asking him a question about the case of our mutual client, and at the end, I again asked him to return my phone. On March 5, 2013, he responded to the question about our client, and then wrote, in regard to my stolen iPhone that he has been threatening me with - "Are you contending that the picture is not a self-portrait of your breasts?"

I am not a violent person - only a person who is extremely frustrated by the fact that petitioner has converted my cell phone to his own, bullied and intimidated me, refused to separate our personal relationship from our professional one, used physical violence against me, called me horrible names, committed perjury by attempting to disparage my name and reputation both before this court and the Court of Appeal where I practice, defamed me by making false comments about me to his coworkers, friends and family, and made me his sacrificial lamb for his failed marriage. He told me it would take him years to undo the damage that I did to his marriage. Petitioner refuses to take responsibility for his own actions, and instead has resorted to physical

**Glendale Police Dept.**

131 N. Isabel St  
Glendale, CA  
91206  
(818) 548-4840

**13-1383**

Supplement No  
ORIG

Reported Date  
01/26/2013  
Rpt/Incident Typ  
EMBEZZLEMENT  
Member#Dept ID#  
KIM,STEVE

Unauthorized Release of Information Prohibited - 13-1383

**Administrative Information**

Agency <b>Glendale Police Dept.</b>	Report No <b>13-1383</b>	Supplement No <b>ORIG</b>	Reported Date <b>01/26/2013</b>	Reported Time <b>16:49</b>	COF # <b>13052612</b>
Report to Follow - In Process		Incident Type <b>EMBEZZLEMENT</b>			
Location <b>1156 N BRAND BLVD</b>		City <b>GLENDALE</b>	Zip Code <b>91207</b>	Map Dist <b>165</b>	
Beat <b>1</b>	From Date <b>01/15/2013</b>	From Time <b>08:00</b>	To Date <b>01/15/2013</b>	To Time <b>08:00</b>	
Member#Dept ID# <b>22441/KIM,STEVE</b>	Assignment <b>PATROL</b>	Entered by <b>22441</b>	Assignment <b>PATROL</b>	RMS Transfer <b>Successful</b>	
Prop Trans Stat <b>Successful</b>	Approving Officer <b>19887</b>	Approval Date <b>01/27/2013</b>	Approval Time <b>01:37:08</b>		
RC Status <b>Freeze Report</b>					
# Offenses / Offense <b>1 / 503PC</b>	Description <b>EMBEZZLEMENT \$4000</b>		Detail Type		

**Person Summary**

Inv#	Inv# No	Type	Name	DOB	Race	Sex	DOB
SUS	1	I	FLANAGAN, JOHN MICHAEL	89130			
VIC	1	I	WASS, VALERIE GAIL	915038		F	11/05/1957

**Property Summary**

Involved <b>STN</b>
Description <b>Article: Office equipment/cellular phones TELEPH APPLE IPHONE 4S black Apple Iphone 4S</b>

**Summary Narrative**

Embezzlement Report - Front Desk

Report Officer <b>22441/KIM,STEVE</b>	Printed At <b>01/27/2013 01:38</b>	Page 1 of 3
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