

1 SEPTEMBER 25, 2013

2 PROCEEDINGS CONTINUED FROM SEPTEMBER 3, 2013

3

4 THE CLERK: This court is now open. Judge Krahn  
5 presiding. Please be seated.

6 MR. GRIEVES: Good morning, Your Honour. It's  
7 Grieves initial A. for the Crown on the Green matter, which  
8 is a continuation, as Your Honour knows, of the trial.

9 THE COURT: Yes.

10 MR. GRIEVES: And that we last, the last time  
11 Mr. Grainger was on the witness stand and the Crown had  
12 finished its direct examination, and I believe Mr. Green  
13 had started the cross-examination before.

14 THE COURT: Yes, I was reviewing my notes, and it  
15 looks like he started, asked a few questions in  
16 cross-examination, and so we'll continue, re-call  
17 Mr. Grainger. Just reminding everyone in the courtroom  
18 that there's been an order excluding witnesses, and  
19 Mr. Grainger, if you could just come forward.

20 MR. GRIEVES: I'm not, I don't know who the  
21 individuals are in the courtroom. I'm not sure if they are  
22 witnesses for Mr. Green.

23 MR. GREEN: No, not mine.

24 MR. GRIEVES: Okay.

25 THE COURT: All right. Mr. Grainger, just  
26 because there's been a break of a month or so since the  
27 last time you testified, I'm going to have you re-sworn.  
28 Madam Clerk, can you please re-swear Mr. Grainger.

29 THE CLERK: Please state and spell your full name  
30 for the record?

31 THE WITNESS: Martin George Trounce Grainger.

32 THE CLERK: Can you spell it, please?

33 THE WITNESS: G-R-A-I-N-G-E-R.

34 THE CLERK: First name?

1 THE WITNESS: Martin, M-A-R-T-I-N.

2 THE CLERK: And middle names?

3 THE WITNESS: George, G-E-O-R-G-E, and Trounce,  
4 T-R-O-U-N-C-E.

5 THE CLERK: T-R-O-U-N-C-E?

6 THE WITNESS: Yeah.

7 THE CLERK: Thank you. And would you wish to  
8 swear an oath on the Bible or affirm your evidence? Please  
9 take the Bible in your right hand.

10

11 **MARTIN GEORGE TROUNCE GRAINGER,**  
12 sworn, testified as follows:

13

14 THE CLERK: Thank you. You may be seated.

15 THE COURT: Mr. Green?

16 MR. GREEN: Thank you, Your Honour.

17

18 CROSS-EXAMINATION CONTINUED BY MR. GREEN:

19 Q Now, okay, I know where I wanted to start. The  
20 day that, the date of February 7th when I was being held in  
21 the little room on the university, you recall talking to  
22 the officers about the situations that led to my being  
23 arrested?

24 A Yes.

25 Q Yeah. Do you recall telling the officers that  
26 Marty thought he was smarter than the professors and he  
27 used to argue with them; does that sound like something you  
28 recall saying?

29 A I don't remember saying that.

30 Q Is it something you know to be or believe to be  
31 true about me that you might have said about me?

32 A I, again, I don't know if I said that  
33 specifically about you. I do have other students that I've  
34 had issues with who, in similar cases, have thought that

1 they were smarter than professors and they were talked to  
2 by the registrar and understood where the, the respect that  
3 they're supposed to show the, the instructor.

4 Q If I told you that listening through the door,  
5 those are the words I heard you say that I wrote down in my  
6 notes, would you find it credible or you wouldn't be able  
7 to comment on it?

8 A Yeah, I don't remember --

9 Q You don't recall?

10 A -- saying that to them.

11 Q Do you recall them saying that, do you recall  
12 saying something, you run right up to them and get this  
13 close to their face shouting; does that sound like  
14 something you would have said about me or you recall saying  
15 about me?

16 A I don't remember saying anything like that. I  
17 have, I did up a memo to, for the police that was outlined  
18 all of the previous incidents.

19 Q Oh, you did? Is that memo in evidence? Is it  
20 available? I'm going to make a note of that, I'm sorry.  
21 I'd like to get that. If we, if we could, I'd like to get  
22 that.

23 THE COURT: Mr. Grieves, I think Mr. Green is  
24 asking for a disclosure of a memo that Mr. Grainger did up  
25 for the police. Has that been disclosed, and what's your  
26 position on disclosure?

27 MR. GRIEVES: Checking to see if it was disclosed  
28 to Mr. --

29 THE WITNESS: I don't recall saying any memo in  
30 direct, in direct testimony.

31 MR. GRIEVES: It's not in any of the, the  
32 information I have with me. That is not, there is no memo  
33 in the file that was received by the police at the time of  
34 this incident, so I don't know what, I've never seen the

1 memo myself. I'm not sure if Mr. Grainger gave that memo  
2 to the police, though.

3 THE WITNESS: I, I discussed this memo with the  
4 police when they were at the university because we were  
5 asking that they lay the charge under the, for mischief,  
6 and I gave my reasonings for that in the memo and that's  
7 the whole purpose of doing the memo in the event I wasn't  
8 at the university, then the other guards would have that  
9 and would be able to give that to the police.

10 THE COURT: Okay. This is on February 7th, 2013?

11 THE WITNESS: That's correct.

12 THE COURT: And this is, you actually had a  
13 conversation with the police?

14 THE WITNESS: Yes.

15 THE COURT: On February 7th, and you gave them  
16 that memo?

17 THE WITNESS: Yes, I did.

18 THE COURT: And you have a copy of that memo with  
19 you today?

20 THE WITNESS: Yes, I do.

21 THE COURT: It seems to me that it is relevant to  
22 these proceedings, and Mr. Green is entitled to that memo.  
23 So I think what we'll do is, Mr. Green, do you want a break  
24 in order to read that memo before you continue your  
25 cross-examination, or do you want to continue your  
26 cross-examination, and I'll just have Madam Clerk photocopy  
27 that memo and we can return to it?

28 MR. GREEN: We can come back to it --

29 THE COURT: All right.

30 MR. GREEN: -- if, if she can photocopy it.

31 THE COURT: All right. I think that's what we'll  
32 do then is --

33 MR. GREEN: Yeah, let's do that.

34 THE COURT: -- we'll just set it aside for now --

1 THE WITNESS: Okay.

2 THE COURT: -- and we'll get a copy of that  
3 during a break and we'll continue on with the  
4 cross-examination for now.

5 MR. GRIEVES: Okay. Thank you, Your Honour.

6

7 BY MR. GREEN:

8 Q I'll just, I'm going to read out to you one other  
9 phrase that I recall hearing through the door and you'll  
10 tell me if it sounds like something that you might have  
11 said or something that you recall saying: On January 11th  
12 when he tried to force his way into the house. Does that  
13 sound like something you would have said to the police?

14 A Yes, because I do have that in the memo.

15 Q Okay. Well, we'll see what else is in the memo.

16 MR. GREEN: Your Honour, I, I know I'm not  
17 supposed to be arguing at this point, but you will recall  
18 that the police professed to not remember these things  
19 being told to them, and maybe that's all I can say about it  
20 now. I mean, I don't know if I can re-call the police and  
21 say: Well, he says he did say it and he didn't, they were  
22 very credible witnesses. I mean, I, we love the police. I  
23 mean, they sounded, but you see it was hard to  
24 cross-examine them because the first one said: Well, maybe  
25 it was the other officer that he was talking to, and the  
26 second one said: Maybe it was the first, so --

27 THE COURT: Probably too early to cross that  
28 bridge, Mr. Green. You can certainly in your argument --

29 MR. GREEN: Yeah, I know, yeah.

30 THE COURT: -- point out that, you know, one  
31 witness's evidence is inconsistent with another one.

32 MR. GREEN: Okay.

33 THE COURT: And you can, we'll see what's in the  
34 memo --

1 MR. GREEN: Yeah, all right.

2 THE COURT: -- whether you can, whether you're  
3 making an application to have witnesses re-called so that  
4 you can put things to them. That's something you can put  
5 on the shelf for later.

6 MR. GREEN: Okay.

7

8 BY MR. GREEN:

9 Q Now, is it safe to say, Mr. Grainger, that in the  
10 memo you, you made sure that there was a pretty convincing  
11 case that I was a person that ought to be sort of dealt  
12 with severely that something was, that I was trouble and  
13 that something needs to be done about me. Was that the  
14 general gist of the memo?

15 A The general gist of the memo was to present the  
16 circumstances that led up --

17 Q Simply to present the facts.

18 A -- to the point that we are at right now.

19 Q Well, we'll see the memo when we get there.  
20 Okay. Well, let's not --

21 THE COURT: I don't want to curtail you,  
22 Mr. Green --

23 MR. GREEN: I'm sorry.

24 THE COURT: -- so that if you do want to read  
25 that memo before we proceed, I mean, I'm happy to make,  
26 have that copy made and you read it over before you  
27 continue. It's just that if you have other places, other  
28 areas that you want to cover and you're prepared to do that  
29 right now, we can keep going.

30 MR. GREEN: I appreciate that, Your Honour.  
31 We'll see the memo when we see it.

32 THE COURT: Okay.

33 MR. GREEN: I do have --

34 THE COURT: All right.



1                   January 11th, 2013, Martin was  
2                   advised by the university that  
3                   they were extending his original  
4                   barring notice.

5

6 I'll show it to you, you recall that you swore that in your  
7 affidavit?

8                   MR. GREEN: Did you want a copy of that, Your  
9 Honour?

10                   THE COURT: No, at this point, you should just be  
11 putting it to the witness the way you are.

12                   MR. GREEN: Oh, okay.

13                   THE WITNESS: I have read something that the  
14 registrar had indicated to you that the barring notice was  
15 to be continued. I, I did not make that statement to you.

16

17 BY MR. GREEN:

18                   Q But you swore to something in your affidavit,  
19 I'll read what you swore.

20                   A No, I read what I, I read what I read there,  
21 but --

22                   Q You swore:

23

24                   While at the university --

25

26                   A -- I didn't say that I told you that the barring  
27 notice was done.

28                   Q So you're saying, but you did swear that I was at  
29 the university campus on that day?

30                   A On January 13th?

31                   Q 11th, 2013, the Friday, that would have been the  
32 Friday?

33                   A I believe that, again, the memo, the, what I read  
34 was that the registrar had met with you and told you that.



1 That becomes where the university has told you that the  
2 barring notice would be continued, and I did not read that  
3 until after everything had happened on the Friday.

4 Q Well, maybe I need to examine the registrar then  
5 because I don't remember him telling me anything about  
6 that. I'm going to have to make a note of this, so bear  
7 with me. So you saw a memo from the registrar?

8 A I'm not sure if it was a memo, an e-mail or  
9 whatever it was, but I --

10 Q Sounds like it was something in writing?

11 A -- know I never talked to you about it, I never  
12 talked to you on that day.

13 Q Sounds like it was something in writing, memo or  
14 e-mail from the registrar, that's Colin Russell informing  
15 me that the, that the trespassing ban was being extended,  
16 that was the gist of it?

17 A Something along those lines. Again, I don't, it  
18 came to my attention by the security guard and I've seen  
19 that since, since the --

20 MR. GREEN: I wonder what it would take for me to  
21 get that e-mail or memo sort of brought, disclosed to me or  
22 put in evidence. I don't know what I have to do to get  
23 that.

24 THE COURT: And what's the relevance of it?

25 MR. GREEN: Well, I'm arguing that they can't  
26 just bar me, they can't just charge me with trespassing  
27 without a reason. Like, you can do it at your house if I  
28 trespass in your house, but a place like the university,  
29 you've got the materials I, I submitted in the --

30 THE COURT: I did, yeah.

31 MR. GREEN: Yeah, and you've read them?

32 THE COURT: Yeah.

33 MR. GREEN: So you know my argument is that the  
34 reasons for the trespassing notice are relevant to whether

1 I'm, they have any business charging me with trespassing,  
2 and you know, Your Honour, I wasn't expecting the, a lot of  
3 complicated reasons, I thought they had a pretty good  
4 reason to bar me from the campus. I thought the home  
5 invasion was a pretty good reason. They said, well, we  
6 banned him from the campus because of the home invasion and  
7 I was going to have to argue that, but for some reason,  
8 they don't, it's, I feel I've been pulling teeth to get  
9 them to talk about the home invasion. They've talked about  
10 all different reasons why they were going to bar me, and  
11 I'm pretty baffled by it. I mean, I'd like to know if it,  
12 first of all, if there was a home invasion, it sounds like  
13 a pretty good reason to bar me from the campus. But in  
14 that case, why do they need to talk about sort of other  
15 things like a grade appeal as Mr. Besner was talking about?  
16 He said, well, I had a grade appeal with Professor Metz,  
17 and Professor Metz was very concerned about, I think I'm  
18 entitled to know why I was barred in a nutshell.

19 THE COURT: Mr. Grainger, do you have that e-mail  
20 with you?

21 THE WITNESS: I don't have that e-mail with me.  
22 It's very simple. Under the Petty Trespass Act, I don't  
23 have to give a reason for the barring. He was advised by  
24 myself, and I said this in direct testimony, that because  
25 of his past history and the incident at the Bush's  
26 residence, that's why we're barring him, and he was  
27 provided with the, with a barring notice, served properly.  
28 My question would have been, was, was he, because he was  
29 served substitutionally, was he aware of it, but then I  
30 have e-mails from him indicating that, you know, we're  
31 continuing the barring and, and so I knew he was aware of  
32 it. He, at one point in time, in one, in one e-mail says:

33  
34

That he had no alternative but

1 to, having exhausted all other  
2 remedies available to me, I  
3 therefore, find that I have no  
4 choice but to assert my rights by  
5 presenting myself in person on  
6 university campus, unless the  
7 university can suggest any other  
8 legal avenues or redress to me. I  
9 intend to do so at the earliest  
10 possible opportunity. I would  
11 make use of any space of  
12 facilities which are normally  
13 available to campus members and  
14 the public, and I can ensure you,  
15 the university, that my presence  
16 will be peaceful and  
17 non-disruptive. If I am asked to  
18 leave, I will do so peacefully,  
19 but not until I'm officially  
20 charged with trespassing.

21

22 To me, that, he wanted to be charged so he could challenge  
23 the validity of the barring notice, so he came on campus on  
24 more than one occasion. He has been charged three times  
25 under the Petty Trespass Act. He just continued to come on  
26 and would, would not, he chose not to honour the barring  
27 notice until such time that we took the extra step of now  
28 charging him as under mischief and he was released on the  
29 court order not to attend court, not to attend university.

30 MR. GREEN: Well, Your Honour, I guess, I'm, the  
31 pending question is, is it relevant that, that letter that  
32 was, that memo and I'm guessing, wondering if you think it  
33 is, if you could ask him to put it in evidence.

34 THE COURT: But he's saying he doesn't have that

1 e-mail with him.

2 MR. GREEN: Maybe he could find it, you know, and  
3 give it to Mr. Grieves later. I don't need it now, I'm --

4 THE COURT: Mr. Grainger, what do you recall in  
5 this memo or e-mail that you saw after Friday from the  
6 registrar?

7 THE WITNESS: I'm trying to remember when I saw  
8 it, and it may have been when the disposition was first  
9 presented to me the fact that the registrar, I have no  
10 knowledge of it, I, at that time, I had no knowledge of it  
11 and it came, because I've never talked to the registrar,  
12 I've never talked to Mr. Green until such time that he was  
13 picked up at the university. I had e-mail conversations  
14 with him indicating that if he, like, he, he wanted to, he  
15 was arrested one time, or not, he was detained under the  
16 Petty Trespass Act. We were waiting for the arrival of the  
17 police, and it took a fairly long period of time. He  
18 indicated that he wanted to come on the campus, that he  
19 would leave when we asked him to leave and then we could  
20 phone the police and, and they could issue a charge later  
21 on, and I indicated to him and in my response that we would  
22 continue as we would if he was apprehended on campus to be  
23 detained and held for police arrival. I think that was on  
24 February 1st, around that area. We didn't see him for a  
25 few days and then he showed up on February 7th. He was  
26 apprehended and --

27 THE COURT: I understand that history, but what  
28 I'm asking you is, sometime after you had some, you're  
29 saying you had an e-mail conversation with the registrar,  
30 and that's Colin Russell, right?

31 THE WITNESS: I don't know if it was Colin, or  
32 again, if it was, the documentation I saw as a result of  
33 the, the affidavit that I signed. I, I can go through my  
34 documents. I don't think I have it here. I'll go through

1 it here, though.

2 THE COURT: Okay. I'll give you a minute.

3 THE WITNESS: Actually, I have two copies of that  
4 memo to the police.

5 THE COURT: Okay.

6 MR. GREEN: Oh, you do? Oh, that's, it's the one  
7 you already said, yes, Your Honour.

8 THE WITNESS: No, I don't have that, I don't  
9 have that here. When, when, when I was advised of the  
10 incident on Friday via e-mail from Neil Besner, I  
11 worked with our university lawyer, Mr. Colin Morrison to  
12 develop the barring notice and we arranged for, he gave me  
13 the name of the rural investigations that he had used  
14 previously for serving documents and I contacted them for  
15 service of that document. At that time, I had no idea  
16 that, that Mr. Green had met with the registrar, even if at  
17 all, so ...

18 MR. GREEN: I can move forward.

19 THE COURT: Okay.

20

21 BY MR. GREEN:

22 Q Are you going to --

23 THE COURT: Mr. Green, can you just read that  
24 paragraph 11 from the affidavit again?

25 MR. GREEN: Yeah. Yeah. All right.

26

27 While at the university campus on  
28 January 11th, 2013, Martin was  
29 advised by the university that  
30 they were extending his original  
31 barring notice.

32

33 THE COURT: Okay. Thank you.

34

1 BY MR. GREEN:

2 Q Now --

3 A Were you at the university on January 11th, 2013?

4 THE COURT: Mr. Grainger, you have the right --

5

6 BY MR. GREEN:

7 Q Mr. Grainger, it's already. I know, he wants to  
8 know. It's all right. It's, he's a little bit out of  
9 order, but we'll, we'll give him that. I'm going to, I'm  
10 going to hone that for when I testify if that's all right.  
11 But between you and me, I wasn't. No, I wasn't. And you  
12 know I'm an honest man, I think you know that about me.  
13 Now, I'm going to ask you another one here. The first time  
14 we met, there's a song by Merle Haggard, the first time we  
15 met was a favourite memory of mine. It was a good memory  
16 the first time we met. Do you recall the first time we  
17 met?

18 A Yeah, it was the first time you were apprehended  
19 by the police for being on the --

20 Q Yeah, yeah, sure it was. Do you remember that  
21 the, the security officer who arrested me that we were kind  
22 of friendly? I mean, it wasn't all very friendly. Do you  
23 remember the name of the guy who arrested me? Which guy?

24 A I, I don't remember. And we don't, we don't  
25 arrest, we --

26 Q No, I want, yeah, but if you can just give me --

27 A I guess it's a citizen arrest is what we're  
28 doing, yes.

29 Q Yeah.

30 THE COURT: And what date did you first meet,  
31 Mr. Grainger; do you recall?

32 THE WITNESS: It would have been, I think the  
33 first time he was apprehended was --

34

1 BY MR. GREEN:

2 Q I think it was the 28th, it's close enough to  
3 that.

4 A Yeah, 28th of January or --

5 THE COURT: January 28th, okay.

6 THE WITNESS: Yeah.

7

8 BY MR. GREEN:

9 Q Now, the guy, he was a fan of my TV show  
10 actually. He said he used to watch Math with Marty. Do  
11 you recall that being sort of something we talked about,  
12 you might not have heard that?

13 A Well, then if that's, it's, the guard could have  
14 been Rob Matheson who actually worked at, at the cable TV  
15 company where you did your --

16 Q Oh, that's right, yeah. Yeah, he worked at the  
17 company, that's right. Now, do you remember what I asked  
18 you first, like, I had a question I wanted to ask, do you  
19 remember I asked you something when you came to see me  
20 because I remember what I asked you, and I remember what  
21 you said?

22 A Okay. Ask me again, and I'll --

23 Q I asked you what did Professor Bush say about me;  
24 do you remember me asking you that? What did he say I did?  
25 What did Professor Bush say I did? Do you recall me asking  
26 you that?

27 A I don't remember what I said to you. I know what  
28 I know now, but I don't remember what I said to you.

29 Q You know that I wrote on my blog that I asked you  
30 this and what I wrote on my blog what you said to me.

31 A Okay.

32 Q You never read my blog then?

33 A I don't make a habit of it, no.

34 Q Don't make a habit, but you know that I wrote

1 that I claim that you told me it wasn't Professor Bush, it  
2 was Mrs. Bush; do you recall telling me that?

3 A Well, it could well, if you wanted me to get into  
4 my understanding of what happened on the evening.

5 Q Well, that's where I'm going, sure. Yeah.

6 A Okay. The information I --

7 Q I could just let you talk freely, but, but do you  
8 recall, let me just get this one down, do you recall saying  
9 to me, or that it's something you might have said based on  
10 what you knew then that it wasn't Professor Bush, it was  
11 his wife?

12 A Yeah, what, what --

13 Q That's credible?

14 A My understanding is is that you phoned the  
15 residence --

16 Q Oh, no, no, please, please. I will ask you to do  
17 that, but in, in, in broad terms, do you recall that it  
18 might have been something you think you might have said  
19 based on your understanding at that time that it wasn't  
20 Professor Bush --

21 A Yeah, it could, it could have been.

22 Q -- it was his wife?

23 A Yeah.

24 Q Okay. Good. You're nodding it could have been.  
25 Okay. You don't find it to be sort of outrageous or sort  
26 of fantasy, it sounds like something realistic at least,  
27 you're not --

28 A I know that when you came to the residence,  
29 Mrs. Bush answered the door.

30 MR. GREEN: Okay. And the court is satisfied  
31 that he's giving some credibility to what my recollection  
32 was. I don't want to push him anymore on that, but --

33 THE COURT: No, I think I've got his answer to  
34 that.



1 MR. GREEN: Okay, yeah.

2 THE COURT: It's something he could have said.

3 MR. GREEN: Yeah, and now he wants to speak  
4 freely.

5

6 BY MR. GREEN:

7 Q Go ahead, yeah. Go ahead, yeah.

8 A Well, just like you say, you, you phoned the  
9 residence.

10 Q Yeah.

11 A They told you not to call there, to talk to their  
12 lawyer. It was a short time later you presented yourself  
13 at the door. Mrs. Bush answered the door. When she  
14 realized who you were, she tried to close the door. You  
15 pushed on the door to keep it open, but she was finally  
16 able to get the door closed, and then they, then they  
17 phoned the police.

18 Q Well, that's your understanding, but I think in  
19 that police memo, you go a little farther than that. You  
20 don't say that I held the door so that, I'm guessing what's  
21 in the memo, but I'm wondering if you're going to look at  
22 the memo and say, it's a little more than you say that I  
23 held the door so she couldn't close it if you were to say I  
24 tried to force my way into the home. Is that what you say  
25 in the memo, or did you just say that I held the door so  
26 she couldn't close it?

27 A What I have here is Ms., Ms., Mr. Bush's wife  
28 answered the door, when she realized who was at the door,  
29 she informed Mr. Green that he was not welcomed here and  
30 asked him to leave. Mr. Green tried to force his way into  
31 the house. After a short struggle, Mrs. Bush was able to  
32 shut the door.

33 Q So you have Mr. Green --

34 A The Bushes contacted the Winnipeg Police to lodge

1 a complaint.

2 Q Mr. Green tried to force his way into the house.

3 MR. GREEN: Well, Your Honour, this is something  
4 I'm going to be saying in argument, but I'm just going to  
5 observe before the witness that what he's wrote in the memo  
6 to the police is a little stronger than what he just  
7 testified to as his knowledge of the facts at this time.

8 THE COURT: Okay. You can save your  
9 observations --

10 MR. GREEN: Okay.

11 THE COURT: -- and just try to ask him questions.

12 MR. GREEN: Okay. I guess I can. I guess I can,  
13 but --

14

15 BY MR. GREEN:

16 Q Now, you testified to something when you were  
17 here last. You testified, that's okay, you testified that  
18 on our, I think it was our second meeting where you tried  
19 to reason with me to sort of see if you could come to any  
20 accommodation and I had these pamphlets that, that you  
21 offered to put up the pamphlets for me, yeah, and I, I  
22 think what you, you said that my response was no, something  
23 like that?

24 A Yes, that's correct.

25 Q I'm kind of an animal bellowing kind of response,  
26 and you know I'm going to testify that never happened?

27 A Yeah.

28 Q But you know after your testimony, I, I wrote a  
29 letter, I wanted to write a letter to you, but I have a  
30 barring notice that sort of inhibits me from contacting  
31 people of the university, so I wrote it to Mr. Meronek's  
32 office asking if you, if I could take you up on the offer  
33 to post those notices at this late day. Did you, did you,  
34 did Mr. Meronek's office, did you get that?

1 THE COURT: Mr. Green, you're talking about  
2 something that happened after Mr. Grainger testified last  
3 time, that is not relevant --

4 MR. GREEN: Yes, you're right.

5 THE COURT: -- to these proceedings.

6 MR. GREEN: You're right, yeah. You're right.  
7

8 BY MR. GREEN:

9 Q I'm going to testify later that if he had made  
10 that offer, I would have accepted it, and that I'm going to  
11 testify that I didn't bellow like an animal.

12 A I didn't say you bellowed like an animal.

13 Q You said no?

14 A I said it reminded me of the movie Body Guard --

15 Q Okay.

16 A -- when the FBI was questioning someone, and it  
17 was --

18 Q Okay.

19 A -- the same answer, that it was no.

20 Q In other words, I choose not to respond to  
21 questions or speak to you, but you're going to, you  
22 wouldn't characterize me as, and at the time you said based  
23 on your observations with sort of mentally disturbed people  
24 that you, you felt a Section 10 was warranted based on your  
25 interaction with me. I, and I think the, the bellowing,  
26 the no, which was the long drawn out, now, I think that was  
27 part of your sort of, when you said in my experience with  
28 mentally, what, disturbed people, was it the phrase? That  
29 in my judgment that a Section 10 was something we should  
30 call for. Did you apply for a Section 10? Did you go to  
31 Winnipeg Health or what?

32 A We did not apply. What we did was we contacted  
33 the, the Winnipeg Regional Health Crisis Unit. We  
34 explained the situation what was going on. They attended

1 your residence and you wouldn't talk to them, and they made  
2 a recommendation that we proceed with a Section 10.

3 Q They recommended you proceed with a Section 10?

4 A Yeah, yeah.

5 Q Based on, based on not talking to me, based on  
6 the fact that I didn't come to the door, the nurses decided  
7 that I, a Section 10 was warranted. I didn't know they did  
8 that? Did they do that?

9 A That's what they, that's what they, I, yeah, what  
10 they told me.

11 Q Do you have the notes there, could you read what  
12 your notes say about the Section 10?

13 A On January 30th, 2013, the Winnipeg Regional  
14 Health Authorities Mobile Crisis Response Unit was  
15 contacted. Explained the situation and voiced our concerns  
16 regarding his mental health. The mobile response unit did  
17 attend at Mr. Green's residence, 147 Westgate. The  
18 university has been advised that Mr. Green refused to  
19 present himself at the door. Would not talk to responding  
20 workers. It was suggested that we continue to proceed with  
21 charges under Petty Trespass Act and consider making an  
22 application to the courts for an assessment under Section  
23 10 of the Mental Health Act.

24 Q I have a little trouble with that. It was, it  
25 was considered that, I'm saying, because it's a passive  
26 voice sentence, so it's not clear who is recommending what,  
27 could you read the last sentence only. It was  
28 considered --

29 A And consider making an application --

30 Q No, no, please back it up just a little bit.

31 MR. GRIEVES: Your Honour, Mr. Grainger, during  
32 direct examination testify, in his testimony said that  
33 after talking to Mr. Green on the first occasion, I was  
34 concerned, I felt there was some issues here that when the,

1 to do something. I had indicated to the university we  
2 should make an application under Section 10 of the Mental  
3 Health Act requesting a psychiatric exam be conducted.  
4 However, before we took that step, I contacted the Winnipeg  
5 Regional Health Mobile Crisis Unit. That was his testimony  
6 with respect to this. That is --

7 THE COURT: So is there an objection or what are  
8 you objecting to?

9 MR. GRIEVES: I mean --

10 MR. GREEN: Well, it's helpful.

11 MR. GRIEVES: I mean, I just wanted to clarify.  
12 Mr. Green is questioning him who decided that a mental  
13 health, a Section 10 application should be made, but that's  
14 what Mr. Grainger has testified to.

15 THE COURT: All right.

16 MR. GREEN: It sounds like then he testified that  
17 it was him who recommended the Section 10, not the Winnipeg  
18 Regional Health Authority.

19 THE WITNESS: I had, I had, I had advised the  
20 university of the procedures under Section 10 of the Mental  
21 Health Act, then it was brought to my attention about the  
22 Winnipeg Regional Response Unit. I went to them first, and  
23 then they came back and said that we should consider  
24 proceeding with a Section 10.

25

26 BY MR. GREEN:

27 Q Well, now you say again, and I got to ask you to  
28 read that letter again because it wasn't clear from the  
29 letter, just back it up a little so I can get the whole  
30 sentence where they recommended Section 10?

31 A It was suggested that we continue to proceed with  
32 charges under the Petty Trespass Act and consider --

33 Q It was suggested that we continue to proceed  
34 that --

1           A     I have two copies, you can have this one.

2           Q     Oh, thank you.

3           THE COURT: All right. Mr. Green has just been  
4 given the memo that Mr. Grainger prepared for the police on  
5 January, or provided to the police on February 7th, 2013.

6           MR. GRIEVES: Your Honour, can I, I want it to be  
7 clear, did Mr., Mr. Grainger provide that memo to the  
8 police or just show it to them with respect to this  
9 incident?

10          THE WITNESS: I, I can't remember if they took it  
11 or not. I had the memo. I talked to them about it. I  
12 don't remember if they took it with them or not. I  
13 explained how we would like to see a charge under the  
14 petty, or under mischief under the Criminal Code would be  
15 proceeded with. I know that the police officer phoned  
16 someone, and after that, they, they escorted Mr. Green off  
17 the property.

18          THE COURT: All right. Thank you. That was my  
19 misunderstanding.

20          MR. GRIEVES: Okay. Thanks.

21

22          BY MR. GREEN:

23          Q     I'm going to, I know, I don't want to get into  
24 too much stuff that I should be doing in argument, but I  
25 have the thing in front of me. In the passive voice, it  
26 was suggested that we continue to proceed with the charges  
27 and petty trespassing and consider making a Section 10.  
28 Is, there's no indication by whom it was suggested except  
29 that if it was the Winnipeg Regional Health Authority, it  
30 seems like they would be way outside their jurisdiction if  
31 they suggested that he continue proceeding with Petty  
32 Trespassing Act charges, so I don't think it's credible  
33 that the Winnipeg Regional Health Authority recommended a  
34 Section 10, but --

1 THE COURT: I think he's asking you whether or  
2 not the Winnipeg Regional Health Authority actually told  
3 you that you should pursue a Section 10?

4 THE WITNESS: Well, they didn't say we should  
5 pursue, but that's an option that's available to us under  
6 the, under the Mental Health Act that the university could  
7 make application under Section 10 for a mental health  
8 assessment. I explained that to the university before, and  
9 it was one of the other people in the university who  
10 actually had worked for Winnipeg Regional Health who knew  
11 about the response. They suggested it, so I went to the,  
12 to them, they went to his house and I didn't, did not  
13 necessarily speak to the people who responded to the house,  
14 but they, the response I got from the person on the phone  
15 was that we should continue and consider the application  
16 under Section 10. Winnipeg Regional Health can't do that  
17 for us. It's up to us to do it.

18 THE COURT: Okay.

19

20 BY MR. GREEN:

21 Q I'm not going to pursue this line much farther.  
22 But you did talk about your experience in recognize people  
23 with mental health problems, and I'm just going to ask, you  
24 don't have any sort of certification or course, like, that  
25 qualifies you to diagnose mental health problems; do you?

26 A I'm not a psychologist or anything like that. I  
27 was a police officer for 35 years just about, and I dealt  
28 with a number of people who had mental issues, and I've  
29 done up the paperwork, had them, had them assessed.

30 Q And based on your experience, you pretty much say  
31 that I fit in that category?

32 A You have, you have issues that I thought, that --

33 Q Okay.

34 A -- that possibly they could address.

1 Q And if the other people in the courtroom don't  
2 see that from looking at me, it's because they don't have  
3 your expertise?

4 A That may be, yes.

5 Q Okay. Fair enough. I'm just going to now look  
6 at my notes of your testimony.

7 MR. GREEN: Now, Mr. Grieves actually has a  
8 transcript of the last day; is that right, Mr. Grieves?  
9 You have a transcript --

10 MR. GRIEVES: That's right, Your Honour.

11 MR. GREEN: -- of last week's --

12 MR. GRIEVES: Yes.

13 MR. GREEN: Yeah, but I just have my own notes.  
14 And I could buy a transcript; is that right?

15 MR. GRIEVES: Yeah, I'm sure you can.

16 MR. GREEN: If I wanted it now, you would share  
17 it with me for now, but if I wanted to take it home, I  
18 would, I would order one; is that how it works?

19 MR. GRIEVES: That's how it works.

20 MR. GREEN: Okay. Well, I have my notes, and if  
21 I need the transcript, you'll, as you stood up before to  
22 sort of say, this is what I have on a transcript, that's  
23 helpful to all of us, right. Okay.

24

25 BY MR. GREEN:

26 Q I want to ask about the issuing of the barring  
27 notice on the 11th, the second barring notice. No, I'm  
28 going to start with the first barring notice because you  
29 said something in testimony about the first barring notice.  
30 Again, this, this goes to the credibility and the  
31 maleficence of the university. When you testified last  
32 week, I'm going to find it in the notes. You see I'm  
33 looking in, oh, I'm in the wrong section, that's why I  
34 don't have it. Okay. As to the first barring notice, you



1 testified that you had sent a security officer with the  
2 registrar to class in the afternoon, the 11th of 2012 with  
3 a notice, not a barring notice, but a notice of suspension  
4 from classes; do you recall that? Is that right?

5 A You were, Mr. Russell had a, the letter.

6 Q You could answer this one yes?

7 THE COURT: Just let him answer, okay.

8 MR. GREEN: Okay. Sorry.

9 THE WITNESS: Mr. Russell had the letter and our  
10 guards had the barring notice.

11

12 BY MR. GREEN:

13 Q Okay. Mr. Russell had a letter of suspension?

14 A Yeah, I don't, I did not see the letter. I just  
15 know he had a letter to give you.

16 Q Yeah. And your guards had a barring notice?

17 A Yes.

18 Q Okay. So at the time you went down to see me,  
19 you had already made the decision to, the decision had  
20 already been made to bar me?

21 A Yes.

22 Q And had a barring notice, and you told us what  
23 the basis of that decision, you told us about an incident  
24 where I was screaming in someone's face last week?

25 A Well, basically the barring notice was issued  
26 because you were being suspended, so we issue the barring  
27 notice at the same time so that you know that you can't  
28 come back on to the university.

29 Q That's not what you testified last week, but I'm  
30 going to write that down. So the barring notice was issued  
31 because of the class suspension notice, issued because  
32 class suspension notice. And who made the decision to  
33 issue that barring notice, was it Mr. Russell?

34 A Well, it would have, it would have been me.

1 Q It would have been you.

2 THE COURT: He said, it would not have been me.

3 MR. GREEN: No, he said --

4 THE WITNESS: No, it would have been --

5 THE COURT: Oh, okay.

6 MR. GREEN: -- it would have been me.

7 THE WITNESS: -- it would have been me to, to say  
8 that yes they could issue the barring notice.

9

10 BY MR. GREEN:

11 Q You're authorized, you have the authority to  
12 issue a barring notice?

13 A Yeah.

14 Q Yeah.

15 A Myself and the supervisors --

16 Q Yeah.

17 A -- of the, for the security.

18 Q So it wasn't Neil Besner, the vice president, or  
19 some other --

20 A No.

21 Q -- Laurel Repski because you, Mr. Russell said he  
22 needed to be accompanied, some help to deliver the  
23 suspension notice, and you made the decision on your own  
24 that, well, let's throw in a barring notice?

25 MR. GREEN: I'm going to observe for the court  
26 that that's not the procedure for issuing a barring notice  
27 that Mr. Besner testified to, but again, I will argue this  
28 later. But for purposes of continuity, I think I have to  
29 sort of make these observations. Now, when you were  
30 testifying last week, you actually did read from the letter  
31 to me by Lloyd Axworthy where it explained the reason for  
32 the barring notice, and you, you read from it, and I  
33 listened to you reading from it. Now, Mr. Grieves will  
34 have the notes, he'll have the transcript of it, and I

1 think if we read the transcript, it will show that the  
2 university has the authority to make a barring notice under  
3 such and such conditions, but that the witness skipped over  
4 the section where Mr. Axworthy tells me the exact reason  
5 for the barring notice, and I'll read it into the record  
6 now because it's different from what the witness is saying,  
7 and maybe I could just save this for my own testimony. I'm  
8 going to ask Your Honour for guidance on this, should I  
9 sort of take this up with the witness now or should I wait  
10 until my own testimony.

11 THE COURT: You can confront him with the fact  
12 that he skipped the reasons for the barring notice.

13 MR. GREEN: Okay. Well, if you think it's  
14 appropriate, I'm going to do that then.

15

16 BY MR. GREEN:

17 Q Mr. Russell attended your class, you met with  
18 Mr. Russell on January 11th, but declined to discuss the  
19 charges. Mr. Russell attended your class that afternoon  
20 and presented a letter about the class suspension. That's  
21 the letter we've been talking about that he presented.  
22 Now, your testimony was at the same time your guards were  
23 already carrying the letter with the barring notice; that's  
24 your testimony, isn't it?

25 A I send my guards down with the barring notice,  
26 yes.

27 Q Yeah, okay. Okay. You sent them down. Will you  
28 testify that they presented me with the barring notice?

29 A Well, I assume that they're going to do their  
30 job.

31 Q Okay. Because when you give orders, those, those  
32 orders are, I'm quoting from a movie, I'm quoting from,  
33 it's a cultural reference. It's Tom Cruise when he says to  
34 Nicholson --

1 THE COURT: I'm familiar with it.

2 MR. GREEN: Okay.

3

4 BY MR. GREEN:

5 Q Because your orders are always followed out, is  
6 that clear, crystal clear, something like that, and I, I  
7 wish I had the dramatic presence in mind to make the whole  
8 quote because you forgive me, I'm gloating a little bit, I  
9 feel I've kind of caught the witness with his pants down.

10 A I'm just looking and making sure, you're  
11 referring to the letter on January 23rd, 2012?

12 Q Yeah, yeah, you went into class, held that letter  
13 up and made a throat cutting gesture. This is quoting  
14 Mr. Axworthy. On the basis of this threatening gesture  
15 added to the existing complaints, you were barred from  
16 campus. So according to Mr. Axworthy's letter, the  
17 decision to bar me was made after, after the registrar gave  
18 me the first letter based on, based on a, on a throat  
19 cutting gesture. Do you recall anything about that?

20 A Well, I, I am reading that here, but I, again, I  
21 sent my guards down there. I never said in direct  
22 testimony because I wasn't present to witness it, but I do,  
23 I was told by my guards that you walked into the classroom,  
24 held up the letter and went like this and then you were  
25 escorted out. At that time, you had the letter and you  
26 were given the barring notice.

27 Q But they must have --

28 THE COURT: The witness, just for the record, the  
29 witness has just made an indication of a one finger across  
30 the throat when he said you went like this --

31 MR. GREEN: Yes. Thank you.

32 THE COURT: -- to demonstrate. It's just so that  
33 we have an accurate record of the testimony.

34

1 BY MR. GREEN:

2 Q I don't really want to argue with you, but I  
3 mean, if they already had the barring notice in my hands,  
4 then the throat cutting gesture would have been sort of  
5 superfluous if they were already barring me, unless based  
6 on, because Mr. Axworthy says it was based on the throat  
7 cutting gesture, so you'd think, you'd think there should  
8 have been some time lapse between the gesture and the  
9 issuing of the barring notice. I'll be, I have my own  
10 direct testimony and documentation, I mean, I, I, I don't  
11 make any further observations about the accuracy of the  
12 witness's testimony, but the court is going to draw its  
13 conclusions. I, unless I'm way mistaken, I, I don't think  
14 his story holds up unless the court wants to ask him  
15 different questions than I'm asking him, I feel I'm --

16 THE COURT: No, this is your job, so --

17 MR. GREEN: Okay.

18 THE COURT: My job is just to listen.

19 MR. GREEN: I don't want to beat it to death in  
20 case it's not, like, I lived this situation for the last, I  
21 mean, it's stuff I've lived and I think I'm telling the  
22 story. I think the story is coming out, so I don't want to  
23 beat it to death unnecessarily, but --

24 THE WITNESS: But, like, that barring notice  
25 expired January 2013. The second barring notice was issued  
26 to you, served and that's why you're now here charged with  
27 petty trespassing.

28

29 BY MR. GREEN:

30 Q Yes.

31 A Yeah.

32 Q I just wanted to get on record what was the  
33 reasons for the first barring notice because you also  
34 testified that the second barring notice was --

1           A     Past behaviour and the incident at George Bush's  
2 residence.

3           Q     Was an extension of the first barring notice, it  
4 was three things in the second barring notice, and I, and I  
5 didn't want to dig too deeply.

6           MR. GREEN: You know, Your Honour, when I came in  
7 to subpoena these witnesses, I just wanted to get on the  
8 record that they barred me because of the home invasion and  
9 I wanted to argue the home invasion, but they are throwing  
10 in so many more reasons, and as I say, it's baffling  
11 because the home invasion, I thought it was a good enough  
12 reason, and if I could take them down on that, but they're,  
13 they're coming up with, now, he said the first barring  
14 notice involved a throat cutting incident.

15           MR. GRIEVES: Your Honour, I'm not sure what --

16           MR. GREEN: I'm sorry.

17           MR. GRIEVES: -- where Mr. Green is going with  
18 this.

19           THE COURT: I don't know either, but I'm trying  
20 to give him --

21           MR. GREEN: I'm going to try and get back on  
22 track.

23           THE COURT: -- room to explain.

24           MR. GREEN: I know. Look, what I want to say, is  
25 he's now raised a new issue which I don't think has been  
26 raised before, the throat cutting gesture, and I don't want  
27 to make that an issue.

28           THE COURT: Well, I don't think he raised it, you  
29 raised it.

30           MR. GREEN: No, I, oh, yeah, you're right.  
31 You're right. In, as a direct rebuttal to what he said  
32 was, was, was incorrect. Like, he gave reasons which  
33 weren't, were clearly not inconsistent with the letter I  
34 have from Mr. Axworthy, so I have, I have no, you see --

1 THE WITNESS: I --

2 MR. GREEN: What is baffling, and sorry, I'm  
3 sorry, hold back for a second. What is baffling to me is  
4 that when they had perfectly good reasons to bar me, a  
5 throat cutting gesture, well, that sounds pretty horrifying  
6 and a home invasion, that sounds pretty horrifying. And  
7 yet, I am pulling teeth to get these incidents out of them,  
8 they have every other possible reason for the trespassing  
9 order that they don't have to give a reason, that I was in  
10 a grade appeal with such and such professor, and --

11 THE COURT: But if they --

12 MR. GREEN: It goes to --

13 THE COURT: -- had more than one reason, you  
14 can't tie them to just one reason. It wasn't my impression  
15 from his testimony in chief that there was just one reason.

16 MR. GREEN: But you see, there is one reason  
17 which is much better than any, I mean, it was definitely  
18 Mr. Axworthy's one reason, and yet the fact that they are  
19 backtracking from that reason, I'm going to sort of call  
20 into question whether the maleficence on their part.  
21 Whether, didn't they realize that those reasons were bogus  
22 and that's why they're backtracking and that's why I have  
23 to pull teeth to get them to come up with those things.  
24 Now, at the same time, I really wanted to focus on the home  
25 invasion.

26 THE COURT: Okay. So let's --

27 MR. GREEN: I don't want to, I don't want to  
28 bring up the, the throat slashing gesture, but having put  
29 it on the record, I just want to say that I do not agree  
30 that it happened as he's described it, but I, I don't want  
31 to make it part of this case because it just gets too big.

32 MR. GRIEVES: Your Honour --

33 MR. GREEN: It's not the time and place for me to  
34 dispute that. I merely want it on the record to show that

1 there is something peculiar about the reasons they come up  
2 with when they have very powerful reasons for these  
3 trespassing orders, but they're reluctant to say it.

4 THE COURT: All right.

5 MR. GREEN: If that makes sense.

6 THE COURT: So let's save that for argument.

7 MR. GREEN: Okay.

8 THE COURT: Right now what you should be doing is  
9 challenging Mr. Grainger's testimony.

10 MR. GREEN: Okay.

11 THE COURT: So if you think that he said things  
12 in direct examination, and you've been going along that  
13 road.

14 MR. GREEN: Yeah.

15 THE COURT: If you are, if there are items that  
16 he testified to in direct examination that you don't agree  
17 with, then now is your opportunity to confront him with  
18 your versions of events and give him an opportunity to  
19 respond to them. And so I think if you want to speak to  
20 him about the home invasion as you call it, then you should  
21 speak to him, you know, perhaps we should go there now.

22 MR. GREEN: Okay.

23 MR. GRIEVES: Your Honour, Mr. Green also has to  
24 understand that Mr., the witness was not present at these  
25 events, but I mean --

26 THE WITNESS: It's, it's all hearsay.

27 MR. GRIEVES: -- he, in his testimony, indicated  
28 that I was told this and I was told that, and he wasn't  
29 really present during the events that Mr. Green is talking  
30 about --

31 MR. GREEN: Well, he hasn't --

32 MR. GRIEVES: -- the home invasion.

33 MR. GREEN: That's not entirely so. He's  
34 testified that, that, that he had direct information on



1 these things or it hasn't been clear when he's been talking  
2 from the second order hearsay or third order hearsay, or  
3 when it's first hand, and that's been necessary for me to  
4 bring out, but I'm going to try and move forward.

5 THE COURT: Okay.

6 MR. GREEN: Some things I'm going to confront him  
7 with, but some things I'm going to leave for my own  
8 testimony because I think I have adequate written record on  
9 it that I don't need --

10 THE COURT: It's just that, you know, the things  
11 that you would ordinarily confront him with are things that  
12 he was present for, if you are testing his recollection or  
13 the evidence that he's given about something that he  
14 observed or said, then you should test him on that in  
15 cross-examination, because if you later testify about  
16 events and you never gave him, you know, Mr. Grainger said  
17 this, but you never gave him an opportunity to respond to  
18 that, then that goes to the weight that I can attach to  
19 your evidence. But some of --

20 MR. GREEN: Yeah, that's what I kind of needed to  
21 know, and you've made it a little more complicated for me.

22 THE COURT: But, you know, a lot of the comments  
23 that you're making to me or the observations that you've  
24 been making, like, those are sufficient, or those are  
25 things that you would point out in argument.

26 MR. GREEN: Yeah.

27 THE COURT: Because you have sort of nailed him  
28 down on his testimony, and if it conflicts with yours later  
29 or another witness's, that is something you can save for  
30 argument. But if you have a completely different version  
31 of events, then you should put that to Mr. Grainger if he  
32 has knowledge of it to get his response.

33 MR. GREEN: My problem with putting to him my own  
34 version of events is that with regard to the throat

1 slashing gesture, the university has still not put, put  
2 forward a definitive their side of the story what happened,  
3 and I, I feel it prejudices me to defend myself if I come  
4 out and now tell my side of the story because then they  
5 have the opportunity to adjust their version in accordance  
6 with what they've learned from me to make it more damaging.  
7 Whereas, if they don't know my version, if they don't know  
8 the evidence I have, then they're taking a risk when they  
9 say I did such and such because they don't know. And it's  
10 two years now I've been holding them to this, you see.  
11 Tell me what I did, and then I'll respond to it, and I  
12 don't want to be backed into the corner where based on very  
13 partial and sort of secondhand, thirdhand hearsay, I'm in a  
14 position where now I have to tell my side of the story  
15 because I think it prejudices me; do you understand?

16 MR. GRIEVES: Your Honour, I'm not sure what  
17 Mr. Green is referring to. Is he referring to the, the  
18 criminal proceedings or is he referring to another  
19 proceeding with respect to that comment?

20 THE COURT: I suspect he's referring to another  
21 proceeding. But again, as I think I've indicated to you  
22 before, Mr. Green, and you're the one who raised the throat  
23 slashing gesture with this witness, but that's the first  
24 barring notice, and then after that, there's been a second  
25 barring notice. I agree with you that there is some  
26 relevance to the first barring notice because this witness  
27 has testified that past behaviour is part of, and then sort  
28 of a continuation of that behaviour with the home invasion  
29 as you call it is part of the reason for the barring  
30 notice.

31 MR. GREEN: Your Honour, I think I know what I  
32 have to --

33 THE COURT: But, I mean, you can, you can govern  
34 yourself accordingly. I just want to --

1 MR. GREEN: I think I know what I have to do.

2 THE COURT: Okay.

3 MR. GREEN: I think I have to refrain from  
4 engaging the witness further on this.

5 THE COURT: Okay.

6 MR. GREEN: Because it's not in my interest to  
7 tell my story about the first barring notice because  
8 there's other proceedings where I'm still fighting that,  
9 and I'm going to have to argue that the court shouldn't  
10 draw adverse inference from me allowing this to stand  
11 without my direct contradiction of it and I'm going to try  
12 and confine my arguments to the legitimacy of the barring  
13 notice to the circumstances of the second barring notice.

14 THE COURT: Okay.

15 MR. GREEN: I think that's what I have to do.

16 THE COURT: All right.

17 MR. GREEN: I appreciate your sort of feedback on  
18 this.

19

20 BY MR. GREEN:

21 Q Now, you hired four additional security guards to  
22 stop me from getting into campus, and I don't recall if it  
23 was you or Mr. Rarick that testified that was pretty much  
24 on Mr. Axworthy's specific instructions. He didn't want me  
25 on campus?

26 A You're barred from campus. It's not necessarily  
27 Mr. Axworthy who was indicating that, although,  
28 Mr. Axworthy is the president of the university. My direct  
29 boss is the vice president of human resources, and I deal  
30 with her.

31 Q Well, someone testified that it was pretty much  
32 on the president's instructions that we needed to hire  
33 extra security guards. That someone asked the question,  
34 came to you as the security expert, like, what do we need

1 to keep Marty Green off campus and you looked at him and  
2 said: We need four extra guards, and the instruction was  
3 do it then and it was right from the top?

4 A No, my conversation --

5 Q Is that your understanding of what happened?

6 A -- would have been with the vice president of  
7 human resources and I would recommend to her that I would  
8 require additional security guards, and if --

9 Q I thought it's, the testimony was that it came  
10 from Axworthy. I'm going to look through my notes and see  
11 if it was your testimony or Mr. Rarick's. I thought it was  
12 your testimony. As demanded by the president, I explained  
13 to the VP that to cover all entrances as demanded by the  
14 president, I would need four guards and they were then  
15 employed. Okay. So it sounds like the president was  
16 involved and the VP was involved.

17 A Well, he may have talked to the VP and I talked  
18 to the, I talked to her, so --

19 Q So she told you the president wants this, and you  
20 talked to her and says, well, if that's what the president  
21 wants, this is what we need to do? Okay. So --

22 THE COURT: Is that what happened, Mr. Grainger,  
23 that --

24 THE WITNESS: I remember --

25 THE COURT: -- did she say --

26 THE WITNESS: -- meeting with the vice president.  
27 I can't really remember if it was the president that said  
28 that we needed it or if, if I made the recommendation to  
29 her, but as a result of our, my conversation with the vice  
30 president, four additional guards were hired.

31 THE COURT: Okay.

32

33 BY MR. GREEN:

34 Q And it was costing you, what, 600, 800, 1,000

1 bucks a day, something like that?

2 A No, no, it's, it's, it's not that much. I pay  
3 \$17 an hour for the guards and it's four guards times, it  
4 worked out to eight guards because I have four in the  
5 morning, four during the day, four during the evening, so  
6 it --

7 Q It sounds like a 1,000 bucks a day easy. I mean,  
8 eight guards times eight hours, times \$17 an hour, that's  
9 over \$1,000 a day. So I wonder if it's fair to say that  
10 the reason my offers when you quoted that e-mail  
11 correspondence where I said, you know, I'm, I'm, I'm  
12 willing to sort of leave when I'm asked to and my presence  
13 will be peaceful. I think you quoted that correspondence  
14 and just, you know, want to challenge the legitimacy of it.  
15 Your problem with that that as long as I did that, it was  
16 costing you \$1,000 a day?

17 A That's, that's --

18 Q Or more --

19 A The cost is not my main concern. My, my main  
20 concern is the safety, security of the students, faculty  
21 and staff at the University of Winnipeg.

22 Q But in my letter, I undertook, I undertook to  
23 sort of be perfectly peaceful and secure, and I, and my, my  
24 word was that I wouldn't be a problem on the university --

25 A Well, that's --

26 Q -- and did you not trust me on my word, did  
27 you --

28 A -- fine, sir, but the thing is that, that people  
29 have different perceptions --

30 Q Okay.

31 A -- and they, knowing that you are on the campus,  
32 feel, feel unsafe, so I have to make sure they feel safe,  
33 so that's why you're barred from campus.

34 Q Fair enough. But one way to make it safe was to

1 get me thrown in jail by ramping up the petty, the petty  
2 trespassing charges, which I couldn't go to jail for the  
3 petty trespassing charges, so you couldn't really keep me  
4 off the street so I was going to keep coming back and  
5 costing you a \$1,000 a day. But by ramping it up to  
6 mischief so it was criminal, you now have the leverage to  
7 get me thrown in jail?

8 A Again --

9 Q So is it fair to say that you applied the  
10 criminal charges in order to save a \$1,000 a day?

11 A Again, my concern is not cost --

12 Q I'll withdraw the question. Thank you.

13 THE COURT: No, he's --

14 MR. GREEN: I'm sorry, Your Honour.

15 THE COURT: You asked the question, he's  
16 entitled --

17 MR. GREEN: I'm being a TV lawyer now, forgive  
18 me. Go ahead, let him answer.

19 THE COURT: Yes.

20 THE WITNESS: My concern is not cost, again, it's  
21 for the safety, security of the students, faculty and  
22 staff.

23

24 BY MR. GREEN:

25 Q All right.

26 A I have to weigh all options if you continue to  
27 refuse to obey the barring order, then I have to say what's  
28 my next step.

29 Q All right.

30 A One step was to try and have you assessed by the  
31 mental health people, that didn't work. My next step is to  
32 look at what you're doing under the Criminal Code, it's a  
33 violation under mischief, so we then suggested to the  
34 police that if we go this route, possibly this is the way

1 we were able to get a court order, which is much stronger  
2 than the barring notice to keep you off of campus.

3 Q Yeah. Sure, that's okay. I'm going to try and  
4 wrap this up, I just got to review my notes to see if  
5 there's anything else I need to ask. I'm sure I am  
6 forgetting something. I'm sure I'm forgetting something I  
7 wanted to ask. Oh, second barring notice, procedures on  
8 the second barring notice. Did you sign the second barring  
9 notice?

10 A Yes, I did.

11 Q Do you remember what time of day you signed it?  
12 I'm asking, did you come in after work, did you come in in  
13 the evening, were you already at home?

14 A No, I think it was on the weekend that I actually  
15 did it --

16 Q Well, it was a Friday night --

17 A Well, Friday night, Friday night is when that  
18 incident happened.

19 Q Yeah.

20 A My dealings with the lawyer occurred on Saturday  
21 and Sunday. I would have gone in Sunday, prepared all the  
22 documentation --

23 Q Yeah?

24 A -- so that the representative from the company  
25 that would serve the --

26 Q It's --

27 A -- the barring notice would have it all there.

28 Q I'm going to tell you it's dated the 11th, I can  
29 look for it, but does the court want to agree that it's  
30 dated the 11th, or do you want, which was the Friday --

31 MR. GRIEVES: It was submitted as a, as evidence,  
32 Your Honour.

33 THE COURT: Yes, I think we just haven't brought  
34 the exhibits with us --

1 MR. GRIEVES: Okay.

2 THE COURT: -- this morning, but we'll have them  
3 for this afternoon.

4 MR. GREEN: I have it somewhere in here.

5 THE CLERK: The exhibit was, indicates that it is  
6 dated January 11th.

7 THE COURT: Okay. Thank you.

8 MR. GRIEVES: Thirteen, 2013.

9 THE CLERK: Yes.

10 THE COURT: Now, what day is January 11th, 2013?

11 MR. GREEN: It was a Friday.

12 MR. GRIEVES: It's a Friday.

13 THE CLERK: It was a Friday, yes.

14

15 BY MR. GREEN:

16 Q I'm satisfied that we agree that it was the 11th,  
17 and for whatever reason, it's not a big thing, but you  
18 actually signed it on a date different than the date that  
19 was on it, it's a small point but --

20 A The, the, it doesn't indicate a date that I  
21 signed it. What it says is this notice advises that  
22 effective January 11th, 2013.

23 Q Fair enough.

24 A So I signed it, I signed it on the Sunday, but  
25 it's referring to January 11th that, that you're barred.

26 Q Okay.

27 A And it wasn't served on you until the --

28 Q Fair enough.

29 A -- 15th or 16th.

30 Q And you worked with Mr. Morrison on it?

31 A Yes.

32 Q On whose instructions was it signed?

33 A Whose instructions did I talk to Mr. Morris,  
34 Morrison?



1 Q On whose instructions was the barring notice  
2 issued? Who made the decision to issue the barring notice?

3 A I, during my conversations with Mr. Morrison, I  
4 explained how it was brought to my attention on the Friday.

5 Q By whom was it brought to your attention?

6 A Rob Mathieson, the security guard brought it to  
7 my attention.

8 Q Oh, Rob Mathieson brought it to your attention  
9 that I --

10 A On the Friday --

11 Q Just a minute.

12 A On the Friday that the barring notice was  
13 expiring.

14 Q Okay.

15 A And, and then I said that we would look at it on  
16 Monday because we had no issues with you during that entire  
17 year. The incident happened on Friday evening. I received  
18 the e-mails, I contacted Mr. Morrison via phone.

19 Q Okay. So you received the e-mails around 6:00 in  
20 the evening from Mr. Besner?

21 A I can't remember the exact time.

22 Q We have the e-mail.

23 A Yeah.

24 Q But who did you get e-mails from?

25 A From Mr. Besner.

26 Q Okay. And did Mr. Besner, at that time, tell you  
27 to issue a barring notice?

28 A I, again, I don't recall. My response back to  
29 him if I responded would have been the fact that it, what I  
30 again have just told you that it was brought to my  
31 attention that it was expiring, that we would have to issue  
32 a new one. I worked with the, with the --

33 Q You did respond to his e-mail? Did you respond  
34 to Mr. Besner's e-mail?

1           A     I don't recall if I did.  If I did, I would have  
2 done this.

3           Q     Okay.

4           A     But I remember I talked to, to Colin Morrison.  
5 The reason I talked to Colin Morrison was because --

6           Q     Now, did you phone him, or did he phone you or  
7 what?  How did you --

8           A     I phoned him.

9           Q     Was it Friday night?  Let's get the sequence.  
10 Friday night --

11          A     It might have been Friday night, might have been  
12 Saturday.

13          Q     So Friday night, not a big deal, home invasion,  
14 we'll worry about it tomorrow.  You didn't, you didn't sort  
15 of follow up with anyone on Friday night, why?

16          A     To be honest, I don't know if I phoned him Friday  
17 night or Saturday morning.

18          Q     You don't remember when you phoned him?

19          A     I talked to him --

20          Q     Maybe we can --

21          A     I talked to, the reason I talked to him --

22          Q     You didn't talk to anyone else after hearing from  
23 Neil Besner, you might have responded to Neil Besner, but  
24 you didn't talk to anyone else until you talked to Colin  
25 Morrison the next morning?

26          A     The reason I talked to Mr. Morrison was because  
27 the previous barring notice had a start date and an end  
28 date.  Under the Petty Trespass Act --

29          Q     So you weren't talking to Mr. Morrison about the  
30 home invasion, that wasn't a concern.  You called  
31 Mr. Morrison on Saturday because you were still concerned  
32 about the ending date being one year instead of being  
33 permanent?

34          A     It was a result of the e-mails from Mr. Besner

1 advising of the home invasion as you like to call it that I  
2 contacted Mr. Morrison to help me develop this new barring  
3 notice because under the Petty Trespass Act, I don't have  
4 to put a start date or an end date on it. I just have to  
5 advise you that you're barred from the university. And so  
6 we, we developed this one that has not, we indicate on it  
7 an effective date, but it doesn't have an end date on it.  
8 So in other words, you're barred.

9 Q Whose decision was it to develop to write this  
10 barring notice?

11 A I, I talked with, with Mr. Morrison because when  
12 I saw the previous barring notice had an end date, and I  
13 said, well, we don't need to have an end date on this  
14 thing, because the Petty Trespass Act doesn't indicate  
15 there's an end date.

16 Q Did Mr. Besner say, did Mr. Besner call you up  
17 and say, we need a barring notice to bar Marty Green from  
18 the campus?

19 A No.

20 Q Did --

21 A I never talked --

22 Q -- did anyone else?

23 A -- I never talked to Mr. Besner by phone.

24 Q Well, did anyone by any means phone, e-mail, or  
25 whatever, tell you we want a barring notice?

26 A No.

27 Q Issue a barring notice?

28 A No.

29 Q Then it was your decision to issue the barring  
30 notice?

31 A Well, yes.

32 Q Okay. Fair enough. That's what I wanted to  
33 know.

34 A You helped make my decision because on Friday

1 when it was brought to my attention, there was no issues.  
2 On Friday evening, there became an issue. The decision was  
3 to issue the barring notice.

4 Q Your decision. Now, the reasons for the barring  
5 notice that you have indicated were the expiration of the  
6 previous barring notice of which you said there had been no  
7 issues over the intervening year --

8 A Um-hum.

9 Q -- is that what you said?

10 A Yeah.

11 Q No issues over the intervening year, so simply  
12 because it was expiring, although it's like the letter from  
13 the president, I mean, the letter from the president, I  
14 mean, this is on, based on sort of a --

15 A In his letter, he indicated that the barring  
16 notice would continue. His letter was dated January 25th.

17 THE COURT: Of?

18 THE WITNESS: Of 2012.

19

20 BY MR. GREEN:

21 Q This is the first barring notice. No, it was the  
22 one-year barring notice. It wasn't the permanent. Oh,  
23 well, it may be, it's ambiguous. I conclude that the  
24 appropriate course of action to take is to suspend you from  
25 the university for a minimum period of one year and to  
26 continue to bar you from university property, but then he  
27 says when the year of suspension has passed, you may appeal  
28 in writing to the office of the president if he wishes to  
29 consider your re-instatement. You know --

30 MR. GRIEVES: Your Honour, I don't know if  
31 there's a difference between the --

32 MR. GREEN: Okay.

33 MR. GRIEVES: -- suspension from --

34 MR. GREEN: It's ambiguous, yeah.

1 MR. GRIEVES: -- enrolling in courses and --

2 MR. GREEN: I'm not going, I'm not going to  
3 pursue this. It's ambiguous.

4 MR. GRIEVES: That's fine.

5 MR. GREEN: Thank you, Mr. Grieves, but it's  
6 ambiguous. It's too ambiguous for me to try and pursue  
7 this.

8

9 BY MR. GREEN:

10 Q I believe I have the witness on record as saying  
11 that the reason for the second barring notice was a  
12 combination of two factors, two factors was that the  
13 original barring notice that expired, and although there  
14 were no other incidents during that intervening year, there  
15 was concern about the expiration of the original barring  
16 notice and in addition, there was the home invasion.  
17 That's your testimony, isn't it?

18 A What, what I do in situations where there's an  
19 end date, I do an assessment, risk assessment. If the risk  
20 is not there, then we don't continue with the barring  
21 notice. I have done that in the past with other persons  
22 who have been barred. They have gone for a year, there's  
23 been no issues. I talk to the people who were involved, if  
24 they have no concerns, then they're allowed back onto  
25 campus. That's what I would have done started on Monday  
26 when the barring notice was ending on the Friday, I would  
27 have started that on Monday to talk to the people to  
28 ascertain if there was a reason to continue with the  
29 barring notice, but your actions on Friday evening answered  
30 the question for me.

31 Q So you weren't aware, other than of any other  
32 reasons during that intervening year, you didn't have any  
33 issues that would have sort of raised the flags and said  
34 maybe we need to still extend the barring notice of

1 anything I did during the intervening year?

2 A That is correct.

3 Q No issues during the intervening year.

4 MR. GRIEVES: No, he said he was not aware of any  
5 issues during the intervening year.

6 MR. GREEN: Yeah, not aware, that's right.

7

8 BY MR. GREEN:

9 Q I'm just going to draw your attention to certain  
10 things that happened during the intervening year. There  
11 was, did you know that there was meetings being held about  
12 me where professors were concerned about their safety and  
13 you, you weren't aware of any such issues during the  
14 intervening year?

15 A Nothing was brought to my attention.

16 Q Not that was brought to your attention. Were  
17 you, when are you, do you still work there?

18 A Yes.

19 Q Sure you did, you were working there. You might  
20 have retired by now. Are you retired?

21 A No, I retired from the RCMP, but I'm still  
22 employed by --

23 Q You still work on campus, okay, and you were  
24 working there then. I'm just looking at this affidavit  
25 from Mr. Metz. I request, October 30th, 2012, I request a  
26 meeting with the University of Winnipeg Faculty Association  
27 to, to discuss my security concerns. We meet the following  
28 week. Here's a professor meeting. Well, he didn't, he  
29 doesn't say he was meeting with security. He says he was  
30 meeting with the faculty association to discuss his  
31 security concerns with, with regard to me. You weren't  
32 invited to that meeting or you weren't aware of that  
33 meeting?

34 A I wasn't aware of it.

1 Q Okay.

2 THE COURT: This is Professor Metz's affidavit?

3 MR. GREEN: Yeah, yeah.

4

5 BY MR. GREEN:

6 Q Here's another note from December 6th. A meeting  
7 is held with senior administration with regard to  
8 Mr. Green's continued harassment. I expressed concerns for  
9 my personal safety and ask that the university take steps  
10 to prevent such harassment. You weren't brought into the  
11 loop on that?

12 A No.

13 Q Professors, senior administration had meetings  
14 about harassment and security, but they didn't contact the  
15 chief of security to sort of bring him into the loop on  
16 that?

17 A Well, my job is security at the university. If  
18 you're calling him at home, that's not within my realm of  
19 responsibility.

20 Q No, no, I've never been to anyone's home as, this  
21 is university security.

22 A Well --

23 Q Anyway.

24 A If you were calling him at the university, then I  
25 would have been notified because then that becomes a breach  
26 of the, it could be construed to be a breach of the barring  
27 notice.

28 Q Friday the 30th of November, Mr. Metz says: At  
29 this point I became very concerned for my personal  
30 well-being and that of my students. Did he, he didn't  
31 bring that to your attention or no one brought that to your  
32 attention on his behalf?

33 A No. Sorry.

34 MR. GREEN: Your Honour, I've, I've got a huge

1 amount of material to digest from this witness. I know  
2 there's other things I want to ask him, but you know, I  
3 think we've got to move on, so, so I think I'm going to --  
4 some regrets, I think I'm going to let her go here. I  
5 can't ask you for any guidance obviously, I'm defending  
6 myself. I've got to make the call. And I know there's  
7 something more I'm going to want to ask him, but --

8 THE COURT: Do you want to have a few minutes to  
9 consider your notes and consider your position on this and  
10 then come back? And you're comfortable with that letter  
11 that you've been provided from Mr. Grainger because now is  
12 your opportunity to ask him about that. You've already  
13 asked him, he's read some parts in. You've asked him about  
14 some things, but I don't, but you haven't had an  
15 opportunity to actually read it front to end, I think, so  
16 I'm happy to give you some time if you need that.

17 MR. GREEN: I appreciate that. What are we  
18 doing, are we going to go for lunch, am I going to have, is  
19 there going to be cross, or are you going to have much  
20 cross?

21 THE COURT: No, he's the Crown's witness.

22 MR. GREEN: Oh, he's your own witness, you're  
23 right. Yeah, he's also my witness.

24 THE COURT: So in terms of a time line, there is  
25 another matter in here at one o'clock, so the latest we're  
26 going to go is 12:30 so that Madam Clerk can, and I can get  
27 some lunch and so that the courtroom can be cleared for one  
28 o'clock. So if you wanted to take ten minutes right now,  
29 that's what I was thinking. I'm happy to give you that  
30 time.

31 MR. GREEN: I'm a little exhausted, I could use  
32 the ten minutes, but on the other hand, I could get one,  
33 maybe two witnesses, I could quickly, some that are kind of  
34 quick.



1 THE COURT: Okay. I'm just leaving, it's your  
2 call --

3 MR. GREEN: Yeah.

4 THE COURT: -- whether you're finished with your  
5 cross-examination of Mr. Grainger or not.

6 MR. GREEN: Yeah, well --

7 THE COURT: But if you need a little bit of time,  
8 I'll give it to you.

9 MR. GREEN: I know this is wrong, but I'm  
10 inclined to let him go, but could we ask him to stick  
11 around until the lunch break, and I'll think if I want to  
12 recall him, if there's any --

13 THE COURT: No, we, the better process is to take  
14 a break if you want to consider it and --

15 MR. GREEN: I'm just trying to get two more  
16 witnesses in between now because I think I got two quick  
17 ones.

18 THE COURT: Okay. So take a moment and let me  
19 know.

20 MR. GREEN: Well, I'm going to ask him one more  
21 thing.

22

23 BY MR. GREEN:

24 Q You've testified the only information you had on  
25 which you made the trespassing notice, maybe I've asked  
26 this already, was the e-mail from Mr. Besner which is in  
27 evidence but then when I talked to you the first time we  
28 met, you said it was Mrs. Bush that had made the complaint,  
29 not Mr. Bush. And do you recall where you got that idea  
30 from?

31 A It's not necessarily Mrs. Bush made the  
32 complaint, the, the e-mail, if I recall it right was the  
33 fact that he received a call from George Bush indicating  
34 that this had happened. On the Monday or Tuesday

1 following, I had a meeting with, that included Mr. and  
2 Mrs. Bush, Don Metz.

3 Q Okay. This is good.

4 A And, and that's when I hear --

5 Q That would be Monday the 13th --

6 A -- that's when I hear the --

7 Q Monday the 13th, you had a meeting?

8 A No, not Monday the 13th, it would be 15th or  
9 16th.

10 Q 11th, 12th, 14th?

11 A 16th.

12 Q 14th, like, if it was Friday the 11th, it would  
13 be Monday the 14th would be the, the next day, first right  
14 after the weekend?

15 A Friday, Saturday, Sunday, yeah, Monday.

16 Q 14th, so the meeting and who was at the meeting?

17 A I know Don Metz was there.

18 Q Metz?

19 A Mr. and Mrs. Bush, myself, the VP, HR came for  
20 part of it.

21 Q That would be Laurel Repski?

22 A Yeah, Lisa McGifford was there. I think Jan  
23 Stewart and John, and I can't think of his last name, but  
24 he was the acting dean of education.

25 Q Pension McGifford, McGifford, Jan Stewart and Jan  
26 Stewart, this is the second time she's been mentioned  
27 because Jan Stewart was the same one that introduced you to  
28 the student that I had been screaming at right in her face.

29 A She's the one that sent me the e-mail, yeah,  
30 yeah.

31 Q She testified last week. She sent you an e-mail?

32 A Yeah.

33 Q I'd like to see that e-mail.

34 A Well, again, the e-mail names a student, so I'm

1 not about to show it to you.

2 Q Well, you can redact the student's name, but I'll  
3 get that student's name, that's testimony that I'm entitled  
4 to cross-examine on, but I'd like that e-mail. There was  
5 an e-mail from Jan Stewart about this incident, and I'd  
6 like, I'd like that made available to me?

7 A Well, it's not about this incident, it's about  
8 the fact that she had a student come to her who expressed  
9 fear.

10 Q But an incident that you've testified to, yes,  
11 in, in these proceedings.

12 A But it has nothing, it has no relevance with the  
13 fact that you were given the Petty Trespass Act and you  
14 failed to comply with it.

15 Q If I'm not entitled to it in these proceedings,  
16 I'll look into what other provisions I can, I can maybe get  
17 it, but I'm inclined to ask the judge if she would instruct  
18 you to make that available to me, it's her call. I mean, I  
19 agree it may not be relevant, but I'll ask the judge if she  
20 would make a call on that.

21 THE COURT: Jan Stewart is who?

22 THE WITNESS: She's the, the acting associate  
23 dean of education. I don't think she's that anymore  
24 because the dean of education has come back from his leave  
25 that he was on.

26 THE COURT: I'm not going to order the disclosure  
27 of that e-mail at this point.

28 MR. GREEN: Fine.

29

30 BY MR. GREEN:

31 Q Well, isn't that something, meeting on Monday the  
32 14th. Well, I'm pretty interested in what people said  
33 about me, but I don't think you're going to remember too  
34 much of the details?

1           A     Well, the purpose of the meeting is to discuss,  
2 you know, a plan for their safety and security at the  
3 university.

4           Q     I'd like to know what people said about me there.  
5 This is something that's brand new, I wasn't expecting  
6 this. I'm not sure how to approach this. Do you recall  
7 the words home invasion being bandied about at that meeting  
8 or the incident being characterized as a home invasion; do  
9 you recall --

10          A     You're the first person --

11          Q     -- those words being used by any --

12          A     -- that's called, that indicated to me as a home  
13 invasion.

14          Q     Well, I'm, I'm just going to confront you with  
15 contradictory testimony because you may have not heard it  
16 called that way, but it certainly been called that way by  
17 January 12th, this is Saturday, Dr. Besner informs me that  
18 the university is trying to serve Mr. Green with an order  
19 to ban him permanently from campus. It sounds like the  
20 order was already made on the 12th, not the 13th as you  
21 testified because it, I remain extremely concerned with the  
22 latest threat, the attempted home invasion at, at, that is  
23 the latest threat, the attempted home invasion at the  
24 Bush's was off campus. So already on the Saturday, people  
25 were calling it a home invasion, not me.

26                THE COURT:   What are you confronting the witness  
27 with? Mr. Grainger doesn't even know what you're reading  
28 from. I don't know what you're reading from.

29                MR. GREEN:   I'm sorry, this is an affidavit I'll,  
30 I'll enter in evidence if that's all right.

31                THE COURT:   Well, I don't think it's necessarily  
32 appropriate for you to enter affidavits from other  
33 proceedings in evidence, but if you have something that you  
34 want to confront the witness with.

1 MR. GREEN: Okay.

2 THE COURT: I think that's what you were trying  
3 to do.

4 MR. GREEN: Yeah, yeah.

5 THE COURT: You were trying to say somebody  
6 called it a home invasion in a document.

7 MR. GREEN: Professor Metz, was, you know, had --

8 THE COURT: In --

9 MR. GREEN: -- in writing has called it a home  
10 invasion, but by --

11 THE COURT: Okay. All right. So --

12 MR. GREEN: You're saying by Monday morning --

13 THE COURT: -- do you remember --

14 THE WITNESS: I don't remember it being used --

15

16 BY MR. GREEN:

17 Q -- they sort of, what, calmer heads had  
18 prevailed?

19 A Basically what we did was we discussed what we  
20 were doing, other options that were available to them, and,  
21 and I just re-assured them that their safety and security  
22 at the university was, was my responsibility and, and I do  
23 everything to make sure that they were safe and secure.

24 MR. GREEN: Well, this is a huge new area, but  
25 maybe I'm going to let this witness go and sort of pursue  
26 this question and this meeting with other witnesses, some  
27 of whom were there, some of whom I do recall as witnesses.  
28 I think I've probably got enough from this witness, Your  
29 Honour.

30 THE COURT: Okay.

31 MR. GREEN: I'd like to try and get one, possibly  
32 two in before, like I said, it's, it's become more  
33 complicated, the issues, so let us see what we can do  
34 before lunchtime. Maybe, would you give me five minutes to

1 walk around? We'll take a recess for just five --

2 THE COURT: Okay. And is, you have no further  
3 questions for Mr. Grainger?

4 MR. GREEN: I probably do, but I think I've --

5 THE COURT: Do you want the five-minute recess  
6 and then you're going to come back and let me know whether  
7 you have any more questions?

8 MR. GREEN: Yeah, that would be right.

9 THE COURT: Okay.

10 MR. GREEN: Then if I'm done, I'll tell you then.

11 THE COURT: Okay.

12 MR. GREEN: I'm already thinking ahead of my next  
13 witness.

14 THE COURT: Okay.

15 MR. GREEN: But give me five minutes anyways.

16 THE COURT: Okay. And Madam Clerk, I'm going to  
17 ask you to make a photocopy of that memo for Mr. Grieves as  
18 well.

19 THE CLERK: All rise. Court's in --

20

21 (BRIEF RECESS)

22

23 THE CLERK: Court is now open. You may be  
24 seated.

25 THE COURT: Mr. Green, do you have any more  
26 questions for Mr. Grainger?

27 MR. GREEN: I just have a couple more. I am  
28 sorry, I do.

29 THE COURT: Okay.

30

31 BY MR. GREEN:

32 Q I have just a couple more questions about the  
33 memo. I wonder who else saw the memo other than the police  
34 officers who it's addressed to?

1           A     I probably showed it to my supervisors because  
2 I --

3           Q     That would be Laurel Repski?

4           A     No, my supervisors were Chris Rarick and --

5           Q     Oh, your supervisors.

6           A     Yeah.

7           Q     Yeah, your, the people who you, who are your  
8 supervisors? I understand.

9           A     For me, yeah. I was --

10          Q     Chris Rarick and who? It doesn't matter, that's  
11 okay, sir, but anybody else?

12          A     Well, would have been Rob Mathieson who was the  
13 other, I believe at that period of time, I'm just trying to  
14 think if Sandy had gone off on mat leave yet or not.

15                THE COURT: So your security supervisors --

16                THE WITNESS: Yes.

17                THE COURT: -- who work underneath you?

18                THE WITNESS: Yeah, and they would have seen it  
19 because if I wasn't there to meet with the police, then  
20 they would have had it to give to the police.

21                THE COURT: Okay.

22

23 BY MR. GREEN:

24          Q     You just wouldn't have gone upstairs to, you're  
25 saying Neil Besner or Laurel Repski, this memo didn't go to  
26 them?

27          A     No.

28          Q     They didn't get a copy?

29          A     No.

30          Q     Okay. You know, when I was brought before the  
31 judge when I was arrested and brought up for bail, the  
32 Crown, and it wasn't Mr. Grieves, of course, it was, it was  
33 Crown and I was on the TV because I was in remand, but the  
34 judge asked: What is the basis of these forcible entry

1 charges? And the Crown that time said he wasn't sure, but  
2 he thought it was the incident at the Bush's home. I'm  
3 just wondering how he would have known about that incident.  
4 Who would have told him about that incident at the Bush's  
5 home? Did you talk to the Crown, was that you who was  
6 talking to the Crown and telling them, like, like, helping  
7 him to make that argument?

8 A No, I never talked to the Crown attorney, and I,  
9 myself, thought those charges related to the Bush's home.  
10 I, I don't know --

11 Q Until now, but it turns out they're not?

12 A Yeah.

13 Q They're related to the seventh, that's okay.  
14 Now, I think it's in the police report or it might have  
15 been in one of your incident reports. I think it might  
16 have been in one of your incident reports that's on the,  
17 when I came on campus, I was reported to be disrupting  
18 students. Do you recall that, or I can look for it, or do  
19 you recall that that was written in one of the incident  
20 reports and the reason I'm asking, I want, I want you to  
21 say if, was, is it your testimony that I was disrupting  
22 people and being a nuance on campus or was I being peaceful  
23 or what --

24 A What, what, the information I have was that you  
25 were handing out the pamphlets, you were in the, in the  
26 cafeteria, the, in the cafeteria or the buffeteria, the  
27 buffeteria is the one on the fourth floor.

28 Q I was in both.

29 A Okay.

30 Q The day it was was the cafeteria, the first one,  
31 yeah.

32 A Okay. In the cafeteria handing out the  
33 pamphlets, and --

34 Q Would you say that disrupting students is an



1 accurate characterization of my behaviour, or would you  
2 say, rather, my behaviour was peaceful?

3 A Again, I wasn't there.

4 Q You weren't there?

5 A I can't, I can't tell you whether --

6 Q Well, someone said disruptive, and I'm going to,  
7 wonder if, who, who would have said that because it's, I  
8 don't know if it's signed now because then I should have  
9 cross-examined on whoever said that my, I was disrupting  
10 students, and I'm wondering, but you're not, let's just say  
11 that you're not aware of me disrupting any students?

12 A I just know that you were handing out these  
13 pamphlets.

14 Q Yeah.

15 A Whether, how they interpreted it, I, I can't tell  
16 you.

17 Q You have no, nobody told you that I was  
18 disrupting students?

19 A Again, all I was told is you were handing out  
20 pamphlets.

21 Q Yeah. And you say that nobody told you I was  
22 disrupting people or making a nuance of myself or anything  
23 untoward other than handing out the pamphlets, would that  
24 be your testimony?

25 A Well, my testimony is I can't, I don't, I can't  
26 say for sure because I don't know what people interpreted,  
27 but ...

28 Q You can't say what I was doing, but you can say  
29 what people told you I was doing. Did anyone tell I was  
30 disrupting students?

31 A I do, I do not recall anyone telling me that you  
32 were disruptive.

33 Q Okay. Do not recall anyone saying you were  
34 disruptive. And you're the head of security? If I was

1 being disruptive, do you think it would be their job to  
2 report it to you?

3 A Yes.

4 Q Okay. Quote Jack Nicholson again, have you got  
5 the affidavit? Because in addition to all the information  
6 I'm trying to get out of you with regard to all these  
7 matters, I also have this small, small problem, small  
8 matter of defending myself against the charge of mischief,  
9 so that question I think was, if nothing else, it was  
10 relevant, this will be relevant I hope to the charge of  
11 mischief.

12 MR. GREEN: Now, I think that's it. I think  
13 that's it. Your Honour, I'm going to let the witness go,  
14 but thank you for participating in this. And we'll see if  
15 we can get one more witness in.

16 THE COURT: All right. Mr. Grieves, any  
17 re-direct?

18 MR. GRIEVES: Yes, Your Honour. I have a couple  
19 questions.

20

21 RE-EXAMINATION BY MR. GRIEVES:

22 Q I just wanted to ask you a question about what  
23 you just testified, Mr. Grainger, with respect to the, the  
24 incident where Mr. Green was handing out pamphlets. I  
25 don't, I don't know if you said when that occurred?

26 MR. GREEN: It was on the seventh. There were  
27 other dates too.

28 THE COURT: No, no, Mr. Green.

29 MR. GREEN: I'm sorry, I'm sorry, Your Honour.

30 THE COURT: Now Mr. Grainger has to testify.

31 THE WITNESS: I don't, I know that one of these  
32 incidents, I have a copy of the pamphlet, and I had it  
33 before this --

34

1 BY MR. GRIEVES:

2 Q So was that after the date the second barring  
3 notice was issued?

4 A Oh, yes, yes.

5 Q Okay. And the other question I have with respect  
6 to the issuing of the barring notices, you indicated you  
7 have the authority to issue the barring notices?

8 A Yes.

9 Q And is there another person who would have, or  
10 does anyone else have the authority to issue barring  
11 notices?

12 A Well, my supervisors can issue barring notices  
13 too, so if I'm not there, then they can also serve a  
14 barring notice on, on an individual.

15 Q And is that process any different from where you  
16 can, where people have meetings to discuss what should be  
17 done and that's one of the options?

18 A Sometimes the decision is made depending on if we  
19 have someone who has been on the campus a number of times  
20 causing a nuance and that, you know, we try to give them  
21 some leeway, but if it gets to the point where we say  
22 you're barred from the campus, and we issue them the  
23 barring notice.

24 Q But I mean, so it's, you're not the person that  
25 decides on all occasions whether a person --

26 A No, no.

27 Q No.

28 A The supervisors have that authority too. Any,  
29 it's, as representatives of the university, even the  
30 security guards who are contracted to the university would  
31 have that authority, but we don't necessarily let them do  
32 it. You know, it's just we saying that it should be done  
33 by, this decision should be made by the supervisor.

34 Q Okay. The supervisor would, which supervisor are

1 you referring to?

2 A Well, like, the security supervisors. The guards  
3 could issue a barring notice, but we'd sooner say, no, if  
4 it's going to be issued, you should get the permission of  
5 the security supervisor or myself before you issue that  
6 barring notice.

7 Q And what about, are there instances where people  
8 of higher or, like, your bosses or higher authority than  
9 you, who could decide that a barring notice is required and  
10 they tell you to, to issue a barring notice?

11 A Yes, they, they, again, under the act any  
12 representative, like, it's the owner or the representative  
13 could, could say that you're, you're going to be barred.

14 Q Um-hum.

15 A Now, they, they may call down to us and say,  
16 okay, this is the circumstances going on, they would  
17 recommend that we issue a barring notice, and then we'd  
18 discuss it and then issue the barring notice.

19 Q And in all instances you're the, you or your  
20 security supervisor are the one that draft and then issue  
21 the barring notice?

22 A In, I would say 99 percent of them, yes.

23 MR. GRIEVES: No further questions, Your Honour.

24 THE COURT: Okay. Thank you for coming to court  
25 to testify again, Mr. Grainger. You're done for today.

26 THE WITNESS: Okay. Thanks much.

27

28 (WITNESS EXCUSED)

29

30 MR. GRIEVES: Those are the witnesses the Crown  
31 is calling, Your Honour.

32 THE COURT: All right.

33 MR. GRIEVES: The Crown is not calling anymore  
34 witnesses.

1 THE COURT: All right. So the case for the Crown  
2 is called, and we mixed things up a little bit by calling  
3 Mr. Besner was a witness of yours last time, and so you  
4 have another witness, Mr. Green?

5 MR. GREEN: Yes, there is six witnesses waiting  
6 at the moment. Actually I'd like to call Mrs. Candor  
7 first.

8 THE COURT: Okay.

9 MR. GREEN: Because her testimony is more  
10 rebuttal to Mr. Grainger. It doesn't exactly interfere  
11 with my other testimony, so maybe we can get her.

12 THE COURT: Okay. So what's her name?

13 MR. GREEN: Mrs. Cantor, Laurelyn Cantor.

14 MR. GRIEVES: Do you need her paged?

15 MR. GREEN: No, Lindsay (phonetic) will bring her  
16 in, I think. Can I explain what I'm going to do here? You  
17 see, she was a witness to an incident that Mr. Grainger  
18 testified to last week where I was screaming right in  
19 someone's face that led to the first barring notice. I  
20 don't want to sort of --

21 THE CLERK: She's just in the washroom, she'll be  
22 right in.

23 THE COURT: Okay.

24 MR. GREEN: So I've called her in so I can get  
25 her version of the, of the events.

26 THE COURT: Okay.

27 MR. GREEN: Like I say, I don't want to get way  
28 into the details of the first barring notice, but in this  
29 case, it's a fairly clean cut issue where I have  
30 contradictory testimony that it doesn't hurt me to give  
31 because everything is already on the record.

32 THE COURT: Okay.

33 MR. GREEN: So I'd like to, that's what I'm doing  
34 here. Now, I'm not sure if I need to explain to her why

1 she's in, just say we're asking you about an incident,  
2 it's, whether it's relevant or not if --

3 THE COURT: Yeah, just ask her, she's your  
4 witness, so you have to ask open-ended questions, so that  
5 would be a good start as --

6 MR. GREEN: Tell her why she's here. Why it's --

7 THE COURT: Tell me, well, no, just ask her to  
8 explain there was an incident on such and such a date.

9 MR. GREEN: I know the problem, how do I identify  
10 that it's the same incident because the way she tells it is  
11 going to be very different from the way he told it, so I'm  
12 not sure how to establish that we're both talking about the  
13 same incident, that it wasn't --

14 THE COURT: Do you know the date that it  
15 happened?

16 MR. GREEN: No, there's no date. I mean,  
17 there's, it's the incident with the ASL interpreter. That  
18 was Mr. Grainger's testimony, that the incident was with an  
19 ASL interpreter who was only, I think I know what to do.  
20 He was, she was only on campus one day. There could only  
21 be one incident. There wasn't a second incident outside  
22 the one that's already on record.

23 THE COURT: Okay.

24 MR. GREEN: I, I don't think there's any sort of  
25 possible confusion that there was two different incidents,  
26 that she's going to describe a different incident. It's  
27 just the description is going to be very different, but ...

28 MR. GRIEVES: Was the, I'm not sure if, was the  
29 witness present at, during the incident, is that --

30 MR. GREEN: Yeah, yeah. Your Honour, this is a  
31 small evidentiary gap for me to prove that the incident he  
32 was talking about is the same incident I'm going to examine  
33 her, but I think I can cover that gap without --

34 THE COURT: Okay.

1 MR. GREEN: Not a problem.

2 THE WITNESS: Hi.

3 THE COURT: Hi, are you Laurelyn Cantor?

4 THE WITNESS: Yes.

5 THE COURT: Just come right up to the front here.

6 THE CLERK: Just step into the witness box and  
7 remain standing for a moment, please. Please state and  
8 spell your full name for the record.

9 THE WITNESS: Laurelyn Hope Cantor,  
10 L-A-U-R-E-L-Y-N, Hope, H-O-P-E, Cantor, C-A-N-T-O-R.

11 THE CLERK: And do you wish to swear an oath on  
12 the Bible or affirm your evidence?

13 THE WITNESS: Okay.

14 THE CLERK: Which one?

15 THE WITNESS: I'll affirm my evidence.

16 THE CLERK: Affirm.

17

18 **LAURELYN HOPE CANTOR,** affirmed,  
19 testified as follows:

20

21 THE CLERK: Okay. You may be seated.

22

23 DIRECT EXAMINATION BY MR. GREEN:

24 Q Ms. Cantor, you're my witness, so I'm going to  
25 ask you a few questions. I think we start by saying you  
26 were my instructor during the, the nine weeks I was, 10  
27 weeks I was a student?

28 A Yes.

29 Q That's in the fall of 2011. And you know about  
30 my troubles, how I was kicked out of the university and you  
31 had some involvement in that. And now I'm here on criminal  
32 charges in a very different matter, but there was an  
33 incident you were involved in that was associated, in a  
34 very small way maybe, in a small way, but it's come up in

1 testimony, so I'm going to ask you for your version of the  
2 story, and it's the incident with the ASL interpreter.  
3 Now, I wonder if I should just ask you what happened or if  
4 I should, if I should --

5 THE COURT: Just ask her what happened.

6

7 BY MR. GREEN:

8 Q Let's do that. Why don't you tell us what  
9 happened?

10 A So the students were asked to do presentations on  
11 different disabilities in groups, and so there were maybe  
12 about six or seven students who were together doing  
13 presentations. One of the presentations was about students  
14 with hearing impairments, and one of the students had a  
15 friend who is a sign language interpreter and invited her  
16 to come to the presentation to present the whole  
17 presentation in sign language to the other students. This  
18 is a lot of work because the presentation is about half an  
19 hour, so it's, it's quite draining for the interpreters to,  
20 to do the sign language. As far as I can remember, I know  
21 this is, it's two years ago, at the end of the  
22 presentation, Marty asked the interpreter if she would show  
23 the sign for a couple of different things. I think one,  
24 the one that I can remember, I think, was driving a  
25 motorcycle. How do you show the sign for driving a  
26 motorcycle. So at the very end of the presentation, there  
27 were questions. The, the rest of the students in the class  
28 were invited to ask questions to any of the presenters  
29 about what they were discussing in the presentation and  
30 Marty asked the interpreter: How do you do the sign  
31 language for riding a motorcycle? And then I think he  
32 might have asked another one and I don't remember what it  
33 was, and then I could see that the student who had invited  
34 the interpreter was getting a little bit agitated and I



1 think I said that's, you know, that's enough questions.  
2 Thank you very much. And we, we ended the, the  
3 presentation.

4 Q I don't understand why the student was getting  
5 agitated.

6 A I, I'm not sure. I'm not sure why myself, but I  
7 think she felt that she had invited the interpreter and  
8 felt that she wasn't being respected as an interpreter.

9 THE COURT: And what was your perception?

10 THE WITNESS: I think initially I think that  
11 Marty felt that, you know, that it was appropriate to ask,  
12 and then I could see that when, when the student was  
13 getting upset, I thought this isn't the right time and we  
14 needed to, to end at that point.

15 THE COURT: Why did you think it was not the  
16 right time?

17 THE WITNESS: I almost felt that, that Marty felt  
18 maybe this was very entertaining and not informative, and I  
19 mean, for, for people who have hearing impairments,  
20 American Sign Language is very important for them. And I,  
21 I think that the, oh, my goodness, I'm sorry. I thought it  
22 was off. I think that the student felt that it was very  
23 inappropriate for him to be asking those, those kind of  
24 requests or making those requests.

25 THE COURT: And you can't recall what the  
26 second --

27 THE WITNESS: I'm sorry, I tried.

28 THE COURT: Okay.

29 THE WITNESS: I didn't document. You know, I, I,  
30 I've thought about, I've thought about a few things, you  
31 know, since. I, I just found out about everything about a  
32 few weeks ago. I didn't even know that this was going on.  
33 I had no idea.

34 THE COURT: You didn't know what was going on?

1           THE WITNESS: I didn't know that, I didn't know  
2 that anything had happened with Marty prior to, to me being  
3 subpoenaed.

4

5 BY MR. GREEN:

6           Q     You knew I had been kicked out of the university?

7           A     Not, no, I didn't, like, I was, I only taught one  
8 course at the University of Winnipeg. I teach at the  
9 University of Manitoba, and it was the first time I had  
10 ever taught there. I had 45 students in the class, so it  
11 was quite a large class of students, and once I finished  
12 the beginning of November, I really was done. I didn't  
13 have any other contact with, I mean, I've had, you know,  
14 you know, maybe just a few small contacts, but nothing, I  
15 didn't know that anything had happened after that. So no,  
16 I didn't know.

17          Q     You didn't know I've been writing about you on my  
18 blog?

19          A     No, I just found out. No, I didn't know.

20          Q     Okay.

21          A     No, I had no idea. I didn't know you had a blog.  
22 I didn't know that.

23          Q     Didn't I leave you a phone message once?

24          A     I know that you had called.

25          Q     You didn't call back?

26          A     No, I didn't. And I don't remember, if there was  
27 a message, I think it might have just been asking for you,  
28 for me to call you back, and at that point, I didn't feel  
29 that it was appropriate. I did get a call, I shouldn't say  
30 that, I did get a call, and I'm not sure when, I think, I  
31 guess it was this year from one of the acting associate  
32 deans in the faculty of education.

33          Q     Anchan, do you think?

34          A     No.

1 Q Stewart?

2 A Maybe. That's a woman?

3 Q Yeah.

4 A And she had told me that you had gone to one of  
5 the professor's homes and just letting me know that, and it  
6 was in the evening that she had called me and letting me  
7 know that that had happened and that's the only, I think  
8 that's kind of --

9 Q Do you recall what she said about me going to his  
10 home, was that inappropriate anything, that I had done  
11 anything wrong?

12 A Just really informing me that you had done that.  
13 I don't know how much information she even had at that  
14 point.

15 Q She didn't say I tried to force my way into the  
16 home --

17 A She didn't, no.

18 Q -- you don't recall anything like that?

19 A No, just letting me know.

20 Q Just that I had gone to a home. And, and did you  
21 say: Well, so what? He went to a professor's home, why  
22 are you telling me?

23 A No, I didn't say that, I just, I, I was glad that  
24 she let me know and I said thanks for --

25 Q Because you were afraid I might go to your home?

26 A No, I just, I mean, I think at that --

27 Q It sounds like a serial conversation, you know,  
28 Marty Green went to a professor's home. Oh, thank you for  
29 telling me that. That's all there was to it?

30 A She just said that, that you had tried to, to go  
31 to one of the professor's homes.

32 Q Oh, that's different from saying I just went into  
33 someone's home.

34 A Oh --

1 Q You see, Mrs. Cantor, you're a very nice person.  
2 Everyone knows you're a very nice person, but you're not a  
3 completely honest person. I asked you if you said I tried  
4 to get in, well, she just said I tried, I went to  
5 somebody's home. Now it's coming out that she said I tried  
6 to get into their home?

7 A You know what, I'm really sorry. I don't  
8 remember the exact words that she used.

9 Q I bet you don't.

10 THE COURT: Mr. Green.

11 MR. GREEN: Excuse me, Your Honour. Excuse me.

12 THE COURT: I want you to treat this witness with  
13 respect. She is here under subpoena.

14 MR. GREEN: Yes.

15 THE COURT: She has no choice.

16 MR. GREEN: Yeah.

17 THE COURT: And she is entitled to respect.

18 MR. GREEN: Yes, that's true.

19

20 BY MR. GREEN:

21 Q So I'm going to just, I need to make a note of  
22 what Jan Stewart says. She said, first she said I'd gone  
23 to professor's home and then you, you later modify that by  
24 saying that I tried to get into a professor's home?

25 A I'm sorry, I really don't remember the exact  
26 words.

27 Q That's, that's what you said.

28 A Yeah.

29 Q Because the conversation didn't make sense  
30 otherwise. The conversation doesn't make sense, if she  
31 says, you know, Marty Green went to visit one of the  
32 professor's. Well, thank you for telling me. That doesn't  
33 make sense.

34 A I think she was saying that it was at night and

1 that it was inappropriate. I don't think she used the  
2 words. I think she was just informing me.

3 Q Just going back to the incident with the ASL  
4 interpreter. You said you saw the student becoming  
5 agitated, uncomfortable because I asked the professor, how  
6 do you make the sign for motor, do you remember the sign  
7 for motorcycle?

8 A Yes, that one. Yeah.

9 Q Do you remember what my comments were after she  
10 made this sign? Do you remember what I said to her about  
11 the sign?

12 A I just remember that, that, that you did it. I  
13 think that you, that you were happy that she showed you. I  
14 think that you were smiling. I mean, I don't think that in  
15 any way that you were being negative.

16 Q So you don't think I was trying to make fun of  
17 her by asking her to make signs?

18 A No, I don't think you were making fun.

19 Q Okay. That there was anything mean, mean  
20 spirited --

21 A No.

22 Q -- by asking her questions?

23 A No, no, I don't think so.

24 Q Thank you, Mrs. Cantor.

25 A You know Marty, it's Dr., Dr. Cantor.

26 Q Oh. Well, you can call me Marty Green,  
27 professional engineer, but that's an issue too, but I'm  
28 going to, it's nice of you to say that, Mrs. Cantor, and  
29 I'm going to forgive you for that, when I accused you of  
30 that little memory lapse of not exactly relating the  
31 conversation in its, in the gist of it, we were, because  
32 this is actually helpful to me. I have to write it down.  
33 I didn't think you were making fun or that there was  
34 anything mean spirited?

1 A No, I don't.

2 Q Okay.

3 A I don't think so. I don't know how it was  
4 perceived.

5 Q You don't know how it was perceived.  
6 Mrs. Cantor, you're a very nice person, but you're not  
7 totally honest. I'm going to have to confront you with  
8 something. I'm going to remind you what I said about the  
9 motorcycle sign and you'll tell me if it's sort of what  
10 you, what you recall. I mean, you have given me the  
11 evidence I needed when you said you didn't think there was  
12 anything mean spirited about it, and that's what I  
13 (inaudible) this is going to be just a couple minute's  
14 digression. Do you recall that I was effusive in my  
15 compliments to the interpreter about what a good job she  
16 did?

17 A Yes, I do.

18 Q Okay. You do recall. And that was sincere on my  
19 part?

20 A Yes.

21 Q And are you aware that I have, like, a huge  
22 personal involvement in simultaneous translation work and  
23 simultaneous translation?

24 A No.

25 Q Okay. You're not aware of my work in  
26 translation. It's a huge body of work I'm going to say,  
27 but it's, now, do you recall that, do you recall that after  
28 she made the sign, and I'll tell you what the other signs  
29 were, and I'll ask you if you remember what the signs were,  
30 could you, could I ask you to just stand up for this  
31 because it's --

32 THE COURT: Well, let's ask the question first.

33 MR. GREEN: It's not, it's nothing hostile.

34 THE COURT: No, just ask the question first.

1 BY MR. GREEN:

2 Q You know, because the sign to make the sign, you  
3 almost have to be standing. Do you recall the sign for, I  
4 don't want to say it. I'm not going to ask this question.  
5 I'm going to ask, do you recall that I said that, you know,  
6 when you make the sign now when she did it, she repeated  
7 the sign, and I said, you know, when you were doing it in  
8 the full flight of the translation, you were very  
9 expressive, very expressive?

10 A Yes, I, I do recall that, yeah.

11 Q And for, for a brief moment when you made that  
12 sign, you look like a big mean biker; do you recall me  
13 saying that?

14 A I don't know about that exact thing, but I  
15 remember about the expressive part of it.

16 Q You don't recall that I said that. Just for a  
17 moment --

18 A Okay.

19 Q -- like, if I asked (inaudible) you don't  
20 specifically --

21 A I don't.

22 Q -- but I might have said that?

23 A Yeah.

24 Q That might have been. Do you think that might  
25 have been what got the student offended and agitated?

26 A Could be.

27 Q But you didn't think it was mean spirited?

28 A No.

29 Q I'm awfully sorry, but I have to do this, you  
30 know, it says you wrote a letter to the dean, and you know  
31 what your letter says. Your letter said:

32

33 I feel that Marty Green's  
34 behaviour has had an adverse

1 effect on the well-being of his  
2 fellow students.

3

4 I'm going to have to ask you, do you still believe that?

5 A At that time, I did have students come to me and  
6 say that they were upset by some of the behaviours in the,  
7 in the class that --

8 Q Did you see anything yourself that caused you  
9 concern about my behaviours?

10 A I, I'm, I'm an educator, and I teach in special  
11 education. I have a lot of patients, and I felt that I  
12 always treated you with respect.

13 Q Was that reciprocated?

14 A Yes, it was. I think --

15 Q Students expressed concern about my adverse  
16 effect, but you took it serious enough that you wrote a  
17 letter to the dean saying that my behaviour, you feel my  
18 behaviour had an adverse effect on the well-being of my  
19 fellow students?

20 A After the, the student complained about your  
21 behaviour with the interpreter and had written an e-mail, I  
22 was asked to write a letter.

23 Q By whom?

24 A By, by John Anchan.

25 Q Did he ask you to write a letter that would give  
26 them evidence to kick me out of school?

27 A No.

28 Q Did he ask you for your honest and sort of true  
29 opinion of my, my conduct?

30 A I think it was very specific to, to that incident  
31 and other students having made comments about your  
32 behaviour.

33 Q Did he ask you to, to provide a letter that would  
34 back up what the students said, the complaints, did he ask



1 you to sort of back up the student's complaints?

2 A Not so much to back up, but just to be honest.

3 Q And your honest feeling was that I was having an  
4 adverse effect on my fellow students?

5 A I, some of the comments --

6 Q Based on, based on your own observation or based  
7 on what other students told you?

8 A Based on what students had, had said to me.

9 Q So you made that judgment based on what students  
10 told you, but was it also based on what you'd observed  
11 yourself about my behaviour?

12 A Yes.

13 Q What did you observe in my behaviour that made  
14 you, made you think that I was having an adverse effect  
15 on them?

16 A I think that there were times that when you made  
17 comments or said things in class, I don't know if you  
18 thought about how it would affect the other students.

19 Q Can you recall a specific incident when I made  
20 comments that had a bad effect on other students?

21 A That probably was one of the, the only times that  
22 I can remember specifically.

23 THE COURT: The ASL time?

24 THE WITNESS: Yes. There was one other time --

25

26 BY MR. GREEN:

27 Q Yes, there was, wasn't there?

28 A No, just something that happened, it was a, it  
29 was a Jewish holiday.

30 Q Okay.

31 A And I came in, first of all, there was a class  
32 right in, right before the class that we had in the  
33 classroom.

34 Q It was Yom Kippur, wasn't it?

1           A     Yes.  And you said:  You have to put this CD on,  
2  you have to put it on.  And I said:  You know, can we just  
3  wait for a few minutes, and I just needed to get organized  
4  and set everything up, and I know that you were really,  
5  really excited.  I know that you wanted to play the CD.  I  
6  don't know if you wanted to play it only for me but for all  
7  the other students, but I didn't know what was on the CD.  
8  You didn't tell me, and I think you even said, I'm not  
9  going to say what's on it, I just want you to put it on,  
10 and I said, I think I said at that point, we have a lot to  
11 do today, at the very end of class we'll put it on, which I  
12 did.  And it was, it was Cantorial music.  It was, I mean,  
13 it was beautiful.  I don't think it was appropriate for the  
14 whole class.

15           Q     It was Yom Kippur, though?

16           A     It was.  It was.

17           Q     And you had said that you weren't able to stay  
18 home as you would normally not come to work for Yom Kippur?

19           A     Yes.

20           Q     But because of, like, the tight schedule --

21           A     Yes.

22           Q     -- you were going to, making a special thing to  
23 come on Yom Kippur?

24           A     Yes.

25           Q     And this little thing I played was my response to  
26 that?  Did you find it mean spirited?

27           A     No, I didn't.

28           Q     And that's not a reason why you would say I had  
29 an adverse effect -

30           A     No.

31           Q     -- on my fellow students?

32           A     No, I just remembered something else that had  
33 occurred.

34           Q     I'm not going to ask about anything else I don't

1 think.

2 A I didn't, I didn't really document things that  
3 had happened, so ...

4 Q I don't have any other questions about stuff that  
5 happened. I think I've got enough from you about what  
6 happened in class. I have to tell you, you did document  
7 stuff for the dean. You, you wrote a letter to the dean  
8 that made me look very bad. You know that this was, this  
9 letter was a centre piece actually of the two pillars of  
10 which got me kicked out, this was probably the most  
11 damaging in getting me kicked out of school; did you know  
12 that?

13 A No.

14 Q Now, you say in your letter:

15

16 At the close of one of the final  
17 presentations, Marty made it ...

18

19 It's not, I'm smiling, Mrs. Cantor, because you know I've  
20 got a big fight going on, and what you're telling me is  
21 actually helping me in my bigger fight, so I'm feeling  
22 pretty pumped up. I'm not trying to make light of any of  
23 this but ...

24

25 At the conclusion of one of the  
26 final presentations, Marty made an  
27 inappropriate request of an ASL  
28 interpreter. The student had, who  
29 had invited the interpreter was  
30 embarrassed and offended and wrote  
31 an e-mail which I have enclosed  
32 with redaction.

33

34 Now, you've testified that you didn't personally think that

1 my comments were mean spirited, but you know if, if we read  
2 the letter that the students sent which, which you  
3 attached, I mean, it is horribly, it makes me look very  
4 horrible, but you didn't share her opinions, you didn't  
5 share her perceptions of the incident, did you? You've  
6 already testified that you didn't?

7 A I know. No, no, I didn't feel --

8 THE COURT: Just let her answer.

9 MR. GREEN: I'm sorry.

10 THE WITNESS: -- I didn't feel that it was mean  
11 spirited on your part. I don't know what she felt and how  
12 she perceived it.

13

14 BY MR. GREEN:

15 Q But you didn't share her perceptions?

16 A No.

17 Q However, you attached it to your letter without  
18 comment one way or the other. Can you see that someone  
19 reading the letter, the dean or the registrar or the people  
20 who kicked me out of school would read this letter and  
21 think that you shared these perceptions? Can you see how  
22 that would be interpreted that way?

23 A I understand what you're saying.

24 MR. GREEN: Okay. I have no other questions,  
25 Your Honour.

26 THE COURT: Mr. Grieves, any cross-examination?

27 MR. GRIEVES: No, Your Honour.

28 THE COURT: Thank you for coming to court to  
29 testify today, Ms. Cantor, you're free to go.

30 THE WITNESS: So --

31 THE COURT: Dr. Cantor.

32 THE WITNESS: Thanks.

33 THE COURT: Yes.

34 THE WITNESS: Is it finished for today?

1 THE COURT: It's finished for today, yes.

2 THE WITNESS: Okay. Thank you very much.

3 MR. GREEN: Thank you.

4

5 (WITNESS EXCUSED)

6

7 THE WITNESS: Do I leave?

8 THE COURT: Yeah, you can go. So what we will do  
9 is take a break. There is another matter that is going to  
10 be in this courtroom right away, and we'll come back at two  
11 o'clock.

12 MR. GREEN: Will I have to pack up my paperwork  
13 then?

14 THE COURT: You have to pack it up.

15 MR. GREEN: No choice. Can I leave my bags in  
16 the corner here or on the table somewhere. Just tell me  
17 where I can leave them. She'll tell me where.

18 THE COURT: Maybe on the exhibit table, Madam  
19 Clerk?

20 THE CLERK: All rise.

21 MR. GRIEVES: I was just going to ask, we're  
22 coming back to this courtroom at 2:00?

23 THE COURT: Back to this courtroom at 2:00.

24 THE CLERK: Court is on recess until 2:00.

25

26 (LUNCHEON RECESS)

27

28 THE CLERK: Court is now re-open.

29 MR. GRIEVES: Yes. Good afternoon, Your Honour.  
30 It's Grievés initial A. for the Crown. Resuming the Green  
31 matter. Before the, during the break, Madam Clerk brought  
32 to my attention the fact that Mr. Green had not, for the  
33 matter not, a formal not guilty plea had not been entered  
34 at the start of the proceedings on September 3rd.

1           THE COURT: I think, Mr. Green, you're pleading  
2 not guilty to all three charges that are before the court?

3           MR. GREEN: Yes, yes, I am.

4           MR. GRIEVES: Another matter, Your Honour, at the  
5 break, the, one of the witnesses which Mr. Green had  
6 called, Professor Metz indicated that he has to attend, he  
7 has to drive to Regina to attend a conference for tomorrow,  
8 so he would be leaving right after court and he wanted to  
9 see if he can be called first to testify this afternoon.

10           MR. GREEN: Well, Your Honour, I had worked out  
11 my order. Metz promises to be my most difficult witness,  
12 and I'm going to leave him until last because he has the  
13 most contradictions. But I believe I could get him second  
14 last, I was going to do Laurel Repski, Mrs. Bush, Mr. Bush  
15 and Metz, but I don't think it hurts me to move Metz ahead  
16 of Bush, doesn't hurt me much. Beyond that, it's a little  
17 awkward because I want to be relying on sort of  
18 contradictions with other's testimony.

19           Now, that's my position on it. I mean, if, if  
20 we're going to have a third day and you're going to let me  
21 re-call him later, that would be another, another way to do  
22 it, but I, I, I believe the women, I'm going to say Mrs.  
23 Laurel Repski and Mrs. Bush, I believe that it be in an  
24 hour, between an hour and an hour-and-a-half tops, so I  
25 believe I have Professor Metz in by 3:30 and that way, but  
26 he's going to be an hour-and-a-half.

27           THE COURT: I mean, it might be to your benefit  
28 to call him while you're fresh. I mean, the more time goes  
29 by, the more tired you get. So I encourage you to think  
30 about whether or not you can call him next because it would  
31 be nice to accommodate him. We try to do that.

32           THE CLERK: Mr. Green, would you mind just  
33 speaking into the microphone.

34           MR. GREEN: Yeah, I'm sorry. What would be my

1 re-call rights if there was further testimony from others  
2 that sort of brought out contradictions and I want to get  
3 him back on, like, then we go into a third day, what would  
4 be my rights in that regard?

5 THE COURT: Well, I'm not in a position to be  
6 able to give you legal advice. Generally you have to be  
7 able to satisfy the court that the issue that arose is one  
8 that you could not have anticipated or covered with the  
9 witness in the first place.

10 MR. GREEN: You know, I don't know what I'll be  
11 getting from the others, and my, and my intentions were to  
12 sort of get the most I could from the others before I had  
13 to take on Professor Metz. So I mean, if I had some kind  
14 of undertaking from you that you would sort of be  
15 favourable. I'm not going to sort of abuse that privilege  
16 just for the point of bringing him back for nothing, but I  
17 mean, I'm prepared to take your direction on this. But my,  
18 my preference was to do Laurel, Laurel Repski and then Mrs.  
19 Bush, and I was going to do Mr. Bush and Metz. I can bring  
20 Metz up, that doesn't, is not a big, I can put him ahead of  
21 Bush, but, that's my preference, but I'm going to take your  
22 direction on this.

23 THE COURT: Well, my preference is to try to  
24 accommodate a witness if he has to travel some distance out  
25 of town after court today, so I think that's what I'd like  
26 you to do --

27 MR. GREEN: Okay.

28 THE COURT: -- is call Professor Metz next.

29 MR. GREEN: Okay. Let's do that.

30 THE COURT: And then we can certainly, if there's  
31 some need to accommodate in the future, we'll consider that  
32 at that time.

33 MR. GREEN: Okay.

34 THE COURT: And, Mr. Green, do you think you're

1 going to be about, because you have five witnesses left,  
2 right?

3 MR. GREEN: I think four.

4 MR. GRIEVES: Four witnesses, Your Honour.

5 MR. GREEN: Four.

6 THE COURT: Okay.

7 MR. GREEN: I'm looking six o'clock is my target  
8 here. I don't know if that's, if you can sit until 6:00,  
9 that's what I'm seeing going to.

10 THE COURT: Madam Clerk, maybe in the interim you  
11 could just make an inquiry with the trial coordinators  
12 because even if we get the witnesses done today, I think  
13 that there's going to be additional time required for  
14 argument. Do you agree?

15 MR. GRIEVES: Yeah, I agree with you, Your  
16 Honour.

17 MR. GREEN: Yeah.

18 THE COURT: Okay. So we, and we probably need a  
19 full day for that? It's probably best.

20 MR. GREEN: It's a lot of argument.

21 THE COURT: Yeah. So if you can just send an  
22 e-mail and just see what sort of available dates might --

23 MR. GREEN: I hope we get it before Christmas.

24 THE COURT: I hope so, too.

25 MR. GREEN: Mr. Grievess didn't sound all that  
26 encourage now. I'm wondering if his grandmother died like  
27 in the middle of November if he'd be saying, well, I can't  
28 go to the funeral because I'm staffed right up, you see. I  
29 mean, I'd like to squeeze it in if we can, what I'm saying.

30 THE COURT: We'll sort of start with that and  
31 then we'll go from there.

32 MR. GRIEVES: Thank you, Your Honour.

33 THE CLERK: If you could just stand up for a  
34 moment, please. Please state and spell your full name for



1 the record?

2 THE WITNESS: Donald Metz. D-O-N-A-L-D, M-E-T-Z.

3 THE CLERK: And do you wish to swear an oath on  
4 the Bible or affirm your evidence?

5 THE WITNESS: Sure.

6 THE CLERK: Which one, would you like to swear on  
7 the Bible or affirm to tell the truth?

8 THE WITNESS: I'll affirm to tell the truth.

9

10 DONALD METZ, affirmed, testified  
11 as follows:

12

13 THE CLERK: Thank you. You can have a seat.

14

15 DIRECT EXAMINATION BY MR. GREEN:

16 Q Mr. Metz, you're going to be jumping the cue just  
17 a little bit because it was not my, so I'm a little out of  
18 sequence here, but we will, we'll try and get you out of  
19 here for that road trip. Now, I have to consider where we  
20 were going here. You know, I was banned from the campus  
21 twice, and you were pretty closely involved in both of  
22 those, both of those occasions. It was, your complaints  
23 were pretty significant part in getting me barred from the  
24 campus, never mind getting me kicked out of the program,  
25 but in terms of getting me barred from the campus; is that  
26 right?

27 A I don't, I don't know if that's right or not.

28 Q Okay.

29 A I certainly did file some complaints, but in  
30 terms of the barring and the banning, I really didn't have  
31 anything to do with that. It's not one of my  
32 jurisdictions.

33 Q Okay.

34 MR. GREEN: I can see we're going to be pulling

1 teeth here, Your Honour, but we'll do what we can.

2

3 BY MR. GREEN:

4 Q You don't think your complaints sort of were the  
5 major deciding factor in getting me barred from the campus?

6 A I don't know the answer to that question. I  
7 think you can answer, ask the person who made the barring  
8 notice if that was made.

9 Q Do you know who that person was?

10 A No, I don't.

11 Q You don't know who made the barring notice. Now,  
12 who did you make your complaints to?

13 A Specifically which complaint?

14 Q Well, okay. Let's talk about, I don't know if I  
15 should, let's start with the second, the second barring  
16 notice. Well, I just don't know where to begin. Let's  
17 talk about what was, in your mind, what was the main reason  
18 I was barred from the campus the second time, do you have  
19 an opinion as to why I was barred in January of this year  
20 from the campus?

21 A In January of this year?

22 Q Yeah, do you have an opinion as to why I was  
23 barred from the campus?

24 A No, I, I don't. I know if you have a question  
25 about any complaints that I've made or any statements I  
26 made, I feel perfectly capable to answer those, but with  
27 respect to someone else making a decision, I have had no  
28 discussions with them with respect to how that decision was  
29 made.

30 Q You didn't attend meetings where this matter was  
31 discussed with other people?

32 A Where a matter of barring notice was discussed?

33 Q Yeah.

34 A Not with, not with anyone who made a, made a

1 barring notice.

2 Q Because, but you told me you don't know who made  
3 the barring notice?

4 A No, I don't.

5 Q So how do you know you didn't have any  
6 discussions with the person who made the barring notice?

7 A Well, because I presume the people who made the  
8 barring notice were at the administrative level that I  
9 never met with. So I met with members in my own  
10 department, okay, in a, in a meeting that is --

11 Q Why don't you tell us who you met with?

12 A I believe at that meeting, there was a series of  
13 people, professors who were filing complaints and it would  
14 have been, I believe, Lyn Cantor, and myself, Dave Bell.

15 Q Can I interrupt you on this? I think you're  
16 talking about the first barring notice, aren't you?

17 A Perhaps we could clarify.

18 Q Do you know which, that there, do you know that  
19 there was two barring notices under which I was barred from  
20 the campus?

21 A If we could just clarify them so that we're on  
22 the same page. So you're saying the first barring notice  
23 was, occurred --

24 Q We're not talking about me being kicked out  
25 of the program, which you had a major part in too.  
26 We're talking about me being physically barred from the  
27 campus.

28 A Okay.

29 Q And you're aware that there were two occasions on  
30 which I was barred from the campus?

31 A I think roughly I'm aware of. I really don't  
32 know a whole lot about the barring or the trespassing  
33 incidents. If there's any, I mean, I can answer anything  
34 that you want me to answer about what I filed or what I

1 said. I don't have a problem with that, but ...

2 Q I'm just wondering if you know that I was barred  
3 twice from the campus, like, literally barred from the  
4 campus twice?

5 A Well, I believe there was a first barring notice  
6 after you were removed from the classroom.

7 Q Okay.

8 A Okay.

9 Q And do you remember what, did you have an opinion  
10 of what the cause of that barring notice was?

11 A What the cause of that barring notice?

12 Q Yeah, do you know what --

13 A I presume that it had to do with the complaints  
14 that were given by, I'm not sure entirely of the number,  
15 four or five complaints that were addressed on a  
16 non-academic matter --

17 Q Okay.

18 A -- of disruptive and aggressive kind of behaviour  
19 in the classroom.

20 Q You think that's why, that's your opinion as to  
21 why I was barred?

22 A That's --

23 THE COURT: That's the first time, right? It's  
24 not --

25 THE WITNESS: Pardon me?

26 THE COURT: And we're talking about the first  
27 time?

28 THE WITNESS: Yes.

29

30 BY MR. GREEN:

31 Q Was one of those, were any of those complaints  
32 from you?

33 A Yes.

34 Q Yes. Some of them?

1 A Yes.

2 Q Some of them were your complaints?

3 A Well, not some of them, one of them was.

4 Q One of them, which complaint was that?

5 A Well, there was an academic complaint of,  
6 non-academic, sorry, complaint.

7 Q And what was the substance of that complaint  
8 which you made?

9 A I made, gave several examples of disruptive and  
10 aggressive behaviour in the classroom that I was concerned  
11 with.

12 Q Do you remember what any of those examples were?  
13 I think they're on paper. I have your --

14 A Yeah, and I don't think they're, I mean, I  
15 don't --

16 Q Are you talking about, are you talking about the  
17 ones in this letter, which, you know which letter it was,  
18 I'll just show it to you. I'm just wondering if there was  
19 others beyond, I'm going to show you a letter, and the ones  
20 you're talking about now are the ones that were, and I'm  
21 going to ask you if there were others that you complained  
22 of. You remember writing this letter?

23 A I do.

24 Q Yeah, you on the page, flip over the page?

25 A I don't recognize what this is.

26 Q Well, this is just a scrap paper. Please, that's  
27 not part of that. This is it. This is irrelevant to,  
28 would you stop looking at it. It's just scrap paper. I'm  
29 not, it's not part of it.

30 A I think it's inappropriate actually.

31 MR. GREEN: Well, Your Honour --

32 THE WITNESS: Like, there's material on the back  
33 of this that I had nothing to do with.

34

1 BY MR. GREEN:

2 Q That's right. This, I'm saying this isn't yours.  
3 I printed it on scrap paper.

4 THE COURT: Yeah, he's not showing you anything  
5 that's been filed as an exhibit. He's just trying to, I  
6 think, have you identify a letter. So these are his own  
7 documents.

8 THE WITNESS: Um-hum, but there's writing on the  
9 back of this that has nothing to do with my letter.

10 THE COURT: Yes. And Mr. Green's saying that  
11 he's printed this off, like, on his own scrap paper, that's  
12 why there's irrelevant material on the back, but that  
13 document that you're looking at is not yet an exhibit  
14 before the court, so you shouldn't think that there's an  
15 exhibit before the court where I've read or know anything  
16 about what's on the back. He's saying it's scrap paper.

17 THE WITNESS: I find it disconcerting, though,  
18 what it says.

19 THE COURT: Oh.

20 THE WITNESS: Did you want me to read it?

21 THE COURT: Mr. Green?

22 MR. GREEN: If you're interested, yeah. I don't  
23 care. It's scrap paper that came from, from the scrap  
24 pile. If he thinks it's important to read it, let him. I  
25 thought he wanted to get to Regina this afternoon, but it  
26 doesn't look like he's going to make it at this rate.

27 THE COURT: Okay. Just perhaps, just ignore what  
28 you've read, and you can just tell me what you've read that  
29 you found disconcerting?

30 THE WITNESS: Well, there's a reference to Hitler  
31 and suicide among young officers.

32 THE COURT: All right.

33 THE WITNESS: This part of the page, I did write.  
34 Okay.

1           MR. GREEN: Well, I'll take that back, if that's  
2 all right.

3

4 BY MR. GREEN:

5           Q     So where were we? You said that you believed  
6 that the first barring notice was related to the  
7 non-academic misconduct complaints of which several other  
8 professors made, and you were one of the complainants who  
9 made a complaint?

10          A     I was one of the complainants, yes.

11          Q     And this is, I want to say the complaint you  
12 made, is this the complaint, or were there other complaints  
13 that you also made?

14          A     No, that's the complaint.

15          Q     That's the complaint.

16                THE COURT: Is there a date on that letter that  
17 you just showed him?

18                MR. GREEN: Yeah, it's, it's --

19                THE WITNESS: November the 10th.

20                MR. GREEN: 10th or 11th, it's, it looks, yes,  
21 10th.

22                THE COURT: Of what year?

23                MR. GREEN: Of 2011. The complaint.

24

25 BY MR. GREEN:

26           Q     You believe that's the complaint on which my  
27 expulsion from the campus was based?

28           A     I can't make that judgment because --

29           Q     No, no, that is the, the only complaint which you  
30 were involved in and --

31           A     That was the only complaint which I --

32           Q     Okay.

33           A     -- filed, written in a written formal matter.

34           Q     Okay. Did you make other verbal complaints about

1 me that you think might have influenced me getting kicked  
2 out?

3 A I don't know about the influencing in getting you  
4 kicked out. I, again, I can't answer that, but I made  
5 other complaints with respect to the series of e-mails that  
6 you continually sent after your expulsion demanding that I  
7 mark an incomplete assignment that you made that you --

8 Q If those complaints were made after the  
9 expulsion, then they wouldn't have influenced the first  
10 expulsion, they might have influenced the second expulsion  
11 or the second barring notice?

12 A They were made after the first one, that's true.

13 Q So they didn't influence the first barring  
14 notice. They might have influenced the second barring  
15 notice?

16 A Yeah, I, yeah.

17 Q But this letter was the only letter that you  
18 wrote that would have influenced the first barring notice?

19 A That's the only formal letter that I wrote.

20 Q Were there any informal letters that you wrote?

21 A Before that? Well, no. I mean, that was  
22 November 10th, correct?

23 Q Yeah.

24 A No.

25 Q Before that or subsequent, but prior to the  
26 barring notice, this was it?

27 A Subsequent and prior to the barring notice,  
28 nothing that I can recollect.

29 Q Okay.

30 MR. GREEN: Your Honour, I'm going to refresh his  
31 memory then.

32 THE COURT: Okay.

33 MR. GREEN: If that's right.

34 THE COURT: Yes, you can show him.



1 BY MR. GREEN:

2 Q While I'm looking through my papers, maybe you'll  
3 remember on your own. I'll find it.

4 A Well, I'll try, but there is confusion with  
5 respect to the length that this has gone on and the number  
6 of --

7 Q That's what we're here for to straighten --

8 A -- you know, first bar, second bar.

9 Q -- out the confusion.

10 A Exactly, and I agree with that, so if you have  
11 something to refresh my memory, I'll welcome it.

12 Q No, I have stuff in piles, so it's in the pile.  
13 It's in this pile.

14 A So we would be talking up to January --

15 Q 11th.

16 A 2012.

17 Q 2012, that's right. Maybe it's here.

18 A Okay.

19 THE COURT: And the charges before the court are  
20 February 7th, 2013. So I expect that will --

21 THE WITNESS: Up to February the 7th, so that  
22 was --

23

24 BY MR. GREEN:

25 Q This is when I was still a student we're talking  
26 about.

27 A Well, there's, there's a discrepancy in dates  
28 there that I'm confused with. Okay. So Mr. Green left my  
29 class on January the 11th.

30 Q 2012?

31 A 2012. Okay. And if you're talking about  
32 following that class, I certainly did complain about the  
33 way he left the class.

34 Q Oh, you did complain, okay. What did you

1 complain about the way I left the class?

2 A Well, on the last day that you were in class that  
3 Colin Russell came down to the class with some security,  
4 and they had your, I don't, I don't know what they had,  
5 they didn't show it to me, but I guess I presume it's the  
6 barring notice.

7 Q Um-hum.

8 A And as I was walking into the classroom, you had  
9 left, you were outside of the classroom with Colin Russell  
10 and the security and I was walking into the classroom from  
11 the back door in order to start the class, and you, like,  
12 barged into the classroom and was waving a paper around,  
13 and then turned and gave a throat slash sign and then  
14 immediately left the classroom. So I was very concerned  
15 about the gesture that was made and the meaning of that  
16 gesture, and I don't recall exactly when in terms of dates,  
17 but I certainly believe --

18 Q That was the 11th. Sure, that was the 11th.

19 A That was the 11th.

20 Q Yeah, sure.

21 A But no, in terms of giving as we're talking about  
22 an informal complaint, I don't recall exactly what day.

23 Q But you say you did complain about this?

24 A About that gesture?

25 Q Yeah, you did, did you complain about it?

26 A I believe I did. I mean, I'd have to go back and  
27 check exactly some, my e-mails and see who I sent it to but  
28 I have no problem with --

29 Q You don't remember who you complained to?

30 A It could have been our administration, it could  
31 have been McCluskey, Anchan, it could have been Colin  
32 Russell, it could have been --

33 A Anybody. It could have been anybody.

34 Q It could have been the vice president at that

1 time, John Cortlit (phonetic), I don't exactly remember  
2 who, but I don't have a problem if that's an issue of  
3 finding that information exactly.

4 Q Could you, could we ask him to find what he said  
5 if it was an e-mail? Do you think it might have been an  
6 e-mail?

7 A That would be the only way it would have been.

8 Q Would have been an e-mail?

9 A It would have been an e-mail.

10 MR. GREEN: Can we ask him to produce it because  
11 this is, I think, pretty important here?

12 THE COURT: And how is it relevant to these  
13 proceedings?

14 MR. GREEN: Well --

15 THE COURT: I mean, he's here. He was the  
16 witness. He's telling you that he complained about it,  
17 like --

18 MR. GREEN: I'd like to see if he really did.  
19 I'm not quite sure I believe that he did. He says he did.  
20 I'm not sure I believe it. I'm going to question the  
21 credibility of his, his account of it and because  
22 everything has gotten rolled in as Martin Grainger says  
23 that the second barring notice, which is the one I went to  
24 jail for, the second barring notice was a cumulative result  
25 of the accusations starting from the first barring notice,  
26 and this is, you know, of the things that he says I was  
27 accused of, you see, of the five letters that got me kicked  
28 out, which he talked about. One of them was Mrs. Cantor's  
29 letter, and we heard her this morning and I think you  
30 understand the credibility issues I have with the  
31 complaints she made, and yet, Mr. Metz's recollection was  
32 that the reason for the barring notice was those five  
33 letters including his and Mr., Mrs. Cantor's which I don't  
34 want to get into all of them because it's just too much for

1 this case.

2 THE WITNESS: But I didn't say that that was my  
3 recollection, okay. I mean, you just didn't, in terms of  
4 what we're talking about here, you're asking if that's my  
5 opinion, and I really don't know the motivation and who  
6 made the barring order and what went on with respect.  
7 That's really not my jurisdiction in terms, I have a  
8 complaint, there's a process that I file and that's what I  
9 did, okay. So I made a, what's called a non-academic  
10 misconduct complaint that goes to the registrar, okay.

11 THE COURT: And that's the letter that you --

12 THE WITNESS: That's the letter that is there,  
13 okay. And I stand behind what I wrote in that letter. The  
14 administration of that really is nothing to do with me. I  
15 really, I mean, beyond the letter, no one really asked me  
16 if I think that this merits a barring order or whatever. I  
17 mean, if you want my opinion, I mean, I don't, I think  
18 it's --

19 THE COURT: I guess we're going back to, so you  
20 think after the, Mr. Green was removed from your class on  
21 January 11th, 2012, you think you would have sent an e-mail  
22 complaining about his conduct to someone or the --

23 THE WITNESS: I think, certainly, yes, I think  
24 so. Now, if that's in an e-mail, certainly I can go back  
25 and look for that, okay. And it, I mean, there was, I was  
26 very disconcerted with the gesture and the actions at that  
27 point in time.

28 THE COURT: Mr. Grieves, do you have a position  
29 with respect to Mr. Green's application? I guess it's  
30 really a disclosure motion to have Professor Metz search  
31 for this e-mail and then provide it?

32 MR. GRIEVES: Well, I mean, Professor Metz is  
33 not, at this point, I guess, sure if it was in e-mail form.  
34 I mean what, I have no concern, I mean, I have no problem

1 with him searching for it, I mean.

2 MR. GREEN: I'd like to get that.

3 MR. GRIEVES: But if there are other, if there  
4 was a witness that, I believe Mr. Rarick who was present at  
5 the time when the incident occurred.

6 THE WITNESS: Mister?

7 THE COURT: Rarick.

8 MR. GRIEVES: Rarick was the security officer.

9 THE WITNESS: Oh, security officer, sorry, I  
10 don't know the names of the security officer. Mr. Russell  
11 was there, certainly.

12 THE COURT: All right.

13 MR. GREEN: I don't think Mr. Rarick testified to  
14 seeing such a gesture.

15 THE COURT: Yes, I don't recall that either,  
16 but ...

17 THE WITNESS: I don't recall, I mean, I think I  
18 recall the incident quite clearly and I don't recall any  
19 security person following Mr. Green into the classroom, but  
20 certainly Mr. Russell was there and myself.

21 THE COURT: All right. Professor Metz, I'm going  
22 to ask that you search for that e-mail with respect to any  
23 informal complaints or any complaint, and it's sort of  
24 worded generally, about what you saw on that day.

25 THE WITNESS: Okay.

26 MR. GREEN: Thank you, Your Honour.

27 THE COURT: And we're going to see how long we go  
28 and then we'll talk about how and when that might be able  
29 to be done.

30

31 BY MR. GREEN:

32 Q You very disconcerted by the incident, did you  
33 discuss it with anyone at the time verbally?

34 A At the time with Colin Russell.

1 Q You did discuss it with Colin Russell?

2 A Well, we didn't discuss it. Colin turned to me  
3 and said: Did you see that?

4 Q Okay.

5 A And then he left the classroom and dealt with,  
6 with you in security. I don't know what happened at that,  
7 and Colin Russell returned afterwards and I'm not sure, I  
8 probably asked him about the gesture or he said something  
9 about it, and then he said, he asked you about it, and that  
10 you indicated that it was a personal communication.

11 Q I'm going to go over your testimony here because  
12 you said, you said Colin Russell said to you: Did you see  
13 that? And what did you answer him? Did you answer him?

14 A I don't think I did answer him.

15 Q Oh, why wouldn't you answer him?

16 A Because I was walking into the classroom and  
17 everything happened within a few seconds.

18 Q Well, I'm going to ask you the question Colin  
19 asked you, you did not answer. I'm going to ask you what  
20 Colin asked you, and you didn't answer it at the time, but  
21 I'm going to ask you now, did you see that?

22 A Yes, I did.

23 Q But you didn't tell that to Colin?

24 A We were passing, so Colin was following you out  
25 of the classroom and I was coming to, to be with the  
26 students.

27 Q But if you were coming into the classroom, and  
28 you weren't there yet, and the doorway is here, the hallway  
29 is this way, how would you have seen it if you weren't in  
30 the classroom? The doorway is this way, the classroom, how  
31 would you have seen it?

32 A I'm not sure what you're trying to describe  
33 there.

34 Q Well, you were outside the classroom?

1 A No.

2 Q You were walking, you were in motion and you --

3 A There was --

4 Q -- were passing Colin who was outside, I'm just  
5 wondering how you saw it?

6 A No, there's two, there's two entries, entrances  
7 to the classroom.

8 Q Oh, from your office area?

9 A That's right.

10 Q Fair enough.

11 A So ...

12 Q But then you wouldn't have passed Colin if you  
13 came in from your office area, you wouldn't have passed  
14 Colin? I could draw a picture, but I don't know how --

15 A It might help, but I mean, the doors are like  
16 this, Colin, you came in like this followed by Colin, and I  
17 walked in the classroom at that point in time, and then you  
18 immediately left, Colin just turned and followed you.

19 Q While you were disturbed by the gesture, did you,  
20 did you understand the meaning of the gesture?

21 A Well, I, I understand the universal meaning of a  
22 throat slash.

23 Q And tell us what it is?

24 THE COURT: Sorry, what does it mean to you?

25 THE WITNESS: To me, it means you're dead. I'm  
26 going to get you.

27

28 BY MR. GREEN:

29 Q Okay. And so that's what you understood it to  
30 mean, it means you are dead, I'm going to get you?

31 A That's correct.

32 Q I'm going to ask you who is dead? Who was that  
33 being directed at?

34 A I, I don't know, the only people in the classroom

1 were myself and the students and Colin, so ...

2 Q So it wasn't directed at you?

3 A I don't know if it was directed at me. There was  
4 a choice between myself and the students I think.

5 Q Um-hum. Huh. You ever worked on a construction  
6 site, Professor Metz?

7 A I don't see why that is relevant.

8 Q Answer the question if you could.

9 A Well, yes, but perhaps not in the --

10 Q Do you know what this means on a construction  
11 site?

12 A No, I have no idea.

13 MR. GREEN: I'm going to tell the court it means  
14 cut the engine.

15 THE COURT: I think he's asking, did you know  
16 that that's what it means on a construction site?

17 THE WITNESS: No, no.

18 THE COURT: Cut the engine?

19 THE WITNESS: No, I don't.

20

21 BY MR. GREEN:

22 Q Did Colin know what it meant? Did Colin  
23 understand what the gesture meant?

24 A He never indicated to me his interpretation of  
25 that.

26 Q But you testified that he asked me what the, what  
27 the gesture meant?

28 A No, he --

29 Q I think you said --

30 MR. GRIEVES: Did you see that is what --

31 THE WITNESS: He asked me if I --

32 THE COURT: He said, did you see that.

33 THE WITNESS: He asked me if I saw it.

34



1 BY MR. GREEN:

2 Q Oh. Huh. So between you and Colin, you didn't  
3 have any discussion as to what the gesture meant?

4 A No, I mean, we exchanged barely a few, a few  
5 words. I had a class to start, and he had to deal with the  
6 security issue.

7 Q All right. Did you see my facial expression,  
8 when I was making the gesture?

9 A Did I see your facial expression?

10 Q Yeah, when I was making the gesture?

11 A No, not really. You were towards the farther,  
12 further end of the classroom?

13 Q Was my back to you or my front to you?

14 A You were, like, in a side profile at that time.

15 Q Was I looking at you?

16 A Not that I was aware of.

17 Q Do you think you would have been aware of it if I  
18 had gone like this? Would you have remembered if I had  
19 gone like this?

20 A If you went, the way you're doing it right now  
21 looking at me directly?

22 Q Yeah, would you have remembered that?

23 A I think might.

24 Q Okay. But you don't recall it being that way?  
25 In fact, you recall that I wasn't looking at you, would you  
26 say I was not looking at you when I made the gesture?

27 A I was not aware that you were looking at me.

28 Q But you're pretty sure it was a death threat?

29 A That's, that was my interpretation.

30 Q 100 percent sure, that was your interpretation?

31 A Absolutely, that was my interpretation.

32 Q 100 percent sure. And yet you didn't complain to  
33 anyone, you vaguely remember that you might have complained  
34 about it, and you didn't especially think that had anything

1 to do with me getting kicked out of school. I'll tell you,  
2 I'll tell you what you think did get me kicked out of  
3 school, it was those letters where I, when I asked the ASL  
4 interpreter what's the sign for a truck driver, he said  
5 that's why they kicked you out of school in his opinion it  
6 was because of that, it wasn't because I was threatening  
7 people with death, they didn't kick me out for that?

8 A I don't know why --

9 Q You see --

10 A What the reasons were for the expulsion. Again,  
11 I don't make those decisions and I was not party to those  
12 deliberations.

13 Q And, but you see when I was asking you before,  
14 why do you think I was kicked out of school, you said you  
15 believed it was because of the five complaints of  
16 non-academic of which one of them was yours, which I showed  
17 you was in the letter which had nothing to do with a death  
18 threat?

19 A Well, I think --

20 Q That's what you said?

21 A I also think that there was a whole series of  
22 events. I mean, you haven't brought up the fact that you  
23 were kicked out of your practicum.

24 Q No, I haven't.

25 A And I suspect that, you know, perhaps many of  
26 those other events came in to play.

27 MR. GREEN: Your Honour, if he's bringing that  
28 up, I'm going to have to call witnesses from my practicum.  
29 I'm trying to confine this. You know, I'm not, I'm not  
30 trying to go farther afield, but I just want these sort of  
31 random allegations drawn from here and there to have the  
32 credibility they deserve.

33 THE WITNESS: But --

34 MR. GREEN: I'm going to count on you for that

1 because I'm trying to confine it, you know, to keep us, you  
2 know, within --

3 THE WITNESS: But I think if --

4 MR. GREEN: You know, they're pulling stuff here  
5 from right and left and when I get him on specifics, it's  
6 like, well, I don't remember this, it might have meant  
7 that, you know. I can't, if he's going to pull stuff from  
8 right and left, I'm going to have to call another dozen  
9 witnesses, I just, you know.

10 THE WITNESS: But he's just asking me for  
11 opinions.

12 MR. GREEN: Okay.

13 THE WITNESS: I never made the decision for the  
14 expulsion. I had nothing to do with that process, so I  
15 think the questions would be more appropriately asked to  
16 the person who actually made that decision what were their  
17 reasons for making that decision, and they could, I presume  
18 they can provide you with the exact reasons that you wish.

19 MR. GREEN: Well, I have been asking -

20 THE WITNESS: You're just asking me what I think,  
21 and so --

22

23 BY MR. GREEN:

24 Q Yeah, I've been asking the people who made those  
25 decisions and they told me the decision was made because  
26 Professor Metz was afraid of, so they pretty much counted  
27 on you for, for the reason for making the decision, so I  
28 think you had something to do with it?

29 A Well, I've never seen --

30 Q And you were afraid of me because of the death  
31 throat?

32 A I've never seen a decision that was rendered in  
33 any form that said that.

34 Q Okay. Well, we have testimony that you haven't

1 seen, you haven't been here, but that's all right. That's  
2 all right. We're going to say, here you are professor,  
3 who's concerned about your safety, he was concerned about  
4 the safety of his students in the class, he'd just seen a  
5 guy make a death threat, make a death threat to some  
6 student in his class because it wasn't to you, but it was  
7 to one of your students, what steps did you take to protect  
8 that student?

9 A Well, the steps were already being taken.

10 Q Which were?

11 A The student, the student was being escorted by  
12 security.

13 Q Which student, the student that needed  
14 protection?

15 A No, you were being --

16 Q Me?

17 A Yes.

18 Q What about the student that needed protection,  
19 the student who was the target of the death threat, what  
20 did you do to protect him?

21 A Well, what we did was we, we tried to go into, I  
22 tried to go into a lock down situation and that was  
23 impossible.

24 Q What do you mean you tried to go into a lock down  
25 situation?

26 A We tried to lock the doors.

27 Q When? When did you try to lock the doors?

28 A After you left with security.

29 Q Oh, you tried to lock the doors?

30 A Yes.

31 Q Okay. And why didn't that work?

32 A They were not set up to be locked. And so I made  
33 a request following that that the doors be adjusted so that  
34 they could be locked from the inside?

1 Q A written request by e-mail?

2 A Must have been, yes.

3 Q Yeah, maybe that'll be in the e-mail that you're  
4 going to, you're going to produce to the court, and we can  
5 understand that that's included in the e-mails that you're  
6 going to be producing for us?

7 A Yeah, if I can find it, I don't have a problem  
8 with it.

9 Q And was any action taken, did you get your door  
10 locks?

11 A Yes.

12 Q Oh, you did?

13 A Yes, the locks were, were adjusted so that they  
14 could be locked from the inside.

15 Q Did you, did you determine which student was the  
16 target of my death threats?

17 A I had no idea. It wasn't --

18 Q What efforts did you make to determine which  
19 student was the target of my death threats?

20 A I didn't, the students didn't suggest that any  
21 individual student was a target, so the matter was left  
22 with respect to discussing it further with the students  
23 and --

24 Q You didn't, so you had no further discussions  
25 with the students?

26 A No.

27 Q So you took no measure to protect the students  
28 who had been threatened with death?

29 A No, we did, following that --

30 Q Well, you put locks on the door, yes.

31 A Yes, and following that, security was in  
32 attendance at every class.

33 Q Was it, okay. That was in the, in the spring  
34 term of the year I was kicked out?

1 A That's true.

2 Q Okay. All right. Did not know that. And were  
3 the students told the reason for security?

4 A The students, I think, knew the reasons for  
5 security.

6 Q Namely because I was a danger to them is that  
7 what they would have known as the reason?

8 A Well, the students never explicitly stated  
9 anything like that to me, but they certainly were there and  
10 knew what happened with respect to the incident.

11 Q Did any of them come forward and complain about  
12 the death threat?

13 A No.

14 Q Now, once they left your classroom, they were  
15 fair game, like, I could have picked them off one by one?  
16 As long, as soon as they walked out the door, I could have  
17 picked them off one by one; is that right? What measures  
18 were taken to protect them once they left the classroom?

19 A Well, I, I guess the barring notice was the  
20 measures.

21 Q In other words --

22 A Security was increased in the building.

23 Q So you told, effectively you're telling the  
24 students in the classroom you're safe because we've got  
25 security, once you go outside the classroom, you're safe  
26 because if he tries to come on campus, he's going to get a  
27 ticket for \$169, so you've got nothing to worry about?

28 A Well, I'm, well, I'm not saying, I'm not telling  
29 students anything like that.

30 Q You're not telling them, but the university, I  
31 mean, if, if the barring notice is protecting their lives,  
32 then, then what it's saying is that the threat of \$169  
33 citation for trespassing should be enough to dissuade me  
34 from killing them as was my expressed desire, that's your

1 understanding of the protective measures in place?

2 A Well, it seems like your opinion, so ...

3 Q Yeah. Logically I don't know how you could  
4 understand anything else, you were 100 percent sure that  
5 I'd made a death threat, you had brought locks and security  
6 into your classroom, but once they left the classroom,  
7 you'd say, ah, if he tries to kill anyone, we'll give him a  
8 trespassing ticket, so that was enough, you didn't make any  
9 further complaints --

10 THE COURT: Mr. Green, I'm going to ask you to  
11 re-focus because I don't think this is helpful.

12 MR. GREEN: Sorry. Okay. Okay. I'll pour a  
13 little water then.

14

15 BY MR. GREEN:

16 Q Let's see if there wasn't one more incident which  
17 I can refresh your memory on. I just might not have the  
18 document here, there's a lot of paper work, and I don't  
19 think I have the letter for, the report by Colin Russel  
20 where I was, where I was, I was looking for it and I'm not  
21 sure it's in this pile. You know, the registrar wrote a  
22 report on January 20th telling me why I should be kicked  
23 off the campus, and he said that on January 10th, he got an  
24 e-mail from you that I had sort of disrupted your class,  
25 been disruptive and threatening. Do you recall sending an  
26 e-mail the day before, the day before the throat slashing  
27 incident?

28 A I believe I did.

29 Q So this is, you forgot it before, but now you're  
30 remembering it now. Okay. The letter of January 10th, do  
31 you remember what you said in that letter?

32 A In that letter, it was a reference to an incident  
33 in the previous class.

34 Q Would have been the Monday class?

1 A I believe so.

2 Q And what, what was the nature of that incident?

3 A In that instance, you interrupted the class to,  
4 to take over and demonstrate I believe a derivation of an  
5 equation that I had discussed in a lecture that I was  
6 doing, but that I did not want to spend any time on going  
7 through any details with that. After a short period of  
8 time, I asked you politely to sit down. And then following  
9 that, you --

10 Q Did I sit down?

11 A No.

12 Q Oh, I didn't.

13 A Following that, you rushed across the classroom  
14 to where I was giving the lecture and yelled at me that I  
15 had no respect for you and no respect for the contribution  
16 that you could make in that class.

17 Q I yelled at you?

18 A Yes.

19 Q Okay.

20 A And then you returned to continue to do the work  
21 that you intended to do on the classroom, on the board,  
22 rather, sorry, and I asked you once again politely if you  
23 could please sit down, that I'd like to continue the class.  
24 You repeated exactly the same, you rushed across the  
25 classroom to me, you yelled at me the same thing that I had  
26 no respect for you and that I had no respect for the  
27 contribution that you could make in that classroom. I  
28 asked you a third time if you would please sit down and  
29 could we deal with this matter later on.

30 Q And you sent an e-mail to who about this?

31 A I would have to check to be entirely certain, but  
32 it may have been John Cortlit.

33 Q Possibly Colin Russell or --

34 A I mean it could --



1 Q Could you find that e-mail or could you --

2 A I could, I think so, I think I could, yeah.

3 Q I'm going to ask him to include it since he's  
4 already including complaints in.

5 A I mean, I just, I don't believe it was Colin  
6 Russell, but I mean --

7 Q Yeah. Do you believe that e-mail had any  
8 influence on the decision to bar me from the campus?

9 A I don't know what, what influence it had.

10 Q Okay. You never read the registrar's report  
11 justifying when I was barred, you never read that?

12 A The one that you just referred to on January the  
13 20th?

14 Q Yeah, that I don't have with me, the Colin  
15 Russell?

16 A Yeah, I don't believe I've ever seen it.

17 Q Oh, you never seen it.

18 THE COURT: Is that January 20th, 2012?

19 MR. GREEN: 23rd, yeah, 2012, yeah.

20 THE WITNESS: Yeah.

21 MR. GREEN: 2012, yes, yes.

22 THE WITNESS: No, I don't --

23 MR. GREEN: I have one at home, just not in  
24 my piles.

25 THE WITNESS: Yeah, and I don't believe I've ever  
26 seen that.

27

28 BY MR. GREEN:

29 Q It sounds like your complaints were pretty  
30 influential in getting me barred from the campus for the  
31 first time. Now, let's just see if I've --

32 A And can I just ask something for clarity, because  
33 you, you just talked about getting you barred from campus  
34 for the first time, but the matter, the criminal matter

1 that we're dealing with here is getting barred from the  
2 campus the second time?

3 THE COURT: Yeah.

4

5 BY MR. GREEN:

6 Q That's right, or associated with the second  
7 barring. So let me, let's move forward to that. Well,  
8 let's just see what you said here. I have a statement from  
9 you that you made to, when you went to the Provincial Court  
10 on the 18th of January to try and get a barring notice  
11 against me, you said:

12

13 In summary, Mr. Green has  
14 demonstrated repeated aggressive  
15 behaviour to me in my classes,  
16 including a throat slash gesture  
17 in his final class.

18

19 A Yeah, again, just a matter of clarity, is it,  
20 that was for a protection order --

21 Q Yeah.

22 A Not a --

23 Q Do you, you recall, right?

24 A Not a barring order, yes, I do.

25 Q You recall that?

26 A Yeah.

27 Q Now, it says here:

28

29 Has demonstrated repeated  
30 aggressive behaviour to me in my  
31 classes, including a throat slash  
32 gesture.

33

34 Do you mean here that the throat slash gesture was directed

1 to you or that it was just a random gesture directed to  
2 someone else because it sounds like a throat slash gesture  
3 was directed to you the way you've said it here?

4 A I think that the, it's intended to say possibly.

5 Q Oh.

6 A Okay. Just the same as our discussions that we  
7 had here previously.

8 Q But you're saying here that I wasn't looking at  
9 you when I made a gesture?

10 A That I was not aware that you were looking at me.

11 Q And that you didn't see my face, or no, you said  
12 you saw it from the side?

13 A From the side, yeah.

14 Q Do you recall my expression being angry and  
15 visibly sort of severe?

16 A Well, there was, like, a, to me, there was a  
17 visible, like, shaking, you were shaking a paper above your  
18 head, and I really actually didn't know what that paper,  
19 paper was at that particular point in time. I kind of  
20 presumed it had something to do with what was going on  
21 outside the hall and with security, and so there was some  
22 shaking going on, and then you turned and rushed out of the  
23 classroom.

24 Q I'm always rushing with you people, I'm always  
25 rushing this way. I never just walk somewhere. All right.  
26 I'm going to have to move forward then. Now, in between  
27 the first barring order and the second barring order, was  
28 there ongoing behaviour on my part that made you fear for  
29 your safety?

30 A Can you give me the dates?

31 Q Between the first barring order was the 2012,  
32 January 11 --

33 THE COURT: January 2000 --

34

1 BY MR. GREEN:

2 Q -- was the date of the throat slashing gesture,  
3 between the throat slashing and the home invasion, between  
4 those two events, was there, you know what I mean when I  
5 say the home invasion? Do you know what I'm talking about  
6 when I say the home invasion?

7 A Well, I presume that you're talking about your  
8 attendance at the Bush's residence.

9 Q Did you ever call it a home invasion?

10 A No, I never.

11 Q Huh. Well, I'm going to just refresh your memory  
12 again.

13 A Well, you don't have to refresh my memory because  
14 I remember the exact words.

15 Q Apparently I do, apparently I do.

16 A Well, the words there say attempted home  
17 invasion.

18 Q Attempted home invasion, okay.

19 A There's a big difference.

20 Q Big difference, attempted home invasion?

21 A Yes.

22 Q Okay. Big difference. You've got a memory like  
23 an elephant, I have to admit on that point. Between the  
24 throat slashing gesture, the death threat and the attempted  
25 home invasion, was there a further disturbing behaviour on  
26 my part that led you, fear for your safety and student's  
27 safety that you complained to administration, is there  
28 anything else in between those two?

29 A Okay. Let me, but sorry, could you repeat  
30 from --

31 Q Yeah, between those two end points?

32 A From the, from the time you left the classroom.

33 Q Between the throat slash and the home invasion?

34 A Which was?

1 THE COURT: January of 2013.

2 THE WITNESS: Of the, for the following year?

3 THE COURT: Yeah.

4 THE WITNESS: Okay. So ...

5

6 BY MR. GREEN:

7 Q I think everyone in the courtroom knows which two  
8 events I'm talking about.

9 A Yeah.

10 Q With a possible exception of the witness, but  
11 between those two events was there other aggressive  
12 disturbing behaviour on my part that led you fear for your  
13 safety or whatever?

14 A There was a series of e-mails that I received  
15 from yourself with respect to demanding that I grade an  
16 incomplete assignment, and in those e-mails, you used a  
17 wide assortment of language suggesting, not suggesting,  
18 stating that if I did not comply, that you would act  
19 accordingly, you would proceed accordingly, you would  
20 enforce your rights.

21 Q And how did you interpret those words?

22 A I interpreted that as threatening language.

23 Q Okay. Threatening in the same way that the, that  
24 the throat slash was threatening, or more or less  
25 threatening than the throat slash?

26 A I think just threatening in general, that there  
27 was an accumulation of, of threats.

28 MR. GREEN: Okay. Your Honour, I guess I'm going  
29 to have enter the --

30

31 BY MR. GREEN:

32 Q Were these threats verbal, by phone, or was it  
33 all by e-mail?

34 A It was all by e-mail.

1 Q All by e-mail. Therefore, if I enter the e-mail  
2 record into evidence, I mean, that should be it, the total  
3 record of whatever the threats were, and the court can  
4 decide if, you know, based on the e-mail record if it was  
5 sort of threatening because there was nothing other than an  
6 e-mail, was there?

7 A There was the e-mails, it was the language that  
8 was used in the e-mail.

9 Q So whatever we read in the e-mail record, that  
10 will be, let the court decide if it was threatening or not?  
11 There was nothing else other than the e-mails?

12 A No, I stated that.

13 Q Fair enough. And then you got a phone call from  
14 Professor Bush and his phone call alarmed you, disturbed  
15 you a lot; is that right?

16 A It did.

17 Q It disturbed you, and what did he tell you?

18 A Mr. Bush told me that you had attended his  
19 residence.

20 Q Um-hum.

21 A And that he had initially received a phone call  
22 from you and he had told you that it was inappropriate to  
23 call him at home in this manner. And then he said a short  
24 while after, someone appeared at the door and his wife  
25 answered the door and that the individual tried to, pushed  
26 their way into the, past the door, forced their way, forced  
27 the door open and that --

28 Q Pushed their way, I mean, when you say pushed  
29 their way, that's what some people say when they don't want  
30 to say if it's male or female, did he say, did, did he put  
31 it in general, gender neutral terms that it was --

32 A Oh, he identified yourself. It was, that it  
33 was --

34 Q So he's saying that Marty tried to --

1 A That's correct, yes.

2 Q So you don't have to say the individual, you can  
3 say Marty --

4 A Okay. That Marty --

5 Q -- tried to push his way past the door?

6 A That's correct.

7 Q That's what he said?

8 A And that you pushed your arm in past the door,  
9 between the door and the door jam, with a piece of paper in  
10 your hand that you were waving around.

11 Q It seems like I like waving papers a lot. I  
12 don't just hold papers, I wave papers.

13 A I'm not really sure that all of this editorial --

14 Q Okay. Fair enough. It's all right.

15 A -- comment is relevant.

16 Q No, it's not relevant, you're right. You're  
17 quite right.

18 THE COURT: I agree with you, Professor Metz,  
19 but ...

20 MR. GREEN: Pushed your arm between --

21 THE COURT: Trying to give --

22 MR. GREEN: I got to make some notes here between  
23 the door and the jam.

24 THE COURT: -- him some leeway here.

25 MR. GREEN: And waving paper around.

26

27 BY MR. GREEN:

28 Q And go on?

29 A And that Heather had to push back on the door  
30 with considerable force.

31 Q To what, stop me from getting in?

32 A I presume to stop the door from opening and you  
33 getting in.

34 Q Did he say that or did you just presume that,

1 just push back with considerable force, do you recall those  
2 being his words and Heather had to push back with  
3 considerable force?

4 A I think those were very close to his words,  
5 exactly.

6 Q They sound like very measured calm words for  
7 describing a home invasion?

8 A Again, you asked me and I answered.

9 Q Okay. That's what it is. Fair enough. This is  
10 what, how you recall the phone conversation?

11 A Correct. And that he was concerned that, he  
12 didn't know why you were at the door and what you were  
13 waving in your hand, and he was concerned that you would be  
14 coming to my house.

15 Q Sounds like an attempted home invasion, tried to  
16 push his way past the door?

17 A That's what it sounded like.

18 Q And then what did you do?

19 A Mr. Bush also told me that the police had been  
20 called.

21 Q Yeah.

22 A And then I told him that I thought that the  
23 university should be notified, so I called the vice  
24 present, Neil Besner.

25 Q Was Neil Besner at home or at work or what?

26 A I don't know where he was.

27 Q How did you call him if you didn't know where he  
28 was?

29 A On his cellphone.

30 Q Did you have his cellphone number?

31 A I had to call someone else to get that number.

32 Q Who did you call to get his cellphone number?

33 A I called Ed Byard.

34 Q Called who, Ed?



1 A Ed Byard.

2 Q How do you spell that?

3 A B-Y-A-R-D.

4 Q And so you called Neil Besner on his cellphone --

5 A And I --

6 Q -- and what did you tell him?

7 A Well, I told him that either on that conversation  
8 or a later conversation the next day that what happened,  
9 what transpired, what I was told at the, happened at the  
10 Bush residence.

11 Q Did you use the phrase home invasion?

12 A I don't believe I used that phrase, no. And  
13 certainly, I might have communicated with him as well by  
14 e-mail, and I --

15 Q You did actually.

16 A I did, and I certainly didn't use that term.  
17 Certainly not to my recollection anyway.

18 Q But a few days later, you were using that term,  
19 weren't you?

20 A No, I never used that term.

21 Q I thought I just read it. I don't know if it was  
22 attempted home invasion, but within the context of --

23 A Yes, it was attempted. I think there is a great  
24 difference between the way he's representing --

25 Q There may be a small difference.

26 A -- my words and what I'm testifying to.

27 Q Did anyone else come up with, at that, attempted  
28 home invasion, did Professor Bush say that, or was it you  
29 that invented that phrase? Did anyone else come up with it  
30 first, or were you the source of that phrase?

31 A I, I don't recall anyone else coming up with that  
32 phrase. I believe it was my interpretation, and I believe  
33 it was used a single time.

34 Q Well, let's just see about that then. Since you

1 might have questioned it. Let's see what you told the  
2 judge when you went to court. Yeah, here we are, second,  
3 page 4, second paragraph:

4

5                   And then immediately following  
6                   that came the attempted home  
7                   invasion at Mr. Bush's house on  
8                   the exact same day, so the concern  
9                   I had came to fruition.

10

11 So you did use it more than once? Twice, I'm just --

12                   THE COURT: What are you --

13                   THE WITNESS: I'm not even sure what that  
14 document is.

15                   THE COURT: Yeah, what are you referring to? I  
16 don't know what it is.

17

18 BY MR. GREEN:

19                   Q This document is, you'll recognize it. You can  
20 tell the court what it is.

21                   A So this is the document for the protection order?

22                   Q Yeah, it's the transcript of your application for  
23 protection order.

24                   A Okay. I've never seen it.

25                   Q Oh, he's right. He probably hasn't seen it, but  
26 it's --

27                   A No, I've never seen it before. But it's a  
28 transcript, I mean.

29                   THE COURT: Okay.

30

31 BY MR. GREEN:

32                   Q It sounds like something you said? I mean, you,  
33 you're going to say, yeah, this is pretty much what you  
34 said then --

1           A     Well, I think it just re-enforces the fact that I  
2 called it an attempted home invasion.

3           Q     Well, it re-enforces the fact that contrary to  
4 your testimony, you did use the phrase more than once. You  
5 used it twice that I have on record.

6           THE COURT:   So were you able to see enough, this  
7 appears to be evidence that you gave to the court in, when  
8 you were seeking a protection order?

9           THE WITNESS:  That's correct.

10          THE COURT:   Okay.

11          THE WITNESS:  Yes, it does appear to be that.

12          THE COURT:   Okay.

13          MR. GRIEVES:  What was the date the protection  
14 order was applied for?

15          MR. GREEN:   It was the 18th of January.

16          THE COURT:   So that's the date of the transcript?

17          MR. GREEN:   Yes.

18          MR. GRIEVES:  What year was it, sorry?

19          MR. GREEN:   It's 2013.

20          THE COURT:   Sorry, January 18th, 2013?

21          MR. GREEN:   Yeah.

22          THE COURT:   Okay.     So perhaps just for my  
23 clarification then, you've also already shown him another  
24 document, which was a document that he prepared when  
25 seeking the protection order?

26          MR. GREEN:   Yeah.

27          THE COURT:   And --

28          MR. GREEN:   That was, this document was, that I  
29 quoted from before, was the one he submitted in writing to  
30 the judge, I think.

31          THE WITNESS:  Yeah.

32          MR. GREEN:   Yeah.

33          THE WITNESS:  So one was in writing and one was  
34 in verbally.

1 MR. GREEN: And this is the oral.

2 THE COURT: All right.

3 THE WITNESS: The same thing.

4 THE COURT: Did you submit both of those at the  
5 same time, so you submit their written document --

6 THE WITNESS: Yes.

7 THE COURT: -- detailing the reasons for your  
8 concern and then you also had --

9 THE WITNESS: And then they call you in and ask  
10 you several questions and you testify.

11 THE COURT: Okay.

12 THE WITNESS: So it's just basically describing  
13 what I wrote there to the judge or whoever it is.

14 THE COURT: Okay. Thank you.

15

16 BY MR. GREEN:

17 Q Well, I don't think there's much doubt that you  
18 considered it a home, or an attempted home invasion, I  
19 mean, you were pretty clear about that?

20 A Yes, certainly. At the time, that's the way I  
21 felt.

22 Q Do you still consider that's what it was?

23 A I think that's, I suppose, to be determined by  
24 the courts.

25 Q Well, this is the court, so. I'm going to read  
26 to you from an affidavit that you filed in connection with  
27 another matter. I'll show it to you and you can tell me  
28 if, I'm not sure that this is a signed copy, but you know  
29 that's an affidavit that you swore to in another matter.

30 A Okay.

31 THE COURT: Do you recognize that as an affidavit  
32 of --

33 THE WITNESS: Yeah, I think so, yeah.

34 THE COURT: Okay.

1                   THE WITNESS: Yeah. With respect to a lawsuit of  
2 Mr. Green against the Bushes.

3  
4 BY MR. GREEN:

5           Q     Okay.

6  
7                   On the evening of January 11th,  
8                   2013, I received a telephone call  
9                   from George. George advised me  
10                  that Martin had telephoned his  
11                  home earlier that evening. During  
12                  their telephone conversation,  
13                  George advised Martin that it was  
14                  inappropriate for him to be  
15                  contacting him at his home.  
16                  Subsequent to their telephone  
17                  conversation, Martin attended the  
18                  front door of George's home that  
19                  same evening.

20  
21 You see it's very close to what he just testified orally,  
22 as you would expect because we're going to understand that  
23 in preparing for this he would have sort of got his story  
24 straight?

25                  THE COURT: Well --

26                  MR. GREEN: I'm sorry for the commentary, Your  
27 Honour.

28  
29 BY MR. GREEN:

30           Q     I'm going to, I'll read it and then I'll, I'll  
31 get to my question, I have to read it in.

32  
33                   George's wife Heather answered the  
34 door. Martin did not advise

1 Heather of his purpose for  
2 attending the Bush's home. Martin  
3 attempted to give papers to  
4 Heather to give to George. Martin  
5 put his hand in between the door  
6 and the door frame while waving a  
7 paper towards Heather. Heather  
8 attempted to shut the door as  
9 Martin pushed back on the door to  
10 prevent it from closing.  
11 Ultimately, Heather was able to  
12 shut the door, and the Winnipeg  
13 Police had been contacted. The  
14 information stated in paragraph 6  
15 here and summarizes my entire  
16 telephone conversation with  
17 George.

18

19 I'm wondering if what you've described here you would  
20 characterize as a home invasion, what I've just read to  
21 you, attempted home invasion?

22 A From what I understand attempted home invasion to  
23 be, I would say, yes.

24 Q Okay. Now, in your testimony just now, you said,  
25 it was a little different, you said the individual, I said,  
26 do you mean, did George say the individual, you said no,  
27 you identified him by name, so George, and Marty trying to  
28 push his way past the front door. Now, in here, do you see  
29 anywhere where it says Marty tried to push his way past the  
30 front door. You read it and see if there's anything in  
31 there that indicates that Marty tried to push his way past  
32 the front door?

33 A Marty put his hand between the door and door  
34 frame, attempted to, Heather attempted to shut the door as

1 Martin pushed back.

2 Q Okay. But you don't say here, you say that she  
3 was pushing one way, and I was pushing back the other way,  
4 that she was attempting to shut the door, but you don't say  
5 here that I was trying to force my way in?

6 A What's the other option?

7 Q Perhaps that I was trying to stop my arm from  
8 being crushed in the door. Since my hand was in the door  
9 and she was closing it on my hand, maybe I was just trying  
10 to stop the door from closing on my hand, isn't that a  
11 reasonable interpretation of what you've written in your  
12 affidavit?

13 A So are you, you are affirming to me my testimony  
14 that your hand was in the --

15 Q Yes, yes.

16 A Okay.

17 Q Yes, my hand was in the door. Is that what you  
18 meant when you said I tried to push my way past the front  
19 door? Like, that my hand went like this, and the door was  
20 here and my hand was in the door, is that what you meant  
21 when you said I tried to push my way past the door?

22 A You'd have to repeat that, I'm sorry.

23 Q Okay.

24 A I think I just said what was the other option?  
25 If someone is pushing back and you're pushing the other way  
26 that they're trying to close the door, it means you're  
27 trying to open the door.

28 Q Well, I say maybe it just means I'm trying to  
29 protect my arm --

30 A Yeah, and that's what you're saying.

31 Q -- from being crushed; is that possible?

32 A Okay. And that's what you're saying --

33 Q Is that possible?

34 A -- which is your testimony.

1 Q So that is, but is that a reasonable  
2 interpretation of the testimony you've made here? Is my  
3 interpretation of, would you say, based on what you've  
4 written here, yes, it could be the way I was saying it that  
5 the door was closing on my hand so I just tried to stop it?

6 A Yeah.

7 Q Is that not a reasonable interpretation of what  
8 you've written here?

9 A Well, I think if it's your interpretation, you  
10 can testify to that.

11 MR. GRIEVES: It's also that the witness was not  
12 present at the time the incident occurred, so ...

13 THE COURT: Um-hum.

14 MR. GREEN: But he, he testified to court about  
15 what happened. He went applying for a protection order  
16 telling the judge this is what happened. I mean, he's  
17 swearing up and down that this is what happened, so ...

18 THE WITNESS: I don't know why I'm being asked to  
19 make a judgment as to whether or not his interpretation is  
20 reasonable.

21 MR. GREEN: Okay. I'll withdraw that.

22 THE COURT: We can probably save it for argument.

23 MR. GREEN: Okay.

24 THE COURT: It's fairly common technique in  
25 cross-examination to say is it possible that all he was  
26 trying to do is push back against the door so he could take  
27 his arm out from what you had been told.

28 THE WITNESS: And --

29

30 BY MR. GREEN:

31 Q But that's not what you testified that Professor  
32 Bush told you. Professor Bush told you, which you've  
33 testified, that I tried to push my way past the door,  
34 that's what Professor Bush told you, and that's what you



1 told Mr. Besner; isn't it?

2 A And that you were, and that's what I'm, yeah,  
3 that's what I'm saying, that you're, she's pushing --

4 Q But that's not what you testified to in your  
5 affidavit.

6 A She's pushing this way --

7 Q In your affidavit you took a step back?

8 A -- you're pushing that way.

9 Q In your affidavit, in your affidavit, you  
10 testified, you see in this one, in what you've testified  
11 here, I mean, what you told Mr. Besner, there's no  
12 interpretation about my intention. I was trying to get  
13 into the house, it was an attempted home invasion, there's  
14 no doubt about it, is there?

15 A I think that --

16 Q Is there?

17 A -- you're trying to push yourself past the door  
18 and in my --

19 Q It's not what you think, it's what Professor Bush  
20 told you.

21 A May I answer?

22 Q What did Professor Bush told you? Did he tell  
23 you that I tried to --

24 THE COURT: Let the --

25

26 BY MR. GREEN:

27 Q -- push him --

28 A I would like to --

29 THE COURT: Ask only one question and let the  
30 witness answer the question, please.

31 THE WITNESS: Yeah, and if you're asking me if I  
32 interpreted that as an attempted home invasion, the answer  
33 is yes.

34

1 BY MR. GREEN:

2 Q Because Professor Bush told you, I tried to push  
3 my way past the door?

4 A That either he told me that directly or he told  
5 me that you were, he was, there was a pushing back, and I  
6 interpreted it as that.

7 Q Well, then when you called Mr. Besner and you  
8 sent him an e-mail, you said I tried to force my way past  
9 the door, didn't you?

10 A Okay. And I'm, I'm willing to stand with that,  
11 my interpretation from what I understood.

12 Q But you weren't willing to stand by that when you  
13 swore this affidavit, when you had to put your name down  
14 and you knew you were going to be held accountable for it,  
15 you weren't willing to stand by that, were you?

16 A Well, I'm, you know --

17 Q You said it quite differently the second time  
18 around?

19 A I don't --

20 Q You said it so that there is, now there's another  
21 interpretation.

22 A I don't think there's any difference between what  
23 I'm saying now and what's in the affidavit.

24 Q Okay.

25 A I think there's just a twisting of words here.

26 Q Okay. I'm twisting your words. I'll accept that  
27 for now.

28 THE COURT: I think you're arguing with the  
29 witness, and it's not going to --

30 MR. GREEN: Okay.

31 THE COURT: -- advance your case.

32 MR. GREEN: Thank you, Your Honour.

33 THE COURT: You can make your arguments later to  
34 me.

1 BY MR. GREEN:

2 Q Well, I've got five general incidents of  
3 aggressive behaviour on my part. I don't know if I'd  
4 summarize this now, maybe I can do this later. I'm just  
5 going to run through the list, and then I'll, then I'll  
6 move on, okay. Because there was the written complaint he  
7 made on non-academic misconduct. There was the e-mail to  
8 Colin Russell about the standing up in class and taking  
9 over the class. There was the throat slashing gesture,  
10 which he didn't really make a complaint about, he was just  
11 a passive, he says, like, Colin Russell says: Did you see  
12 that? And so it's that, it's not sure that he made a  
13 complaint, but, so that was three incidents. Then there  
14 was the home invasion was the fourth incident, and then  
15 there was the pattern of harassment associated and threats  
16 associated with the grade appeal that I was pursuing in  
17 between those two end markers. So those are the five, five  
18 complaints Professor Metz had against me. I think he had a  
19 pretty large part in sort of getting me where I am today.  
20 I'm just going to say --

21 THE COURT: Do you have a question for him?

22 MR. GREEN: I, I'm going to have to argue the  
23 last one, the home invasion. I'm going to have to just do  
24 the facts on that, so I'm, I'm, I'm saying I'm going to be  
25 testifying to the facts. The stuff in between, the  
26 harassment and threats with the e-mails, I'm going to put  
27 the e-mails in record just, that will be my evidence.

28 THE COURT: If --

29 MR. GREEN: And the stuff going way back, I don't  
30 really want to get in, it's too big to open, so I think I'm  
31 just going to have to --

32 THE COURT: All right. So with respect to the  
33 e-mail complaints, I think you're probably best situated if  
34 you show Professor Metz those e-mails so that he can

1 confirm whether or not those are an accurate record of the  
2 e-mails that you --

3 MR. GREEN: Thank you. You're right, and then I  
4 don't want to sort of waste --

5 THE COURT: -- sent to him.

6 MR. GREEN: -- more of the court's time, but ...

7

8 BY MR. GREEN:

9 Q Have you seen my e-mail summary because it's been  
10 entered in other things, you haven't seen it?

11 A No, I have not.

12 Q I'll show you what I've got, and I mean, it's,  
13 the problem is it is, it is this part of this, it is at  
14 least --

15 A And indeed that is the problem, I mean, it's very  
16 difficult with the volume of material to recall exactly who  
17 it may have been directed to without having the material.

18 Q Oh, I have a summary of the e-mail correspondence  
19 that's not, this won't be so hard to do. This is it.  
20 We're going to have to give the witness maybe five minutes  
21 to read the summary of the e-mail correspondence, and then  
22 if he has -- can we do that? Maybe take a recess, give him  
23 five minutes and say, yeah, this is pretty much it, and the  
24 actually e-mails are all in here, but ...

25 THE COURT: Okay. It's the actually e-mails,  
26 it's, it, would be the real evidence, the best evidence.

27 MR. GREEN: It would take him more time to read  
28 that. It will take him more time to read that.

29 THE WITNESS: But if they're actual e-mails, you  
30 can just introduce them. I'm not really disputing --

31

32 BY MR. GREEN:

33 Q Well, then you might say that they're not true,  
34 that it's not factual. We want your confirmation, that

1 yes, this was the, this was the correspondence because this  
2 is the total correspondence between myself and the  
3 university with the stuff involving Professor Metz is  
4 interspersed. It will take us about, about 30 to 45  
5 minutes to sort of go through it and verify the e-mail  
6 correspondence, and I want to --

7 THE COURT: So your intention was to identify  
8 those e-mails as part of your own testimony and put them in  
9 that way.

10 MR. GREEN: Yeah, um-hum. Can I, can I ask  
11 Professor Metz to take five minutes to read the summary and  
12 then tell me if he has major issues with the way I've  
13 summarized them? I know, I'm sorry.

14 THE COURT: Yeah, we can do that.

15 MR. GREEN: I know it's, and I would like to take  
16 a recess.

17 THE COURT: Mr. Grieves, do you think there's  
18 going to be an issue if Mr. Green later tries to put in a  
19 series of e-mails? Is there going to be an issue with  
20 respect to the authenticity of those e-mails?

21 MR. GRIEVES: The document that he's referring  
22 to, is he saying that that's not, that's not the actual  
23 e-mail, they're just some --

24 THE COURT: It's not the actual --

25 MR. GREEN: Oh, they are. These are the actual  
26 e-mails and this is the summary of the e-mail  
27 correspondence.

28 THE COURT: No, it's his own summary of the  
29 e-mails.

30 MR. GREEN: Yeah.

31 THE COURT: And then he has the actual e-mails.  
32 It's the actual e-mails that are the best evidence and that  
33 should properly be --

34 THE WITNESS: I would, I would think that there

1 would be a dispute in the summary, but I have no problem  
2 with the actual e-mails.

3

4 BY MR. GREEN:

5 Q But you haven't seen them, you don't know if  
6 they're --

7 A No, I haven't seen them and I don't know.

8 MR. GRIEVES: These are not the e-mails that  
9 Professor Metz --

10 THE WITNESS: They're not --

11 MR. GRIEVES: -- wrote himself?

12 MR. GREEN: They're correspondence we had between  
13 us. For example --

14 MR. GRIEVES: Oh.

15 THE COURT: But what he's saying is --

16 THE WITNESS: There was no correspondence that  
17 I --

18 MR. GREEN: Oh, they're all stuff that I sent and  
19 some of it was copied to him.

20 THE WITNESS: They're all e-mails that he sent.

21 THE COURT: Yes.

22 MR. GREEN: He never answered me back but it's  
23 all stuff I --

24 THE WITNESS: I never answered any e-mails.

25 THE COURT: But what he's also said is that those  
26 e-mails that he directed to you are interspersed with other  
27 e-mails to other university personnel and that's the  
28 difficulty.

29 MR. GREEN: And also, also part of the issue is  
30 that in my commentary, I said, I sent this e-mail, there  
31 was no response. So a week later, I sent another e-mail,  
32 there was no response. So a week later, I sent another  
33 e-mail, and then I'm saying that's what he's characterizing  
34 as harassment. And I'm saying, well, because he didn't

1 respond, I had to send another e-mail, and that's going to  
2 be the issue. I mean, it's going to take like 45 minutes  
3 to work through it if we work through it is the problem,  
4 and I mean, and you know, it was definitely testified by  
5 Neil Besner that the harassment of Professor Metz that his  
6 fear was a major factor, major factor in the second barring  
7 notice, so I think it's relevant.

8 THE COURT: I don't necessarily dispute the  
9 relevance of it. I'm just wondering if there's another way  
10 so that we don't have to keep Professor Metz here. I mean,  
11 if there's no issue with respect to what you have as the --

12 MR. GREEN: It's a question of my honesty and  
13 credibility.

14 THE COURT: Right.

15 MR. GREEN: If Professor Metz is willing to  
16 stipulate, yeah, that's what happened. I mean, he can look  
17 at it now, he can say, I believe Marty's probably not going  
18 to lie about this.

19 THE WITNESS: Well, I, if I can just --

20 MR. GREEN: He can look at the summary. The  
21 summary will tell you the truth. If there's a dispute, it  
22 will be in the summary. He will see, if there's, if  
23 there's a dispute of facts, he'll see it in the five-minute  
24 summary.

25 THE WITNESS: But the, the e-mails that were of  
26 concern to me in terms of a threatening nature, I listed  
27 them --

28 MR. GREEN: He's listed them. But they're not  
29 meaningful without the total context. They're only  
30 meaningful in the context like month after month, I'm  
31 saying where's my assignment? What are you doing? And  
32 they're not answering and I'm sending it again.

33 THE COURT: And you should appreciate that you've  
34 made reference to documents, but those documents are not

1 evidence, so they're written material that Professor Metz  
2 gave in support of his protection order, I do not have.

3 MR. GREEN: I have copies of it, I'm not sure how  
4 that becomes evidence.

5 THE COURT: Exactly, so what is evidence is the  
6 witness's testimony before me.

7 THE WITNESS: But there was only, but there must  
8 be, in terms of what I wrote in the protection order, I  
9 don't know offhand the number, but it can't be four or  
10 five.

11 MR. GREEN: No, but in terms of the harassment  
12 whether it constitutes harassment, you can't appreciate  
13 that until you look at the total stonewalling that I was  
14 getting on behalf of the, make perfectly reasonable  
15 request, will you return this property? Will you mark the  
16 assignments? Stonewall, stonewall, obstruction, like, it's  
17 only understandable in the total context. And that is  
18 explained in the summary of the e-mails, which I could read  
19 to you the summary and sort of ask him to sort of object if  
20 he says it wasn't that way.

21 MR. GRIEVES: But he's, Your Honour, Professor  
22 Metz already testified that the, he found the e-mails  
23 threatening to himself so ...

24 THE WITNESS: I put the quotes down too that were  
25 of concern.

26 MR. GREEN: Yes, but I want to show that they're  
27 not threatening by looking at the total context.

28 MR. GRIEVES: But, like, I agree with Your  
29 Honour, that, I mean, if Mr. Green is saying that they're  
30 not threatening, then he can tender those at the time when  
31 he's testifying.

32 THE COURT: Okay. And there's not going to be an  
33 issue with respect to the fact that those are the actual  
34 e-mails that he sent to Professor Metz.



1           MR. GRIEVES:   Okay.   Yes, that's, I can see the  
2 concern at that point.

3           THE COURT:    That's why normally you would show  
4 them to Professor Metz and he would say, yes, those are the  
5 e-mails that I read and those are the ones that I felt  
6 threatened by.

7           MR. GREEN:    You see, even if I showed them to  
8 him, he can't sort of testify as to the other ones that  
9 were part of the total context that didn't go to him.

10          THE COURT:    But then you have to find out --

11          MR. GRIEVES:   But if he didn't see --

12          THE COURT:    Find another way.

13          MR. GREEN:    Yeah.

14          THE COURT:    Like, I understand where you're  
15 going.

16          MR. GREEN:    Yeah, okay.

17          THE COURT:    But this witness --

18          MR. GREEN:    Yeah.

19          THE COURT:    Like, that's part of your entire  
20 case, and so if you have to put, if you sent e-mails to  
21 other individuals, then you're going to have to either put  
22 that in in some way as part of your case or when other  
23 witnesses testify or --

24          MR. GREEN:    I'm going to testify directly that  
25 these are authentic e-mails, and I don't think that  
26 Mr. Grieves is going to dispute me or he's going to call  
27 any witnesses to dispute me, it's just whether that will be  
28 enough for the court.

29          THE COURT:    Okay.

30          MR. GREEN:    So --

31          THE COURT:    Then forget I said anything.   Do you  
32 have any more questions for Professor Metz?

33          MR. GREEN:    I'm going to ask for a five-minute  
34 recess, if I could, to consider if I have any more

1 questions.

2 THE COURT: Okay. We're going to take a  
3 five-minute break so that he can consider whether or not  
4 his questioning is done, and then we will come back.

5 THE CLERK: All rise. Court is in recess.

6

7 (BRIEF RECESS)

8

9 THE CLERK: Court is now re-open. You may be  
10 seated.

11

12 BY MR. GREEN:

13 Q I'm going to try and wrap this up quickly. There  
14 was a few more questions I think I should ask about the  
15 meeting of January 14th, 2013. That was the Monday morning  
16 meeting or the Monday meeting that Mr. Grainger told us  
17 about, which he recalls Professor Metz, the Bushes and  
18 other parties being present. Do you remember that meeting?

19 A I don't have much of a recollection of that  
20 meeting, perhaps if you had --

21 Q Well --

22 THE COURT: I guess it would be the Friday after  
23 the incident at the Bush's residence, do you --

24 THE WITNESS: The Monday after the incident?

25 THE COURT: Yeah, so --

26 MR. GREEN: Yes, the home invasion. The Monday  
27 after the home invasion.

28 THE COURT: -- the Monday after that Friday.

29 THE WITNESS: Okay. Yeah.

30 THE COURT: Do you recall a meeting?

31 THE WITNESS: I mean, I don't recall a meeting.

32 THE COURT: Okay.

33 THE WITNESS: That doesn't mean that one didn't  
34 take place.

1 MR. GREEN: Okay.

2 THE COURT: Okay.

3

4 BY MR. GREEN:

5 Q Now, Mr. Grainger remembers you being there,  
6 Professor Bush and his wife, so she must have come down to  
7 campus --

8 A Um-hum.

9 Q -- you don't remember a meeting when Professor  
10 Bush's wife came down, is that what you're thinking? Did  
11 the vice president, Laurel Repski was there, Lisa McGifford  
12 was there, Jan Stewart was there, John Anchan was there?

13 A Okay. I remember meeting with those people.

14 Q You remember the meeting?

15 A Okay. I'm just not sure of the date. But I  
16 remember the people in, in the, in that particular --

17 Q Do you remember the purpose of the meeting?

18 A Well, we would have been discussing, I think,  
19 security concerns if Martin Grainger had been there.

20 Q And what contribution, do you remember making a  
21 contribution to the meeting? Do you remember speaking at  
22 that meeting? Do you remember expressing concerns for your  
23 safety?

24 A I'm sure I did.

25 Q Is that where you --

26 A I think we reiterated the information that we  
27 just went over with respect to --

28 Q Did you determine what the purpose was, why I had  
29 gone to the Professor's house, Bush's house by then?

30 A I think by that time, it, it was known. It might  
31 have been --

32 Q What was the purpose known to be?

33 A That you were trying to serve papers for a  
34 lawsuit.

1 Q The purpose was known to be --

2 A Well, it might have been, like --

3 Q -- serving papers?

4 A -- known at that, at that meeting or something,  
5 but it --

6 Q When you knew, well, when you say that the  
7 purpose, you knew that my purpose of going there was to  
8 serve papers, did I also, was it also known that my purpose  
9 was to force my way into the home, or was there two  
10 purposes or was there one purpose, was it known that there  
11 was only one purpose by then?

12 A I'm not really sure how to answer that question.

13 Q Answer that question. That's a tough question.

14 A I think, I mean, the way it was stated was that  
15 this was your purpose, your stated purpose.

16 Q My purpose.

17 A It's not what, at the time we had no, no one had  
18 any idea.

19 Q Okay. Do you remember how it developed, how you  
20 made that determination? How did you figure it out based  
21 on, based on the information that, that you otherwise had  
22 that, up to that point, how did it come out? How did you  
23 figure out that that was the purpose?

24 A I don't know. I probably, I mean, probably  
25 Martin Grainger would probably --

26 Q Maybe Martin?

27 A -- knew something about that, but ...

28 Q That's fair enough. Fair enough.

29 THE COURT: And the purpose we're talking about  
30 here is your purpose in going to the Bush's?

31 MR. GREEN: In going to the home was to serve  
32 papers, yeah.

33 THE COURT: Okay.

34 THE WITNESS: That's right.

1 BY MR. GREEN:

2 Q No one was talking about that on the Friday  
3 night, people were talking about a home invasion?

4 A I don't think anyone was aware of it at that  
5 time.

6 Q Friday night when all of the commotion was  
7 happening, when people were e-mailing back and forth, that  
8 was Friday night, people --

9 A Yes.

10 Q Yeah. People didn't know nothing about serving  
11 papers, they just said it's a home invasion?

12 A I don't, I don't recall anyone using the term  
13 home invasion.

14 Q Except you?

15 A I never used it.

16 Q Attempted home invasion?

17 A Yes, please.

18 Q Yeah.

19 A I mean, I think it has to be represented  
20 properly.

21 Q Well, you're going to try and stick to that.

22 A It's not that I'm trying to stick with it, it's  
23 what I said.

24 Q Okay. So you discussed security concerns, I  
25 suppose that's where you decided you guys were going to try  
26 and make applications for protective orders?

27 A I believe that it did come up at that meeting.  
28 In fact, I'm positive it came up at that meeting.

29 Q Whose idea was it; do you recall?

30 A I don't recall exactly whose idea it was. I  
31 think it was a matter of us asking what can we do, we're  
32 concerned about our personal safety. There was, I believe,  
33 you have the list, but I believe that the, the university  
34 lawyer was there.

1 Q Colin Morrison?

2 A Colin Morrison.

3 Q Yeah, I don't think I put, I don't think I wrote  
4 his name. Sure, he would have been there.

5 A Yeah, but I think he was there, and I believe  
6 that he might have said something or Martin Grainger might  
7 have said something. Someone with some experience in that  
8 said: Well, you can do this.

9 Q Why was Jan Stewart there?

10 A Jan Stewart, at that time, was the acting  
11 associate dean of faculty of education.

12 Q Ken McCluskey was off or who was off?

13 A McCluskey was off, yes.

14 Q Do you know how long McCluskey was off for, it  
15 doesn't matter?

16 A I think a year, and I, I don't know the dates for  
17 that.

18 Q Was there minutes of the meeting?

19 A Not that I'm aware of.

20 Q Where was the meeting held?

21 A I believe the meeting was held in the UWFA  
22 boardroom.

23 THE COURT: UWFA is?

24 THE WITNESS: University of Winnipeg Faculty  
25 Association, so they have a boardroom that was big enough  
26 to accommodate everybody. I believe that's where the  
27 meeting was held.

28 MR. GREEN: Okay. And, I mean, there should be a  
29 meeting like that, there should be follow up e-mails, there  
30 should be some paper trail of it, there should be something  
31 on it. I don't know if I can ask this witness to sort of  
32 create that because he won't necessarily been in the loop,  
33 but I wonder if I can ask the Crown or the judge for  
34 directions, if there's some way I can get disclosure on,

1 on, on that meeting?

2 THE COURT: I can't give you any advice on that,  
3 and I don't think Professor Metz is in a position to, he  
4 said that he's, he doesn't even know if there were minutes.

5 MR. GREEN: Yeah. Yeah.

6 THE WITNESS: I mean, I don't think there was,  
7 so ...

8

9 BY MR. GREEN:

10 Q But at the time of this meeting, you were still  
11 all gung-ho on the home invasion theory, and the university  
12 continued to be gung-ho on the home invasion theory at  
13 least until February 7th. It's, I'm just thinking out  
14 loud. I'm just, I'm not sure that the witness is going to  
15 be able to give me anymore light here.

16 A Except --

17 Q Were there subsequent meetings that you attended?

18 A Not to my recollection.

19 Q You didn't remember this one either though; did  
20 you?

21 A I do remember this one.

22 Q I had to sort of --

23 A Yeah, as soon as you gave me the personnel, I  
24 remembered who was there.

25 Q We're just going to go right back to that night,  
26 the Friday, the night of the attempted home invasion. We  
27 had a phone call from Bush to you, we had, you called Ed  
28 someone for the phone number and you had your phone call to  
29 Neil Besner and an e-mail to Neil Besner. Anyone else you  
30 recall communicating with on that night? Did you talk to  
31 Martin Grainger?

32 A No, I believe I also called Lisa McGifford.

33 Q Oh, you did. What did you tell Lisa McGifford?

34 A I just told her that there was an incident at, at

1 a faculty member's house.

2 Q Did you tell her what faculty member?

3 A Yes.

4 Q Did you say that Marty Green tried to force his  
5 way into Professor Bush's house?

6 A I don't think I gave any details to her. I think  
7 it was a very brief conversation from my recollection.

8 Q Was she concerned?

9 A I believe she was concerned.

10 Q Why do you think she was concerned?

11 A It's a faculty member and that's what she does.

12 Q But maybe I was just going over there for a cup  
13 of coffee. You must, there must have been something, you  
14 must have told her something to make her concerned other  
15 than that I just went there? What did you tell her that  
16 made her concerned?

17 A I, I probably told her that, I'm sure I would  
18 have told her that you were the individual that was  
19 identified --

20 Q Okay.

21 A -- and that there was a struggle at the door.

22 Q Oh, there was a struggle at the door?

23 A Well, I'm not recalling exact words, but I'm just  
24 saying it exactly the same thing as what I've stated in the  
25 affidavits. I may or may have not stated some of those  
26 things or part of those things to give her an indication of  
27 what happened. It wasn't a lengthy conversation, and I, I  
28 believe she contacted the Bush's after, after that to offer  
29 some kind of, like, assistance.

30 MR. GREEN: Your Honour, I think I'm going to  
31 have to sort of call it a day with this witness. I think  
32 there's more he could tell us, but at the rate I'm going,  
33 I'm not going to be able to get much more out of him at  
34 this rate, so let's, let's let him go.



1 THE COURT: Okay. Mr. Grieves any, any  
2 cross-examination?

3

4 CROSS-EXAMINATION BY MR. GRIEVES:

5 Q The only question I have is what is your  
6 relationship to Mr. Green, like, how is it that you got to  
7 know him? It wasn't very clear.

8 A Mr. Green was a student in my class at the  
9 University of Winnipeg.

10 Q And what did you teach at the University of  
11 Winnipeg?

12 A I taught a course called secondary mathematics,  
13 curriculum instruction and assessment, and he also was a  
14 student in, in physics, curriculum instruction and  
15 assessment.

16 Q And what faculty?

17 A Faculty of education.

18 Q And what school year was this?

19 A 2011, September of 2011 to January of 2012.

20 Q And that's not a full year, is it?

21 A No, it wasn't a full year.

22 Q Okay.

23 A Not a full academic year.

24 Q And did you know Mr. Green prior to that?

25 A No.

26 MR. GRIEVES: I have no further questions, Your  
27 Honour.

28 THE COURT: Thank you, Professor Metz. So we've  
29 requested that you try to find some e-mails. Are those  
30 straight in your mind in terms of what e-mails you're to  
31 look for?

32 THE WITNESS: It would, I would appreciate if you  
33 could refresh that or make a list for me or --

34 MR. GREEN: I may remember them better than you

1 Your Honour. Shall I, my recollection.

2 THE COURT: You probably do because it's not --

3 MR. GREEN: I'm not sure I do either. There was,  
4 there was the one you sent to, you don't know if it was  
5 John or Colin, but it was the 10th of January complaining  
6 about me disrupting the class.

7 THE WITNESS: Yeah, if you could make me a brief  
8 list, I would appreciate that.

9 THE COURT: Yeah, are you working on that,  
10 Mr. Grieves?

11 MR. GRIEVES: Actually --

12 THE COURT: So January 10th.

13 MR. GRIEVES: Yeah, 2000 and --

14 MR. GREEN: January 10th complaint about my  
15 behaviour in class.

16 MR. GRIEVES: 2012.

17 THE WITNESS: The previous day, right?

18 MR. GREEN: Yeah, yeah, prior.

19 THE WITNESS: Okay.

20 THE COURT: So that was the incident where he was  
21 charging at you or he was rushing at you.

22 THE WITNESS: Yes, okay.

23 MR. GREEN: Yeah, the rushing and the yelling,  
24 that's right.

25 THE WITNESS: Okay.

26 THE COURT: Okay. So there's an e-mail about  
27 that.

28 MR. GREEN: About that, and then there was, but  
29 that's the second one.

30 THE COURT: And then a follow up e-mail after  
31 the, what you observed the throat slashing, you believe you  
32 sent an e-mail --

33 THE WITNESS: I'd have to go check.

34 THE COURT: -- expressing the concern.

1           MR. GREEN: He thinks he must have, he says he  
2 must have sent an e-mail.

3           THE WITNESS: I certainly can check, check that  
4 for, for the court.

5           MR. GREEN: Thanks, Your Honour. Different, I'm  
6 just going to, before we let him go right away, I'm just  
7 going to, where are the notes? Oh, here we go. This is  
8 embarrassing. Professor Metz's testimony, this is  
9 professor -- I think that's it. I think that's, I just  
10 don't know why I'm not, oh, here we are. I found the right  
11 page. I think it's the one you said, unless Professor  
12 Metz, yeah, second barring notice. I have no idea where my  
13 notes are on this, of Professor Metz's testimony. Here  
14 they are. I'm just going to remind the court that I  
15 believe I did complain, there would have been,  
16 administration, Colin Russell, okay. Would have been an  
17 e-mail, I think certainly. This, the word certainly came  
18 up in connection would have been an e-mail complaint about  
19 the throat slashing incident, and that was the other one.  
20 Yeah, that was it.

21           THE WITNESS: Yeah, I'm certainly willing to  
22 look, look for that.

23           MR. GREEN: Okay. And will, Mr. Grieves, will  
24 you forward it to Mr. Grieves, is that how we do it?

25           MR. GRIEVES: I mean, I have no problem with  
26 that, Your Honour.

27           THE COURT: Okay. So if you can look for those  
28 two e-mails, I take it they will be, and then forward them  
29 to Mr. Grieves.

30           THE WITNESS: Okay. If I can have some contact  
31 information, and you, is electronically okay or do you want  
32 that in hard copy?

33           THE COURT: No, you can forward --

34           MR. GREEN: E-mails have been fine all along.

1 THE COURT: You can forward them electronically.

2 MR. GREEN: Unlike the assignments which I was  
3 supposed to have submitted to your course, we accept e-mail  
4 submissions here. I'm sorry, that's a low blow.

5 THE WITNESS: It's a shot.

6 MR. GREEN: It's a shot, that's all. Just a  
7 shot.

8 THE COURT: Yes.

9 THE WITNESS: Well, I wouldn't have expected that  
10 it would be permissible in court.

11 MR. GREEN: You should have seen that one coming,  
12 buddy. You know the history.

13 THE COURT: All right. Thank you very much for  
14 your testimony, Professor Metz, you are free to go.

15 THE WITNESS: Thank you.

16 THE COURT: And I just ask you to look for those  
17 e-mails and forward them to Mr. Grieves.

18

19 (WITNESS EXCUSED)

20

21 THE COURT: Do you have another witness?

22 MR. GREEN: I have Lisa McGifford. I don't have  
23 that much to ask Lisa McGifford and then it's the Bushes.

24 THE COURT: Okay.

25 MR. GREEN: It's the Bushes. Now, no one wants  
26 to go passed 6:00, but if it comes down to it, what's our  
27 prospects?

28 THE COURT: Well, let's not even think about that  
29 for now. Madam Clerk has obtained some available dates.

30 MR. GREEN: Yeah, great, this is great,  
31 yeah.

32 THE COURT: So December 4th and 11th are what  
33 we'll reserve at this point for the continuation of this  
34 matter.

1           MR. GREEN:   Okay.  I hope we wrap it up in one  
2 day because it should just be arguments if we get through  
3 the witnesses with dead certainty.  So we're going to say,  
4 December 4th we're going to say?

5           THE COURT:   And 11th.

6           MR. GREEN:   And 11th, you're going to book two  
7 days just in case?

8           THE COURT:   Just in case, and I mean, the other  
9 idea is that I'll need some time to make a decision, and so  
10 in a perfect world, you could, I could hear argument on the  
11 4th, and then maybe be able to give my decision on December  
12 11th.

13          MR. GREEN:   Oh, the decision you actually present  
14 it orally, it's not just, we don't get, we come to hear the  
15 decision?

16          THE COURT:   Yeah.

17          MR. GREEN:   I see.

18          THE CLERK:   That will be at 10 o'clock in  
19 courtroom 314.  The next court date, 10 o'clock in  
20 courtroom 314.

21          THE COURT:   And you're Ms. McGifford?

22          THE WITNESS:  I am.

23          THE COURT:   I'm just going to ask you to come  
24 forward to the witness box.

25          THE CLERK:   Step in here, please.  Please state  
26 and spell your full name for the record.

27          THE WITNESS:   Lisa Diane McGifford, L-I-S-A,  
28 D-I-A-N-E, M-C capital G-I-F-F-O-R-D.

29          THE CLERK:   And do you wish to swear an oath on  
30 the Bible or affirm your evidence?

31          THE WITNESS:  I will affirm my evidence.

32

33                       **LISA   DIANE   MCGIFFORD**,  affirmed,  
34                       testified as follows:

1 THE CLERK: Thank you. You can have a seat.

2 THE COURT: Ms. McGifford, you've been subpoenaed  
3 by Mr. Green, so he's going to ask you some questions.

4 THE WITNESS: Okay.

5

6 DIRECT EXAMINATION BY MR. GREEN:

7 Q I'm sorry it's been a long day, but this is how  
8 these things go.

9 A It's all right.

10 Q You are, I'm understanding you're with the  
11 faculty association?

12 A I'm the executive director of the University of  
13 Winnipeg Faculty Association.

14 Q Okay. Now, we're interested in the events of  
15 January 11th, which is the night of what people have called  
16 the attempted home invasion, you know which night I'm  
17 talking about if I say that?

18 A Yes, I do.

19 Q Okay.

20 MR. GRIEVES: Can you state the year as well?

21 MR. GREEN: 2013, yeah.

22

23 BY MR. GREEN:

24 Q And I'm wondering, how you became involved in it?

25 A I wasn't involved in the incident of January  
26 11th, 2013.

27 Q Huh, you weren't, weren't you involved in  
28 discussions subsequent to it?

29 A I'm the executive director of the association.  
30 When things happen, sometimes the members come to talk to  
31 me.

32 Q So did members come to talk to you in this case?

33 A I don't believe I need to answer that question.  
34 I believe that the confidences of my members are exactly

1 that.

2 Q Well, I'll ask the judge if she thinks you should  
3 answer it because it's not my place to say.

4 THE COURT: The members that I anticipate, since  
5 we've already heard from one of them, is Professor Metz,  
6 and so I'm, I don't see the issue. You can provide me with  
7 more information if you think there is. But Professor Metz  
8 has already testified, Professor Bush is under subpoena,  
9 expect we're going to hear from him, and the court has  
10 already heard a lot about what was said and what various  
11 people have said and what happened on January 11th.  
12 Although, I have not yet heard from the parties who were  
13 actually present.

14 THE WITNESS: Dr. Metz came and told me what  
15 happened.

16

17 BY MR. GREEN:

18 Q When you say he came and told you, did he come to  
19 see you personally or what?

20 A Yes, he came to see me personally.

21 Q Where?

22 A In my office.

23 Q Wasn't it kind of late at night?

24 A He didn't come on that day.

25 Q Oh, he didn't come on, when did he come?

26 A I don't know. I don't remember.

27 Q Well, when was, subsequent to the evening of the  
28 events, when would you have next been in your office in the  
29 normal course of events?

30 A Well, I have no recollection of the day of the  
31 week that it happened, but presumably if it was any  
32 weekday, I would have been there the next day. I don't  
33 know if he came the next day or not. I really don't know.

34 Q So the events happened on a Friday night, and

1 Professor Metz came to see you at the office, then you had  
2 no involvement with it until the subsequent week, Monday,  
3 Tuesday or a weekday?

4 A You know, I don't know. I don't know. I don't  
5 remember. It's possible that I had some e-mail  
6 correspondence. I just don't know. I had absolutely no  
7 knowledge of why I had been subpoenaed to appear at this  
8 matter, and so I couldn't even reference any, anything that  
9 would have helped me to remember the events, so ...

10 Q I think someone testified you were at a meeting  
11 on the following Monday with a whole bunch of people in the  
12 UWFA offices?

13 A Maybe.

14 Q But you don't remember being there?

15 A Well, I remember we had a meeting. I don't know  
16 if it was the following Monday or not.

17 Q A meeting, well, I'm going to list some people  
18 that were there, was Professor Bush and his wife were  
19 there, were you ever at a meeting with Professor Bush and  
20 his wife?

21 A I've never met Heather Bush prior to coming here.

22 Q Because someone testified there was a meeting,  
23 you guys will help me, Martin Grainger testified there was  
24 a meeting and Professor Metz recalled being at the meeting,  
25 and he didn't dispute the list of participants that you  
26 were there because it was in the UWFA boardroom and Martin  
27 Grainger was there, and the Bushes were there, and Colin,  
28 Colin Russell was there, you don't recall any meeting like  
29 that?

30 A I didn't say that. I said that Heather Bush was  
31 not in my office.

32 Q We didn't say in your office --

33 A Yes.

34 Q -- but at a meeting where you were, she was at a



1 meeting where you were at?

2 A I've never met Heather Bush prior to coming to  
3 this courthouse.

4 Q Other people recall you being at a meeting  
5 together, but you know, it's hard to get everything right,  
6 I'm just confused as to -- okay. She doesn't remember  
7 meeting Heather Bush. She doesn't remember when or how she  
8 learned about this event, but do you recall telling other  
9 people? Do you recall, okay, let me put it this way, what  
10 do you know about the events of that night based on what  
11 you subsequently learned? What is your understanding of  
12 the events that took place that night? Just tell it as a  
13 narrative.

14 A Yeah, my understanding of the events that  
15 occurred were that you attended at the George's, sorry, at  
16 George Bush's residence ostensibly for the purposes of  
17 serving a subpoena on them.

18 Q And that's your complete understanding of what  
19 happened?

20 A That, no, it's not my complete understanding. My  
21 complete understanding is that Heather Bush felt afraid and  
22 threatened and that she said that you've physically laid  
23 hands on her.

24 Q I'll ask her if that happened. That's something.  
25 Isn't that something? Isn't that something?

26 THE COURT: Okay. Mr. Green.

27

28 BY MR. GREEN:

29 Q So you did meet Heather Bush before coming here?

30 A No, I didn't.

31 Q Well, how did you, you said she said that you  
32 physically, who did she say it to?

33 A You asked me what my understanding of the events  
34 were.

1 Q Oh, but you --

2 A Those are my understanding.

3 Q -- don't mean she said it to you?

4 A No, I did not mean that.

5 Q So you mean, so who, from whom did you learn of  
6 what she said? Where did you get this idea that she said I  
7 physically laid hands on her?

8 A That would be either from Don Metz or George  
9 Bush.

10 MR. GREEN: Okay. Your Honour, I just didn't, I  
11 wasn't prepared for the direction this is going.

12

13 BY MR. GREEN:

14 Q But you don't remember who said that she laid,  
15 who said that she said that I said that I physically laid  
16 hands on her, you don't remember, but it was Metz or Bush?  
17 It would have been only either Metz or Bush?

18 A It was either Dr. Metz or Professor Bush.

19 Q And Metz wasn't there, so if he told you, it was  
20 because Bush told him?

21 A In all probability, they both told me on separate  
22 occasions.

23 Q So you remember hearing it more than, more than  
24 one occasion that there was a physically laying of hands?

25 A I do.

26 Q Oh, on more than one occasion. And you said  
27 that, okay, I was trying to take notes and I think I missed  
28 something when you said that when I attended at their door,  
29 attended at their residence, that Mrs. Bush felt  
30 threatened, and do you recall your words, I just, I need to  
31 make notes for myself, felt threatened and something? Does  
32 anyone want to help me.

33 THE COURT: Afraid.

34 MR. GREEN: Afraid, that's right.

1 BY MR. GREEN:

2 Q And were you able to clarify why, and I know  
3 because there was the physically laying of hands, but why  
4 did she feel threatened and afraid I wonder?

5 A I don't have any direct information on that  
6 point.

7 Q But if I physically laid hands on her, then I  
8 don't think someone would say I felt threatened and afraid,  
9 you would say I was actually assaulted if I laid hands on  
10 her, threatened and afraid means that the anticipation that  
11 I would do it, but then you --

12 A It's not for me to extrapolate.

13 Q Fair enough. Fair enough. Now, I just want to  
14 return, you don't remember when you first heard about it,  
15 except, no, you did say that you heard it when Dr. Metz  
16 came to see you personally, that's how you first heard  
17 about this?

18 A I think so, but I could be wrong. I'm not wetted  
19 to the order of whether I got e-mail first or whether  
20 Don --

21 Q You testified in court, that means a lot to me, I  
22 would like you to sort of try and get it right, but that's  
23 what you said, we're just going to stick to what you said.

24 THE COURT: Well, she's saying she can't be  
25 certain --

26 MR. GREEN: Okay.

27 THE COURT: -- about the order of things, so you  
28 can't make her more certain if she's not --

29 MR. GREEN: True enough. That's true enough. I  
30 have to suspect --

31 THE WITNESS: I also haven't had the ability to  
32 have recourse to my e-mail to look at because I had no idea  
33 why I was subpoenaed here.

34

1 BY MR. GREEN:

2 Q And so you didn't look at your e-mail since the  
3 time you were subpoenaed, I don't understand?

4 A No.

5 Q Well, why not?

6 A Because I didn't know why I was being subpoenaed.

7 Q But do you think there, that you have e-mails in  
8 your folders relating to this matter?

9 A I don't know.

10 Q But you didn't check. There was no one stopping  
11 you from checking your e-mails?

12 THE COURT: Mr. Green.

13 MR. GREEN: I'm sorry.

14 THE COURT: All of the evidence that I've heard  
15 so far from this witness is hearsay, and so I just don't  
16 know what your point was in having her, I mean, you  
17 subpoenaed her.

18 MR. GREEN: Okay.

19 THE COURT: So what --

20 MR. GREEN: She was --

21 THE COURT: What did you want her to testify  
22 about?

23 MR. GREEN: Okay. I think she knows more than  
24 she's saying. I'm just going to read from the affidavit of  
25 George Bush. I'm --

26

27 BY MR. GREEN:

28 Q Well, I'm just going to tell you that in his  
29 affidavit he says that you phoned him on the night of the,  
30 of the attempted home invasion and offered to put them up  
31 in a hotel; do you recall that?

32 A No.

33 Q Well, now --

34 A I didn't. I mean, I know I didn't.



1                   and I appreciated the gesture, but  
2                   declined.

3

4 She says it never happened. She says she knows she didn't  
5 do that.

6                   THE WITNESS: It wouldn't be within my purview to  
7 offer someone alternative lodging. That would be a matter  
8 for their employer.

9

10 BY MR. GREEN:

11           Q     Okay. I'll have to take that up with Professor  
12 Bush because that's what he seems to have sworn to, but  
13 you're saying it never happened. Fair enough.

14           A     Never happened.

15           Q     Now, in the aftermath of these events, did you  
16 ever talk to other people about the events of that night,  
17 saying Marty Green did this or did you know that Marty, do  
18 you recall talking to other people about it?

19           A     I'm not sure I understand your question.

20           Q     Did you ever tell people that I sort of went and  
21 sort of was scaring people or going to their homes or doing  
22 things, did you talk about me? Did you gossip about me?  
23 Did you tell people about me?

24           A     No.

25           Q     This never happened, you never talked to anyone  
26 about these events, you kept, kept them inside,  
27 confidential events, just like stuff you said, you don't  
28 want to break confidences, so you didn't break that  
29 confidence? You didn't go around talking about any stuff I  
30 did?

31           A     Do you mean in the community?

32           Q     In the university community or outside?

33           A     I would have certainly discussed it with the  
34 employer.

1 Q With, up the chain of command, moving up the food  
2 chain, okay, so you, you would have discussed it up the  
3 food chain, the command chain?

4 A To be clear, I am not employed by the University  
5 of Winnipeg.

6 Q Oh, of course. You're right. You're right. But  
7 when you say with the employer, with the people that you  
8 interface with at sort of your corresponding level, which  
9 would --

10 A Yeah.

11 Q -- be, those people would be, would you name  
12 them?

13 A I spoke with possibly Neil Besner, definitely  
14 Neil Besner, Colin Morrison and maybe Laurel Repski, but  
15 I'm not sure.

16 Q Sure, that's all right. And as far as talking to  
17 members of the faculty association, in other words,  
18 professors who were, can we call them union members or  
19 faculty association members or generally gossiping about it  
20 or just talking about it?

21 A I would have informed the president of the  
22 association at that time, Pauline Pearson.

23 THE COURT: Colleen Pearson?

24 THE WITNESS: Pauline. Dr. Pauline Pearson, who  
25 in fact, already knew because Don Metz had spoken to her  
26 directly.

27 MR. GREEN: Oh. See if Don Metz was still here,  
28 I might have asked what did you tell Pauline Pearson. I  
29 don't think it's hugely important to my case, but it's --

30 THE COURT: I don't think it's important either.

31 MR. GREEN: But he was part of my, the logical  
32 chain, but I'm not going to ask you to re-call him for  
33 that.

34

1 BY MR. GREEN:

2 Q Do you recall what you told Pauline?

3 A Not specifically, no.

4 Q Did you tell her, do you recall that you told her  
5 that I assaulted or laid hands on Mrs. Bush, would you have  
6 told her that?

7 A I would have probably told her absolutely  
8 everything that George Bush told me or Don Metz told me.

9 Q Including the laying of hands?

10 A I honestly don't remember specifically.

11 Q No, you, you told us that either George or Don  
12 Metz told you that I laid hands on Mrs. Bush and then you  
13 said that you told Pauline absolutely everything --

14 A Probably.

15 Q -- that George or Don told you, so logically we,  
16 we would have to understand from that that you told Pauline  
17 that I laid hands on Mrs. Bush?

18 A I don't remember.

19 Q But that's the logical conclusion from you said,  
20 but you don't remember actually doing it?

21 A I don't remember actually doing it, no.

22 Q Okay. And beyond that, do you remember gossiping  
23 in general, if I can use that word, like, talking, like, in  
24 sort of a non-professional context to anyone within the  
25 university community or outside about these events?

26 A No, I didn't.

27 Q Do you remember expressing opinions to any random  
28 people that Marty Green was, some negative opinions about  
29 Marty Green, using my name in a conversation?

30 A I don't know you, so no.

31 Q Well, you don't know me, but that doesn't mean  
32 you never walked around saying bad things about me, but  
33 you're saying --

34 A I suppose it doesn't mean that, but --



1 Q But your testimony is that you didn't, is that  
2 your testimony --

3 A That would be my testimony.

4 Q -- that you didn't go around doing that?

5 MR. GREEN: Okay. I'm not going to have any more  
6 for this witness, Your Honour. I'm just going to comment  
7 that there is certain technicalities about my witnesses  
8 being bound by their testimony. I think it's fairly clear  
9 to the court that this witness is not sympathetic to me,  
10 and I don't know what the technical, the technical  
11 requirements of declaring a hostile witness, but I mean, I  
12 think it's no secret that I don't feel that her testimony  
13 has been all together truthful or candid.

14 THE COURT: You can argue about these things  
15 later --

16 MR. GREEN: Yeah.

17 THE COURT: -- but do you have any questions for  
18 Ms. McGifford now?

19 MR. GREEN: Yeah, I think I'm fine. I don't  
20 think you're going to turn around later and say, well,  
21 you're bound by the testimony, she was your witness. I  
22 don't think I'm in that, in that box.

23 THE COURT: No, I can accept and reject --

24 MR. GREEN: Fair enough.

25 THE COURT: -- witness's evidence based on the  
26 context --

27 MR. GREEN: All right. Well, let's let her go  
28 then.

29 THE COURT: -- of all of the evidence I hear.

30 MR. GREEN: Let's let her go.

31 THE COURT: Mr. Green, any, Mr. Grieves, sorry,  
32 any questions in cross-examination?

33 MR. GRIEVES: No, Your Honour.

34 THE COURT: All right. Ms. McGifford, thank you

1 for coming.

2

3 (WITNESS EXCUSED)

4

5 MR. GREEN: I have two more. I've got Mrs. Bush  
6 and Mr. Bush, and I think Mrs. Bush comes first.

7 THE COURT: Okay. Let's go.

8 MR. GREEN: Should we take, like, two or three  
9 minutes, or do you want to move right on?

10 THE COURT: I'm --

11 MR. GREEN: I had a break half an hour ago,  
12 theoretically, I could go on.

13 THE COURT: Okay. Let's go on.

14 MR. GREEN: Let's go on. I'll take a break after  
15 Mrs. Bush.

16 THE COURT: Okay.

17 THE CLERK: Step into the witness box and remain  
18 standing for a moment.

19 THE WITNESS: Sure.

20 THE CLERK: Please state and spell your full name  
21 for the record?

22 THE WITNESS: Heather Bush, H-E-A-T-H-E-R,  
23 B-U-S-H.

24 THE CLERK: And do you wish to swear an oath on  
25 the Bible or affirm your evidence?

26 THE WITNESS: Sure.

27 THE CLERK: Bible or affirm?

28 THE WITNESS: Bible.

29 THE CLERK: Okay. Please take the Bible in your  
30 right hand.

31 THE WITNESS: Okay.

32

33 **HEATHER BUSH**, sworn, testified as

34 follows:

1

2

THE CLERK: Thank you. You can have a seat.

3

4

DIRECT EXAMINATION BY MR. GREEN:

5

Q Well, thank you for coming, Mrs. Bush. We can do this the quick way or the long way. I think I'm going to start with the quick way, but it might not work out. I'm going to go to the events of January 11th, which some people call the attempted home invasion. Have you ever heard it called that?

10

A You've called it that, but I haven't.

11

Q Have you ever heard anyone else call it that?

12

A No, not, just you.

13

Q Okay. Well, it's going to be the long way because I'm going to just, I'm just going to open up. I'm going to have to find you in a contradiction, I'm awfully sorry. I think I've got you in a contradiction. You know you went with your husband to get a restraining order against me. You're going to make me a liar because he didn't call it a home invasion. We're going to see what he called it. He might have called it a home invasion. But Professor Metz was there. Were you in the courtroom when Professor Metz made his application?

14

A No.

15

Q But you were there that day?

16

A Yes.

17

Q And you waited outside while Professor Metz made his submission?

18

A Yes.

19

Q And then you went in with your husband while he made his?

20

A No.

21

Q Oh, you didn't go in?

22

A No.

1 THE COURT: The witnesses would have been  
2 separated in that proceeding I take it.

3 THE WITNESS: I never went in at all.

4 THE COURT: Oh, okay.

5

6 BY MR. GREEN:

7 Q Well, then it's possible if you didn't go in, I  
8 thought you were there, just a minute. I'm just going to  
9 go to the transcript. I'm sure I'll be wrong in the end,  
10 but I just have to clarify this. I know this isn't that  
11 relevant, but I'm almost done the page because the judge  
12 said, like, the judge knew you were there with him, but  
13 you, but I'm just trying to, I should be faster, and I'm  
14 sorry. Oh, I made a mistake, I picked up the wrong. No,  
15 it was my misunderstanding from having read the transcript.  
16 I thought you were in there with him, and I shouldn't have  
17 wasted everyone's time trying to prove myself wrong, but  
18 let's just, I'm trying to get back on track then. Where  
19 I'm going with this is, what I think happened, I'm going to  
20 tell you what I think happened, and you'll tell me, well,  
21 no, that's, that's not what happened at all, and then I'll  
22 cross-examine you or you'll tell me, yes, that's pretty  
23 much what happened. Now, what I think is the doorbell rang  
24 at your house, and you and your husband heard it ring and  
25 you look at each other and said that's Marty Green, and he  
26 said: Go get the door and get rid of him, but don't take  
27 any papers. That's what I think happened. Is that kind of  
28 what happened?

29 A What is your question, please?

30 THE COURT: So he just put a scenario to you  
31 about how, what had transpired when the doorbell rang at  
32 your house, inside the house between you and Mr. Bush. Is  
33 what he just put to you true?

34 THE WITNESS: Okay. No.

1 THE COURT: Okay. And, Mr. Green, she's your  
2 witness, so that means that you should be asking open-ended  
3 questions. So I think the proper question that you should  
4 ask her is ask her to explain what happened on January  
5 11th, 2013. I mean, I allowed you to ask that question,  
6 which is really a cross-examination question.

7 MR. GREEN: I didn't sort of think it was that  
8 way. I mean, for all I know she might have said yes. I  
9 mean --

10 THE COURT: No, you're suggesting an answer to  
11 her in the question, which is cross-examination.

12 MR. GREEN: Okay. I, I thought that was, I said  
13 we're going to make it short, but okay. I just want to  
14 know if she's going to go with that now.

15 THE COURT: Okay. She's saying that's not true.

16 MR. GREEN: That's not what happened.

17 THE COURT: What you said to her is not true.

18 MR. GREEN: Okay.

19 THE COURT: So let's find out from her what she  
20 says happened. That's what I would be interested in  
21 hearing.

22 MR. GREEN: All right. Well, can she then answer  
23 you in that way (inaudible)

24 THE COURT: Okay.

25 THE WITNESS: Okay.

26 THE COURT: So on January 11th, 2013, you were at  
27 home.

28 THE WITNESS: Okay.

29 THE COURT: And what happened?

30 THE WITNESS: Previous to the doorbell ringing,  
31 Martin Green called my husband as I swore in my affidavit  
32 that he, he phoned the house, and my husband answered the  
33 phone, I was sitting right there, and my husband told him  
34 that it was inappropriate to call the house and that he

1 needed to, if he wanted to contact him, talk to his lawyer.  
2 He hung up the phone. He went downstairs and the doorbell  
3 rang. I went to the door. Somebody rang the doorbell, so  
4 I opened the door, and Martin was standing there, but I  
5 didn't know who he was because I had never seen him before,  
6 and he, I said, he said he wanted to talk to George, and I  
7 said: Who are you? And he answered that he was Martin  
8 Green. And he came and stepped up towards me very closely  
9 and said he was Martin Green. And I said, at that point,  
10 that I did not, he, I, my husband just finished telling him  
11 on the telephone that he did not want to speak to him, and  
12 I went to shut the door and he had a piece of paper in his  
13 hand and he said he was there to give him a paper, and I  
14 thought he meant term paper, so I thought I do not care  
15 what kind of paper it is, he just finished telling you that  
16 he wanted you to contact his lawyer. And I pushed the door  
17 shut, and what happened was Martin pushed against the door  
18 to stay with the door open, and I pushed against the door,  
19 and for about a minute, there was a pushing match between  
20 myself and Mr. Green to try to force the paper on me, or I  
21 don't know what he was doing. At that point, I got very  
22 scared and I did not know what Mr. Green's purpose was, and  
23 my adrenaline kicked in and I felt very afraid and I pushed  
24 as hard as I could. And the door finally shut with  
25 Martin's hand in the door, and he pulled his hand out and I  
26 shut the door and locked it and I was grunting as I pushed  
27 on it before that, so I could not call for help because I  
28 was pushing with all my might. My husband came upstairs,  
29 he heard the door shut and he said who was it, and I said  
30 it was Martin. He went to the window, and we saw Martin  
31 leaving and going out to his car which was parked in front  
32 of our house. And this was all in my affidavit that is,  
33 has been sworn for the case where Martin, Mr. Green is  
34 suing myself and my husband for defamation, and it was

1 submitted to our lawyers.

2

3 BY MR. GREEN:

4 Q Well, it wasn't all in your affidavit. There's a  
5 couple of things missing from your affidavit. The time  
6 line, the duration of the pushing match, you're describing  
7 that it was about a minute?

8 A Um-hum.

9 Q That you mean a minute, like a clock minute, 60  
10 seconds?

11 A I'm guessing, yes. I didn't have my clock on,  
12 sorry.

13 Q Pretty serious pushing match?

14 A It was. You were there, you should remember.

15 Q I can see how this is going to go. You've  
16 testified that you weren't able to call for help for a  
17 whole minute. A whole minute that you were terrified of a  
18 scary guy trying to get in your door, but you were unable  
19 to open your mouth and call for help; is that right?

20 A Yes, I was pushing with all my might, and I was  
21 exerting myself as hard as I could, therefore, I did not  
22 have breath to call.

23 Q Now, if you thought I was trying to give him a  
24 term paper rather than legal papers, why did you say I  
25 should call his lawyer? Why would I give a term paper to  
26 his lawyer?

27 A I didn't say that.

28 Q I think you did, that's what I heard, that you  
29 thought it was a term paper. You didn't know what it was.  
30 You thought it was a term paper, you said --

31 A No, I didn't say you should call the lawyer, I  
32 said you should mail what you had.

33 Q Any reason you didn't just take it from me?

34 A You weren't following the instructions that were

1 given to you by my husband which was to contact his lawyer.

2 Q You heard the conversation with your husband?

3 A Um-hum.

4 Q Who is your husband's lawyer?

5 A D'Arcy Deacon, D'Arcy and Deacon.

6 Q When did he become his lawyer?

7 A When, they're the university lawyers.

8 Q Were they your husband's lawyer on January 11th?

9 A They would have been if he asked them to be  
10 because they are the official university representation of  
11 the lawyers (sic).

12 Q But did he tell me which lawyer I should call?

13 A He did when you phoned back.

14 Q Actually, he didn't. He never returned the phone  
15 call, but on the night when he told me to call the lawyer,  
16 he, did he give me any contact information as to which  
17 lawyer I should call?

18 A No, but you knew full well who they were.

19 Q How do you know that I knew who his lawyer was?

20 A I'm sure you had contact with them in previous  
21 episodes, I'm guessing. I don't really know why.

22 Q Well, now you're guessing.

23 A I'm not here --

24 Q You said you were sure, but now you say you're  
25 guessing?

26 A I'm not, I don't, I'm not here to guess.

27 Q You said you were guessing?

28 A Um-hum.

29 Q You said you guessed, you're guessing that I knew  
30 who his lawyer was. But it's a fact that in the phone  
31 conversation, he didn't tell me who his lawyer was?

32 A No, he didn't. He said the university lawyer?

33 Q No, he did not.

34 A Yes, he did.



1 Q Well, that's not my recollection of the phone  
2 call, and I don't think that's in the affidavits either.

3 A Well, I heard him say it, so ...

4 Q But wouldn't it have been simpler just when I  
5 said I want to give him papers, say, okay, I'll take the  
6 paper, wouldn't that have been simpler?

7 A That's an opinion. I don't have an opinion on  
8 that.

9 Q If you had taken the paper, you wouldn't be here  
10 today, would you? Do you have an opinion about that?

11 A You're asking me to guess whether I'd be here or  
12 not if I had taken the paper?

13 Q Yeah.

14 A I don't know.

15 MR. GREEN: I wonder why the sheriffs are all  
16 here, is this normal for criminal court?

17 THE COURT: It is normal, yeah.

18 MR. GREEN: Are they here because the witnesses  
19 are afraid of me?

20 THE COURT: I have no idea why they're here.

21 MR. GREEN: Are you guys here because the  
22 witnesses asked you to be here for their protection.

23 THE COURT: No, Mr. Green. No, Mr. Green. You  
24 can't engage them.

25 MR. GREEN: Oh --

26 THE COURT: This is --

27 MR. GREEN: I'm going to ask the witness.

28

29 BY MR. GREEN:

30 Q Did she ask security to be here to protect you  
31 from --

32 A No.

33 Q You don't know any of the sheriffs?

34 A No, I've never spoken to them before. I have no

1 idea who they are.

2 MR. GREEN: But she says it's normal. I'm not in  
3 this game. I don't know what's normal, but she says it's  
4 normal for them to be here.

5

6 BY MR. GREEN:

7 Q Now, before I phoned your husband, you guys were  
8 already worried about me, weren't you?

9 A What's the question?

10 Q I think it's a fair question.

11 THE COURT: Before that --

12 THE WITNESS: Was I worried?

13 THE COURT: -- phone call that evening --

14 THE WITNESS: Yeah.

15 THE COURT: -- were you already concerned about  
16 Mr. Green?

17 THE WITNESS: Yes.

18

19 BY MR. GREEN:

20 Q And why is that?

21 A Because I had Googled your name, and you had on  
22 your blog, mentioned that my husband was your old nemesis,  
23 and you had gone on at length about what was happening in  
24 the university and that made me concerned and my threat  
25 assessment training as an educator, it rose a red flag for  
26 me that you were acting very oddly.

27 Q And did you discuss your concerns with your  
28 husband?

29 A Yes, I mentioned that he had mentioned, I don't  
30 know, I actually don't remember if I said anything to him  
31 or not honestly.

32 Q And these, were these concerns --

33 A I think I was just reading --

34 Q -- like, in the very imminent days, do you

1 recall, in the imminent days just prior to the, the  
2 incident that these concerns were discussed between you?

3 A Well, what had happened before that, Marty, was  
4 that you accessed my LinkedIn website page.

5 Q Yes.

6 A And I got an e-mail that you had contacted me on  
7 my website.

8 Q That's all right.

9 A And to me, that was a red flag.

10 Q Sure. But I'm just --

11 A I was wondering why you would be even interested  
12 in me. I've never even met you before.

13 Q Um-hum, yeah.

14 A Why would you be searching my, my information  
15 out?

16 Q Well, I'll testify to that when I testify.

17 A Yeah.

18 Q But if the Crown asks me, but --

19 A So that made me wonder why you were doing that,  
20 so yes, I was a bit concerned.

21 Q And you discussed the concerns with your husband?

22 A Yeah, I did mention it to him that you had  
23 accessed my --

24 Q And this was in the imminent days before --

25 A -- my information.

26 Q -- the 11th, was it within a few days of the  
27 incident?

28 A Well, you, you actually went on my website on  
29 Thursday.

30 Q Oh, the day before?

31 A Um-hum.

32 Q So, like, just the day before, you had been very  
33 concerned about me?

34 A Um-hum.

1 Q So then the Friday, the phone call must have made  
2 you very concerned?

3 A Yeah, pretty much.

4 Q Okay. So the phone call must have been very  
5 chilling. So my question is, when the phone rang and it  
6 was me, and your husband told me (sic) to get rid of me,  
7 did you think I was going to be reasonable and pay  
8 attention to what he said?

9 A My husband never told me to get rid of you,  
10 Marty.

11 Q No, no, when he, he told me to get lost on the  
12 phone and you were there listening to the phone  
13 conversation and all the things he said to me, and that I  
14 shouldn't come to the house, did you think that I was going  
15 to pay attention to him and just sort of go away?

16 A Actually, yes.

17 Q Okay. So when the doorbell rang subsequently,  
18 you didn't sort of put two and two together and say, that's  
19 Marty Green?

20 A No, honestly, I never did.

21 Q It didn't occur to you?

22 A No.

23 Q Well, what was the time gap between him hanging  
24 up the phone on me and the doorbell?

25 A I don't, I think it was about ten minutes to my  
26 best recollection.

27 Q Okay. And that's why you didn't make the  
28 connection because of the elapsed time of ten minutes, if  
29 it had been sort of a minute later, you might have  
30 connected it?

31 A I don't think I would have connected it because I  
32 never even thought you'd ever appear at our door.

33 Q But you were scared of me?

34 A Because my, my address --

1 Q You were already scared of me, you were scared of  
2 me stalking your website, you were talking about your  
3 husband, you were very scared of the phone call, why  
4 wouldn't you then be scared when I come to your door?

5 A I never even thought about it.

6 Q Didn't occur to you that I might come to the  
7 door, like, with all, like, the talking about your  
8 husband --

9 A No.

10 Q -- and what this guy might do next, you know?

11 A No, actually, there --

12 Q Behaving irrationally, all your training, and  
13 what did you call it, training in some kind of, there was  
14 something she's trained in?

15 THE COURT: Risk assessment.

16

17 BY MR. GREEN:

18 Q Risk assessment, the risk assessment training  
19 didn't sort of ring a bell that he might come to our house?

20 A Well, actually, if it, I wasn't worried about it,  
21 no.

22 Q Okay. Well, you said it was very scary, you just  
23 testified that, that the internet stalking, the going on  
24 LinkedIn, you said you were worried about it?

25 A I was more worried about you coming to my school  
26 than I was about you coming to my home because my address  
27 is a very well-protected thing.

28 Q Your husband never said I'm some kind of, like,  
29 criminal mastermind that might be capable of figuring out  
30 your address?

31 A No.

32 Q Or even from, getting you on your LinkedIn site  
33 that I might have found your address? It didn't occur to  
34 you that living out in this sort of nice suburban, St.

1 James you called it, what's that called --

2 THE WITNESS: This is harassment.

3 THE COURT: Mr. Green.

4 MR. GREEN: I'm sorry. I'm sorry. You know, I  
5 don't find it credible that she didn't suspect from the  
6 phone call that I might come to the house, that's just  
7 (inaudible)

8 THE COURT: Well, you can argue to me later what  
9 you find credible --

10 MR. GREEN: Okay.

11 THE COURT: -- and not, but I don't want you to  
12 use this forum in order to harass witnesses.

13 MR. GREEN: Okay. I don't think she's being  
14 totally candid. Let me see what I've got here. What did  
15 she call the training again, I'm sorry, Your Honour?

16

17 BY MR. GREEN:

18 Q Risk assessment. And when you opened the door  
19 and it was me, did you guess that it was me from my general  
20 appearance or from things, like, my demeanor or anything,  
21 did you guess before I identified myself?

22 A I didn't know who you were.

23 Q No idea who I was?

24 A No. I've never seen you before.

25 Q And when, and when I did identify myself, did you  
26 call your husband, say, George --

27 A No.

28 Q -- Marty Green's here?

29 A No.

30 Q Why not?

31 A Because I just heard him on the phone 10 minutes  
32 before that telling you that you did not, he did not want  
33 you, to talk to you, and I was shutting the door.

34 Q But you weren't, knowing, knowing that it was me,

1 you weren't afraid of sort of what I might do because --

2 A I'm not afraid of you.

3 Q -- of all the risk assessments, you didn't --

4 A I'm not afraid of you.

5 Q All right. Did I physically --

6 A Why would I, what would I have to be afraid of?  
7 I don't even know you.

8 Q Okay. I thought you said you were terrified all  
9 the adrenaline was pumping motivated by fear, and  
10 adrenaline you finally closed the door, it sounds like you  
11 were afraid of me?

12 A That was after you pushed the door open.

13 Q Oh, pushed the door open. Did I physically touch  
14 you?

15 A No.

16 Q Did you tell anyone I physically touched you?

17 A No.

18 Q I didn't think you did. Lisa McGifford says that  
19 someone told her I laid hands on you, but you don't know  
20 anything about that?

21 A No.

22 Q Were you at a meeting on the next Monday at, did  
23 you go to a meeting the following Monday at the university  
24 with your husband to discuss security concerns?

25 A No.

26 Q Well, someone remembered you there --

27 A I was at work.

28 Q -- but they might have been mistaken.

29 A Never have been there. Don't know where it is.

30 Q You've never been on campus --

31 A Don't even know where the office --

32 Q -- at the U of W?

33 A I've never been to their offices or anything, no.

34 Q Whose offices?

1 A These people that you're talking about.

2 Q Which people am I talking about?

3 A McGifford.

4 Q I didn't say you've been to her office, I asked  
5 you if you went to a meeting --

6 A No, I never --

7 Q -- of any kind at the U of W?

8 A No, I've never been to a meeting.

9 Q You've been on the U of W campus, ever?

10 A I've picked up my husband there.

11 Q Okay.

12 A I've walked across --

13 Q But you didn't go --

14 A No.

15 Q -- there, like, the following week, you didn't  
16 attend a meeting?

17 A No.

18 Q Okay. That's fair enough. Some people thought  
19 you did, but --

20 A No.

21 Q -- maybe that was, maybe I wrote it down wrong.  
22 Now, following the, subsequent to the incident at the door,  
23 there were all kinds of phone calls back and forth,  
24 e-mails. Did you participate in any of the phone calls or  
25 e-mails? Did you talk to people on the phone? Did you  
26 send any e-mails?

27 A I don't know which e-mails you're referring to --

28 Q E-mails first, can I see?

29 A -- could you be more specific? I don't know what  
30 you mean.

31 MR. GREEN: Maybe the judge can ask the question.

32 THE COURT: You should ask her specifically,  
33 like, was there --

34



1 BY MR. GREEN:

2 Q Let's start with the e-mails, like, subsequent  
3 to, on the evening of that Friday night, did you send  
4 anyone any e-mails?

5 A No.

6 Q Did you have any phone conversations with anyone?

7 A No. The only people I spoke to were the police.

8 Q Okay. But you didn't speak to anyone on the  
9 phone?

10 A No.

11 Q See what I've got. That's a pretty long struggle  
12 we had then one minute long.

13 A Yes, it was.

14 Q I'm going to see what your --

15 THE COURT: Just say for the record, the witness  
16 is nodding her head?

17 THE WITNESS: Yes.

18 MR. GREEN: Oh, okay.

19

20 BY MR. GREEN:

21 Q I'm going to see how your husband described this,  
22 this incident. He doesn't say much about it in this  
23 affidavit, he just says:

24

25 I informed Metz that Martin had  
26 telephoned my home and then  
27 proceeded to disregard my  
28 instructions and attended my front  
29 door. I further informed Metz  
30 that Martin intended to give  
31 Heather papers. I also informed  
32 Metz that Heather shut the door on  
33 Martin. Soon after Metz and I  
34 spoke, Neil Besner, vice

1                   president, called me and asked  
2                   what had occurred. I gave the  
3                   same explanation to Besner that  
4                   was given to Metz, specifically  
5                   that Martin had attended my home,  
6                   notwithstanding that I had  
7                   previously asked him to direct any  
8                   communications to my legal  
9                   counsel. Martin attempted to give  
10                  Heather papers and Heather shut  
11                  the door on Martin.

12

13       You see that he doesn't say that we struggled for a whole  
14       minute? He doesn't say that, does he?

15                   THE COURT: But how would he know that, he wasn't  
16       there?

17                   MR. GREEN: That's, that's a fine question.

18

19       BY MR. GREEN:

20                   Q     How would he know anything that happened since he  
21       wasn't there? I mean, all of this, how would he know any  
22       of it unless you told him?

23                   A     What's the question? I don't understand the  
24       question.

25                   Q     I'm saying that your husband describes a phone,  
26       two phone conversations he had, one with Professor Metz,  
27       one with Professor Besner. Now, in these conversations, he  
28       does not say that there was a struggle where we were  
29       pushing back and forth on the door for a minute, so I'm  
30       wondering, did you tell your husband that we had a pushing  
31       struggle that lasted almost a minute?

32                   A     Yes, after he came upstairs.

33                   Q     And yet, when he, in turn, describes the incident  
34       to his colleagues, he doesn't mention that point.

1 THE COURT: Okay. You're arguing with a witness,  
2 you can argue to me later.

3 MR. GREEN: Okay. I do think I need a  
4 designation of a hostile witness. I, Your Honour, I, I'm  
5 going to introduce her own testimony where she's going to  
6 describe the event. Well, she, well, it's a tough one. I  
7 find it peculiar that based on, I mean, if my wife had been  
8 pushing, like, in a pushing match that lasted one minute  
9 long, it's a long pushing match, one minute, and then if  
10 she told me that this guy was at the door pushing to get in  
11 and I started phoning my friends and telling about it, I  
12 think I would have said --

13 MR. GRIEVES: Your Honour, that's probably a  
14 question best posed to Mr. Bush whose affidavit that night  
15 Mr. Green is referring to.

16 MR. GREEN: He's right. He's right too. I find  
17 it a problematic detail. I don't think it's a small detail  
18 and I can read Professor Metz's affidavit about what your  
19 husband told him and it's not that different.

20 THE COURT: See, I don't think it's helpful to --

21 MR. GREEN: It's not helpful to this, okay.

22 THE COURT: Like, it's sort of, I keep thinking  
23 of the game of telephone this afternoon because you want  
24 to, who told you this, and you don't ask the people who  
25 were actually there to witness something.

26 MR. GREEN: Well, I'm asking, I'm getting my  
27 witnesses one at a time. Like, these were the people who  
28 were there, but she's, you know --

29 THE COURT: I don't know that it's, like, what  
30 can she say about what Metz has put in an affidavit?

31 MR. GREEN: I guess the suggestion is, on my  
32 part, that they said a bunch of stuff, and then they had to  
33 backtrack because it wasn't really true.

34 THE COURT: So then --

1 MR. GREEN: I'm saying that there was no, like,  
2 60 second of pushing.

3 THE COURT: Like, what other people put in their  
4 affidavits isn't a backtracking for her.

5 MR. GREEN: Yeah. Except, you know, it's, it's  
6 true, it's not her that we're hitting on here. It's the  
7 people who, we have to assume that she told the other  
8 people, she told her husband what she's told the court and  
9 then her husband went around telling people something  
10 different.

11 THE COURT: Well, you can ask her that question.  
12 What she's described today --

13 MR. GREEN: Yeah.

14 THE COURT: -- in terms of what happened at the  
15 door, did she tell her husband that? You can ask her that  
16 question.

17

18 BY MR. GREEN:

19 Q Okay. Would you consider it asked then, would  
20 you?

21 A I told my husband what happened, yes.

22 Q That the pushing match was a minute long?

23 A Honestly, I don't remember if I went into great  
24 detail with him about how long it was. I just remember  
25 him, telling him that we had a pushing match.

26 Q Did you tell him --

27 A This is a year ago now --

28 Q Did he say why didn't you call me? Did --

29 A -- I don't remember exactly.

30 Q -- did he say, did he say, why didn't you call  
31 me?

32 A No, he never asked me that because he knew how  
33 tired I was when he came up the stairs.

34 Q Why didn't you call me, he didn't ask. He didn't

1 say, you should have called me, I would have come? He  
2 didn't say that?

3 A Not that I remember, no.

4 Q I think if my wife was struggling with an  
5 intruder at the door and she never called me, I would have  
6 said, why didn't you call me? Again, I'm --

7 MR. GRIEVES: Your Honour, the witness has  
8 already testified that she was out of breath, she could not  
9 call anyone at the time when they were, when she was  
10 pushing the door against Mr. Green.

11 MR. GREEN: Yes, she has. I, I don't find that,  
12 I think I'm going to call an expert on physiology to see if  
13 he can give, if there's such a phenomenon where somebody's  
14 out of breath, like, they're not able to call for help  
15 because they're too out of breath. I've never heard of it  
16 as a physiological phenomenon.

17

18 BY MR. GREEN:

19 Q Are you a Phys. Ed. teacher, is that your field?

20 A No.

21 Q Because I've never heard of it.

22 A I was, I was --

23 Q I don't find it credible.

24 A -- worried about him, what you were going to do  
25 to him. I didn't want him to come upstairs.

26 Q Oh, now we're getting there.

27 A Yeah.

28 Q Didn't call him because you were worried that  
29 I'd get --

30 A I never thought of calling him. I thought keep  
31 him away, far away. I don't want him anywhere near here  
32 because honestly, I thought you might have a, something  
33 dangerous, I don't know. I didn't know what you were up  
34 to, right.

1 Q Okay. Then that's the reason. But then,  
2 wouldn't it have been simpler, if you thought, you  
3 testified before, you said, well, why would I be afraid of  
4 you? Didn't you say that before, why would I be afraid of  
5 you?

6 A I did say that at first.

7 Q Now, you're saying you were very afraid that I  
8 might have carried a weapon?

9 A After you pushed the door open for a minute, I  
10 became afraid, yes.

11 Q Okay.

12 A After you forced --

13 Q But you didn't say give me the paper and you can  
14 go?

15 A -- your way in the house. After you pushed that  
16 hard.

17 Q All that time with the pushing match, you didn't  
18 say just give me the papers and, and you can go, you  
19 didn't --

20 A We were beyond that at that point, Marty.

21 Q We were beyond giving the papers?

22 A Um-hum.

23 Q Okay. I don't know what that means --

24 A You weren't listening.

25 Q No, no, I'm not, I wasn't listening, okay. In  
26 your, listen, in any of your affidavits, I'm going to see  
27 if you testified, we'll now go to your affidavit, we'll see  
28 if you testified in your affidavits that you told me to  
29 leave because I don't think you did tell me to leave, and  
30 we'll see what your affidavit says. We're going to find  
31 your affidavit and see if you asked me to leave.

32 A Okay. You do that.

33 Q Hmm?

34 A Go ahead.

1 Q Okay.

2

3 On January 11th, at approximately  
4 5 p.m., I heard George answer our  
5 phone.

6

7 It's going to be very much what she described. I'm going  
8 to just go ahead to ...

9

10 I emphasized to Martin that as  
11 George had just informed him  
12 several minutes ago that he didn't  
13 want any contact and any  
14 communication should be directed  
15 through George's legal counsel.

16

17 Not the university's legal counsel. You did testify that  
18 the communication should be directed to George's legal  
19 counsel, didn't you?

20 A I didn't testify, I'm not --

21 Q Your affidavit, you swore to it, though?

22 A I said that in there, yes.

23 Q Yeah. Not to the university's legal counsel?

24 A Well, that's one in the same. He only has one  
25 lawyer.

26 Q What work did D'Arcy and Deacon ever do for your  
27 husband prior to these events?

28 A He is, they are the recognized lawyers for the  
29 University of Winnipeg.

30 Q Did your husband ever have any affairs where  
31 D'Arcy and Deacon worked for him prior to this?

32 A He's the official lawyer for the university.

33 MR. GREEN: Would the court direct the witness to  
34 answer the question in a responsive way?

1 THE COURT: I have to think of what the question  
2 was. Prior to this day, had your husband retained D'Arcy  
3 and Deacon even as the university lawyer for any other  
4 capacity?

5 THE WITNESS: No.

6 THE COURT: Is that what you wanted?

7 MR. GREEN: Yes.

8

9 BY MR. GREEN:

10 Q So D'Arcy and Deacon wasn't your husband's  
11 lawyer?

12 A They're the recognized lawyers for the  
13 university.

14 Q So when he told me to call his lawyer, he wasn't  
15 telling me anything? He wasn't giving me any information  
16 that I could work with, was he?

17 A I'm sure you would have been able to find out who  
18 it was if you'd been able to find our address and phone  
19 number, Marty, you would have been able to find out who the  
20 university lawyers were.

21 Q I'm going to read on because I want to find out  
22 if you ever told me to leave.

23

24 Martin responded by indicating he  
25 had papers to give to George. I  
26 informed Martin that any papers  
27 could be mailed.

28

29 Again, why wouldn't you just have taken them?

30 A Are you asking me that question?

31 Q I still don't understand why you wouldn't take  
32 the papers?

33 A Because I thought they were papers to do with the  
34 course.



1 Q And why would that be a problem?

2 A And you were appealing --

3 Q Why would it be a problem to accept them?

4 A -- you were appealing the course.

5 Q And so why would you not take the papers?

6 A And the course was going through, the appeal was  
7 going through the senate.

8 Q So what?

9 A And I did not, the date had passed for you to  
10 hand in papers, Marty.

11 Q So what?

12 A I did not want to accept --

13 Q I wanted to give him papers, why wouldn't you  
14 accept them?

15 A I did not want to accept papers from you because  
16 the date had passed for the course and I did not want to  
17 accept papers from you.

18 Q But wouldn't, don't you think I might have gone  
19 away peacefully if you had just taken the papers?

20 A You're asking my opinion, I don't know what you  
21 would have done.

22 Q Okay.

23

24 Irrespective of my comments,  
25 Martin attempted to hand me the  
26 papers without indicating the  
27 nature and/or purpose of the  
28 papers. I then attempted to shut  
29 the front door.

30

31 Okay. So now you're attempting to shut the front door, but  
32 you never, you never say you told me to leave?

33 A You pushed against the door, I was trying to shut  
34 the door.

1 Q Well, it sounds like you were shutting the door,  
2 but you didn't tell me I should leave, you just started  
3 shutting the door, didn't you?

4 A Yeah, and you stopped me. When someone shuts the  
5 door on a person, one would assume that that means you  
6 don't want them to come anywhere near your, inside your  
7 house, that is a logical assumption I would think.

8 Q Wasn't my hand extended through the door, so  
9 wasn't I protecting my hand?

10 A No, you were pushing on the door.

11 Q Okay. For about a minute. I was very concerned  
12 of what Martin's intentions were since he was not listening  
13 to me. What were you saying to me?

14 A I had just previously told you that George did  
15 not want to have you, talk to you.

16 Q But it sounds like --

17 A And you were insisting on --

18 Q

19 I feared I was not going to be  
20 able to close the door, I was very  
21 concerned of what his intentions  
22 since he was not listening to me.

23

24 Were you saying anything at that time?

25 A Yes, I was. I told you that he didn't want to  
26 talk to you.

27 Q That was before, but now, like, after you shut  
28 the door, you didn't tell me to leave, you just said he's  
29 not listening to me, so were you saying anything to me  
30 during the fight, the struggle?

31 A I was trying to shut the door.

32 Q So if you say I was not listening to you, it was  
33 because you weren't saying anything --

34 A What it meant was --

1 Q -- you weren't telling me to leave, you weren't  
2 calling your husband, you were too out of breath to say  
3 anything, you know?

4 A You're twisting it around.

5 Q Well, I'm doing my best.

6 THE WITNESS: What is the question, I don't know  
7 what he's asking me?

8

9 BY MR. GREEN:

10 Q You never asked me to leave, did you?

11 A I didn't ask you to leave, but one would, I shut  
12 the door as a physical way of pushing you out of the door.

13 Q And during the time that you were shutting the  
14 door, my hand was extended through the door to show you the  
15 papers, wasn't it?

16 A At first, and then you pushed against the door.

17 Q But the door, when you were shutting the door, at  
18 the moment you started to shut the door, was my hand within  
19 the door frame with the papers?

20 A At first it was, yes.

21 Q Okay.

22 A And then after when I was trying to shut the  
23 door, you stopped me, and that's when I became very  
24 worried.

25 Q Was I waving the papers or holding them steady?  
26 Was I was holding it in a way --

27 A Actually, I think you were slapping me with them.

28 Q Slapping you with the papers?

29 A Yes.

30 Q I was slapping you with the papers?

31 A You were slapping my hand with them, yes.

32 Q Slapping your hand with the papers?

33 A Um-hum, yeah.

34 Q That's not in any of your affidavits?

1           A     No, I know.    But you're asking me now, so I'm  
2     telling you.

3           Q     Okay.

4           A     You were very insistent on giving me those  
5     papers.

6           Q     Why didn't I just drop them on the floor?

7           A     I don't know, why didn't you?

8           Q     All right.    Slapping me with the papers.    Write  
9     this down, slapping me with the papers.    Did you take  
10    stress leave after this?

11           THE WITNESS:   Why is that any of his business?

12           MR. GREEN:    I don't know.

13           THE WITNESS:   Why does he need to know that?

14           MR. GREEN:    Ask her if you want.    I don't know.  
15    I don't know if I'm entitled to ask.

16           THE COURT:    Why is it relevant?

17           MR. GREEN:    I don't know.

18           THE COURT:    Okay.    Then you're not entitled to  
19    ask that question.

20           MR. GREEN:    You know, after they filed the  
21    affidavits, I wanted to cross-examine them, but the lawyers  
22    told me they had already gone to the, gone to the west  
23    coast for the summer, gone to the west coast for the  
24    summer, and that was the end of May.

25

26    BY MR. GREEN:

27           Q     Doesn't school go right through the end of June?

28           A     Yes.

29           Q     So you were on leave, weren't you?    You took  
30    leave?

31           A     I, I was in school until the end of June.

32           Q     Well, the lawyers told me that I couldn't  
33    cross-examine you because you were already on the west  
34    coast?

1 THE COURT: Okay. That's not relevant to these  
2 proceedings --

3 MR. GREEN: Okay. Fair enough, yeah.

4 THE COURT: -- so I'm not going to let you  
5 continue down that road.

6 MR. GREEN: I think, I think she took stress  
7 leave to sort of exaggerate the fact that she was  
8 distressed by the incident.

9 MR. GRIEVES: Your Honour, see --

10 MR. GREEN: That there was really nothing to it  
11 and she's trying to make more of it than it was, and among  
12 that, as part of the general pattern of behaviour, she told  
13 the school board she's stressed out.

14 THE COURT: Okay. But all of that --

15 THE WITNESS: I didn't go on stress leave. I'll  
16 answer that question.

17

18 BY MR. GREEN:

19 Q All right.

20 A I did not go on stress leave.

21 Q Okay.

22 A Okay.

23 Q Fair enough. Fair enough.

24 A Let's not even go there because it's not true.

25 Q Okay. Well, I'm just asking. You could have  
26 answered.

27 A I don't see the relevance.

28 Q Okay.

29 MR. GREEN: Now, I need some guidance from the  
30 court on this because I have contradictory evidence to her  
31 narrative which I'm going to introduce when I testify, but  
32 then I'm concerned that you'll say, well, why didn't you  
33 confront the witness of it, so she could, so I think I have  
34 to do it now, don't I?

1 THE COURT: Um-hum.

2 MR. GREEN: Okay. Let's do that.

3 THE COURT: I mean --

4 MR. GREEN: I'm going to call your time.

5 THE COURT: So let me just try to clarify. Like,  
6 if you want to later, if you have two different witnesses  
7 and you want to argue to me later that these two witnesses  
8 conflicted, you don't have to put what one says necessarily  
9 to the other. But if you're going to testify, oh, well,  
10 there was a third person who was right there beside me who  
11 saw everything and none of what she says is true, then you  
12 should confront her with that. If you can appreciate the  
13 distinction there.

14 MR. GREEN: I think the evidence I have is  
15 independent, and I don't need to confront her with it. But  
16 I'm not sure, so I'll, as long as, you see if I can, what  
17 I'm concerned of is that if I confront her with it and then  
18 she goes and talks to her husband about it and I can't  
19 confront him and catch him in the same contradiction, then  
20 I've sort of hurt myself, but if we say, we're going to go  
21 on, and we're going to go, I'm going to go right to hit the  
22 husband and hit him next, then I can confront her with it.  
23 That's my situation.

24 THE COURT: Well, I know it's late, and, but I  
25 also know that Mr. Bush has been here all day today.

26 MR. GREEN: He's been here all day.

27 THE COURT: And he was all day here, all day last  
28 time, so I would really like to have his evidence before  
29 the court today.

30 MR. GREEN: I think I'll go to 6:30 if I bring  
31 Mr. Bush in. I can go past 6:00.

32 THE WITNESS: I don't think he will mind, but I'm  
33 just guessing.

34 THE COURT: Madam Clerk?

1 MR. GREEN: It's a tough one.

2 THE CLERK: I would rather not, but --

3 MR. GREEN: Wouldn't we all. I think I got to do  
4 it. But I just don't want then her to sort of give my  
5 evidence to her husband. I need to get him in here and  
6 then testify him, we've got to go right through if I  
7 confront her with my other evidence, we got to go right  
8 through. I believe I can finish by 6:00, 6:30. We started  
9 late, it's too bad we didn't make that nine o'clock start,  
10 I don't know what happened there.

11 THE COURT: Yeah, the court wasn't available so,  
12 I did make those inquiries, but let's keep going.

13 MR. GREEN: Okay. See, what I don't find  
14 credible is --

15 THE COURT: Okay. Ask her questions, don't argue  
16 to me.

17 MR. GREEN: Okay. No, I don't have questions to  
18 ask her, I have contradictory evidence on her timeline, and  
19 I, I'm going to introduce evidence that her timeline, that  
20 there was no ten minutes between the hanging up of the  
21 phone and the, and the, and the --

22 MR. GRIEVES: It was an estimate.

23 MR. GREEN: -- ringing of the doorbell.

24 MR. GRIEVES: It was an estimated time that she  
25 gave. She didn't say that that's the exact time.

26 THE COURT: All right.

27 MR. GREEN: It was so far out of whack that it  
28 sort of goes to her total credibility.

29 THE COURT: Okay. Then put that evidence to her.

30 MR. GREEN: Okay.

31

32 BY MR. GREEN:

33 Q Well, I'm showing that my phone call to your  
34 husband on my phone records was January 11th, 1703, that's

1 5:03 in the afternoon, and I'm billed for two minutes,  
2 which means 61, 62 seconds minimum, it means it was at  
3 least 1704, 1704 when the phone was hung up. So then I  
4 have the, I have the 9-1-1 call to the police, which went  
5 in at 1707, and I can find that if I look for it. Does the  
6 court want to accept it or do you want to just --

7 THE COURT: Okay. Ms. Bush, could it be that  
8 there was only three minutes between the time of the --

9 MR. GREEN: Three minutes, yeah.

10 THE COURT: -- the phone call and when Mr. Green  
11 appeared at the door?

12 MR. GREEN: Yeah, there was no ten minutes, sort  
13 of (inaudible) time?

14 THE WITNESS: Yes, it could have been shorter  
15 time. It could have been five minutes. Could have been,  
16 yeah.

17

18 BY MR. GREEN:

19 Q Could it have been three minutes?

20 A Possibly, yes.

21 Q The pushing match was one minute?

22 A I wasn't, I wasn't watching my watch. I was  
23 guessing at the time. I said approximately five, ten.

24 Q But that was, you see, the ten-minute estimate  
25 was to substantiate your, your suggestion that there was,  
26 there was no connection between the phone call and the  
27 doorbell, or there was a great, it was much more immediate  
28 than that, and that doesn't leave any time for her to  
29 explain the story and for her husband to start making the  
30 phone call. I'm going to say that the time duration  
31 between her husband coming and getting her story and making  
32 the phone call was four or five minutes because I have his  
33 testimony that it took her four or five minutes to calm her  
34 down before he called the police. So what happens then, 15



1 minutes of elapsed time actually happened in less than  
2 three minutes. And so I'm confronting with her, and she  
3 says, well, I suppose it could have been, I guess that's  
4 all, I'm going to introduce my own testimony.

5 THE COURT: All right. Okay.

6 MR. GREEN: And I don't know that I've got  
7 anymore for this witness. But let me just, what I've been  
8 doing is I've been taking a five-minute recess and just  
9 considering whether I have anymore, and we skipped the  
10 recess after the last witness, so maybe now is the time for  
11 me to take until quarter past and just consider if, what  
12 else I have for this witness.

13 THE COURT: Okay. We'll take a five-minute  
14 break, and then we'll come back.

15 THE WITNESS: Okay.

16 THE CLERK: All rise. Court is in recess.

17

18 (BRIEF RECESS)

19

20 THE CLERK: Court is now re-open. You may be  
21 seated.

22 MR. GREEN: Okay. Thank you.

23

24 BY MR. GREEN:

25 Q I got just a couple more questions now. You  
26 see, I have the transcript of when they went to the, the  
27 Provincial Court to get an order, and your husband's  
28 testifying, it just sounded like you were there, but maybe  
29 you weren't. I'll just read it.

30

31 So you know, we've been getting  
32 all this advice. We don't want  
33 this to happen again. You know,  
34 we, my wife is quite frightened

1                   and we just spoke now and she  
2                   feels that we should probably make  
3                   a request for him to be charged  
4                   with assault or I'm not sure what.  
5                   I don't know the legal term for  
6                   it.

7  
8                   So your husband had just spoken to you, but the immediacy  
9                   of it is not totally clear, I guess I have to ask when he  
10                  says you just spoke now, does that mean just before he went  
11                  in?

12                  A     Um-hum.

13                  Q     Not when he was there, when he was --

14                  A     Yes.

15                  Q     -- actually, so that was just before. Well,  
16                  that explains, yeah. That was my impression that she was  
17                  there with him. Now, your husband says he was downstairs  
18                  or something. He says I heard, oh, yeah, I realized there  
19                  was something going on at the front door. This was after.

20

21                               I had heard the front doorbell  
22                               ring because it rings downstairs.

23

24                  So you think he went downstairs after the phone  
25                  conversation. Where, where was the phone picked up when  
26                  the actual, when you were sitting with him listening to the  
27                  phone conversation? Where were you, upstairs? Downstairs?

28                  A     In the kitchen.

29                  Q     Kitchen, so then after the phone was hung  
30                  up, he went downstairs?

31                  A     Right.

32                  THE COURT:        Again, Mr. Green, when you're  
33                  referring to a transcript of Mr. Bush's testimony, doesn't  
34                  make sense to me to put that to this witness.

1           MR. GREEN: Okay. Okay. I'm just trying to get  
2 the narrative of events. I don't know that I'm especially  
3 going to get anything more because he's, he's telling what,  
4 he's relating here for the judge what the, what his wife  
5 told him, and the judge says: Well, I suppose it could be  
6 considered hearsay for sure. But then he answers: Yeah.  
7 Well, my wife is here he says, and I guess he meant my wife  
8 was outside because he says: Yeah, my wife is here. And  
9 then the judge says: No, I understand. This isn't a  
10 trial, however, I recognize it's hearsay, it's still  
11 relevant, so why don't you just tell me according to what I  
12 suppose your wife told you, something to that effect. So  
13 she was there, but she's telling us now that what it means  
14 is that she was outside, and I did not quite get that. I  
15 think most of this is going to be stuff I'm going to  
16 examine the husband on, you're right, you're right.

17

18 BY MR. GREEN:

19           Q     Yeah, and then, so then they saw the car  
20 leaving and he was looking out the window and then, fair  
21 enough, and then her husband says about five minutes later,  
22 four minutes later after I calmed her down, I phoned the  
23 police, and then the police came. Do you remember that,  
24 four or five minutes to calm you down?

25           A     Yes, because we had to lock the back door,  
26 and I remember going to the back of the house --

27           Q     Okay.

28           A     -- to make sure that everything was locked  
29 because we didn't know where you were.

30           Q     And after that, you phoned the police?

31           A     Yeah.

32           MR. GREEN: I think I'm okay with that, Your  
33 Honour.

34           THE COURT: All right.

PROCEEDINGS

1           MR. GREEN: I think we can let her go, and we'll  
2 have the last witness of the day.

3           THE COURT: All right. Thank you.

4           THE WITNESS: So I'm free to go?

5           MR. GREEN: Unless he's got any, no, he's got, he  
6 might have cross.

7           MR. GRIEVES: No, I don't, Your Honour.

8           THE COURT: Thank you --

9           THE WITNESS: Thank you.

10          THE COURT: -- Ms. Bush, for coming to court  
11 today and --

12          THE WITNESS: Thank you.

13          THE COURT: -- thank you for your testimony. You  
14 are free to leave.

15          THE WITNESS: Okay. Will I be recalled; do you  
16 know?

17          THE COURT: I do not expect you to be recalled at  
18 this stage?

19          THE WITNESS: Okay, thank you.

20          THE COURT: There's always a possibility that  
21 Mr. Green could apply to have you recalled --

22          THE WITNESS: Okay.

23          THE COURT: -- but right now, it's not expected.

24          THE WITNESS: Okay, thank you.

25

26                           (WITNESS EXCUSED)

27

28          THE CLERK: Just please come and step in the  
29 witness box, remain standing for a moment.

30          THE COURT: Mr. Bush, I did see you just look at  
31 your watch, and we've had a talk about the lateness of the  
32 hour, and I know that the court's staff is --

33          THE WITNESS: I'm fine if you guys are fine.

34          THE COURT: All right. I know that you've been

1 here on another day and you've been here all day today, so  
2 I have to impose on the court staff and we're going to push  
3 on and see if we can finish it today.

4 THE WITNESS: Thank you. I appreciate that.

5 THE CLERK: Please state and spell your full name  
6 for the record?

7 THE WITNESS: State and spell?

8 THE CLERK: Yes, please.

9 THE WITNESS: It's George Dryden Bush.

10 THE CLERK: Could you spell that for us, please?

11 THE WITNESS: Yes, G-E-O-R-G-E, Dryden,  
12 D-R-Y-D-E-N, B-U-S-H.

13 THE CLERK: And do you wish to swear an oath on  
14 the Bible or affirm your evidence?

15 THE WITNESS: I'll swear on the Bible.

16 THE CLERK: Please take the Bible in your right  
17 hand.

18 THE WITNESS: Um-hum.

19

20 **GEORGE DRYDEN BUSH,** sworn,  
21 testified as follows:

22

23 THE CLERK: Thanks. You can have a seat.

24 THE WITNESS: Thank you.

25

26 DIRECT EXAMINATION BY MR. GREEN:

27 Q Thank you for coming, Professor. I've got a,  
28 sort of catch up and sort of remember where I am in the  
29 thread of things. It's been a long day for both of us.

30 A You have a lot of papers out there.

31 Q Well, it was six different witnesses, I had to  
32 sort of keep their testimonies and evidence and everything,  
33 and there will be a lot of flipping through papers trying  
34 to find the thing, but let's try and get on with it. I'm,

1 I'm --

2 THE COURT: Yeah, let's get going.

3 THE WITNESS: Sure.

4

5 BY MR. GREEN:

6 Q I just finished one, and I've got to think where  
7 I'm going with the next, so going to be a little slow  
8 getting started. All right. All right. Let's get right  
9 into it. I got the police report. Okay. This doesn't  
10 always work with the rules of testimony, but I'm just going  
11 to say right out, like, on the night of the attempted home  
12 invasion, you know what I'm talking about, which night when  
13 I say that?

14 A Um-hum. It wasn't, it was never stated an  
15 attempted home invasion by myself or my wife.

16 Q Oh, you didn't feel it was an attempted home  
17 invasion?

18 A No.

19 Q That's great.

20 A It was an attempt to force your way into our  
21 house.

22 Q Oh, is that different?

23 A I'm not sure, it's wordsmithing.

24 Q Okay. So it was an attempt to force my way into  
25 your house?

26 A You tried to enter our house by pushing on the  
27 door against my wife's wishes.

28 Q Have you ever heard it called an attempted home  
29 invasion?

30 A I believe Professor Metz made that statement in  
31 one of his documents.

32 Q Fair enough. Yeah, so you've heard it, but it's  
33 not a term that you've used yourself?

34 A No.

1 Q I think he said home intrusion, something like  
2 that?

3 A No.

4 Q I might find it if I look for it, but I'm not  
5 going to.

6 A Well, you're welcome to look for it.

7 Q It's all right. Well, you do say it was an  
8 attempt to force my way into your house, that's your  
9 testimony?

10 A You tried to, the, the situation was that, I'm  
11 sure this has become evident once before, but you said that  
12 you had to give me something.

13 Q Yes.

14 A And my wife said that you've just spoken to my  
15 husband 10 minutes before, and he said he wanted nothing to  
16 do with you, and anything you should do it through the  
17 university. And at that point, you tried to enter the  
18 house and to give my wife something.

19 Q At that point, okay, okay, after --

20 A So she tried to close the door.

21 Q Just a second, no, no, slow down if you could  
22 because I have to take notes because I don't have a  
23 transcript.

24 A I'm sorry.

25 Q After she told me to deal through the university,  
26 you then said I then tried to come into your house?

27 A No, she tried to shut the door.

28 Q Well, you said, that's not the sequence you just  
29 said.

30 A Well, she tried to shut the door.

31 Q Okay.

32 A And you prevented her from closing the door.

33 Q Okay. She tried --

34 A This is, again, hearsay because I wasn't there.

1 Q But this is what she told you that she tried to  
2 shut the door?

3 A Yes, and you prevented her from closing the door.

4 Q All right. Prevented her. Did she say I tried  
5 to force my way in?

6 A No.

7 Q She did not say I tried to force my way in?

8 A She just, now, it's a matter of semantics, I  
9 think, because you were trying to come into the house to  
10 give, to give her something and she was trying to keep you  
11 out. Now, whether or not --

12 Q Now, did she say or did she that I was trying to  
13 come into the house? Was I trying to come into the house?

14 A It appeared that you were.

15 Q Was I trying to force my way in?

16 A It appeared that you were trying to enter the  
17 house.

18 Q By force?

19 A By resisting her closing the door, that would  
20 seem that you were trying to get into the house.

21 Q Did she tell you that my hand was in the door at  
22 the time when I was --

23 A Seems to me that she told me that you got your  
24 hand trapped in the door. Would that not seem then --

25 Q Did she, did she say that my hand was in the door  
26 before she tried to close it?

27 A I have no, I, I have no idea.

28 Q You don't know?

29 A I can't say that.

30 Q So you don't know?

31 A As far as I know, she told me that when she tried  
32 to shut the door and you prevented her, your hand got  
33 caught in the door.

34 Q So did it occur to you maybe I was just trying to



1 stop my hand from getting caught, that I wasn't trying to  
2 get into the house; did that occur to you?

3 A I don't think that was the case at all.

4 Q You don't think that's, well, you think I was  
5 trying to, you weren't there?

6 A I wasn't there, correct.

7 Q But you think I was trying to get into your  
8 house?

9 A Well, what was, what was the other reason for you  
10 being there then?

11 Q Okay. Well, I'll examine you on that.

12 MR. GREEN: Your Honour, I, I know, Your Honour,  
13 I know this is a little irregular, but my sequence was  
14 interrupted when we put Metz to the front and I didn't do  
15 what I intended to do. But I had prepared a written  
16 version of my events of what happened at the door because I  
17 didn't want you to say, well, he's changing his story, to,  
18 can I just give this to you now so that it's on record,  
19 like, that I didn't sort of make this in response to sort  
20 of tailoring my testimony to what they've said? I do want  
21 it on the record.

22 THE COURT: No, it's not appropriate for you, you  
23 have to make your decision with respect to your testimony.

24 MR. GREEN: Well, I, I'm trying to say, like, I'm  
25 not going to tailor my testimony and change my story  
26 depending on what they say. I do have my story in writing  
27 and I, I'm going to give it to Ms. Holland (phonetic) and  
28 then I'll call her as a witness if I need to. I'm going to  
29 give it to you, then I'll give it to Allan.

30 THE COURT: No.

31 MR. GREEN: If I need a witness to say that, yes,  
32 this, this was written before I --

33 UNIDENTIFIED PERSON: Am I allowed to take this?

34 MR. GREEN: Yeah, he can take this.

1 THE COURT: This is completely irregular,  
2 Mr. Green, and it's not going to, you have to give your  
3 testimony.

4 MR. GREEN: I'll give my testimony, but I just,  
5 in case anyone says, well, you're changing your testimony  
6 on my credibility --

7 MR. GRIEVES: I mean --

8 MR. GREEN: -- to say that I'm changing my story.  
9 I want to say, well, my story was typed out before, before  
10 today. I'm just saying my story was typed out. I meant to  
11 do this before I started testifying, but then we changed  
12 the orders and I got confused.

13 MR. GRIEVES: I mean, Your Honour, Mr. Green will  
14 be available for cross-examination in any case, so it's --

15 THE COURT: Yes. There's this poor man in the  
16 back who doesn't know why he's been handed a paper.

17 MR. GREEN: Can I give it to Mr. Grieves then?  
18 It's just that I just want to be on the record.

19 THE COURT: I don't think you want to give that  
20 to Mr. Grieves.

21 MR. GRIEVES: No.

22 THE COURT: That gives Mr. Grieves an unfair  
23 advantage in terms of cross-examining you. I think you  
24 want to keep that.

25 MR. GREEN: Well, he's not going to read it.  
26 I'll just fold it four so he can pull it out later.

27 MR. GRIEVES: I'm not going to accept it, Your  
28 Honour, that's --

29 THE COURT: Mr. Green, I'm not going to let you  
30 do that. You hold on to your document. You ask Mr. Bush,  
31 that's why he's here. You've subpoenaed him.

32 MR. GREEN: I'll give it (inaudible) just in  
33 case. In case I need to, I mean, I don't believe  
34 Mr. Grieves is going to say, like, I'm going to show you

1 the paper later and say, this was what I said, and you're  
2 going to say, no, you could have changed that later, and I  
3 don't think I'm going to have to call Al in.

4 THE COURT: At the end of the day, you have to  
5 give your evidence --

6 MR. GREEN: All right.

7 THE COURT: -- live in court. What you've put in  
8 other affidavits, what you've written down in other places,  
9 does not become evidence. The evidence has to come from  
10 you.

11 MR. GREEN: It's not evidence.

12 THE COURT: And then you're going to be crossed.

13 MR. GREEN: It's just sort of the fact that I'm  
14 not going to change my story. I'm committing to my story  
15 ahead of hearing his evidence.

16 THE COURT: Okay.

17 MR. GREEN: I don't, you know what I'm doing,  
18 anyways.

19

20 BY MR. GREEN:

21 Q So you can't think of any other reason I was  
22 coming to your house other than to try to force my way in?

23 A I have no idea what, why you came to our  
24 house.

25 Q Didn't you find out later what the real  
26 reason was?

27 A Well, yes, but, but that wasn't said. Had  
28 you said why you were there, that would have been, that  
29 wasn't the case.

30 Q Did anyone ask me why I was there?

31 A I wasn't there.

32 Q Did anyone ask me why I was there?

33 A My wife asked you what you were doing there.

34 Q Well, that's not in her affidavits. Okay.

1 I'm going to have, I'm going to have to bring her back if  
2 that's what you're testifying? My wife asked me --

3 THE COURT: No, you --

4 MR. GREEN: It's not in any evidence --

5 THE WITNESS: She said why are you, who are you  
6 first of all, and you identified yourself. And she said  
7 you have no business being here.

8

9 BY MR. GREEN:

10 Q Does that constitute asking me what I was doing  
11 there?

12 A You had phoned 10 minutes earlier to your  
13 appearance at our door.

14 Q Um-hum. And did I tell you what I was doing  
15 there?

16 A No, you did not.

17 Q Why not?

18 A Because I hung up on you.

19 Q Right. Did you ask me what I was phoning you  
20 for?

21 A I said in no uncertain terms you had no business  
22 calling. It was an unpublished number. You had no  
23 business knowing what that number was. I did not want to  
24 deal with you in any way, shape or form, and in fact, if  
25 you wanted to contact me, it should have been through the  
26 university.

27 Q So if I had, if I had tried to tell you my  
28 purpose, you were, you hung up on me any ways. I didn't  
29 have the opportunity to sort of --

30 A It's a moot point, is it not?

31 Q I don't know what you're thinking there. But  
32 you're saying you didn't ask me, you're saying first you  
33 said my wife asked me what you were doing there, now I  
34 think I'm saying she didn't, are you agreeing that she

1 didn't or are you saying --

2 A Excuse me --

3 Q -- she did ask me?

4 A -- you've said six different things there. Do  
5 you want to repeat that again, please?

6 Q Did your wife ask me what I was doing there?

7 A I don't believe so. I believe she said --

8 THE COURT: Mr. Green, can you please focus on  
9 what this witness actually knows rather than --

10 THE WITNESS: Thank you.

11 THE COURT: -- what other people have told him  
12 because we've heard from those other people. At the end of  
13 the day, that's what I'm going to base my assessment on, if  
14 it's relevant.

15 THE WITNESS: Thank you.

16 THE COURT: Which I'm not yet convinced of but  
17 I'm leaving that door open.

18

19 BY MR. GREEN:

20 Q When I phoned you, did you ask me the purpose of  
21 my phone call?

22 A I did not. I didn't give you the opportunity  
23 because I hung up on you. I had no, I did not want to talk  
24 to you in any way, shape or form.

25 Q Why did you not want to talk to me?

26 A You were no longer a student at the university.

27 Q Maybe we were friends. I mean, I thought we were  
28 on pretty good terms when we were on university. Don't you  
29 recall the very last day of classes I said, you know, if  
30 there was one prof I would talk to, like, I wouldn't really  
31 sort of go for coffee with Metz, but I might go for coffee  
32 with you; do you recall a conversation like that?

33 A I do.

34 Q Okay.

1           A     But the events following that at the university  
2 and with a number of issues, I felt it best that we not  
3 talk.

4           Q     In fact, you felt it best to slam down the phone  
5 on me without sort of giving me a reason to say why I  
6 wanted to talk to you?

7           A     No, I said I didn't --

8           Q     You didn't, you didn't want to give me the  
9 opportunity to tell you what I was, what I was --

10          A     Why would you, why would you, a student of the  
11 university come to the, phone a professor or a faculty  
12 member, why would you want to do that?

13          Q     It doesn't sound, it doesn't sound that unheard  
14 of for a student to phone a professor. I've phoned other  
15 professors.

16          A     It's never happened.

17          Q     I've had other --

18          A     I've never ever --

19          Q     A student has never phoned you?

20          A     Never.

21          Q     A former student has never phoned you?

22          A     Never, never. It's always done by e-mail or I've  
23 contacted, I've met the person in person. No one has ever  
24 called me at home.

25          Q     Oh, I've called professors at home?

26          A     Well, I'm sorry.

27          Q     Former professors. And none of them slammed,  
28 you're the first one that slammed the phone down on me?

29          A     And I'm sure I'm not the last.

30          Q     I think you just might be. Just might be. It's  
31 never happened to me that you phone a former professor and  
32 he slams, it's never happened to me. Now, at the time when  
33 you got the phone call, were you already kind of on edge  
34 about me, like, as particular --

1 A No.

2 Q Nothing had happened in recent days and weeks  
3 that sort of caused you to be sort of nervous about Marty  
4 Green, what he might be up to?

5 A I just didn't feel appropriate that you would  
6 call me personally at home. I didn't want to talk to you.

7 Q No reason, just, like, didn't like the idea of a  
8 student calling a professor?

9 A No.

10 Q And there was nothing else that sort of had you  
11 sort of spidey-sense tingling that something's wrong, like,  
12 Marty Green calling you?

13 A No, none whatsoever.

14 Q You weren't worried about me stalking your wife  
15 on her LinkedIn page?

16 A Well, we certainly had talked about that.

17 Q The day before?

18 A I have no idea when, but you offered --

19 Q She thought it was the day before?

20 A The fact that you also appeared at our church,  
21 that was rather odd as well.

22 Q Okay. So in addition to the phone call, it  
23 wasn't just the phone call, it was also two other events,  
24 the, the stalking her LinkedIn page, which was, she was  
25 pretty concerned about it when she testified, and did you  
26 sort of think, ah, it's nothing, it doesn't matter, or were  
27 you concerned about it too?

28 A No, we were also concerned.

29 Q So you were concerned about me?

30 A The fact that you did it, but it, it wasn't a  
31 focus of our lives.

32 Q But unlike in the immediate days prior to the  
33 attempted home intrusion, it was in those immediate, it was  
34 immediate and you were also concerned about when I called

1 on your church.

2 MR. GREEN: The church visit is such a red  
3 herring, Your Honour. I, I mean I could testify about it  
4 when I get around to it, but ...

5

6 BY MR. GREEN:

7 Q I got to ask you, I was in your church, what was  
8 my purported business for being there? Why, what was the  
9 event? What was the situation where I came to the church?

10 A It just seemed odd that you appeared at the choir  
11 room door.

12 Q So I appeared at the choir room door?

13 A That's all. That's all. That's all I said.  
14 That's all that was mentioned.

15 Q And what did I claim to be my purpose of being  
16 there?

17 A I didn't, you were looking for a math, a math  
18 club.

19 Q And you found that odd?

20 A Well, it seemed kind of strange. The math club  
21 finished at, I think, 4:30 and it was 8:30 in the evening  
22 or something like that. I can't remember the exact time.

23 Q And did I ask people, isn't there a math club  
24 here?

25 A I don't know. I didn't, I didn't ask that, they  
26 didn't say.

27 Q Well, you knew I was there looking for a math  
28 club, you were in the room, I stated my purpose?

29 A But not to me, it was somebody else.

30 Q But you were in the room?

31 A Um-hum.

32 Q You didn't hear that I stated my purpose that I  
33 was looking for the math club?

34 A I didn't hear. I asked the person, did he, what



1 was, what was said, what was transpired and they said you  
2 were looking for something.

3 Q And I was already gone by then or what?

4 A Oh, yeah, I think so, yeah.

5 Q So I came and I went and then much later, you  
6 asked somebody about it?

7 A Is this, sorry, is this relevant to what's going  
8 on here.

9 Q Well, it's peculiar that you were --

10 A Peculiar what?

11 Q Well --

12 A You, you were seen looking at my wife's page,  
13 which is fine, it's public information. And it seemed  
14 rather odd to me that you appeared at the church for  
15 whatever reason, and apparently there was a math club  
16 there, but it just seemed that you were there and you were  
17 in the evening. You're a very smart man. You have, you  
18 are so exact and you're so precise, it seemed really  
19 strange that all of a sudden you make a mistake like  
20 showing up at 7:30, eight o'clock when it finished at 4:30.

21 Q How would I know when the math club ended? Maybe  
22 I've never been there before.

23 A Sure, okay, that's fine, sure.

24 Q Maybe someone told me there was a math club at  
25 this church?

26 A Can we get on with the other question, please.

27 Q Someone told me there was a math club, I didn't  
28 know -- now, I've got one more question about it.

29 THE COURT: Okay. I got it. I got it. I got  
30 it, okay?

31 THE WITNESS: Thank you.

32

33 BY MR. GREEN:

34 Q I got one more question. If you knew that the

1 math club was at 4:30, and I was at the door --

2 A I didn't know until afterwards.

3 Q Well, if you didn't know until afterwards, how,  
4 why should I have not have known until afterwards?

5 A Because I wasn't, I wasn't trying to volunteer at  
6 the math club.

7 Q Did you find it odd that I would be trying to  
8 volunteer at a math club?

9 A No, not at all.

10 Q Not at all, all right. So certain things I do,  
11 they find very suspicious, they were on edge, and yet then  
12 I get their unlisted phone number. You know how I got your  
13 unlisted phone number?

14 A Probably.

15 Q How?

16 A You could have gone to the web page, I guess.

17 Q You've got a web page, don't you?

18 A Yeah, I do.

19 Q And your phone number is on the web page?

20 A Apparently now. It was, we've now removed it.

21 Q Well, I've got it already, so it doesn't help  
22 that you -- how are you going to run a business --

23 A So that means that you're going to keep calling  
24 us? Excuse me, Your Honour, what --

25 Q How are you going to run a business without your  
26 phone number on the website. I mean, he's finding  
27 something sinister in the fact that I found his phone  
28 number. I looked for his phone number and I called him up.

29 MR. GRIEVES: Your Honour, he's making comments  
30 about the testimony. I mean, that's not appropriate in  
31 this case.

32 MR. GREEN: No, that's fair. It's been a long  
33 day and he's --

34 THE COURT: So that's why it helps all of us if

1 you just focus on questions that Mr. Bush can answer. So  
2 the easy question there would have been, isn't your  
3 unlisted phone number on your web page? Right, instead of  
4 the argument back and forth.

5 THE WITNESS: Thank you.

6 THE COURT: So let's put it all behind us. We're  
7 going to start over and now just ask him questions.

8

9 BY MR. GREEN:

10 Q Okay. See, what I want to find out is, I know  
11 your answer.

12 A Ask the question.

13 Q When I phoned you at your house, like, with the  
14 imminent sort of precursors to it, you must have been  
15 pretty disturbed, pretty alarmed, concerned, concerned  
16 about what I might do, weren't you?

17 A State that, make that statement again?

18 Q Well, in that phone call, after the phone call  
19 when you hung up, you must have been pretty concerned that  
20 I was --

21 A No, not at all.

22 Q Not at all, not in the slightest?

23 A Why? It's finished with. I asked you not to  
24 call. I asked you to deal through the university, and as  
25 far as I was concerned, that was the end of it. I never  
26 dreamt, in my wildest dream, that all of a sudden 10  
27 minutes later, you'd knock on the door. I was downstairs  
28 doing something in the basement.

29 Q Do you figure once you tell me not to come, did  
30 you tell me not to come to your house on the phone?

31 A I said I wanted nothing to do with you, period.

32 Q Yeah, so you didn't specifically say I shouldn't  
33 come to your house?

34 A Well, good grief. Is that not --

1 Q I'm just asking?

2 A -- obvious?

3 Q Well --

4 A I'm sorry. It --

5 Q Well, not to me, I'm not that smart in that kind  
6 of way. I'm smart, if you ask me the square root of 17,  
7 I'll get it for you. So you didn't think I might still  
8 come to your house? You thought that hanging up the phone  
9 would be, would be sufficient to sort of let me know that I  
10 wouldn't come and you'd have nothing to worry about?  
11 That's what you thought? You told me that, you told me  
12 that you wanted nothing to do with me, you hung up, you  
13 figured, that's it, I've told him and then he's going to do  
14 what I said, that's what you thought; is that right?

15 A I'll wait until you finish writing it down. Yes.

16 Q Yes. Okay. Well, I'm going to read from your  
17 testimony here. This is a written affidavit, or you know  
18 what this is?

19 A I think so.

20 Q You recognize it?

21 A Sure.

22 Q I'm going to read from it to the court.

23 THE COURT: What, what is it that he just showed  
24 you? Did you recognize it?

25 THE WITNESS: No, I didn't.

26 MR. GREEN: You know, this was, when they went on  
27 the 18th of January to apply for protective orders, they  
28 went together, Bush and Metz, Professor Bush and Professor  
29 Metz, and they each had a written submission and they each  
30 made an oral submission, and this is Professor Bush's  
31 written submission.

32 THE COURT: Is that correct, Professor Bush?

33 THE WITNESS: We didn't, we did attempt to get a  
34 protection order, yes.

1 THE COURT: Okay. And did you --

2 THE WITNESS: And it was rejected.

3 THE COURT: Is that, what he just showed you, is  
4 that the written material that you --

5 THE WITNESS: It was (inaudible)

6 MR. GREEN: I'm sorry, I think I can give you a  
7 copy?

8 THE WITNESS: Sure, thank you. Yes, we did this,  
9 yeah.

10 THE COURT: Okay.

11

12 BY MR. GREEN:

13 Q Okay. Here's your concluding statements.

14

15 Will Marty Green continue to  
16 harass our family? Based on the  
17 evidence, the answer is yes. He  
18 has continuously demonstrated his  
19 defiance and complete disregard  
20 for authority including  
21 enforcement officers. He was  
22 forcibly removed from Gordon Bell  
23 High School and he was forcibly  
24 removed from the University of  
25 Manitoba. In each case, he  
26 deliberately, he, in each, he  
27 disregarded authorities and  
28 deliberately returned to those  
29 facilities to continue his agenda.

30

31 Now, this is what you told the judge that, you know, you  
32 tell him, and he disregards authority, he goes back, he  
33 doesn't listen to anyone. And yet, when you told me that  
34 you wanted nothing to do with me, and you hung up the

1 phone, you think, no, I've done it. He's going, he's going  
2 to do what I say. You said yes, you thought I'd do what  
3 you said, yes?

4 A Um-hum.

5 Q How do you reconcile that with what, with what  
6 you knew already about my personality based on previous  
7 history?

8 A Well, the fact that you had disregarded my  
9 suggestion or my, my statement to stay away or to leave us  
10 alone and then you appeared at the door 10 minutes later  
11 and try and push something on to us.

12 Q But didn't you know about this before, how I had  
13 to be escorted off Gordon Bell, these things that you say  
14 were the evidence, based on the evidence, he has  
15 continuously demonstrated his defiance and a complete  
16 disregard for authority including enforcement officers. He  
17 was forcibly removed from Gordon Bell High School, didn't  
18 you know that before this incident?

19 A Yes.

20 Q So why did you think that I wouldn't disregard  
21 your, your implied instruction to stay away from your home?  
22 I don't find it consistent. Are you having trouble --

23 A Is this terribly critical?

24 Q Well --

25 THE COURT: Mr. Bush, just try to answer the  
26 question.

27 THE WITNESS: I'm sorry.

28 THE COURT: It's going to help move matters  
29 along.

30 THE WITNESS: I'm sorry, yes, okay.

31 THE COURT: So what he's saying to you, if it's  
32 inconsistent what that last paragraph of what he's just  
33 read to you and your belief that when you told him that you  
34 didn't want to have anything to do with you, with him, that

1 he would then leave you alone?

2 THE WITNESS: Well, we felt, I felt that he  
3 would.

4 THE COURT: Okay.

5

6 BY MR. GREEN:

7 Q And when the phone rang, and when the doorbell  
8 rang minutes later, you didn't connect the phone call with  
9 the doorbell ringing?

10 A I wasn't, the bell doesn't ring in the basement.

11 Q Oh, yes, it does. Oh, yes, it does.

12 A I was, I was --

13 Q I'm going to find your testimony.

14 A I was in another room somewhere.

15 Q Which room were you in?

16 A I was in the study, the den. I was on the  
17 computer.

18 Q Well, I think you knew the bell rang. I'm going  
19 to find your testimony. I think you knew the bell rang.  
20 If you would have heard the bell, would you have been  
21 alarmed? Would you have come to say, oh, that's Marty  
22 Green coming back?

23 A No.

24 Q You wouldn't have been alarmed. Well, I think  
25 you heard the bell. I'm going to just make a note of that.  
26 He says, he didn't hear the bell, but I can, I can look for  
27 that later. Where were you when you were talking on the  
28 phone?

29 A I believe I was upstairs in the dining room.

30 Q Upstairs. And when you hung up the phone, where  
31 did you hang it up, on which, is there a cradle in the  
32 dining room or where does it hang up?

33 A In the kitchen.

34 Q In the kitchen, now that's where, dining room,

1 hung up in kitchen. And was your wife with you?  
2 A I believe so, yes.  
3 Q So she heard the phone call?  
4 A Yeah.  
5 Q Did you exchange words with your wife?  
6 A We did.  
7 Q And how long did you talk about the phone call?  
8 A Moments.  
9 Q You recall the gist of what you said?  
10 A No.  
11 Q And when did you go downstairs?  
12 A Almost immediately.  
13 Q And you went straight to the study?  
14 A Um-hum.  
15 Q And you closed the door behind you?  
16 A It's a, no, it's, it's some distance away, but --  
17 Q You say the doorbell doesn't ring downstairs?  
18 A No, no, there, there, there are two bells, and I,  
19 it may have, I subconsciously may have heard something, I  
20 don't recollect hearing the bell.  
21 Q The doorbell does ring downstairs?  
22 A Okay. Good. Well, then you know that then.  
23 Q And now the court knows. Excuse me. And in your  
24 sort of agitated sense of, like, the events of the previous  
25 day with sort of the warning signs that I was stalking your  
26 wife's LinkedIn page and that I just made a phone call, the  
27 ringing of the doorbell downstairs didn't sort of touch off  
28 any sort of alarm in you?  
29 A If I heard it, no.  
30 Q Okay. But by and by, you became aware that  
31 something was going on upstairs; is that right? When did  
32 you find out that, how did you find out that there had been  
33 this confrontation at the door?  
34 A I just came upstairs wondering what my wife, I'm



1 not sure what happened, either a noise or something, I'm  
2 not quite sure, but I just came upstairs.

3 Q No one called you? She didn't call you?

4 A No, I don't think so. I think she was too busy  
5 struggling.

6 Q Too busy struggling. Have you ever been in a  
7 dangerous situation where you were so busy physically  
8 coping with it that you didn't have the physical strength  
9 to call out?

10 A I don't recollect that, no.

11 Q Have you ever heard of someone being in such a  
12 situation?

13 A I'm not sure the point of this, but --

14 Q Well, your wife says that she was physically  
15 struggling so hard that she didn't have the strength to  
16 call you?

17 A She was struggling.

18 Q And did she tell you that, that she, that, did  
19 you ask her why, why didn't you call me?

20 A I asked her what, yes, I guess so.

21 Q And what did she say?

22 A I think she was just exhausted. She was, she was  
23 very alarmed.

24 Q No, but what did she say when you said, why  
25 didn't you call me?

26 A I can't, I can't recollect.

27 Q You do recall saying, why didn't you call me?

28 A No, I said what, what happened? Who was here?  
29 What's going on? Why are you, why are you shaking the way  
30 you are? Why are you white as the way you are? She was  
31 just absolutely --

32 Q How long did it take you to calm her down?

33 A I would say quite a few minutes, 10 minutes, a  
34 few minutes.

1 Q So we'll say three to 10 minutes to calm her  
2 down, and then you called the police --

3 A We did.

4 Q -- after you calmed her down? How long was she  
5 struggling at the door with me trying to keep me out?

6 A I have no idea.

7 Q You didn't ask her?

8 A Yeah, as long as it took to, what does it take, a  
9 couple of minutes, three minutes is a long time.

10 Q Well, to be pushing back at the door, fighting at  
11 the door, three minutes would be pretty long. Did she tell  
12 you how long it took?

13 A No.

14 Q Did you ask?

15 A No, it didn't matter. What, the fact is you  
16 tried to push the door open and tried to somehow, what,  
17 what's --

18 Q The fact is you tried to push the door open.  
19 That's not exactly what you testified in your affidavit?

20 A Excuse me?

21 Q That's not exactly what you testified in your  
22 affidavit?

23 A I believe it is.

24 Q Well, I'm going to look at your affidavit and see  
25 what you testified. You didn't testify at all, I'll show  
26 you. I know what you testified, that I --

27 THE WITNESS: Is this related to the trespass  
28 order, is all of this leading up to it?

29 THE COURT: Yes. Mr. Green wants to make the  
30 argument, he wants to challenge the basis for the original  
31 trespass order in order, as a part of his defence on his,  
32 the charges he has before the court.

33 THE WITNESS: Thank you.

34

1 BY MR. GREEN:

2 Q Well, I'm going to read from your statement --

3 THE COURT: But I haven't made a decision yet  
4 with respect to --

5

6 BY MR. GREEN:

7 Q I'm going to read from your Statement of Defence  
8 first, because you know I sued, sued you for defamation for  
9 saying I tried to break into your home, force my way in,  
10 and in your statement --

11 A Sorry?

12 Q You know I'm suing you, right, for defamation?

13 A Oh, yes. Well, not just myself, my wife and I.

14 Q You and your wife?

15 A Yes.

16 Q For accusing me of trying to force my way into  
17 your home, and I'm going to read from your Statement of  
18 Defence just sort of, you described the whole incident, and  
19 the incident ends:

20

21 The plaintiff attempted to hand  
22 the papers to Mrs. Bush, but not  
23 inform Mrs. Bush ...

24

25 Et cetera.

26

27 Mrs. Bush informed the plaintiff  
28 he could mail whatever. Mrs. Bush  
29 attempted to shut the front door,  
30 and the plaintiff pushed against  
31 the door to try to prevent  
32 Mrs. Bush from closing it.

33

34 A Right.

1 Q Now, trying to prevent someone from closing the  
2 door, is that the same as trying to force your way in,  
3 trying to push the door open; is that exactly the same?

4 A You tell me.

5 MR. GREEN: I don't know, can I ask the judge for  
6 him to give his opinion?

7 THE COURT: In your mind, is that the same thing,  
8 pushing on the door or trying to force your way in?

9 THE WITNESS: I think so. If somebody --

10 MR. GREEN: No, no, the words, I'm sorry, Your  
11 Honour --

12 THE WITNESS: -- doesn't want you there and  
13 you're trying to --

14 MR. GREEN: I'm sorry, to push against to try to  
15 prevent Mrs. Bush from closing it versus trying to force  
16 your way in --

17 THE COURT: Okay.

18 MR. GREEN: -- trying to push the door open to  
19 force your way in.

20

21 BY MR. GREEN:

22 Q I'm sorry.

23 A Yes.

24 Q Same thing?

25 A Yes, absolutely.

26 Q Absolutely.

27 A You were trying to, you were trying to push the  
28 door open deliberately to prevent my wife closing it so  
29 she, you could give her something.

30 Q Oh, so in order to give her something or in order  
31 to force my way in?

32 A I have no idea.

33 Q I think it's a difference because you told people  
34 that I did it in order to, to give her something or, what

1 did you tell people when you called Professor Metz, did you  
2 tell him that I was trying to hold the door open, push the  
3 door open in order to give her something, or in order to  
4 force my way in. What did you tell Professor Metz?

5 A You got his testimony.

6 Q No, but I know, I want to know what, you see  
7 hearsay on top of hearsay, I want to know what you say you  
8 told him.

9 A Okay.

10 Q And what did you tell Professor Metz?

11 A I said that you had phoned first.

12 Q No, no.

13 A I said to him --

14 Q No, no.

15 THE COURT: Let him answer the question.

16 MR. GREEN: Okay.

17 THE COURT: If you're going to ask a question --

18 THE WITNESS: Thank you.

19 THE COURT: -- you let the witness answer the  
20 question. You know, we're going to have to --

21 MR. GREEN: There was a specific alternative I  
22 had, but let him.

23 THE WITNESS: I said that you had called  
24 first and that I was horrified that you'd called,  
25 disappointed, surprised, and told you in no uncertain terms  
26 that I didn't want to talk to you and if you wanted to  
27 contact me, it should be done through the university and I  
28 hung up on you. And then some time later, the doorbell  
29 rang, my wife answered the doorbell. I wasn't in the  
30 vicinity, and you tried to keep the door open in order to  
31 give her something. She told you to leave and you  
32 continued to push on the door, something like that. Wow,  
33 this goes round and round.

34

1 BY MR. GREEN:

2 Q Okay. So what you told Professor Metz was that I  
3 had tried to keep the door open in order to give me  
4 something?

5 A Give Heather something for me.

6 Q Give her something, well --

7 A You wanted to see me. You wanted, you wanted to  
8 see me, and I didn't want to see you, nor did my wife. I  
9 think it's pretty --

10 Q You told Professor Metz that I tried to keep the  
11 door open in order to give me something. I'm going to go  
12 to Professor Metz's testimony because I don't think he says  
13 that. I don't think he says that that's what you told him.

14 THE COURT: No, no.

15 MR. GREEN: Okay. That's all right. You're  
16 right, judge. You're right. You're right.

17 THE COURT: You're going to make that argument to  
18 me at the end of the day.

19 MR. GREEN: I'll make that argument later, of  
20 course, yeah.

21 THE COURT: Yeah.

22

23 BY MR. GREEN:

24 Q And then you say that she told me to leave, and  
25 I'm going to, again, I'm going to go through the  
26 testimony --

27 A Or something.

28 Q -- and say there's no testimony. There's no  
29 affidavit testimony to that effect either, that anyone ever  
30 told me to leave. And that I kept trying to push open the  
31 door subsequently so that there was, but you, you don't  
32 have any, any, she didn't tell you how long the struggle  
33 lasted? You didn't ask her how long?

34 A She didn't have her watch out.

1 Q Did she say, would you say it was sort of less  
2 than 10 seconds or more than 10 seconds?

3 A I'm not, that's impossible.

4 Q No idea how long the struggle lasted?

5 A No, no idea.

6 Q No idea.

7 A I wasn't there, remember?

8 Q But she didn't tell you anything. She might have  
9 testified that she told you how long the struggle lasted.

10 THE COURT: Okay. Save it. Save it.

11 MR. GREEN: I'll have to go back to that, and  
12 I'll save that for later. You're right. No idea how long  
13 it lasted. So you did caution me, Your Honour, that if I  
14 have a different version, I have to confront them with it,  
15 and let, I understand it's a subtle point in a way.

16 THE COURT: I over simplified.

17 MR. GREEN: I'm going to try and move ahead. No,  
18 no, it's, I know. I know. I think I see the difference  
19 here. We're going to wrap up in half an hour.

20 THE COURT: Well, can you wrap up in, like, two  
21 minutes.

22 MR. GREEN: I can't. I'm going to have to call  
23 him back if that's what we're doing. But let me see if  
24 there's anything critical that needs to be asked now before  
25 he gets to go out because if we're going to adjourn, I'm  
26 going to have to call him back. Let me just see what I've  
27 still got left.

28

29 BY MR. GREEN:

30 Q Okay. I've asked you what you told Professor  
31 Metz and you've, you've, you've told me, and then did you  
32 tell anyone else what happened that night?

33 A I got a phone call from Neil Besner.

34 Q Um-hum.

1           A     And by that time, we were so upset, I have no  
2 idea what I told him. In fact, I believe I wept because my  
3 wife was so upset. I'm, well, embarrassed to say, but  
4 there it is.

5           Q     Did you ask your wife, why didn't you just take  
6 the papers?

7           A     I think it was the attitude that you had. I  
8 think it was your presence, alarming presence. She was  
9 disturbed by something. She, all she could focus on, I  
10 think the papers were immaterial. I think what was  
11 concerning her most was your attitude.

12          Q     Did I say any words in particular that were  
13 disturbing to her?

14          A     I don't think, I can't recollect.

15          Q     You can't explain why you didn't come to the  
16 door. Well, okay, let me, let me, let me not go there.  
17 You don't remember what you told Neil Besner. You swore an  
18 affidavit in detail what you swore told Neil Besner, you  
19 did swear to stuff, I think you did, maybe you didn't. I  
20 think, I think you did swear in an affidavit, this is  
21 exactly what I told Neil Besner. Like, it's somehow, you,  
22 you collected yourself at some point so you could remember  
23 exactly what you said and in the interim since then, you  
24 seem to have become overcome by emotion and forgotten what  
25 you said, but I'll read you what you said in your  
26 affidavit, and you'll tell me if that's exactly what you  
27 told Mr. Besner. You know, I'm sorry, Your Honour, I'm  
28 going to try and ...

29

30                         Soon after Metz and I spoke, Neil  
31                         Besner, vice president of the  
32                         university, called and asked what  
33                         had occurred. I gave the same  
34                         explanation to Besner that was



1                   given to Metz, specifically. That  
2                   Martin had attended my home  
3                   notwithstanding that I had  
4                   previously asked him to direct any  
5                   communications to my legal  
6                   counsel, that Martin attempted to  
7                   give Heather papers and Heather  
8                   shut the door on Martin.

9

10       Is that what you told Neil Besner?

11           A     Thank you.

12           Q     Okay. And that's what you testified and that's  
13       what you told, did you tell him more than that?

14           A     I can't recollect. It has been some time ago,  
15       you realize that, do you?

16           Q     And you haven't --

17           A     And you have --

18           Q     -- given it a moment's thought since then?

19           A     And you have all the documentation in your hot  
20       little hands, of course.

21           Q     My what?

22           A     In your hot little hands.

23           Q     All right. You remember pretty clearly though  
24       that I tried to force, force my way into your house, that's  
25       what happened, I was there to try and force my way into  
26       your house?

27           A     There was a struggle between my wife trying to  
28       keep you out and you apparently, what's the opposite of  
29       trying to keep you out?

30           Q     Trying to get in. So I was trying to get into  
31       your house?

32           A     To see me.

33           Q     To force my way into your house, that's what I  
34       was trying to do, you are pretty clear on that?

1 A That seems to be what was happening.

2 Q You're pretty clear on that and yet --

3 A That seems to be what was happening.

4 Q -- and yet when you testify what you told Neil  
5 Besner when Neil Besner asked you what happened, you didn't  
6 tell him Marty Green tried to force my way into your house,  
7 not in your affidavit?

8 A Seems to me, I was too upset to say anything to  
9 him.

10 Q Isn't that, if you were that upset, wouldn't that  
11 be the first thing you'd say, Marty Green tried to force my  
12 way into --

13 A Not necessarily, you're putting words in my mouth  
14 now.

15 Q Like, if you, it doesn't sound upset, here's what  
16 you say, what you've testified that you told Neil Besner,  
17 and you don't sound upset, you sound very calm, you sound  
18 very protective, you sound like you're speaking legalese  
19 like a lawyer has told you what to say. I'll read it  
20 again.

21

22 I gave the same explanation to  
23 Besner that was given to Metz,  
24 specifically, that Martin had  
25 attended my home.

26

27 Everyone uses the word attended when they're saying what  
28 happened. All the witness, they all said he attended.  
29 That's lawyer talk, isn't it? Isn't it? Do you say  
30 that --

31 A I'm not a lawyer.

32 Q -- he attended my home?

33 A I'm not a lawyer.

34 Q That he came to my house, why do you say

1 attended, is that how you normally speak?

2 THE COURT: Okay.

3

4 BY MR. GREEN:

5 Q I'm sorry.

6

7 He attended my home,  
8 notwithstanding that I had  
9 previously asked him to direct any  
10 communications to my legal  
11 counsel. Martin attempted to give  
12 Heather papers, Heather shut the  
13 door on Martin ...

14

15 That's, that's carefully crafted testimony. Like, that's  
16 not when you were so upset that you didn't know what you  
17 said.

18 THE COURT: Okay.

19

20 BY MR. GREEN:

21 Q This is what you testified. I'm sorry.

22 THE COURT: Mr. Green, you're going to be able to  
23 argue this to me.

24 MR. GREEN: Yeah, you're right, yeah.

25 THE COURT: That they're diametrically opposed  
26 stories, they're totally different, and I'm going to make a  
27 decision about that.

28 THE WITNESS: Thank you.

29 MR. GREEN: Okay.

30 THE COURT: But I think we've got, you know --

31 MR. GREEN: We're close.

32 THE COURT: I think, it's very clear to me what  
33 happened at the house or what the different people are  
34 saying happened at that house, but if there's some other

1 area that you want to ask Professor Bush about before he  
2 leaves for today --

3 MR. GREEN: You're right.

4 THE COURT: -- I'd really like you to get there.

5

6 BY MR. GREEN:

7 Q There's all the phone conversations. Was there  
8 any other conversation other than the one with Neil Besner?

9 A Lisa McGifford called.

10 Q Lisa McGifford. And what did you tell her? Did  
11 you tell her what had happened?

12 A I think in, by that time, I'd kind of calmed down  
13 a little bit. I think I told her much the same thing as I  
14 had explained to Don Metz.

15 Q Which is what?

16 A I've just told you. You've written it down.  
17 We've gone over it so many times.

18 Q I'd like to hear what you told Lisa McGifford?

19 A I'm not going to say it again, I'm sorry.

20 MR. GREEN: I'd like, I'd like, Your Honour, I'd  
21 like you to direct, to tell the court what he told Lisa  
22 McGifford?

23 THE WITNESS: There were three different people  
24 that I spoke to, and you're, you're now trying to trick me  
25 on whether or not I changed my story between the three  
26 people? I mean, we're talking about an upsetting  
27 situation. My wife is still shaking, we've got the police  
28 involved.

29

30 BY MR. GREEN:

31 Q I thought you said you'd calmed down by the time  
32 you talked to Lisa McGifford?

33 MR. GREEN: Your Honour, do you want him to tell  
34 the court what he told Lisa McGifford or what?

1 THE COURT: What do you recall telling Lisa  
2 McGifford?

3 THE WITNESS: I believe I said that, she asked  
4 what had happened, and I gave her a, a, I think a brief  
5 account of what had happened. The fact that you had come  
6 to our door. There was a struggle between my wife and you,  
7 and she was able to close the door and keep you out, or you  
8 were able, we were able to prevent you from entering,  
9 whatever you want, whatever. But there was a struggle  
10 ensued, and we were concerned to the point where we  
11 actually called the police.

12 MR. GREEN: I know we'd all like to wrap up, and  
13 I'm going to let the witness go, but I'm going to regret  
14 that there is something I didn't ask him. I kind of need  
15 my five minutes in this case to just consider. I know it's  
16 not your way, Your Honour. I know it's late. I need  
17 just --

18 THE COURT: We'll wait here, just take a few  
19 minutes and let's see if we can finish.

20 MR. GREEN: I need to consider, and it'll be,  
21 there won't be much more. I'm thinking go through my  
22 papers. Oh, yeah, a little point.

23

24 BY MR. GREEN:

25 Q I have the police interview.

26 THE COURT: Okay. Please stand up --

27 MR. GREEN: I'm sorry.

28 THE COURT: -- closer to the mic.

29

30 BY MR. GREEN:

31 Q I'm sorry, yeah. In the police interview, you  
32 know, when you get police records, they're so blacked out.  
33 I mean, you can hardly read them, and I don't think that's  
34 right. It's something about the freedom of information

1 that you can't, this is an aside, but it's --

2 THE COURT: You're still asking the question  
3 about the police report.

4 MR. GREEN: Yes, Your Honour.

5

6 BY MR. GREEN:

7 Q It says, the notes, Bush attempted to gain entry  
8 through the front door, ongoing issue with unwanted phone  
9 calls, appearances at Bush's church and unknown  
10 accessibility to Facebook account. So the police recorded  
11 that there was an ongoing issue with unwanted phone calls.  
12 Do you recall telling that to the police?

13 A No.

14 Q That's what they put in there, though, but was  
15 there an ongoing issue with unwanted phone calls?

16 A There was unwanted e-mails, I think, but I  
17 blocked your e-mail.

18 Q Was there an issue with unwanted phone calls?

19 A No, not that I recollect. No, you never called  
20 me.

21 Q That's right.

22 A Just the one time.

23 Q Sure.

24 MR. GREEN: Well, that wasn't very important.  
25 Got two minutes left to review my papers, Your Honour. I  
26 want to take them.

27 THE COURT: Okay.

28

29 BY MR. GREEN:

30 Q Have you ever been sued, Professor? I'm sorry,  
31 have you ever been sued or been involved in, in a lawsuit?

32 A No.

33 MR. GREEN: Okay. I asked that, Your Honour,  
34 because I was wondering what, the papers that I was waving

1 or whether I was holding them still or whether I was waving  
2 whether it would be obvious to someone seeing these papers  
3 that it was legal papers, but that would be a question for  
4 your wife in any case.

5 THE WITNESS: I guess it would.

6 MR. GREEN: Sixty seconds, one more round, and  
7 then I'm going to shut her down. Did I get from Professor  
8 Bush the time line? I know I got it from his wife. I  
9 think I got it from him as well that between the hanging up  
10 of the phone and the ringing of the doorbell, he said it  
11 was 10 minutes?

12 THE WITNESS: I think we did that already.

13 MR. GREEN: You know, when I wanted to  
14 cross-examine you guys on affidavits, oh, that's not right.  
15 It's not part of this. You know what, we're going to let  
16 this witness go. Thank you. Thank you for coming down.  
17 And I'm, Your Honour, I'm going to start my testimony  
18 today. I'm going to spend about 10 seconds doing my  
19 testimony. What I'm going to do is I'm going to enter that  
20 written thing in evidence, so I'm saying this is my story  
21 of what happened so that you don't think I'm going home and  
22 concocting a new story. Is that okay? Now that it's my  
23 turn. I don't want to jump the gun on it. We don't have  
24 to do that.

25 THE COURT: Professor Bush, thank you for coming  
26 today.

27 THE WITNESS: You're welcome.

28 THE COURT: You are free to go.

29 THE WITNESS: Thank you.

30 MR. GRIEVES: That's fine. I didn't have any  
31 questions for the witness, Your Honour.

32 THE COURT: Okay. Sorry, I forgot, Mr. Grieves.

33 THE WITNESS: No, come on.

34 THE COURT: Thank you.

1 MR. GREEN: Okay.

2

3 (WITNESS EXCUSED)

4

5 THE COURT: Mr. Grieves, do you have any issue if  
6 Mr. Green, I know it's unorthodox, but if he files that  
7 document that he is hell bent on the court seeing with  
8 respect to his story of these events. Although, I don't  
9 know, that gentleman left, so, whoever was sitting in the  
10 audience.

11 MR. GREEN: Yeah. I don't know if he, did I give  
12 it to Al or what?

13 THE COURT: He did. You did, you folded it  
14 and --

15 MR. GREEN: I think I have a copy. I hope I have  
16 a copy.

17 MR. GRIEVES: So is that, his complete testimony.

18 THE COURT: He's going to come back. No, I think  
19 he's going to come back. He just wants to start his  
20 testimony.

21 MR. GREEN: Yeah, I still need to testify, but as  
22 far as just the narrative of what happened that, that would  
23 be bad if I gave away my only copy. No, I had two copies,  
24 I know I did. Just you know, I believe the court's going  
25 to believe me, I don't think Mr. Grieves is going to second  
26 guess me if I say this is my story, I didn't change it, but  
27 I'd like to have the paper in his hands, so, so as, sort  
28 of, my proof, but you can discuss it with him while I look.

29 MR. GRIEVES: I mean, I would need to review it,  
30 I mean, read it before I indicate whether I have concerns  
31 or not, Your Honour.

32 THE COURT: Okay.

33 MR. GREEN: Well, I'm, I'm prepared to sort of  
34 put myself at the mercy of the court today, I'm going to



1 say I believe you're going to find me a credible evidence,  
2 credible witness when I say this was my story and I didn't  
3 change it. And, and, and so we don't need to sort of,  
4 yeah, I gave Al my only copy which is ridiculous, but there  
5 we go. You know my position on it anyhow.

6 THE COURT: All right. So we'll adjourn for  
7 today. We're back again on December 4th and then December  
8 11th.

9 MR. GRIEVES: Yes.

10 THE COURT: All right.

11 THE CLERK: 10 a.m. in courtroom 314.

12 THE COURT: 10 a.m. in courtroom 314.

13 THE CLERK: All rise. This court is --

14

15 (PROCEEDINGS ADJOURNED TO DECEMBER

16 4TH, 2013)

17

#### **CERTIFICATE OF TRANSCRIPT**

I hereby certify the foregoing pages of printed matter,  
numbered 1 to 225, are a true and accurate transcript of  
the proceedings, transcribed by me to the best of my skill  
and ability.

---

KRYSTLE MUSCOBY  
COURT TRANSCRIBER

THE PROVINCIAL COURT OF MANITOBA

**BETWEEN:**

**HER MAJESTY THE QUEEN**

**- and -**

**MARTIN GREEN,**

**Accused.**

**VOLUME 2**

---

**TRANSCRIPT OF PROCEEDINGS,** before The Honourable Judge Krahn, held at the Law Courts Complex, 408 York Avenue, in the City of Winnipeg, Province of Manitoba, on the 25th day of September, 2013.

---

**APPEARANCES:**

**MR. A. GRIEVES,** for the Crown

**MR. M. GREEN,** in person

# INDEX

	<b>Page</b>
PROCEEDINGS	1
<b><u>WITNESSES FOR THE CROWN:</u></b>	
MARTIN GEORGE TROUNCE GRAINGER	
Cross-Examination Continued	2
Re-Examination	58
PROCEEDINGS	60
<b><u>WITNESSES FOR DEFENCE:</u></b>	
LAURELYN HOPE CANTOR	
Direct Examination	63
PROCEEDINGS	77
DONALD METZ	
Direct Examination	81
Cross-Examination	137
PROCEEDINGS	137
LISA DIANE MCGIFFORD	
Direct Examination	142
HEATHER BUSH	
Direct Examination	155
GEORGE DRYDEN BUSH	
Direct Examination	189
PROCEEDINGS	223