

FINAL HEARING DATE:

August 25 2015

9:00 a.m., Room 3030, Family Court, 440 Ross Street, Pittsburgh, PA 15219

1/13

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION

Ashtley Cain

Plaintiff,

vs.

Joseph E Swidersky

Defendant.

No. FD 15-01358-015

Type of Pleading:

**PROTECTION FROM ABUSE (PFA)
PETITION AND TEMPORARY ORDER**

Filed on Behalf of:

PLAINTIFF, Pro Se

ADDRESS OF PLAINTIFF:

255 1/2 MORTSOFT AVE
PAH PA 15229

Telephone: (412) 537-5355

Date of Birth: 09/10/87

ADDRESS OF DEFENDANT:

3230 Richardson AVE
PAH PA 15212

Date of Birth: 08/03/85

FILE

15 AUG 20 PM 2:18

CIVIL/CRIMINAL JUST
ALLEGHENY CO. PA

Weapons Supplement

\$256.00
PPFA

Issued By:	<u>X</u> Judge
<input checked="" type="checkbox"/>	- Temporary PFA Order
<input type="checkbox"/>	- Temporary PFA Order with Custody (See paragraph 5 of Order)

NOTICE OF HEARING AND ORDER

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to do so, the case may proceed against you and a FINAL order may be entered against you granting the relief requested in the petition. In particular, you may be evicted from the residence specified in the petition, be prohibited from possessing any firearm, other weapon, ammunition or any firearm license, and lose other important rights, including custody of your children. Any protection order granted by a court may be considered in subsequent proceedings under Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, including child custody proceedings under Chapter 53 (relating to custody).

**BE ADVISED THAT THE DATE, TIME AND PLACE OF THE FINAL HEARING
ARE SET FORTH IN THE ATTACHED TEMPORARY ORDER OF COURT**

If an order of protection has been entered, you MUST obey the order until it is modified or terminated by the court after notice and hearing. If you disobey this order, the police or sheriff may arrest you. Violation of this order may subject you to a charge of Indirect Criminal Contempt which is punishable by a fine of up to \$ 1,000.00 and/or up to six months in jail under 23 Pa.C.S.A. §6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under federal law, 18 U.S.C. §2265, this order is enforceable anywhere in the United States, tribal lands, U.S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. §§2261-2262.

If this order directs you to relinquish any firearm, other weapon, ammunition or any firearm license to the sheriff, you may do so upon service of this order. As an alternative, you may relinquish any firearm, other weapon, or ammunition listed herein to a third party provided you and the third party first comply with all requirements to obtain a safekeeping permit. 23 Pa.C.S.A. §6108.3. You must relinquish any firearm, other weapon, ammunition or any firearm license listed in the order no later than 24 hours after service of this order. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, you must provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later that 24 hours after service of the order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa. C.S.A. §6105.

NOTICE: Even if this order does not direct you to relinquish firearms, you may be subject to federal firearms prohibitions and federal criminal penalties under 18 U.S.C. §922(g)(8).

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.

Lawyer Referral Service
The Allegheny County Bar Association
400 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
(412) 261-5555

PETITION FOR PROTECTION FROM ABUSE

1. PLAINTIFF'S NAME IS: Ashley McCain

2. PLAINTIFF IS FILING THIS PETITION ON BEHALF OF :
 myself and/or minor child(ren) an incompetent adult

If you are filing on behalf of another person(s), indicate your relationship to that person(s):
 I am the parent of the minor child(ren) I am an adult household member of the minor child(ren)
 I am guardian of the minor child(ren) I am the court appointed guardian for an incompetent adult

3. LIST Plaintiff's minor children AND ALL other minor children residing in Plaintiff's household:

NAME	Date of Birth	Are YOU the parent?	Is Defendant the parent?	Is child living with you?	ARE YOU SEEKING Custody?	Protection?
<u>sophia mccain</u>	<u>080813</u>	<u>YES</u>	<u>N</u>	<u>N</u>	<u>N/A</u>	<u>YES</u>

4. PLAINTIFF'S ADDRESS:
255 1/2 marzoff AVE
Pgh PA 15229
 OR: - CONFIDENTIAL

5. DEFENDANT'S INFORMATION:
 NAME: Joseph Swidersky
 ADDRESS, If known:
3230 Richardson AVE
Pgh PA 15212

Plaintiff is asking to evict and/or exclude the Defendant from this residence which is: OWNED or RENTED
 by Plaintiff only
 by Plaintiff and Defendant
 by Defendant only, and Defendant owes a duty of support support as the parties are married or have children together
 OTHER: _____
 (confidential, parents, friends, etc.):

THE DEFENDANT AND I:
 presently live together
 have NEVER lived together
 have lived together, but SEPARATED on: June 18 15
 (date)

Def. Date of Birth: ___ / ___ / ___

6. THE DEFENDANT IS: (check all relationships that apply)
 my current or former spouse
 my current or former sexual or intimate partner
 a current /former cohabitant (lived together like spouses)
 the parent of Plaintiff's child(ren)
 other: _____
 (parent, child, brother, sister, other family member)

S.S. No.: ___ / ___ / ___ - ___ / ___ - ___ / ___ / ___ / ___
 ___ check here if you have reason to believe that Defendant is required to carry a firearm as a condition of employment, is a licensed firearms dealer, is employed by a licensed firearms dealer or manufacturer, or is employed as a writer, researcher or technician in the firearms or hunting industry.

7. HAVE PLAINTIFF AND DEFENDANT BEEN INVOLVED IN ANY OF THE FOLLOWING COURT ACTIONS? ___ Protection From Abuse ___ Support ___ Custody ___ Divorce ___ Juvenile Court

8. For Court Use Only:		Orders Dated:	FD Number / Suffix: (if different from this filing):
PFA:	Temporary Orders		
	Final Orders		
	Cross PFA Filings:		
CUSTODY:	-----		
	Pending Dates:		
DIVORCE:	Filing date:	Decree Granted:	
SUPPORT:	-----		
JUVENILE COURT:			JV Number:

9. IF PLAINTIFF AND DEFENDANT ARE THE PARENTS OF ANY MINOR CHILDREN TOGETHER, (listed in paragraph #3) IS THERE AN EXISTING COURT ORDER REGARDING THEIR CUSTODY?

NO ___ YES

If YES, describe the terms of the order. If NO, describe any visitation practices or schedules.

If YES, in what County and State was the order issued? _____

If YES, are you requesting to change the terms of the existing custody order? ___ YES ___ NO

10. ___ Plaintiff IS NOT seeking new custody relief or to amend an existing custody order through this Petition.

-OR-

___ Plaintiff IS seeking new custody relief and/or to amend an existing custody order through this Petition.
(If checked, CUSTODY SUPPLEMENT must be completed and attached as the next page, "Petition, page 2A")

11. THE FACTS OF THE MOST RECENT INCIDENT OF ABUSE ARE AS FOLLOWS:

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Describe in detail what happened, including any physical or sexual abuse, threats, injury, incidents of stalking, medical treatment sought, calls to police, and the use of weapons or the threatened use of weapons.

Approximate DATE and TIME: _____ PLACE: 255 1/2 mart sof AVE

one June 16-2015 my daughter Braelyn was ~~found~~ found turning blue brain dead and skull fracture she passed one June 18-15 since then he has harassed ^{via text} me with threats he "will kill me" and "break in my house" and threats to kill himself. Last night (8/11/15), he texted me saying "IF you don't love me I will come over and kill you".

Def. has also been spotted following me around. I recently found a tracker that he placed on my phone.

Police were called Defendant was arrested Emergency PFA order issued Medical treatment sought

12. DESCRIBE ANY PRIOR INCIDENTS OF ABUSE: Include the use of or threats with weapons

punched me spit on me bruises and threatened to kill me and my kids.

- 13. Is Plaintiff requesting that weapons be relinquished by the Defendant? ___ NO ___ YES (see "Attachment A")
- 14. There is an immediate and present danger of further abuse from Defendant.
- 15. Plaintiff has suffered economic losses as a result of the abuse.

WHEREFORE, Plaintiff respectfully requests that this Court enter a Protection From Abuse Order that provides relief for Plaintiff, including but not limited to that relief set forth in Section 6108 of the Protection From Abuse Act.

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above petition are true and correct to the best of my knowledge. I understand that any false statements are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

SIGNATURE: [Signature] DATE: 8/15/15

Ashley Cain

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

1/13

Plaintiff vs.

FAMILY DIVISION

Joseph Swidorsky

No. FD

Code: Protection From Abuse

Defendant Def. Date of Birth: 8/3/

Def. Social Security Number: /-/- - /-/- - /-/-/

TEMPORARY PROTECTION FROM ABUSE ORDER

Name(s) of All Protected Persons, including Plaintiff and minor children:

Ashley Cain, Sophia Cain

AND NOW, this 12 day of August, 2015, upon consideration of the attached Petition for Protection from Abuse, the court hereby enters the following Temporary Order:

A FINAL HEARING FOR THE PLAINTIFF AND DEFENDANT WILL BE HELD

on the 25 day of August, 2015, at 9:00 A.M. Check-In at ROOM 3030, 3rd Floor, Family Court Building, 440 Ross Street, Pittsburgh, PA

PENDING THE FINAL HEARING, IT IS ORDERED:

1.) Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.

2.) Defendant shall be evicted and excluded from the residence at:

255 1/2 Martsof Ave Pgh, PA 15229

OR any other permanent or temporary residence where Plaintiff or any other person protected under this order may live. Plaintiff is granted exclusive possession of the residence. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this order. IF FOR ANY REASON DEFENDANT RETURNS TO PLAINTIFF'S RESIDENCE WITHOUT WRITTEN PERMISSION OF THE COURT, DEFENDANT SHALL BE ARRESTED ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT.

3.) Except as may be provided in Paragraph 5 of this order, Defendant is prohibited from the SCHOOL, DAYCARE, BUSINESS, or PLACE OF EMPLOYMENT of the Plaintiff, or any other person protected under this order.

4.) Except as may be provided in Paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this Order, either directly or indirectly, by telephone or by any other means, including through third persons.

5.) CUSTODY:

A. THERE IS A CURRENT CUSTODY ORDER AS TO THE CHILD(REN) OF THE PARTIES.

Date of Custody Order: _____ Docket No.: _____ County: _____

THIS PFA ORDER SHALL NOT SUPERSEDE THE CURRENT CUSTODY ORDER.

The parties shall follow the existing custody order, subject to the conditions and limitations regarding contact or custody exchanges, if set forth below.

OR

THIS PFA ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

Any prior orders regarding custody are temporarily suspended pending the Final PFA hearing.

B. PENDING THE FINAL PFA HEARING, ALL CONTACT BETWEEN DEFENDANT AND THE MINOR CHILD(REN) and/or PLAINTIFF SHALL BE LIMITED TO THE FOLLOWING:

- No contact with the minor child(ren) pending the Final PFA hearing.
- Minor child(ren) may initiate telephone calls to Defendant.
- Defendant is permitted to call and have reasonable telephone contact with child(ren).
- Supervised visitation under the conditions set forth below.
- Visitation / partial custody with the minor child(ren) only at the times and dates approved by Plaintiff.
- Defendant may have a third party contact Plaintiff, only to arrange visitation.

Other: _____

Exchange locations and conditions: _____

C. PENDING THE FINAL PFA HEARING, PLAINTIFF IS AWARDED TEMPORARY CUSTODY OF THE FOLLOWING MINOR CHILDREN:

The local law enforcement agency in the jurisdiction where the child(ren) are located shall ensure that the child(ren) are placed in the care and control of the Plaintiff in accordance with the terms of this order.

6. FIREARMS, OTHER WEAPONS AND AMMUNITION RESTRICTIONS: (Check all that apply)

DEFENDANT IS PROHIBITED FROM POSSESSING, TRANSFERRING OR ACQUIRING ANY FIREARMS OR OTHER WEAPONS FOR THE DURATION OF THIS ORDER.

Defendant shall RELINQUISH to the sheriff, or a designated local law enforcement agency for delivery to the sheriff, ANY and ALL items checked below and all items listed in "Attachment A" (Attached as "Temporary Order - Page 4"), which is incorporated herein by references.

- firearms licenses owned or possessed by Defendant
- firearms, other weapons or ammunition

Defendant may relinquish firearms, other weapons and ammunition to the sheriff or a designated law enforcement agency for delivery to the sheriff. As an alternative, Defendant may relinquish firearms, other weapons and ammunition to a third party, provided Defendant and the third party first comply with all the requirements to obtain a safekeeping permit. Defendant must relinquish any firearm, other weapon, ammunition or firearm license ordered to be relinquished no later than 24 hours after service of this order. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide to the sheriff an affidavit listing the firearms, other weapons or ammunition and their current location no later than 24 hours after service of this order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. §6105.

- 7.) **PROPERTY:** If requested, the local police department with jurisdiction shall escort the ___ Plaintiff ___ Defendant to the requested residence so that they may pick-up clothing and non-disputed personal effects needed until the Final PFA Hearing.
- 8.) THIS ORDER SUPERSEDES ANY PRIOR PROTECTION FROM ABUSE ORDER OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.
- 9.) THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL THE FINAL HEARING DATE OR UNTIL OTHERWISE MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1000 and/or up to six months in jail. 23 Pa.C.S. § 6114. Consent of Plaintiff to Defendant's return to the residence shall NOT invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S. § 6108(g). If Defendant is required to relinquish any firearms, other weapons or ammunition or any firearm license, those items must be relinquished to the sheriff within 24 hours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or ammunition listed herein to a third party, provided Defendant and third party first comply with all requirements to obtain a safekeeping permit. If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location no later than 24 hours after service of this order. Defendant is further notified that violation of this order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§ 2261-2262.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

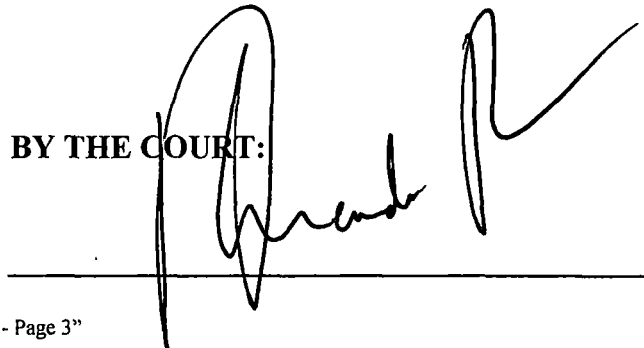
This order shall be enforced by the police department or sheriff who has jurisdiction over Plaintiff's residence **OR** any location where a violation of this order occurs **OR** where Defendant may be located. If Defendant violates Paragraphs 1 through 7 of this order, Defendant shall be arrested on the charge of Indirect Criminal Contempt. An arrest for violation of this order may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of a police officer or sheriff.

Subsequent to an arrest, the law enforcement officer or sheriff **SHALL SEIZE ALL FIREARMS, OTHER WEAPONS AND AMMUNITION** in Defendant's possession which were used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in Defendant's possession. Any firearm, other weapons, ammunition or any firearm license must be delivered to the sheriff's office of the county which issued this order, which office shall maintain possession of the firearms, other weapons and ammunition until further order of this court, unless the weapon(s) are evidence of a crime, in which case, they shall remain with the law enforcement agency whose officer or sheriff made the arrest.

When the DEFENDANT is placed under arrest for violation of this Order, the DEFENDANT shall be taken by the police to the presiding Magisterial District Judge in the area where the violation occurred **OR** to the County Night Court.

A "**COMPLAINT FOR INDIRECT CRIMINAL CONTEMPT**" shall then be completed and signed by the police officer, sheriff **OR** the Plaintiff. Plaintiff's presence and signature are **NOT** required to file the complaint. If sufficient grounds for violation of the Order are alleged, the DEFENDANT shall be arraigned, bond set, and both parties given notice of the final hearing date.

BY THE COURT:


_____ J.