

Kiraly Cases Story for Attorneys — Revised April 13, 2013

1. Overview.

This is an outline of two related cases. The perspective is that of the respondent. The people involved are two elderly parents and their four sons. James and Grace are the parents; both are late 70s. Brothers are Robert, 54; Thomas, 53; Kenneth, 50; Scott, 48.

James and Thomas both filed CLETS actions against Robert circa May 2012. CLETS is a restraining order connected to a violence database. It is generally considered to be an emergency measure intended to protect somebody against physical violence.

Robert contends that he has committed no physical violence against anybody since childhood, has made no threats of physical violence, has made no unlawful threats at all, and has not, in fact, broken any law that he is aware of.

Robert believes that the CLETS actions are related to a request that he made of James and Grace in late 2011. Robert claims that he asked James and Grace to help him with a book that he was writing. James made threats during the next conversation and went to the police circa the next business day.

The grounds for going to the police were alleged non-consensual phone calls. The police did not contact Robert and it appears that they dismissed James's visit entirely. About a month later, in early 2012, Grace drove 200 miles to visit Robert unannounced. Grace then started a series of phone calls to Robert. CLETS was not filed until long after Grace's visit. This would seem to render any calls in 2011 irrelevant to CLETS.

Plaintiffs have claimed, by filing CLETS, that they were at risk of physical violence. Robert notes that he lives about 200 miles from James and Grace. And 3,000 miles from Thomas. At the time CLETS was filed, Robert did not own a car and had limited mobility due to a medical issue diagnosed circa 2003 as "necrosis". In fact, he spent part of his time in a wheelchair.

Robert feels that the CLETS actions are abuse of process. He alleges that the actions are intended to extort an agreement from him to surrender Free Speech rights as well as rights to consensual interactions with third parties. In short, to end his work on the book. Robert is interested in discussing the situation with torts specialists.

2. Accusations and evidence.

There appear to be no specific accusations that Robert has committed physical violence, made threats of violence, or committed illegal acts of any kind. The only specific accusations that seem to exist are a claim of about 70 non-consensual phone calls to James and Grace in late 2011. Robert contends that the bulk of the phone calls in question were consensual and that every call to James himself, as opposed to Grace, was pleasant in tone until Robert asked his parents to work on a book with him.

The plaintiffs imply that Robert tried to blackmail three of his family members, that he demanded money for medical care, and that he threatened to make false allegations of abuse if money was not provided. The three family members who imply this are James, Thomas, and Kenneth. Kenneth is not a party to the cases but he is involved in various respects.

Nearly a year into the cases, nobody has made the latter accusations explicitly. Additionally, Thomas does not appear to be making any explicit accusations at all. He does not even seem to be alleging non-consensual calls though he implies them.

Thomas's pleadings consist partly of a story about James and Robert that does not involve Thomas. The rest of Thomas's material seems to be filler. As one example, Thomas relates the fact that Robert left a voicemail message indicating that books of religious poetry which had been written by the brothers' grandfather Ivan needed to be discussed. Robert notes that he had had possession of the books since the 1980s and wanted to leave them to Thomas in his will, resolving an issue that had been open for decades.

Thomas does not indicate how the gift of the books is connected to physical violence or why it is objectionable in any way.

Robert made one phone call to a particular church in Spring 2012, New Life, and one to a particular volunteer group, Service Core for Retired Executives. Those calls are discussed at a later point. James has implied, through repeated discovery, that something was wrong or inappropriate about those calls but he does not say what. Robert notes that his mother Grace gave him full permission to call the church. And that both calls were pleasant and productive.

The evidence submitted by James and Thomas consists largely of three things: James has submitted a list of phone calls that he claims is a caller ID log. James has also submitted a set of postcards that he and Grace received from Robert. James, Thomas, and Kenneth have all submitted transcripts of phone messages left by Robert.

The caller ID log does not seem to confirm anything but a significant number of calls made on a single day. Robert contends that this was the date that James threatened him over the book. The alleged log also indicates that Robert stopped calling his parents not long after the date in question exactly as they had requested.

The postcards are polite though chilly. They assert that James and Grace cannot stop the book. Robert acknowledges sending the postcards. He notes that he sought the advice of the police in James's and Grace's area before doing so. The police indicated that they saw no problems with the postcards and Robert stands by them.

The voicemail messages are significant. These are primarily calls made from Robert to Thomas and Kenneth in 2012. There are also calls to a senior security officer at a division of Amazon. Robert is clearly angry. He talks about taking family members to court. However, the transcripts seem to have little relevance to CLETS. There appears to be no profanity and Robert does not make illegal threats.

Thomas never asked Robert not to call and there was no request from James or Grace not to call in 2012. As noted elsewhere, Grace visited Robert early in the year and ended any previous request not to communicate.

In an attempt to settle the cases, Robert has signed a stipulation that agrees to most of the terms in the original orders except for going into the violence database. Plaintiffs have refused to settle until Robert agrees to terms that go well beyond the original orders and probably well beyond what a judge could order.

Past settlement proposals have said that Robert must pay \$5,000 per phone call if he talks to third parties about his family, that he must take down websites, that he must agree in advance to pay future attorneys fees, and that there must be a non-mutual CLETS trigger. A non-mutual CLETS trigger is considered unusual. It means essentially that James can try to put Robert into the violence database again at little legal risk to himself.

Robert contends that the CLETS actions are abuse of process and that the settlement proposals are evidence of this. He feels that the other side is using the threat of the violence database to force him to surrender Free Speech rights. And that it may be possible to demonstrate actual perjury by the other side.

As an example of possible perjury by James, James has stated under oath that Robert has made false allegations that James is an abuser. Robert has stated under oath that any such allegations are entirely true.

As an example of possible perjury by Thomas, Thomas has stated under oath that a phone call made by Robert to Thomas in January 2012 was "stalking". Thomas omits the following facts: The call in question was scheduled in advance, it was a Happy Birthday call that Thomas took voluntarily, Thomas and Robert chatted about a number of subjects, Thomas invited Robert to call back, Thomas indicated the date that Robert should call back, and throughout conversations that followed, Thomas never asked Robert not to call.

3. Additional points.

Robert makes the following claims:

* Robert was not lawfully served in the cases. He learned about them only days before the first hearing. He notes that he spent the day before Court in the Emergency Room for related reasons. During the first day in Court he was not able to stand at times due to the medical issue involved.

* Robert asserts that, for financial reasons, he has not been able to defend himself in what he characterizes as unwarranted actions. Robert's family has significant resources. James is a former VP of Transamerica and Thomas is a current VP of Humana. Kenneth is the inventor of the Amazon Kindle. Robert's own resources have been depleted by the cases. As of April 2013 his net worth was well below the legal fees that he had paid to date.

* A review of discovery demands made by the Kiralys will show that at least some of the demands were not calculated to obtain relevant information but were instead most likely intended to harass or raise costs. Demands related to calls to New Life Church are one example. Demands which imply that Robert made allegations of abuse against his brothers are another. The Kiralys have never actually stated a single relevant accusation about the church or provided a single example of an abuse allegation against the brothers.

* Robert lost job opportunities due to what he characterizes as false allegations and abuse of process. His reputation and health were affected. He'd lost 75 pounds as of early 2013 though weight recovered subsequently to some extent.

* Robert is autistic. A preliminary assessment made in Spring 2013 suggested Asperger's Syndrome as opposed to Autistic Disorder. PDD-NOS was considered to be a possibility as well. The issue is relevant because the plaintiffs have sought to prevent Robert from writing down answers in depositions before speaking them aloud. When Robert is tired or distressed he sometimes needs to do this.

* Robert's parents have sought to portray claims of autism as false despite the fact they have known about the issue for over 40 years. And the fact that they were the ones who first told him that he had “neurological problems”.

* Opposing counsel has suggested in writing that Robert does not speak English and has demanded that Robert identify his native language so that an interpreter can be obtained. Robert has been told that this is open mockery. Robert feels that mockery calls the professionalism of opposing counsel into question.

4. Robert's story.

This part is less formal and objective. I will write as Robert here. The following is an updated version of what I have told the Court.

James Kiraly was a hard-working man. He took his career seriously and provided for his family. He was conscientious about that side of things. He was also controlling and physically violent. James's wife Grace was forced to eat meat, which she disliked, because James liked meat. At times, Grace was discouraged from going out at night unless James approved of the errand or he went with her. James displayed anger on these occasions.

James had random fits where he'd literally convulse with rage. His eyes would bulge. When the rage was on him he'd tear up or smash things. He smashed people too. I don't think it's been denied in these cases; possibly because I offered to provide a witness from outside the family. But the family wasn't seriously afraid of James except for his oldest son; me.

I had “neurological problems”, a fact that my mother Grace informed me of using those words. I needed calm and order. Instead, I lived in terror of James and his rage, which was inexplicable and unpredictable.

James focused on me because I sounded different; he referred to my speech patterns as “attitude”. I thought of it as fear. Grace considered James more exhausting than frightening. She left her husband a decade into the marriage with her children in tow, but she returned because there was nowhere to go.

After another difficult decade, Grace asked James to leave and he moved out. But he came back.

Grace considered leaving James as late as 30 years into the marriage. She used to phone me to ask my advice about how to deal with him. Also to discuss my siblings, including the second plaintiff in these cases, Thomas. Grace considered Thomas artificial. He'd adopted a persona to deal with James. Grace called the pretend Thomas a “dark mask”.

I was seen as more honest. My parents didn't make me feel welcome, but my mother considered me the good son, the one who was not cold or unpredictable like the middle two. And less damaged than the youngest brother, who shares my neurological issues and has for his entire life.

The youngest brother, Scott, is an inconvenient fact for opposing counsel. The other side suggests that I am not different and they have made this an issue in the cases. But they have known what I am for my entire life. They are the ones who told me. And they know about my similarities to Scott.

Scott and I are not completely alike, though. He has OCD, Obsessive Compulsive Disorder, and was also potentially dangerous and violent. I don't share either characteristic with him. He inherited them from James.

At any rate, Grace and I talked about things. The family situation calmed down from the 1970s to 1990s. I tried to remain on good terms with my parents and made efforts to connect with James. He rarely acknowledged my presence but, for example, in 2003 I asked him for his opinion of a business document I'd written. James declined to look at the paper but I made additional attempts to talk over the years.

Around 2005 James and Grace drove through my area en route to visit two of my brothers. I asked my parents if they'd like to eat with me but they refused. They did agree to meet with me briefly in a parking lot.

Things changed for me in 2009. I'd been physically ill since around 2001. Lost my mobility at times. Significant pain but there was no regular medical care after 2003. Starting in Fall 2009 there were periods of alternating fever and low body temperature that lasted for weeks. I could no longer eat at times without breathing difficulties and loss of consciousness.

At the nadir, Summer 2011, I was immobilized in my apartment without food for about two weeks. I lost partial use of my right hand at this time. An apartment manager found me on the living-room floor. I was given food and a wheelchair and received injections that I believe saved my hand. It was a month until I could walk reliably and it took me until late 2011 to recover.

My index finger still bends backwards at times. I'd like a hand surgeon but the money has gone to these cases. An acquaintance, Paul, committed suicide during this period because I wasn't there for him.

I started to think about the meaning of life and considered working more on a book that I'd planned since 1971. I spoke more with Grace and made attempts to discuss serious matters. What had happened with the family; what had happened to me; my attempts to move forward with my life.

I assumed that Grace would be willing to talk since I'd always been there for her when she'd wanted to complain about my father or my brothers. I didn't understand until later that she was interested in talking primarily if it was about her own concerns. We continued to speak until late 2011 regardless.

Neither James nor Grace asked me not to call their household or gave any indication that they wished this. In fact, I started talking more to my father, James, and Grace welcomed this step. Every conversation with James that I recall until the end was pleasant. We spoke about James's household projects, about his volunteer work with a group named S.C.O.R.E., and about other positive issues.

After Thanksgiving 2011, I asked my parents if they'd work with me on my project. Circa the next conversation, my parents told me that they were going to accuse me of making "30" non-consensual calls to them. This was confusing as there had not been a single non-consensual call up to this point.

As I understand it, James has increased the stated number from "30" to a number in the 70s. I don't remember if that's supposed to include calls made in 2012. James is lying about what happened either way. Again, there were zero non-consensual calls that I recall before James threatened me. During the incident in question, he said something about the police and slammed down the phone. I called him back and said something similar to "what are you talking about?" He slammed down the phone again and I called back to repeat my question. I think James claims that I called about 20 times that day. I question the number.

Regardless, every call before this incident was consensual. Additionally, calls to James were pleasant. But my father went to the police circa the next business day. At least one set of pleadings in these cases includes a detailed story about the police calling me after that. The story is a fantasy that never happened. To the best of my recollection, the police never called me except when I contacted them first to verify that my actions appropriate or to ask them questions about filing paperwork related to James.

In early 2012 my mother Grace drove about 200 miles to visit me unannounced. We went to the Olive Garden. She ended any request not to communicate and started her own series of phone calls to me. She also volunteered remarks about how my family would see to it that I would not be homeless. Given the fact that legal bills paid through April 2013 exceeded my net worth as of that point, the irony of the latter point is striking.

Both Grace's visit and her phone calls to me are visible in discovery evidence. I don't recall ever again receiving any request not to communicate from either plaintiff in these cases.

In Spring 2012 I phoned my mother's church with her full permission. I spoke with Pastor Ron about the nature of a Christ Follower. I also called S.C.O.R.E., the group my father had told me about, and spoke politely with them about their mission. I learned subsequently from relatives that James was enraged by the calls. He made statements to people similar to "don't be afraid ... to give me something ... to prosecute Bob". He also urged others to "present a united front against Bob".

I wanted to discuss the threats that James was making with my brothers Thomas and Kenneth. But Thomas stopped taking my calls without explaining why and I never reached Kenneth at all.

I was unhappy that my brothers had not shown me the courtesy of telling me they didn't wish to talk. I was also dismayed by James's threats. I sent James and Grace postcards, which the police approved in advance, telling my parents that they could not stop the book. And I left voicemail for everybody that expressed my feelings about James's unwarranted threats. I never received a request not to do this from either plaintiff after Grace abrogated the original request not to communicate.

I am not presently aware that specific accusations of unlawful threats or other unlawful actions have been made aside from the claim of a large number of non-consensual calls in late 2011. That claim is false as explained above and does not involve Thomas at all. But both James and Thomas filed CLETS.

Opposing counsel created filler material in lieu of cases. Thomas cites the imaginary story about the police mentioned elsewhere and the story does not even include him. He talks about our grandfather's

books of religious poetry which I wanted to leave him in my will. Thomas also refers to a Happy Birthday call as “stalking” despite the fact the call was prearranged and Thomas invited me to call back.

James has tried to imply harassment and mental illness and hacking and extortion. And he submits postcards that the police approved as “evidence”. Evidence of what besides James's own threats is not clear.

I am not aware of formal accusations, as opposed to innuendo, aside from the false claim of a large number of non-consensual calls in late 2011. In 2012, Grace ended any request not to communicate and started her own series of calls to me. And Thomas never asked me not to communicate at all.

But I have been forced to spend \$28,000 on legal fees. It is more than my net worth as of the date I wrote this. I was not properly served and I have reason to believe that opposing counsel is aware of this. I spent the day before the initial hearing in the Emergency Room. This is related to the difficulty I had standing in Court. I feel that I have been lied about. I'd lost over 75 pounds by early this year. I've lost job opportunities and seen my reputation damaged. I signed a stipulation about contact but opposing counsel has repeatedly demanded more than the original orders; the surrender of fundamental rights.

There are vague references in settlement proposals to “indirect” actions that are aimed squarely at social media or consensual communication with third parties. One “offer” seems to allow James to demand a \$5,000 payment if there is a single conversation with a newspaper reporter. If my attorney and opposing counsel discuss “contact”, opposing counsel prefers the word “conduct”. The word “conduct” is so vague that it could be used to mean anything my father doesn't like.

And opposing counsel insists on a non-mutual CLETS trigger. My violent father wishes the right to put me into a violence database.

There is one positive part to all of this. My book is going to continue. And I believe that it will help people.