

# California Family Law Report

## Case of the Month – March 2026

### Topic: Domestic Violence

*Petitioner in DVRO proceeding was not required to prove respondent intended to threaten or intimidate him...*

**In reversal, the Second District held the trial court abused its discretion by denying father's DVRO request after finding evidence of stalking but effectively requiring proof that mother intended to threaten or intimidate father.**

#### ***R.R. v. C.R***

(January 20, 2026)

California Court of Appeal 2 Civ B339866 (Div 4), 117 Cal.App.5th 1262, \_\_\_ Cal.Rptr.3d \_\_\_, 2026 FA 2214, per Collins, J. (Zukin, P.J., and Tamzarian, J., concurring). Los Angeles County: Hernandez. For father (Appellant): Ben Gharagozli. For mother (Respondent): Pro Per. CFLP §C.10.10.

Father and mother married in 2014 and have one child together, born in 2015. In April 2019, father filed a dissolution petition and sought an emergency custody order based on mother's psychiatric hospitalization following an attempt to overdose on Prozac medication. The trial court denied the emergency request.

Later in 2019, the Los Angeles County Department of Children and Family Services (DCFS) initiated a dependency action, alleging the child was at risk of harm due to mother's mental and emotional problems. The juvenile court ultimately terminated jurisdiction after ordering joint legal custody and sole physical custody to father with monitored visitation for mother.

In August 2020, the trial court entered a dissolution judgment adopting the parties' stipulated agreement, including joint legal custody of the child and primary physical custody to father with monitored visitation for mother, with increased visitation as approved by mother's psychiatrist. In April 2022, the parties entered a stipulated order allowing mother unmonitored visitation.

*Alleged stalking escalates...*

In May 2024, father filed a request for a DVRO against mother, alleging ongoing abuse by mother since December 2023 that was “progressively getting worse.” He also requested a return to professionally monitored visitation for mother due to her “severe and untreated mental health issues.”

In his supporting declaration, father alleged that mother sat in her car outside of his home at all hours of the night, would sometimes ring his doorbell incessantly, and sent him threatening communications. According to father, he had agreed to unmonitored visitation after mother’s mental health stabilized in mid-2021 and that arrangement continued successfully until late 2023, when mother “fell back into some sort of delusional mental state and began stalking and following me incessantly as well as harassing me via text and calls.” Father described multiple incidents, including an incident on May 11, 2024, where she followed father and child during their drive to child’s soccer tournament. According to father, mother followed him from his neighborhood onto the freeway. Once on the freeway, mother got very close to father’s bumper and then sped up to pull alongside father’s vehicle, signaling him to call her. Father exited the freeway in an attempt to lose her, but when he got back on, he saw that she had pulled onto the freeway shoulder to wait for him.

Father attached copies of texts to his declaration as well as evidence of repeated phone calls and photos and videos showing mother at his door and following his car.

A hearing on father’s DVRO petition was held on June 13, 2024. Both father and mother testified. Father testified regarding the incidents described in his declaration, noting that he is afraid of mother because “when she follows me it gets very erratic.” Father added that the child is afraid of mother. During her testimony, mother acknowledged that she went to father’s house “many times,” that father often did not open the door, and that she sometimes refused to leave even when asked. Mother also admitted that on the day she followed father and the child on the freeway, it was not her scheduled visitation time, but that she was following them to confirm that father was taking child to his soccer tournament.

*Trial court found evidence of stalking...*

At the conclusion of the hearing, the trial court stated father had “certainly presented evidence related to the stalking,” but questioned whether the circumstances arose from a medical condition that could be addressed by means other than a restraining order. Although the trial court (Los Angeles County’s Hernandez) found mother’s conduct “sufficiently alarming” and ordered professional monitoring for the child’s visits with mother, it denied the DVRO. In so doing, the trial court found there was not a preponderance of the evidence that “the stalking via

following on the freeway was an intentional attempt to threaten or otherwise intimidate [father].” Father appealed, and the Second District reversed.

The panel began by summarizing relevant provisions of the Domestic Violence Prevention Act (DVPA), including that a court may enjoin a party from stalking or “disturbing the peace” of the other party. Fam C §6320(c) defines “disturbing the peace” as conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party by any means. The justices also reiterated that DVPA “abuse” is construed broadly in order to accomplish the statute’s protective purpose. Finally, the justices observed that while DVRO rulings are reviewed for abuse of discretion, a court abuses its discretion when its decision is influenced by an erroneous understanding of the law or reflects unawareness of the full scope of its discretion.

*No intent element exists...*

With these legal principles in mind, the justices concluded that the trial court abused its discretion by misapplying the applicable law, specifically by erroneously focusing on whether mother *intended* to disturb the peace of father. For example, although the trial court found “evidence related to the stalking,” it noted mother’s behavior was not “an intentional attempt to threaten or otherwise intimidate [father].” The justices explained the DVPA does not require a petitioner to prove a respondent intended to threaten or intimidate him. As such, the justices concluded the trial court’s focus on whether mother acted with intent was an error.

The justices also concluded that the trial court failed to evaluate the totality of the circumstances. Although the trial court considered mother’s mental state, it did not identify countervailing evidence weighing against issuance of the DVRO. For example, mother did not meaningfully dispute key conduct and, in fact, acknowledged such conduct, including that she repeatedly called and texted father, came to his home uninvited, and refused to leave when asked. Meanwhile, the trial court found father’s testimony credible. Father also corroborated his testimony with texts, phone logs, photos and videos. The trial court also found that mother’s conduct affected father and child in “significant ways” and was “sufficiently alarming.” Nevertheless, the trial court found mother’s conduct did not rise to the level of abuse. In rejecting that narrow approach, the justices emphasized that the DVPA does not allow courts to discount nonphysical abuse and observed that stalking and controlling behavior are not just predictors of future physical abuse but may cause significant psychological damage.

Accordingly, the Second District reversed the trial court's order denying father's application for a DVRO and remanded the matter to the trial court with directions to grant father's application and enter the DVRO.

*Comment...*

The trial court's ruling illustrates a common DVPA pitfall: attempting to address risk through custody and visitation restrictions while denying the restraining order. Here, the trial court deemed mother's conduct "sufficiently alarming" to require professionally monitored visitation yet denied the DVRO because it could not find an intentional attempt to threaten or intimidate. The Second District's reversal is a reminder that a court's impulse to manage safety concerns through custody and visitation orders is not a substitute for applying the DVPA's actual standard.

### **Library References**

[11 Witkin, Summary of Cal. Law \(11th ed. 2025\)](#) Marriage § 384

[Hogoboom & King, Cal. Practice Guide: Family Law \(The Rutter Group\)](#) ¶ 5:5.5i