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Court of Appeals
District III

Appeal No. 2026AP000575

Kenosha County Case No. 2026CV000107

HOLLIE ELIZABETH WHITE,

Petitioner-Respondent,

v.

MATHIEW RAE FOX,

Respondent-Appellant.

RESPONDENT-APPELLANT'S BRIEF

Appeal from an order of the **Circuit Court for Kenosha County**,
the **Honorable David P. Wilk**, presiding,
granting a harassment injunction under *Wis. Stat. §813.125*.

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ISSUES PRESENTED

I. Whether the circuit court erroneously exercised its discretion by finding “no legitimate purpose” under Wis. Stat. §813.125 without identifying the substance of the employer/provider communications on which the injunction rested.

The circuit court answered: **Yes**, by granting the injunction.

This Court should answer: **Yes**.

The circuit court’s ruling rested on alleged employer/provider communications in May, July, August, and September 2025. But the court did not identify the content of each communication, its recipient, the statutory element each communication satisfied, or why each communication lacked legitimate purpose. That omission matters because Fox preserved a legitimate-purpose defense: the alleged communications overlapped with family-court litigation, provider-record access, child-related administrative concerns, subpoenas, agency complaints, and lawful court-process activity.

II. Whether the circuit court erroneously exercised its discretion by treating alleged “false child abuse allegations” as harassment without identifying the allegation, recipient, evidence of falsity, and basis for finding no legitimate purpose.

The circuit court answered: **Yes**, by relying on alleged false child-abuse reports as part of the harassment predicate.

This Court should answer: **Yes**.

The court referenced “false child abuse allegations” in its oral ruling. But it did not identify which allegation was false, who received it, what evidence established falsity, or why any report lacked legitimate purpose. Fox preserved the distinction between harassment and good-faith reporting or protected petitioning to governmental agencies.

III. Whether the circuit court erroneously exercised its discretion by entering an injunction broader than the conduct found.

The circuit court answered: **No**, by entering residence, contact, and third-party restrictions without narrowing the order.

This Court should answer: **Yes**.

The circuit court's findings concerned employer communications. The order imposed broader residence, contact, and third-party restrictions without findings supporting those restrictions and without safe harbors for lawful court process, protected petitioning, or child-provider administrative communications. Fox requested narrow safe-harbor language for lawful court process, agency petitions, and child-provider administrative communications involving Pathways/PSG. The circuit court did not narrow the injunction to the conduct actually found.

IV. Whether any threat-based restraint required findings under *Kindschy* and *Counterman*.

The circuit court answered: **No**, by entering the injunction without making a *Kindschy* and *Counterman* finding.

This Court should answer: **Yes**, to the extent the injunction rests on alleged threatening speech.

To the extent the injunction rests on alleged threatening speech, the circuit court made no finding that Fox consciously disregarded a substantial risk that any communication would be viewed as threatening violence. Any threat-based restraint therefore lacks the required constitutional predicate.

SUMMARY OF ARGUMENT

The circuit court found repeated employer-related communications referencing White. But the court did not identify the content of those communications, did not explain why each communication lacked legitimate purpose, and did not tailor the injunction to the conduct found.

First, the court misapplied *Wis. Stat. §813.125* by finding “no legitimate purpose” without act-specific findings. White conceded that some provider-related communications would not be objectionable. The court did not determine which communications crossed the line.

Second, the court treated “false child abuse allegations” as harassment without identifying the report, its recipient, the evidence of falsity, or why it lacked legitimate purpose. A report can be wrong but still made in good faith. The court made no good-faith versus bad-faith finding.

Third, the injunction is overbroad. The court found employer communications. The order restricts residence contact, third-party contact, and lawful court process without findings supporting those restrictions.

Fourth, to the extent the injunction rests on alleged threats, the court made no *Kindschy* or *Counterman* finding about Fox’s mental state.

Fifth, the absence of findings is not harmless. Fox raised a colorable legitimate-purpose defense, and White’s own testimony conceded that some communications would be unobjectionable. This Court cannot supply the missing findings in the first instance.

The injunction should be reversed and vacated, or remanded for specific findings and narrowing.

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Oral argument is requested. The appeal presents a narrow statutory question under *Wis. Stat. §813.125*: whether a circuit court may find “no legitimate purpose” without identifying the content of employer or provider communications when the respondent preserved a legitimate-purpose defense tied to family-court litigation, provider-record access, and court-process activity. Oral argument would assist the Court in addressing the relation between the court’s findings and the breadth of the injunction.

Publication is requested. This appeal presents a recurring statutory issue in harassment-injunction practice: how courts should apply the “no legitimate purpose” element when alleged harassment overlaps with family-court litigation, provider-record access, court process, and agency-reporting activity, and when the petitioner’s workplace is intertwined with child-service providers involved in a parallel family-court dispute.

A published decision would clarify that context cannot replace statutory findings; that “*no legitimate purpose*” requires act-specific analysis; and that injunctions must be tailored so they do not restrain lawful court process or child-provider administrative communications. *See Wis. Stat. Rule 809.23.*

STATEMENT OF THE CASE

This appeal arises from a four-year harassment injunction entered March 4, 2026, in Kenosha County case 2026CV000107. Fox appeals from the order granting an injunction expiring March 4, 2030. **(R.17).**

White's petition was not limited to one discrete recent act. It incorporated a prior 2022 injunction, alleged police reports, a pending criminal case, alleged no-contact terms involving White, her fiancé, and her employers, and requested broad restraints. The petition also referenced White's employers, PSG and Pathways Consulting, in connection with claimed no-contact restrictions.

Fox moved to deny and dismiss the petition before the injunction hearing. He argued that the petition failed to plead and prove the statutory elements of *Wis. Stat. §813.125*, including a qualifying course of conduct, intent to harass or intimidate, and conduct serving no legitimate purpose. He also argued that the petition attempted to convert lawful litigation activity, subpoenas, record requests, good-faith reporting, and petitioning activity to governmental agencies into harassment.

A de novo hearing was held March 4, 2026, before Judge David P. Wilk. The court explained that the hearing was not appellate review of the commissioner's ruling. It was a new hearing requiring evidence, witnesses, and testimony. ***Tr. 3:21-25; 4:1-6.***

Fox chose not to testify because of parallel criminal exposure. He told the court that *"testifying at this point would be adverse to a parallel proceeding."*¹***Tr. 4:15-16.*** The court understood the point: Fox had pending charges and did not wish to make statements under oath, but wished to make argument. ***Tr. 4:17-20.*** Later, when the court again gave Fox the choice between sworn testimony and argument,

¹ Thus far the Kenosha Circuit Court Brand 3 & 5 has displayed patterns reflected in the docket of an adverse tribunal. This is due to White's entanglement with the family court system as a social worker. The adverse actions that have taken place thus far has been the influence of Judge Heather Iverson and Alexandra Smathers. I have Audio, video and documentation of the entanglement of White with Judicial officers.

Fox chose argument. *Tr. 19:9-24*. The court then closed the evidence without objection. *Tr. 19:24-25; 20:1-5*.

Fox does not argue that his silence created an evidentiary void. The circuit court could credit White's testimony. But Fox's silence did not supply the missing content, falsity, bad-faith, intent, or no-legitimate-purpose findings. The circuit court did not purport to draw an adverse inference from Fox's invocation; it treated White's testimony as uncontroverted and still had to test that testimony against §813.125.

Fox's election not to testify did not relieve White of her burden to establish the statutory elements. Fox's silence was not the content of an email, proof of falsity, proof of intent, or proof that a communication served no legitimate purpose. The question on appeal is narrower: accepting the testimony the circuit court credited, did that testimony support act-specific findings satisfying §813.125 and an injunction of the scope entered?

White was the only sworn witness. Her testimony focused on employer, provider communications, Pathways, PSG, DSPS reports, public posts², and claimed reputation harm. The court repeatedly directed White to identify dates and specifics because the statute required a pattern or course of conduct and because the court could not fill in blanks. *Tr. 10:23-25; 11:1-20; 14:12-18*.

White testified that she worked at PSG and Pathways, and that Fox's children were receiving services through entities connected to her employment. *See Footnote 2. Tr. 7:16-25; 8:1-10*. She also testified that she had no access to the children's records and was not professionally involved with them³. *Tr. 7:21-25; 8:1-5*.

That distinction matters. The record did not present White's workplace as an unrelated private target. It presented White's workplace as part of the provider network placed at issue by the testimony itself. Fox's defense was therefore not

² Information referenced by White, is already published publicly on her own workplace website open to the PUBLIC. See : <https://www.pathwaysconsultingllc.com/meet-our-therapists/> Anyone with access to the internet would have access to a public domain which White 'consented' to.

³ This assertion can be proven false, based on testimony under oath in case 2021FA47.

simply, “*I deny it.*” His defense was that the alleged contacts arose from family-court litigation, provider-record access, child-service information, subpoenas, good-faith reporting, agency complaints, and related court-process activity⁴.

White identified several 2025 incidents. She referenced a March 30, 2025 incident and described “*fake child abuse allegations*” posted publicly. **Tr. 14:19-25; 15:1-8.** She then identified a May 30, 2025 email to her employer, but stated she did not have the email in front of her. **Tr. 15:7-12.** She conceded that if Fox were merely contacting her employer to ask who his child’s therapist was so he could contact the therapist, she would not say that was an issue⁵. **Tr. 15:12-17.**

White later identified July 30, August 7, and September 2 incidents, but again described them generally as employer-related communications. Tr. 17:5-18; 17:22-25. The court asked whether the May 30 email required uncomfortable conversations with her employer, and White answered, “*Constantly.*” **Tr. 15:18-20.** Fox argued that the dates White referenced involved litigation activity in family-court proceeding 2021FA47; that White had been referenced as an adverse party in family-court billing records; that White had been subpoenaed into the family-court proceeding; and that litigation activity supplied a legitimate purpose. **Tr. 20:11-24; 21:1-9.** He argued that *Decker* required narrow tailoring, **Tr. 21:10-13**; that *Bachowski* protected lawful litigation activity, Tr. 21:14-15; that White had failed to prove true threats under *Kindschy*, **Tr. 21:19-21**; and that tailoring was necessary because his children attended Pathways and PSG and “any contact can be twisted into harassment.” **Tr. 21:23-25; 22:1-6.**

The overlap with the parallel criminal matter sharpened rather than weakened the need for findings. Where the same alleged communications were being treated as criminal, harassing, and professionally damaging, the court could not rely on generalized descriptions. It had to identify the communication, its content, its recipient, and the reason it lacked legitimate purpose.

⁴ Reference Document R. 173, 174, 201, 203 in case 21FA47 (Available upon this courts request)

⁵ Reference Document 26 in 26-CV-107 – White cannot interfere on parental access and rights.

The court granted the injunction. Its ruling focused on 2025 conduct. The court stated that older conduct had timeliness concerns and that what mattered was what happened in 2025 and 2026. **Tr. 23:2-19.** It then identified “emailing the owner alleging unethical behavior,” “*false child abuse allegations that were reported,*” and “*email communications in May, July, August, and September.*” **Tr. 23:20-23.**

The court treated White’s testimony as uncontroverted because she was the only sworn witness. **Tr. 23:23-25; 24:1-8.** It found “*a communication or repeated communications to an employer that improperly, and for no legitimate purpose, included or referenced the petitioner.*” **Tr. 24:8-13.** It further found that the communications required White to constantly address issues and have uncomfortable conversations with her employer, and that White was not professionally engaged with the children⁶. **Tr. 24:11-20.** The court concluded that the conduct met the standard for repeated acts or a course of conduct that harassed another person and served no legitimate purpose. **Tr. 24:21-24.**

The order entered broader relief. It required Fox to avoid White’s residence or any premises temporarily occupied by her, avoid conduct and contact that harasses her, and avoid contacting White or causing another person other than a party’s attorney or law enforcement officer to contact White unless White consents in writing. **Tr. 25:12-19.** The court also found no clear and convincing evidence that a firearm would be used to cause physical harm.⁷ **Tr. 25:6-10.**

After the order, Fox moved to reconsider, amend, and modify for a narrow order. He requested clarification and narrow tailoring; additional findings identifying the specific acts relied upon and the statutory elements satisfied; a court-process safe harbor; a parenting provider safe harbor for Pathways and PSG records, billing, insurance, scheduling, and compliance communications; and a

⁶ This statement under oath, is factually unsupported. Testimony in 21FA47, September 29th Trial hearing transcripts prove a different outcome. (Transcripts can be provided to this court)

⁷ White in many police reports (20 in total), and testimony under oath in 25-CF-1639 had make exaggerated comments to the court presenting a true “Danger”. This behavior, unsupported and has adversely affected Fox.

protected-petitioning clarification for good-faith reports or petitions to governmental agencies. **R.21.**

Fox also filed professional, ethical, and regulatory materials relevant to that narrowing motion⁸. **R.24,25,27.** The filing stated that the materials were submitted because White's work facility and professional role had been referenced during the de novo hearing, and because the materials could assist the court in clarifying the injunction's scope. **R.21.**

Those materials did not ask the harassment court to decide professional discipline, HIPAA liability, or a DSPS complaint. The narrower point was that they supplied the regulatory context for why provider-record access, confidentiality, complaint channels, and professional boundaries mattered. The court was not required to accept Fox's view of those materials. But it was required to address the statutory question they raised: whether the communications served a legitimate purpose.

Preservation. Fox raised each issue presented in this appeal before the circuit court. Before the hearing, he moved to deny and dismiss, arguing that the petition failed to plead or prove a qualifying course of conduct, intent to harass, and conduct serving no legitimate purpose. **R.8.**

At the hearing, Fox argued that the dates White identified involved "litigation activity in family court proceeding 2021-FA-47" and that the activity had a legitimate litigation purpose. **Tr. 20:11-24; 21:1-9.** He also argued *Decker* narrow tailoring, *Bachowski* protection for lawful litigation activity, *Kindschy-Aish* true-threat limits, and the Pathways and PSG child-provider problem. **Tr. 21:10-15; 21:19-21; 21:23-25; 22:1-6.** After the order, Fox moved to reconsider, amend, and modify, requesting act-specific findings, a court-process safe harbor, a parenting provider safe harbor, and a protected-petitioning clarification. **R.21.** No issue presented here is raised for the first time on appeal.

⁸ White's behavior, along with Pathways Consulting and Professional Services Group (PSG) violated Federal Regulatory restrictions for privacy. Should the court consider Judicial immunity of Judge Heather Iverson, this Brief serves to strengthen the argument in conflict of interests providers and recusal of a Judicial Officer.

STANDARD OF REVIEW

A circuit court's decision to grant a harassment injunction is reviewed for erroneous exercise of discretion. Whether the facts found satisfy the statutory standard under *Wis. Stat. §813.125* is reviewed independently. ***Welytok v. Ziolkowski***, 2008 WI App 67, ¶23, 312 Wis. 2d 435, 752 N.W.2d 359.

A circuit court erroneously exercises discretion when it applies the wrong legal standard, fails to apply the facts of record to the correct legal standard, or enters relief broader than the law permits.

The scope of a harassment injunction must be refined and narrowly tailored to the conduct and statutory basis found. ***Board of Regents-UW System v. Decker***, 2014 WI 68, ¶22, 355 Wis. 2d 800, 850 N.W.2d 112.

Where an injunction rests on alleged threatening speech, constitutional limits apply. A civil harassment injunction premised on true threats requires a finding that the speaker at least consciously disregarded a substantial risk that the communications would be viewed as threatening violence. ***Kindschy v. Aish***, 2024 WI 27, ¶¶13-25, 412 Wis. 2d 319, 8 N.W.3d 1; ***Counterman v. Colorado***, 600 U.S. 66 (2023).

STATUTORY FRAMEWORK

Wisconsin *Stat. §813.125(1)(am)4.b* defines harassment, as relevant here, as “engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.”

That text requires distinct determinations. The court must determine that: (1) a course of conduct or repeated acts occurred; (2) the acts harassed or intimidated another person; and (3) the acts served no legitimate purpose. The third requirement is not surplusage. It is a separate statutory element.

The circuit court found repeated employer-related communications and found that those communications harassed White. But the disputed element was legitimate purpose. The court’s conclusion that the communications were “improper” and served “no legitimate purpose” was not tied to the content of each communication, the recipient, the date, the provider-record context, or Fox’s preserved litigation and agency-reporting defense. That is the statutory defect.

ARGUMENT

I. The circuit court erroneously exercised its discretion by finding “no legitimate purpose” under Wis. Stat. §813.125 without identifying the substance of the employer/provider communications.

A. Rule.

Section 813.125 does not authorize an injunction merely because a communication is unwanted, embarrassing, professionally inconvenient, or uncomfortable. Wisconsin *Stat. §813.125(1)(am)4.b* defines harassment as “repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.” The statute thus requires the court to identify the act and explain why it serves no legitimate purpose, not merely that the act occurred.

The “*no legitimate purpose*” element is not a label. It requires a legal determination tied to the act found. Where the respondent asserts that the conduct served litigation, court-process, provider-access, record-request, complaint, good-faith reporting, or agency-petitioning purposes, the court must identify the communication and explain why that communication was not legitimate-purpose conduct.

B. Record.

Fox preserved this issue before the injunction. His motion to deny and dismiss argued that the petition failed to plead or prove a qualifying course of conduct, intent to harass or intimidate, and no-legitimate-purpose conduct. R.8. **The motion further argued that the petition attempted to convert lawful litigation-related conduct, filings, subpoenas, requests for testimony, record development, good-faith reporting, and related lawful process into harassment. R.8.**

Fox preserved the issue again at the hearing. He argued that the dates White identified were litigation activity in family-court proceeding 2021FA47; that White had been subpoenaed into the family-court proceeding; and that the alleged communications had legitimate litigation and provider-related purposes not

directed at white. **Tr. 20:11-24; 21:1-9.** Fox also invoked *Decker, Bachowski*, Pathways, PSG, and *Kindschy*. **Tr. 21:10-15; 21:19-25; 22:1-6.**

White's testimony did not establish the content of the communications in the way the statute required. The clearest example is the May 30 email. When the court asked what happened in that email, White stated, "*I don't have this email right in front of me.*"⁹ **Tr. 15:10-12.** She described it generally as communication to her employer that referenced her. **Tr. 15:11-17.**

White then drew a legally consequential line. If Fox had contacted her employer only to ask who his child's therapist was so he could contact that therapist, White testified, "*I wouldn't be saying that's an issue.*"¹⁰ **Tr. 15:12-17.** Her objection was that her name was included, which drew her employer's attention to her. **Tr. 15:15-17.**

That testimony made the content of each communication dispositive. Some provider communications, by White's own testimony, would not have been objectionable. Others might have been. The court therefore needed to determine which communications fell on which side of that line.

C. Application.

The circuit court could credit White's testimony that employer provider communications occurred. But occurrence is not enough. **Section 813.125** required a finding that each predicate communication constituted harassment or intimidation and served no legitimate purpose.

That bridge is missing.

This is not a credibility dispute. Fox does not ask the Court to disbelieve White. The problem is that White's testimony, even if fully credited, did not establish the content of the May 30 email. She testified, "I don't have this email right in front of me." **Tr. 15:10-12.** Without content, the court could not determine

⁹ Court asked for evidence during the evidentiary stage, yet when evidence wasn't offered, it granted the injunction based on unsupported evidence. Wisconsin statutes protects individuals from abuse of process and malicious prosecution.

¹⁰ White's statement acknowledges parental interference and access. Police body cam video would reveal her involvement and Termination of Parental Rights (TPR) intentions.

legitimate purpose. Crediting testimony about occurrence does not supply missing testimony about content.

The court did not tie each communication to content, recipient, and purpose findings sufficient to permit review of the no-legitimate-purpose element. For the May 30 email, White did not have the email in front of her and did not establish its content. **Tr. 15:10-12.** For the remaining dates, the court did not connect the recipient, substance, and purpose of each communication to an act-specific no-legitimate-purpose finding.

White may answer that the court implicitly resolved legitimate purpose by crediting her testimony. **That answer does not solve the statutory problem.** Credibility and legitimate purpose are distinct questions. A court could credit White's testimony that communications occurred and still need to decide whether a particular communication was a child-provider inquiry, a litigation step, a regulatory complaint, a good-faith report to a governmental agency, or a no-legitimate-purpose act directed at White.

Fox does not suggest that every harassment injunction requires a line-by-line transcript of every communication. But where, as here, Fox raised a colorable legitimate-purpose defense tied to family-court litigation and provider-record access—and where White conceded some provider communications would not be objectionable—the court had to identify which communications crossed the line. White's own testimony confirmed the line: a communication asking who the child's therapist was would not itself be an issue¹¹. **Tr. 15:12-17.** The court did not determine which communications were merely provider-related and which were not.

Workplace discomfort does not cure the defect. White's need to have "uncomfortable conversations" may be relevant to impact. **Tr. 15:18-20; 24:14-17.** But §813.125 requires more than workplace discomfort. The statute demands a finding that the conduct served "no legitimate purpose." That finding must be tied

¹¹ White failed to state that the communications were legal litigation holds, intended to preserve records (Sent to Custodial of Records ONLY) See 17 CFR 229.103

to the content and purpose of the communication, not merely its effect on the recipient.

The record did not present White's workplace as an unrelated private target. White testified that she worked at PSG and Pathways and that Fox's children received services through those provider entities. **Tr. 7:16-25; 8:1-10.** Fox then argued that his children attended Pathways and PSG and that tailoring was necessary because "any contact can be twisted into harassment." **Tr. 21:23-25; 22:1-6.** That context required separation: unlawful harassment on one side; lawful court-process, agency-petitioning, good-faith reporting, and provider-record activity on the other.

D. Remedy.

The injunction should be reversed and vacated. At minimum, the matter should be remanded for specific findings identifying each communication relied upon, its content, date, recipient, statutory element, and the basis for finding no legitimate purpose.

II. The circuit court erroneously exercised its discretion by treating alleged "false child abuse allegations" as a harassment predicate without findings of falsity, recipient, content, or lack of legitimate purpose.

A. Rule.

Reports, complaints, and petitions to governmental agencies cannot be treated as harassment merely because they are unwelcome or damaging to reputation. The same statute requires the court to find that the act "serves no legitimate purpose." A child-abuse report may be wrong but still serve a legitimate purpose if made in good faith. The court made no finding on good faith versus bad faith.

Section 813.125 requires a finding that the act harassed or intimidated and served no legitimate purpose. When the alleged misconduct is a child-abuse report, professional complaint, or provider-related report, the court must identify what was

said, to whom, when, why it was false, and why the report lacked any legitimate purpose.

B. Record.

White testified that Fox made “fake child abuse allegations” and described them as inaccurate. Tr. 15:1-6. The circuit court’s ruling then referred to “false child abuse allegations that were reported.” Tr. 23:20-22.

But the court did not identify the specific allegation. It did not identify the recipient. It did not identify the evidence proving falsity. It did not identify the basis for concluding that any report was not a good-faith complaint or petition. It did not distinguish a report that is wrong from a report made without legitimate purpose.

Fox preserved the point through his protected-petitioning and narrowing requests. He argued that the conduct at issue involved family-court litigation, provider-record access, child-service information, subpoenas, good-faith reporting, agency complaints, and related court-process activity. **Tr. 20:11-24; 21:1-9; 21:23-25; 22:1-6.** After the order, he sought clarification that the injunction would not restrain good-faith petitions, complaints, or reports to governmental agencies not directed to White and not used as a harassment vehicle. **R.21.**

C. Application.

The phrase “false child abuse allegations” cannot carry the statutory burden by itself. It is a conclusion, not a finding.

A report can be wrong yet still be made for a legitimate purpose. A report can be damaging yet still be protected. To use such a report as a harassment predicate, the court had to identify the report and explain why it was knowingly false, made in bad faith, directed to harass, or otherwise served no legitimate purpose. The court made none of those findings.

The circuit court could not use alleged child-abuse reports as harassment predicates without first identifying the reports and determining whether they lacked legitimate purpose. That determination was particularly important because the record contained child-provider and family-court context. White testified that Fox’s children attended services through entities connected to her employment. Tr.

7:16-25; 8:1-10. Fox argued that his communications and reports were tied to family-court and provider-record concerns. **Tr. 20:11-24; 21:1-9; 21:23-25; 22:1-6.** The court did not have to accept Fox’s argument as true. But it had to address it. Once Fox raised a legitimate-purpose defense, the court could not simply adopt the label “false child abuse allegations” and use it as a statutory predicate. It needed to identify the evidence of falsity and explain why any report was not protected or legitimate-purpose activity.

D. Remedy.

The injunction should be vacated to the extent it rests on alleged child-abuse reports, provider complaints, or professional complaints. Alternatively, the Court should remand for specific findings identifying the report, content, recipient, proof of falsity, and no-legitimate-purpose basis.

III. The injunction is overbroad because the order does not track the narrow conduct found.

A. Rule.

Even when an injunction is supported in part, its scope must be refined and limited to what the statute authorizes. *Decker*, 2014 WI 68, ¶22. The scope of an injunction must be “refined and limited to the conduct that is enjoined.” *Id.*, ¶48. A harassment injunction may not impose collateral restraints untethered to the conduct found. Nor may it create compliance traps by restraining lawful court process, agency petitions, or child-provider administrative communications where the predicate findings do not address those categories.

Narrow tailoring serves both parties. For Fox, it prevents compliance traps that could expose him to contempt or criminal consequences for lawful conduct. For White, it produces an order that is clearer, more enforceable, and better tethered to the protection the statute permits.

B. Record.

The circuit court’s factual finding was narrow. The court found “a communication or repeated communications to an employer that improperly, and

for no legitimate purpose, included or referenced the petitioner.” **Tr. 24:8-13.** It identified May, July, August, and September. **Tr. 24:13-14.** The court also relied on White’s testimony that the communications required uncomfortable employer conversations. **Tr. 24:14-17.**

The order was broader. It required Fox to avoid White’s residence or any premises temporarily occupied by her, avoid conduct and contact that harasses her, and avoid contacting White or causing another person other than a party’s attorney or law enforcement officer to contact White unless White consents in writing. **Tr. 25:12-19.**

That third-party contact clause was the subject of Fox’s post-order motion. He argued that the clause was overbroad and ambiguous because it risked sweeping in lawful court-process activity and administrative communications. He requested clarification for filings, service, subpoenas, sheriff process, and other lawful court process. **R.21.**

Fox also requested a parenting provider safe harbor. His motion stated that his minor children receive services through facilities implicated in the record, including Pathways, PSG, and that he must be able to use lawful channels to obtain records, intake information, billing insurance documentation, scheduling information, and other administrative information needed to comply with family-court orders and exercise parental rights. **R.21.**

C. Application.

The findings and the order do not track.

The court found employer-related communications in 2025. It did not find that Fox went to White’s residence. It did not identify a threat. It did not find that Fox used third parties to harass White through ordinary court process. It did not find that communications to record custodians, registered agents, attorneys, provider administrators, or governmental agencies lacked legitimate purpose. It did not address how a litigant is to complete filings, subpoenas, records requests, or child-provider administrative communications without risking violation.

Yet the order restrains broad categories of conduct beyond the employer communications found.

That mismatch is the error. The problem is not that the circuit court credited White's testimony. The problem is that the court's findings and the injunction do not track. The court identified a narrow factual predicate: employer-related communications in May, July, August, and September 2025 that referenced White and, in the court's view, served no legitimate purpose. But the injunction entered was not limited to that predicate. It imposed broad contact and third-party restrictions without findings or safe-harbor language separating unlawful harassment from lawful court process, agency petitioning, and child-provider administrative communications.

Fox raised this concern below. He argued that his children attend Pathways and PSG and that "any contact can be twisted into harassment." **Tr. 21:23-25; 22:1-6.** Fox's post-order motion then requested court-process and provider-communication safe harbors. **R.21.** The circuit court did not address that request.

Even if some injunction could be sustained, this injunction cannot be sustained as written. The remedy entered must be tethered to the statutory predicate found. Here, the predicate was employer-related communications. The order reached residence restrictions, third-party contact, and categories of lawful process not addressed by the court's findings. That mismatch required narrowing.

D. Remedy.

The Court should reverse and remand with directions to vacate the injunction. Alternatively, the Court should remand with directions to narrow the order to the conduct actually found and include safe-harbor language providing that the injunction does not prohibit:

1. lawful court filings, service, subpoenas, sheriff process, or formal court process undertaken in good faith;
2. good-faith petitions, complaints, or reports to governmental agencies not directed to White and not used as a harassment vehicle; and

3. written, minimum-necessary administrative communications through official channels to custodians of records, registered agents, attorneys, or designated administrative representatives of provider or child-service entities, including Pathways, PSG, for lawful child-related records, billing, insurance, scheduling, compliance, and family-court purposes, provided that:
 - (a) the communication does not reference White by name unless legally required;
 - (b) the communication contains no content that, on its face, threatens violence, targets White personally rather than the provider entity's administrative function, or knowingly uses false factual assertions as a harassment vehicle; and
 - (c) the communication is not directed to White personally.

IV. To the extent the injunction rests on alleged threatening speech, the court did not make the findings required by *Kindschy* and *Counterman*.

A. Rule.

When a harassment injunction rests on true threats, the First Amendment requires more than a finding that the speech was upsetting or intimidating. Under *Kindschy*, applying *Counterman*, the court must find that the respondent consciously disregarded a substantial risk that the communications would be viewed as threatening violence.

B. Record.

White's petition and testimony referred to threats, criminal allegations, felony stalking, fear, and intimidation. Fox preserved the true-threat issue, arguing that White had failed to prove true threats. **Tr. 21:19-21.**

The court did not make a *Counterman* and *Kindschy* finding. It did not find that Fox consciously disregarded a substantial risk that any communication would be viewed as threatening violence. It also found no clear and convincing evidence that a firearm would be used to cause physical harm. **Tr. 25:6-10.**

C. Application.

If the injunction rests only on non-threatening employer communications, **Kindschy** may not control the whole case. But to the extent the order's breadth rests on alleged threats, intimidation, criminal allegations, or feared violence, the required constitutional predicate is absent.

That matters because the injunction is broad. It is not limited to employer communications. It restrains residence contact, direct contact, indirect contact, and third-party contact. If any part of that breadth depends on alleged threats or threatening speech, the order required a **Kindschy** finding. No such finding appears.

Here, the circuit court made no finding that Fox consciously disregarded a substantial risk that any communication would be viewed as threatening violence. The court found "*no clear and convincing evidence that a firearm would be used to cause physical harm.*" **Tr. 25:6-10**. But **Kindschy** requires more than a firearm finding. It requires a finding about the speaker's mental state with respect to threatening speech. That finding is absent. Without it, any portion of the injunction resting on alleged threats violates the First Amendment as interpreted in **Counterman** and **Kindschy**.

If the court did not rely on threats, then the breadth of the injunction should not rest on threat-based allegations. Either way, remand is necessary to clarify the factual basis for any restriction broader than the employer communications actually found.

D. Remedy.

The Court should vacate any portion of the injunction premised on threats or threatening speech. Alternatively, it should remand for specific findings under **Kindschy** and **Counterman**, limited to the specific communication on which any threat-based restriction rests.

V. The absence of required findings was not harmless.

White may argue that any omission was harmless because the court had reasonable grounds to grant some injunction. That argument fails for two reasons.

First, the missing findings concern a statutory element. The “no legitimate purpose” requirement is part of the definition of harassment. When the circuit court fails to identify the conduct and explain why it satisfies a disputed statutory element, the Court of Appeals should not supply the missing act-specific findings in the first instance.

Second, the record does not clearly resolve legitimate purpose. Fox raised a colorable defense tied to family-court litigation, provider-record access, child-service administration, good-faith reporting, and agency complaints. White’s own testimony conceded that contact to identify the child’s therapist would not itself be an issue.

Tr. 15:12-17. The court did not determine which communications fell on which side of that line.

The error therefore affected both the statutory predicate and the scope of relief. It was not harmless.

CONCLUSION

This appeal does not ask the Court to retry credibility. It asks the Court to enforce the statute.

The circuit court credited White's testimony. But the injunction still had to rest on specific acts satisfying specific statutory elements. The court found a narrow factual predicate: employer-related communications in 2025 that referenced White and, in the court's view, served no legitimate purpose. It did not identify the content of each communication, did not make act-by-act no-legitimate-purpose findings, did not make falsity findings for alleged child-abuse reports, did not separate lawful court-process and petitioning activity from harassment, and did not tailor the order to the conduct found.

The statutory defect is the failure to separate. The court did not separate employer discomfort from harassment. It did not separate alleged child-abuse reports from knowingly false or bad-faith reports. It did not separate family-court and provider-record activity from no-legitimate-purpose contact. And it did not separate the narrow conduct found from the broad restrictions imposed. Section 813.125 required that separation.

This Court should not be understood to condone harassment. If specific communications can be shown to lack legitimate purpose, §813.125 provides a remedy. But the remedy must rest on findings identifying the act and explaining why it is not legitimate-purpose conduct. That did not happen here.

The absence of act-specific findings on legitimate purpose is not harmless. As explained in Argument V, Fox raised a colorable legitimate-purpose defense, and White's own testimony conceded that some provider-related communications would not be objectionable. **Tr. 15:12-17.**

The practical consequence of affirming this injunction is significant. Fox has minor children receiving services through entities connected to White's employment. The injunction, as written, could be read to chill or complicate lawful family-court filings, subpoenas, agency complaints, records requests, and minimum-necessary communications about scheduling, billing, insurance, compliance, or

provider records. That cannot be what the Legislature intended when it authorized harassment injunctions. The statute targets harassment, not family-court litigation or child-provider administration.

Fox respectfully requests that this Court reverse the March 4, 2026 injunction and remand with directions to vacate it. In the alternative, Fox requests remand with directions to enter specific findings and narrow the injunction to the conduct actually found, including safe-harbor language for lawful court process, good-faith agency petitions, and child-provider administrative communications.

Dated this 8th day of June, 2026.

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CERTIFICATION OF FORM AND LENGTH

I hereby certify that this brief conforms to the rules contained in Wis. Stat. ***Rule 809.19(8)*** for a brief produced with a proportional serif font. The length of this brief is **6,125** words.

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