

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

DUSTIN R. ROLAND, Plaintiff, v. KATIE BYRD, Defendant.	Case No. CVCV071818 DEFENDANT'S MOTION TO DISSOLVE, VACATE, OR MODIFY IMMEDIATE EX PARTE TEMPORARY INJUNCTION AND REQUEST FOR EXPEDITED HEARING
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COMES NOW Defendant Katie Byrd, appearing pro se, and pursuant to Iowa Rule of Civil Procedure 1.1509 moves the Court to dissolve, vacate, or, in the alternative, substantially modify the Immediate Ex Parte Temporary Injunction entered September 29, 2026. Defendant requests the hearing required by Rule 1.1509 within ten days after filing.

This motion does not ask the Court to immunize true threats, stalking, unlawful harassment, violence, or unlawful contact. It asks the Court to distinguish such conduct from otherwise lawful reporting, criticism, advocacy, petitioning, public-record discussion, and peaceful protest, and to dissolve or modify the portions of the ex parte Order that impose a categorical prohibition on speech concerning Plaintiff and require removal of all references to Plaintiff without identifying the particular speech or conduct found unlawful.

FACTUAL AND PROCEDURAL BACKGROUND

1. Plaintiff filed a Petition for Immediate Ex Parte Temporary Injunction on September 25, 2026, together with a one-page affidavit. The Petition alleged, among other things, that Defendant posted harmful and derogatory messages concerning Plaintiff, posted statements concerning his

specific whereabouts and place of employment, encouraged third parties to contact his place of employment, and engaged in conduct Plaintiff characterized as harassment and stalking.

2. The Petition alleges that Defendant made false statements concerning Plaintiff, including accusations of pedophilia; that she posted statements concerning Plaintiff's whereabouts; that she encouraged Plaintiff to kill himself and encouraged third-party violence; and that Plaintiff subsequently received derogatory or threatening communications from third parties. Plaintiff's supporting affidavit additionally states that Defendant's statements concerning his location were accurate.
3. Plaintiff's affidavit states that Defendant made accurate statements regarding his location at different times of day. The affidavit does not identify any technological device allegedly used by Defendant to locate, listen to, or watch Plaintiff, does not describe any instance in which Defendant personally followed or maintained physical proximity to Plaintiff, and does not identify the means by which Defendant obtained the location information.
4. Plaintiff's affidavit alleges that Defendant "orchestrated a call-in campaign" at Plaintiff's place of employment, that calls were placed to the school, and that a demonstration was planned for September 29, 2026. The affidavit separately alleges in general terms that Defendant encouraged others to seek Plaintiff out and subject him to physical violence. The filed Petition and supporting affidavit do not quote or identify a particular instruction associated with the call-in campaign or demonstration directing a caller or participant to threaten, stalk, assault, or otherwise engage in unlawful conduct toward Plaintiff.
5. On September 29, 2026, before Defendant had notice or an opportunity to be heard, the Court entered an Immediate Ex Parte Temporary Injunction. The Order conditioned the injunction on Plaintiff posting a \$500 bond.

6. On September 28, 2026, Plaintiff filed an Amendment to Motion for Temporary Injunction addressing the bond required by Iowa Rule of Civil Procedure 1.1508. The Amendment stated that Plaintiff was not seeking monetary damages or anything of monetary value from Defendant, agreed to a cash bond, and requested that the Court set the bond at \$500 and grant the temporary injunction. The Amendment contains no additional factual allegations concerning Defendant's conduct.
7. On September 29, 2026, the Court entered an Immediate Ex Parte Temporary Injunction, conditioned on Plaintiff posting a \$500 bond. The docket reflects that the bond was posted.
8. The Order prohibits Defendant from "disseminating, distributing and/or posting information regarding Mr. Roland under any name and whether online or otherwise." It also prohibits contact and specified location-related conduct; prohibits Defendant from "encouraging, engaging or enlisting others to engage with or concerning Mr. Roland in any manner and/or to otherwise act in a manner violative of this Order"; and orders Defendant to remove all references to Plaintiff that she placed in public or posted online.
9. The Order contains no stated expiration date and does not itself set an adversarial hearing. It remains in effect "until a different ruling or order from this Court."
10. Defendant was personally served with the September 29 Order during the September 29 protest. Defendant recognizes that the Order remains in effect unless dissolved, vacated, or modified and therefore brings this motion under Iowa Rule of Civil Procedure 1.1509.
11. The challenged speech arose from a public-school controversy involving complaints by or concerning students, the response of Des Moines Public Schools, Plaintiff's return to school after an investigation, and public advocacy directed toward the school district. Defendant intends to present evidence concerning the factual basis and context of that speech.

- 12.** Defendant disputes that knowledge or publication of Plaintiff's whereabouts establishes stalking. Defendant denies repeatedly following Plaintiff or maintaining visual or physical proximity to him, and denies using any technological device to locate, listen to, or watch him. Defendant intends to show that information concerning Plaintiff's presence and return to school was supplied by students, parents, community members, publicly available information, and other third-party sources.
- 13.** The September 29 demonstration referenced in Plaintiff's affidavit was promoted as a peaceful public protest on the public sidewalk across from McCombs Middle School, directed at Des Moines Public Schools and the handling of student complaints. Defendant disputes that organizing peaceful public advocacy directed to a public school, without directing threats or unlawful conduct, constitutes stalking or harassment.
- 14.** The Petition and affidavit also characterize certain rhetoric as encouraging Plaintiff to kill himself or encouraging third-party violence. Defendant disputes those characterizations and requests that any challenged statement be considered in its complete context and separately from lawful reporting, petitioning, criticism, and protest. Even if a particular statement were found unprotected or otherwise unlawful, that would not itself establish a basis to prohibit every future statement concerning Plaintiff.
- 15.** Although Plaintiff's affidavit generally alleges that Defendant encouraged others to seek Plaintiff out and subject him to physical violence, neither the Petition nor affidavit identifies or quotes a particular third-party threat, identifies its sender, or alleges facts connecting Defendant to a specific threatening communication or unlawful act by that third party.
- 16.** Defendant uses social-media platforms to publish commentary and advocacy to a substantial public audience. During the relevant period, her content generated approximately 1.2 million in

documented reach. Her public advocacy has included matters involving public institutions, including Des Moines Public Schools.

ARGUMENT

I. Rule 1.1509 provides prompt adversarial review of an injunction entered without notice.

Iowa Rule of Civil Procedure 1.1509 provides that a party against whom a temporary injunction was issued without notice may, at any time, move the court where the action is pending to dissolve, vacate, or modify it, and that a hearing shall be held within ten days after filing. The rule provides the mechanism for prompt review after ex parte relief has been entered.

Rule 1.1502(1) permits a temporary injunction when a petition supported by affidavit shows that the plaintiff is entitled to relief restraining an act that would greatly or irreparably injure the plaintiff.

The Iowa Supreme Court has repeatedly emphasized that the issuance or refusal of a temporary injunction is a delicate matter requiring great caution, deliberation, and sound discretion. *Kleman v. Charles City Police Dep't*, 373 N.W.2d 90, 95–97 (Iowa 1985).

Defendant does not contend that the September 29 Order may simply be disregarded. *Opat v. Ludeking* held that procedural irregularities in the issuance of a temporary injunction may render the injunction voidable rather than void, and that a voidable injunction remains binding until dissolved or vacated. 666 N.W.2d 597, 606–07 (Iowa 2003). Defendant therefore seeks relief through Rule 1.1509.

II. The categorical ban on all speech concerning Plaintiff is a prior restraint substantially broader than the alleged unlawful conduct.

The Order does not merely prohibit contact, stalking, true threats, or otherwise unlawful harassment. It prohibits Defendant from disseminating, distributing, or posting information regarding Plaintiff at all, under any name and online or otherwise, and commands removal of all references Defendant previously placed in public or posted online. It also prohibits Defendant from “encouraging, engaging or enlisting others to engage with or concerning Mr. Roland in any manner and/or to otherwise act in a manner violative of this Order.”

Those provisions operate as a subject-matter ban. On their face, they reach truthful reporting, opinion, criticism, discussion of public records, petitioning of public officials, and peaceful advocacy without requiring a determination that the particular expression is threatening, defamatory, harassing, or otherwise unlawful.

Prior restraints carry a heavy presumption against constitutional validity. *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 418–20 (1971). Iowa follows the same rule. *Kleman v. Charles City Police Dep’t* reversed a temporary injunction restricting dissemination and emphasized both the heavy presumption against prior restraint and the need for evidence supporting the drastic relief imposed. 373 N.W.2d 90, 95–97 (Iowa 1985). See also *Des Moines Register & Tribune Co. v. Osmundson*, 248 N.W.2d 493, 498–500 (Iowa 1976).

The breadth of the Order also directly restrains Defendant's established publishing and advocacy activity. Defendant uses social-media platforms to communicate with a substantial public audience, including on matters involving public institutions. The Order prevents her from reporting, commenting, or advocating concerning Plaintiff even where the speech concerns Des Moines Public Schools, its handling of student complaints, or the governmental response to the underlying controversy. The restraint therefore reaches not only speech about Plaintiff as an individual, but also Defendant's ability to engage in public discussion, advocacy, and petitioning concerning the school district's actions.

The September 29 Order, on its face, does not identify any particular statement found unlawful, does not distinguish protected from unprotected categories of speech, and does not state why narrower restrictions directed to the alleged threats, stalking, harassment, or contact would be inadequate. The Court can protect Plaintiff from independently unlawful conduct without making Plaintiff himself a prohibited subject of public discussion.

III. The filed materials do not support a blanket subject-matter prohibition.

Plaintiff's supporting affidavit is serious, but generalized. It states that Defendant made false and derogatory statements, made accurate statements concerning Plaintiff's location, encouraged others to seek him out, orchestrated calls to his workplace, and encouraged physical violence. It does not identify the specific location posts, identify a device or tracking method, describe any instance of following, attach or quote the alleged threats, identify a particular threatening third-party communication, or set out facts connecting Defendant to a specific unlawful act by a third party.

Those allegations may warrant inquiry into particular conduct at an adversarial hearing. But the filed materials do not, without further evidence and findings, establish that every statement concerning Plaintiff is unlawful or that every public reference to Plaintiff must be removed. When allegedly unlawful conduct occurs in the context of protected expression, the First Amendment

requires precision in the scope of injunctive relief. See *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 915–20, 926–32 (1982); *Madsen v. Women’s Health Ctr., Inc.*, 512 U.S. 753, 765, 768–76 (1994).

IV. Peaceful advocacy directed toward a public institution is not converted wholesale into unlawful harassment because it exerts pressure or because third parties react badly.

Plaintiff alleges that Defendant encouraged others to contact his place of employment and that third parties later sent derogatory or threatening communications. But peaceful advocacy and petitioning do not lose First Amendment protection merely because they are intended to exert pressure. In *Organization for a Better Austin v. Keefe*, the Supreme Court invalidated an injunction against activists distributing critical material about a private individual and rejected the proposition that an intent to pressure the subject removed otherwise peaceful expression from First Amendment protection. 402 U.S. 415, 419–20 (1971).

NAACP v. Claiborne Hardware Co. likewise distinguishes protected advocacy from independently unlawful violence. Responsibility for the unlawful acts of others may rest on facts showing that a speaker authorized, directed, or ratified specific unlawful conduct, gave specific instructions to commit it, or engaged in constitutionally unprotected incitement. Participation in protected advocacy, without such a connection to the unlawful conduct, is not enough. 458 U.S. 886, 918–20, 926–32 (1982).

Accordingly, to the extent Defendant urged members of the public to complain to a public school or school district, that advocacy, along with a peaceful protest asking a public institution to answer questions, must be evaluated separately from any true threat, unlawful harassment, stalking, or independently unlawful act by a third party. A protective order may address the latter without suppressing the former.

V. The statutory labels of harassment and stalking must be tested against their elements and the evidence.

Plaintiff invokes Iowa Code sections 708.7 and 708.11. Section 708.11 defines a stalking “course of conduct” to include repeatedly maintaining visual or physical proximity to a person without legitimate purpose, repeatedly using a technological device to locate, listen to, or watch a person without authorization or legitimate purpose, or repeatedly conveying oral or written threats, threats implied by conduct, or a combination thereof, directed at or toward a person. Iowa Code § 708.11(1)(b) (2026). “Repeatedly” means two or more occasions. *Id.* § 708.11(1)(d). The statute further requires a purposeful course of conduct and the statutory fear and knowledge elements. *Id.* § 708.11(2).

Plaintiff’s affidavit states that Defendant made accurate statements concerning Plaintiff’s location. But knowledge or publication of a person’s location does not, by itself, establish repeated visual or physical proximity or repeated use of a technological device to locate, listen to, or watch that person. Defendant disputes that she repeatedly followed or maintained physical proximity to Plaintiff and disputes that she technologically tracked him. She intends to present evidence that information concerning Plaintiff’s location and return to school came from students, parents, community members, publicly available information, and other third-party sources. Any separate allegation of threats must likewise be evaluated under the statute’s repeated-threat provision based on the actual statements and their context.

Iowa Code section 708.7(1)(a)(1) likewise requires, for harassment by communication, a communication made with the statutory intent, without legitimate purpose, and in a manner likely to cause annoyance or harm. In *State v. Fratzke*, the Iowa Supreme Court reversed a harassment conviction arising from a vitriolic protest communication and held that offensive language does not, by itself, negate an otherwise legitimate purpose of protesting governmental action. 446 N.W.2d

781, 784–85 (Iowa 1989). *Fratzke* does not immunize threats or otherwise unlawful conduct; it requires the Court to distinguish harsh public criticism from conduct satisfying the statutory elements of harassment.

VI. Opat supports targeted safety relief; it does not justify a universal ban on discussion of Plaintiff.

Plaintiff relies on *Opat v. Ludeking*, 666 N.W.2d 597 (Iowa 2003). *Opat* involved an extensive evidentiary record developed at trial, including years of targeted personal conduct, following, workplace interference, a threatening package, a prior criminal-harassment disposition, and repeated intentional encounters. The permanent injunction upheld there principally restricted Ludeking's physical proximity to Opat and her family and intentional conduct directed toward them. *Id.* at 600–06.

Opat confirms that Iowa courts may restrain proven stalking and harassment. It does not establish that allegations of stalking or harassment authorize a categorical prohibition on every future statement about a person, a prohibition on all third-party engagement "concerning" that person, or wholesale removal of all prior references without determining that the restrained material itself is unlawful.

VII. At minimum, the Order should be modified to target specifically identified unlawful conduct while preserving lawful expression.

Recent Iowa persuasive authority illustrates the tailoring required when an injunction reaches protected speech. In *In re Marriage of Nimrick*, the Iowa Court of Appeals reviewed an order prohibiting social-media or derogatory comments about an identified person. Although the court upheld restrictions directed to threats and harassment, it modified the broader speech restriction to preserve a forum for expression that was not itself threatening or harassing. No. 24-1227, slip op. at

15–18 (Iowa Ct. App. July 2, 2025) (unpublished; persuasive reasoning under Iowa R. App. P. 6.904(2)(a)(2)).

If the Court concludes that interim protection remains necessary, Defendant requests that the Order be modified so that it:

- (a) prohibits direct or indirect contact with Plaintiff except through counsel or court process as permitted by law;
- (b) prohibits statutory stalking, unlawful harassment, true threats, and unlawful approach to Plaintiff's home, workplace, or other location for the purpose of contacting, threatening, harassing, or stalking Plaintiff;
- (c) prohibits intentionally directing, soliciting, or enlisting another person to threaten, stalk, harass, assault, unlawfully contact, or otherwise engage in independently unlawful conduct toward Plaintiff;
- (d) limits any takedown requirement to specifically identified material adjudged unlawful, rather than all references to Plaintiff; and
- (e) expressly preserves otherwise lawful reporting, criticism, commentary, discussion of public records, petitioning of government or school officials, peaceful protest, and discussion of matters concerning Des Moines Public Schools.

Such relief would address the safety interests asserted by Plaintiff while avoiding an indefinite subject-matter ban that burdens substantially more speech than necessary. See *Madsen*, 512 U.S. at 765; *Nimrick*, No. 24-1227, slip op. at 16-18.

REQUEST FOR RELIEF

WHEREFORE, Defendant respectfully requests that the Court: (1) hold a hearing on this Motion within ten days after filing pursuant to Iowa Rule of Civil Procedure 1.1509; (2) dissolve or vacate the Immediate Ex Parte Temporary Injunction; or, alternatively, (3) modify the Order as set forth above so that it reaches only specifically identified conduct that the Court finds may lawfully be restrained while preserving constitutionally protected speech, publication, advocacy, petitioning, and peaceful protest; and (4) grant such other and further relief as the Court deems just.

REQUEST FOR EXPEDITED HEARING

Because the challenged Order presently restrains ongoing speech and publication, and Iowa Rule of Civil Procedure 1.1509 requires that a hearing be held within ten days after filing this Motion, Defendant respectfully requests that the Court hold the hearing at the earliest available date and, in all events, within ten days after filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Katie Byrd", is written over a horizontal line.

Katie Byrd, Defendant, Pro Se

[REDACTED]

[REDACTED]

[REDACTED]

kathryninacardigan@gmail.com

CERTIFICATE OF SERVICE

I certify that on _____, 2026, I served the foregoing Defendant's Motion to Dissolve, Vacate, or Modify Immediate Ex Parte Temporary Injunction and Request for Expedited Hearing upon counsel for Plaintiff through the Iowa Judicial Branch Electronic Document Management System, or by another method permitted by the Iowa Rules of Civil Procedure.

Katie Byrd