Susan and Neil were in a relationship for three years and had a child born in the year they separated. Susan is university educated, professionally qualified and has always been in well-remunerated employment apart from during leave following the birth of the child. Neil did not complete high school, however trained in a trade and earns a modest salary. Neil has a history of intermittent drug and alcohol misuse, and when younger attempted suicide on a couple of occasions during periods of depression. After separation, Susan consulted a psychiatrist to deal with the anxiety she experienced as a result of the abusive relationship, and took medication for a time until she felt it was affecting her capacity to function properly; she was also concerned that she may be prejudiced in the Family Court if her Medicare records revealed that she was taking a medication that was indicated for bipolar disorder (but prescribed to Susan for anxiety).

Susan and Neil casually dated for a brief time some years before living together when Neil was going through a difficult divorce. Neil became resentful and obsessive about Susan dating other men after the brief relationship ended. They eventually got back together and Neil quickly moved in with Susan at a property she owned. While the first six months of their relationship were happy and without incident, in the remaining two and a half years tension and conflict grew between Susan and Neil, there were periods of separation and reconciliation, and Neil’s behaviour became abusive. Susan’s income was considerably higher than Neil’s and, while she did not highlight the point and was happy to make a greater contribution to joint expenses, Neil would accuse Susan of belittling and humiliating him for his limited earning capacity. Increasingly he became frustrated and angry, and would lash out at Susan. Neil is more than a foot taller than Susan; and is athletic and strong. On one occasion, when loading a large and heavy metal crate in the car, he threw it so as to hit Susan who was standing nearby. She was knocked off her feet, her thick-lens glasses cracked and the impact caused a black eye and bruised lip. On another occasion, Neil grabbed Susan around the neck and held her down on the bed.

When Susan became pregnant, she found intercourse painful and preferred to avoid it. Neil began seeking sexual satisfaction elsewhere. While Neil was away visiting his parents, Susan discovered videos of Neil’s sexual encounters with multiple other women (as well as herself) on his computer. When Susan confronted Neil on the phone, he was enraged that she’d invaded his privacy. Susan then discovered that Neil was having an affair with one of these women. Neil returned to try to salvage the relationship and Susan allowed him back as she didn’t want to raise the child alone. Soon after, Susan discovered on Neil’s phone that he was contacting a former girlfriend on Facebook. Susan left Neil a week before the baby was born and went to stay with her parents; however they told her she must return and try and make the relationship work. Neil made her apologise and taunted her about having no interest in her welfare.

For three months following the birth, Neil’s behaviour settled down and they both focussed on adjusting to being new parents though Neil had little to do with the day-to-day care of the infant. Neil came up with a business idea that involved selling internet-based camera systems to away-from-home workers. Susan funded the establishment costs as Neil didn’t have the resources himself, however the enterprise did not succeed and ended in financial loss. Neil set up a remotely-controlled camera system in the home, and monitored Susan’s movements in every room, including when she was showering and breastfeeding. She repeatedly asked him to disable the system, and at one stage feared it had been hacked. She recalls one occasion, as she walked out of the bathroom, the camera moved to follow her.

Six months after the birth of their child, Neil told Susan that he would marry her only if she agreed to go to a swingers club with him; she refused and told him the relationship was over. Susan left and returned to her parent’s house for a couple of days when Neil’s parents became involved. Eventually he told Susan that he ‘could live with it’ if she did not wish to go to a swingers club and the relationship continued for one more month.

Neil was known for his outbursts of road rage. He would throw heavy objects out of his van while driving, with reckless disregard for the consequences. He was required to attend a police interview about an incident where he allegedly smashed another car with a crow bar. When Susan told his parents, again he was enraged that she breached his privacy. This came shortly after yet another fight about Neil’s infidelity; it was the tipping point for Susan and she decided to leave Neil for good. Their child was seven months old at the time.

Susan went home with the intention of retrieving some of her personal possessions. Neil should have been at work but she found him in the backyard shed drinking and playing computer games. Susan packed a bag and gathered her personal documents and, with the baby, went to stay with her parents. Susan never returned to Neil. He stayed on in the property for a time and changed all the locks even though the property belonged to Susan’s family and he had not sought permission to do so.

Susan engaged a lawyer immediately and put in place contact arrangements. The child lived with Susan, and Neil had contact for certain hours three times each week under Susan’s supervision. Neil would at times run away with the child in the pram, which made Susan feel anxious and concerned about the child’s safety. Susan was also keen to get the joint financial matters settled with Neil. She had contributed significantly by way of income, property and parenting, and proposed a cash payment that she felt reflected Neil’s contribution. Neil, acting for himself, approached her one day (when Susan attended the home they had shared to supervise contact) and made an irrational counter offer seeking far in excess of his share. He also demanded that she sell all her properties, leave her job and live with him at a place of his choosing. Susan described Neil’s behaviour as menacing and intimidating, and she was concerned about what he may do next. In the following days, Neil badgered Susan repeatedly by text about his proposal. When Susan rejected his offer, Neil verbally and offensively abused her and threatened blackmail with sex videos. She told him she would go to the police if he continued; he took no notice, and his texts became more threatening. In time, Neil accepted the cash sum originally offered by Susan.

Susan kept copies of all of Neil’s texts and applied for a protection order against Neil. She was granted a temporary order; however the magistrate refused to name the child on the order. The police delayed in serving the order on Neil and, as a result, Susan was unable to have him charged with an almost immediate breach. This was the first of numerous encounters with police over an extended period where Susan felt her circumstances were not taken seriously nor responded to appropriately. Once served, Neil made a cross application and obtained a reciprocal temporary order against Susan. The final order hearing was conducted over two days; Susan was represented by a solicitor and barrister, Neil was self represented. Susan found the experience of being cross-examined by Neil harrowing and upsetting, and she became quite emotional in the process. She accepts that the magistrate had a duty to ensure Neil was given full opportunity to put his case. While Neil’s application was dismissed and a final order granted in Susan’s favour, it took some months for the magistrate to hand down the judgment; the matter had apparently been overlooked. Susan was not awarded costs even though the magistrate recognised that Neil’s application had no substance and was a case of ‘tit-for-tat’. The delay resulted in interim Family Court parenting orders being made before the final protection order issued. Contact was ordered to continue three times each week as previously, however Susan would be required to come into contact with Neil at handovers contrary to the conditions of the protection order.

Following the hearing, Neil actively and regularly flouted the protection order. A neighbour witnessed Neil entering the property which he had once lived in with Susan and where she still had many belongings stored. He was subsequently charged with breaching her Temporary Protection Order. Neil would leave notes and photos for her in the child’s bag after contact visits; they were principally designed to rattle Susan, occasionally under the false guise of concern for the child’s welfare. On one occasion, Susan made an audio recording of Neil urging her to read a letter he’d written her while acknowledging that he wasn’t legally able to. When she refused, he told her things would end badly. On another occasion, Neil left his go-pro camera in the child’s bag with footage of him telling the child that Susan had tried to kill Neil. Susan made multiple breach complaints to the police notifying them that she was fearful Neil would kill her; however she was ignored.

A significant breach of the protection order occurred at handover one evening. Handover took place at a public venue frequented by families and most of what ensued was captured on CCTV footage and Neil’s own go-pro footage. Neil alleged that Susan’s car wasn’t safe to drive and refused to hand over the child, slapping Susan’s hands away as she reached out for the child. Susan called the police for assistance; they suggested she sign a one-off waiver of the protection order to allow Neil to drive the child to her home, and took the matter no further. Susan was unable to get legal advice at that hour of night, so remained in the car park unable to reverse and leave as Neil was standing behind her car. Neil then sat on the bonnet of the car while Susan was locked inside breastfeeding the child; he filmed her, called out insults and accused her of being unsafe with the child. Susan rang a family member and arranged for them to collect the child; she then tried a different police station. The police arrived, however refused to take a statement claiming it was a Family Court matter. Later, when police viewed the CCTV footage, they said Neil had simply deflected not assaulted her, and his actions didn’t constitute a breach of the order. Susan felt aggrieved by the police treatment of her, and with the assistance of a domestic violence support service, lodged a formal complaint, which was never addressed.

In preparation for a further interim hearing in the Family Court, a family report was prepared. Susan had obtained the CCTV footage of the incidents already described and past medical records evidencing Neil’s mental instability and suicide attempts. Recommendations were made regarding contact in Susan’s favour. On the day prior to the hearing, handover occurred. Neil had read the report. He approached Susan and told her he would get her. Susan went immediately to the police station to make a breach complaint. They took a statement after initially resisting, but said her claims were unsubstantiated as she had no recording of the interaction. Susan’s lawyer, on the other hand, had cautioned her against using recording devices as the Family Court did not regard the practice favourably. Susan tried to submit this fresh evidence at the hearing, however it was not accepted by the Court and the matter was adjourned for some months. Neil continued to refuse any order which excused Susan from being present at handover stating he did not have the financial means to pay for an independent third party.

Susan (with representation) applied for a variation of the protection order to secure better protection at handover. Neil, for the first time, was represented. Susan’s barrister was concerned that if the matter proceeded to a hearing, Susan may say something in cross-examination that may prejudice the parenting proceedings. Consequently, Susan accepted an undertaking from Neil that he wouldn’t communicate with her during handover or otherwise except in an emergency. Susan agreed to communicate in writing with Neil via a website specifically designed for separated parents. Neil continues to send abusive text messages and emails to Susan. At another handover occasion, he opened the car door while Susan was driving out of the carpark; she had to stop suddenly while he retrieved a piece of paper from the child’s bag. Again, she reported the incident to the police and requested fingerprinting; they wouldn’t take a statement and told her to come back later, they also told her that fingerprinting would be of no value.

Susan travelled overseas with her son (with Neil’s consent and the Family Court’s knowledge) to visit her sister. Knowing Susan was overseas with the child and unable to attend the mention, Neil made an application for the protection order to be dismissed. He later withdrew the application.

Further interim parenting orders issued allowing a transition to overnight contact for one night during the week, and daytime contact on the weekend. Susan made an urgent application to the Family Court for further changes after another incident where Neil, with a female friend, approached Susan in a supermarket and told her he was ‘gonna get her’ while she was holding their child. Neil’s contact time changed to three nights every second weekend, with collection and drop-off at day care. At considerable relief to Susan, handover involving contact with Neil was no longer necessary.

The final Family Court hearing is pending. Susan is assisting her lawyer in gathering records to evidence Neil’s parenting deficits and mental ill health. Susan is seeking sole parental responsibility and would be prepared to accept 4-5 nights contact each fortnight. Susan is concerned that Neil not having representation will adversely affect the outcome; however her lawyer is confident that his motives and behaviours will be exposed in cross-examination.

Susan estimates having spent more than $200,000 on legal costs; she has had to sell one of her properties to finance the litigation, and will need to mortgage her other property to fund the final Family Court proceedings. Susan believes that it has been very important for her to be legally advised and represented throughout, though she attends mention dates in the Magistrates Court personally to avoid additional costs. Susan and the child continue to live with her parents for protection and to recover financially. Susan has re-partnered but continues to be fearful of Neil and believes he is capable of killing her. She dreads having to reapply for a protection order on the expiration of the current order given the lack of support she has received from the police. Susan believes the police have failed in their duty to respond to Neil’s multiple breaches, despite Susan’s concerted and consistent efforts to provide comprehensive statements and supporting evidence where possible. Neil’s abusive behaviour and Susan’s need for protection continue three years after separation.