

## MAKE SURE TO USE THE RIGHT WITNESSES

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Today, the Indiana Court of Appeals issued a memorandum decision, uncitable as authority under App. R. 65(D), that provides a lesson in how to prove the elements of a claim in *Tichenor v. Dodson*, Cause No. 07A01-1006-PO-285.

In this case, a person was estranged from her family and began sending emails to her family members that they found disturbing. Eventually, the family patriarch (to whom none of the emails were sent) sought a civil protection order on behalf of him and the other family members (who did receive the emails). After a hearing, the trial court granted the civil protection order.

On appeal, the Court held that the trial court erred when entering the protection order. First, the father had no standing to seek a civil protection order, because none of the emails were directed at him. It then pointed out that he was the only witness who testified in support of the protective order, so there was no evidence that anyone else felt frightened, terrorized, intimidated, or threatened by the emails.

It is likely that the trial court's decision would have been affirmed if the plaintiff had recognized the standing issue from the beginning and introduced testimony from at least one of the other family members at the hearing (This is not a criticism of counsel, as it may have been impossible to introduce that evidence in this situation). Make sure that you plan ahead, so that you have evidence from all necessary sources when representing your clients at a hearing.

### Lessons:

1. Make sure that you have the evidence necessary to support every element necessary to prove in order to obtain the relief you are seeking.