

THE SUPREME COURT OF VIRGINIA

In re: Eric J Bonetti, pro se

Petitioner

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**EMERGENCY PETITION FOR WRIT OF MANDAMUS  
Alexandria Circuit Court Bonetti v. Malm CL 20002206**

**COMES NOW PETITIONER** Eric J. Bonetti and respectfully asks this court to grant a Writ of Mandamus against the Honorable James Clark of the Alexandria Circuit Court in the matter of Eric J. Bonetti vs. Robert H. Malm.

The request comes before this honorable court after the Alexandria Circuit Court issued a protective order in discovery, attached.

In granting defendant’s request for a protective order, the Defendant made no showing, and attempted no showing, of any current or future privacy interests. Instead, Defendant relied on a series of bald, conclusory statements that revealing his discovery responses would prove harmful. And falsely told the trial court that a prior order existed. Thus, Defendant did not meet, or attempt to meet, the cause good standard set forth under Va. R. Sup. Ct. 4:1. This is analogous to the federal courts. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1130 (9th Cir. 2003) (“A party asserting good cause bears the burden, for each particular document it seeks to protect, of showing that specific prejudice or harm will result if no protective order is granted.”); *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 786–87 (3d Cir. 1994) (“The burden of justifying the confidentiality of each and every document sought to be covered by a protective order remains on the party seeking the order.” ‘Good cause’ is established when it is

specifically demonstrated that disclosure will cause a clearly defined and serious injury. Broad allegations of harm, unsubstantiated by specific examples, however, will not suffice.” *Glenmede Trust Co. v. Thompson*, 56 F.3d 476, 483 (3d Cir. 1995). Needless to say, Petitioner does not consider Defendant’s fabrication about the existence of a prior order relevant or dispositive.

Without any showing of good cause, the Alexandria Circuit Court’s order violates the First Amendment as it is of indefinite duration. And extends to parties not defendants in the current case. And extends to documents referenced and testimony in open court, even when obtained outside of discovery. This is a per se violation of the First Amendment. *Jepson, Inc. v. Makita Elec. Works, Ltd.*, 30 F.3d 854, 858 (7th Cir. 1994).

For these reasons, and because Defendant Malm is an Episcopal priest who has engaged in abusive behavior that warrants public scrutiny, Petitioner seeks a Writ of Mandamus enjoining the trial court’s blanket protective order in discovery. Additionally, Petitioner requests a stay of further proceedings in the Court until such time as the Court’s order of confidentiality is removed.

Signed this 5th day of October, 2021.



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Pro Se Plaintiff  
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703-973-4984  
[Eric.bonetti@protonmail.com](mailto:Eric.bonetti@protonmail.com)

### Certificate of Service

Plaintiff certifies that he has served a copy of this motion on defense counsel this 5th day of October per the following:

Craig D. Roswell, Esquire (VSB No.: 33901)  
Matthew J. Youssef, Esquire (VSB No.: 85339)  
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Counsel for Defendant, Robert H. Malm

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

ERIC J. BONETTI,

Plaintiff,

vs.

ROBERT H. MALM

Defendant

CIVIL ACTION NUMBER: CL 20002206

PLAINTIFF'S EXCEPTIONS TO PROPOSED ORDER

COMES NOW Plaintiff Eric J. Bonetti in the above-captioned matter, and enters the following exceptions/objections to Defendant's proposed order of court, received 27 May 2021 from defense counsel Wayne Cyron:

1. Defendant failed to make any showing of harm or invoke any privacy interests during the relevant hearing. As such, the proposed order violates the First Amendment, both as to the Plaintiff and as to the public.
2. The court did not hear or consider any evidence as to potential privacy interests of Lindsey Malm Anders or Leslie Malm, and thus it is improper for the Court to issue an order as to these third parties.
3. The order in question leaves Defendant able to continue to engage in witness tampering, including involving Darlene Parsons. The latter has sent a formal written request to the Court asking that Defendant Robert Hiller Malm be enjoined from further efforts at witness tampering. The Court has ignored Ms. Parson's request. As such, this one-sided order violates the First Amendment.
4. Courtroom testimony, unless in closed court, is by definition a matter of public record that enjoys First Amendment protection. As such, the proposed order violates the First Amendment.

5. Per the US Supreme Court, bloggers such as this author enjoy the same First Amendment protections as traditional media. Thus, the proposed order is an unconstitutional prior restraint of Plaintiffs free speech rights.
6. Plaintiff notes that numerous aspects of this and related cases are already published on multiple fora and cannot be removed.
7. The Plaintiff has filed a motion for interlocutory appeal and asks that the order be stayed pending an appeal to the Virginia Supreme Court.
8. The Court ignores Defendant's perjury, the fabrications of defense counsel, and other litigation-related misconduct, and in failing to grant sanctions or order that defendant fully participate in discovery irreparably harms Plaintiff's ability to prepare for trial.
9. The proposed order demonstrates bias on the part of the Court, as evinced by the Court's admonition of the Plaintiff and suggestions that his case is frivolous, despite Defendant's perjury and statements in writing that he has not been threatened. These factors form the basis for a successful claim of abuse of process. Thus, the Court's prejudgment of the case is an improper abrogation of judicial neutrality.
10. The proposed order lacks even a rational basis and thus is violative of Plaintiff's rights to the equal protection of the laws and due process, as guaranteed by the US constitution.

Plaintiff states that he has, this 27th day of May, served a copy of this notice of appeal upon defense counsel via email per the following:

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...Jl!/:i.J.Bonetti

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THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

ERIC J. BONETTI

Plaintiff

v.

REVEREND ROBERT HILLER MALM

Defendant.

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Case No. CL 20002206

ORDER

This case came on to be heard the 26th day of May, 2021, upon the Plaintiffs Pro Se Motion for Sanctions and the Defendant's Motion for Confidentiality and Protective Order of any and all discovery, documents and responses in this case, argument of Defense Counsel and the Plaintiff.

AND it appearing to the court from the motions presented and argument of counsel and the Plaintiff, that the Plaintiff's Motion for Sanctions should be denied, and the Defendant Malm's Motion for Confidentiality and a Protective Order should be granted. It is, therefore,

ADruDGED and ORDERED that the Pro Se Plaintiff's Motion for Sanctions is denied. And it is further,

ADJUDGED and ORDERED the Court grants the following benefits for the Defendant pursuant to Va. Sup. Ct. R. 4:1(c):

1. A confidentiality and protective order barring Plaintiff from publishing to the public any and all testimony, discovery information and documents included or referred to in discovery and at trial about Robert Hiller Malm, Leslie Malm, or Lindsey Anders, without further order of the court.

2. That the issue of Plaintiff paying the attorney's fees incurred for the Defendant due to the Plaintiff filing the Motion for Sanctions and for the confidentiality and protective order shall be deferred to the conclusion of the case.

Entered this \_\_ day of May, 2021..

\_\_\_\_\_  
James C. Clmk, Judge

~~I ASK FOR THIS:~~

Wayne \_\_\_\_\_, et al., (VSB No. 12220)  
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703-299-0600 Telephone  
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wcyron@cyronmiller.com  
Counsel for ROBERT H. MALM, Defendant

**JJ -**  
SEEN EXCEPTIONS NOTED,:

Eric Bonetti  
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Eric.bonetti@me.com  
Plaintiff

*objections noted  
per attached three  
page memorandum.*



THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

ERIC J. BONETTI

Plaintiff

v.

REVEREND ROBERT HILLER MALM

Defendant.

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Case No.: CL 20002206

**DEFENDANT MALM’S RESPONSE TO  
PLAINTIFF’S MOTION FOR SANCTIONS  
PURSUANT TO RULE 4:12(d), AMENDED**  
**and**  
**DEFENDANT MALM’S MOTION FOR A  
RULE 4:1(c) PROTECTIVE ORDER**

**Introduction**

Defendant Reverend Robert Hiller Malm (“the Reverend”) submits this memorandum in response to Plaintiff’s Motion for Sanctions Pursuant to Rule 4:12(d), Amended (“Plaintiff’s Motion”) and to request a protective order under Rule 4:1(c):

This matter arises from a dispute that began in approximately 2015 or 2016 and resulted in a two-year protective order, expiring in January 2020, against the Plaintiff and for the benefit of the Reverend and his family. The protective order was issued in part to protect the Reverend and his family from the Plaintiff’s relentless and offensive blogging.

The Plaintiff has brought a wide range of claims against the Reverend including defamation, stalking, perjury, witness tampering, violating Plaintiff’s civil rights, conspiring to violate civil rights, Computer Trespassing, and violating the Stored Communications Act. The Plaintiff has filed a suit against the Reverend’s daughter, a suit against the Reverend’s spouse that has been non-suited, a suit against a fellow church member Kelly Gable that has been dismissed, and suits against Grace Episcopal Church, the Episcopal Diocese of Virginia, the City

of Alexandria, and an Intake Counsel for the Virginia Disciplinary Board. There is also a suit pending in Massachusetts. All his suits employ exhibits and allegations similar to those in the Motion for Sanctions before the Court, and all his suits not currently pending have been dismissed.

The Plaintiff's Motion for Sanctions argues that sanctions are appropriate under Va. Sup. Ct. R. 4:12(d), because the Reverend allegedly has refused to participate in the discovery process. The Reverend requests that the Court deny the Motion for Sanctions, because the Motion for Sanctions before the Court is improper with respect to 4:12(d) sanctions and premature with respect to 4:12(b) sanctions. Moreover, the Reverend has properly responded to all discovery requests.

The Reverend also requests the Court to grant a Rule 4:1(c) Protective Order barring the Plaintiff from using the information and documents referred to or included in discovery without agreement or further order of this Court. Finally, the Reverend also respectfully requests the Court to order the Plaintiff to pay the costs and attorney's fees for this response and motion due to the Plaintiff filing a baseless Motion for Sanctions.

**Argument Responding to  
Plaintiff's Motion for Sanctions**

Sanctions against the Reverend are unavailable to the Plaintiff under Va. Sup. Ct. R. 4:12, because the Plaintiff has not attained an Order to Compel and because the Reverend has not refused or failed to respond to any discovery requests.

**I. The Motion is Improper and Premature.**

The Plaintiff's Motion for Sanctions should be denied, because none of the means to attaining sanctions under Va. Sup. Ct. R. 4:12 are currently available to the Plaintiff. Plaintiff relies on Rule 4:12(d) in his request for sanction against the Reverend, because the alternative

route to sanctions, specifically Rule 4:12(b), requires the Plaintiff to have first acquired an Order to Compel. Plaintiff has not acquired any such Order to Compel. However, Rule 4:12(d) is also inappropriate, because Rule 4:12(d) does not apply when discovery responses are insufficient, as Plaintiff alleges in the motion before the Court. Rule 4:12(d) instead applies when an opposing party refuses or fails to answer interrogatories and requests for production of documents.

However, the Reverend did not at any point refuse or fail to respond to discovery.

The Reverend has answered all interrogatories and produced all appropriate documents, but the Plaintiff considers the answers and documents to be insufficient. In fact, the Reverend's counsel has invited Plaintiff to come to counsel's office and review the Reverend's and counsel's records. The Plaintiff has not accepted this invitation. Because the Reverend has responded to all discovery requests, Rule 4:12(d) sanctions are unavailable to the Plaintiff.

For these reasons, the Motion for Sanctions before the Court is improper with respect to Rule 4:12(d) sanctions and premature with respect to Rule 4:12(b) sanctions. The Plaintiff's Motion for Sanctions should be denied.

## **II. The Reverend has Properly Responded to the Discovery Requests**

The Reverend has properly produced the documents he has in his possession and properly answered Plaintiff's Interrogatories. As previously stated, Plaintiff has been invited to the counsel's office to review his files. The Plaintiff has not done so, because the Plaintiff already has all relevant documents. The documents have been produced by the Reverend and Grace Episcopal Church both in this case and in prior cases.

The claims in Plaintiff's Motion that the Reverend has corrupted discovery are baseless. A review of the exhibits attached to the motion clearly do not support the Plaintiff's allegations.

The Reverend is not guilty of perjury, fabrications, or witness tampering and will address these allegations more specifically at the hearing on the motion.

For example, Plaintiff states in items 8 and 16 that Exhibits C and G respectively show that the Reverend refuses to specify how he had been threatened sufficiently to justify the previously granted protective order. However, Exhibit C cuts off the Reverend's response to Plaintiff's interrogatory in the middle of a statement the Reverend puts forward as a specific threatening statement. Moreover, the portion of the Reverend's response that the Plaintiff does include in Exhibit C does show the Reverend describing specific threatening behaviors and language. Exhibit G shows the Plaintiff reasserting a similar interrogatory as in Exhibit C. Because Plaintiff is reasserting a question answered previously, the Reverend responds by pointing to the many previous pleadings and documents already given by the Reverend as well as to the Plaintiff's blogs.

As another example, item 9 states that the Reverend ignored the instant Court's August 22, 2018 discovery order in Plaintiff's Exhibit D, but Plaintiff offers no evidence for this false accusation. Exhibit D is simply the discovery order, and Plaintiff does not offer evidence that the Reverend did not comply. Moreover, Plaintiff is requesting sanctions based on an order from nearly three years ago in a prior case.

Additionally, item 18 states that the Reverend committed perjury by stating that at one point the Reverend had not had contact with Plaintiff's mother nor knew her name, Sigrid Yahner, but at another point the Reverend knew her name. Plaintiff offers Exhibit J and presumably<sup>1</sup> Exhibit E to support this assertion. However, Exhibits E and J show only snippets

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<sup>1</sup> Item 10 refers to "Defendant's perjury" and offers Exhibit E, which is a statement from the Reverend regarding Ms. Yahner. Item 18 refers to the "initial perjury" of the Reverend and also discusses statements by the Reverend regarding Ms. Yahner, so item 18 seems to be referring to Item 10 and thereby Exhibit E.

without context quoting the Reverend. Not only is the context and thereby the full meaning of the statements absent, but also their chronological order is absent. The statements may simply reflect that at one point the Reverend did not know but at a later point discovered Ms. Yahner's name or that she was Plaintiff's mother.

The Plaintiff's other exhibits and claims similarly fail to show that the Reverend has improperly responded to discovery requests. Plaintiff merely asserts that the Reverend has behaved improperly without sound evidence.

**Argument for Rule 4:1(c) Discovery Protective Order**

1. A protective order is reasonably necessary to protect the movant from annoyance, embarrassment, oppression, or undue burden or expense. Va. Sup. Ct. R. 4:1(c).
2. The burden of proof is on the Reverend to show "good cause" for the Protective Order. *Id.* Good cause depends upon the circumstances of the individual case, and a finding of good cause lies largely in the discretion of the court. *Good Cause*, BLACK'S LAW DICTIONARY (6th ed. 1990).
3. In accordance with Va. Sup. Ct. R. 4:1(c), the Reverend certifies that he has in good faith conferred with the Plaintiff in an effort to resolve the issue of Plaintiff blogging about Reverend's private information without court action. Before the filing of the original protective order, the Reverend attended a mediation with Plaintiff, Episcopal Bishop Shannon Johnston, and a member of the bishop's staff at St. George's Episcopal Church in Fredericksburg, VA. As part of the mediation, Plaintiff agreed to stop blogging about Grace Church and the Reverend. However, blog posts continued to appear under the names of Plaintiff's siblings, indicating that the Plaintiff had violated the mediated agreement by pretending to be his siblings. Because Plaintiff has already violated an out-of-court

agreement to not blog about matters private to the Reverend, further out-of-court urging would be futile.

4. As stated above, the dispute between the parties is well-worn. The Plaintiff was already enjoined from his harassment of the Reverend for two years.
5. In the original Protective Order, which was much more comprehensive, Plaintiff's online activities met the good cause burden.
6. Here, Plaintiff has continued his online activities and would pose a serious risk to the Reverend if he is not barred from publishing information obtained in Discovery on his and other forums.
7. Please see the email attached to this Response and Motion for Protective Order. In this email Plaintiff states: "And you may rest assured that, no matter what attempts are made to obtain confidentiality in discovery, etc., the media will continue to report on this situation." Plaintiff seems to imply that the items in discovery will be made public.
8. The Reverend moves for a Protective Order for confidentiality of materials conveyed in discovery and referred to in trial. In accordance with the desired confidentiality, the Reverend requests that the Plaintiff will be barred by this Court from publishing the Reverend's information and documents referred to or included in discovery without agreement or further order of this Court.
9. Please see also the webpage from the Disciplinary Board of the Supreme Court of Pennsylvania attached to this Response and Motion. This webpage shows that Plaintiff was previously admitted to the Pennsylvania Bar with attorney identification number 55971. Plaintiff having passed the Bar examination indicates that he is aware of his claims and motion being baseless.

10. For these reasons, the Reverend respectfully requests that the court also order the Plaintiff to pay the costs and attorney's fees incurred as a result of the Plaintiff filing the baseless motion before the Court.

**Conclusion**


The Reverend respectfully requests that the Court deny the Plaintiff's Motion for Sanctions and grant the Reverend's motion for a Rule 4:1(c) Protective Order barring the Plaintiff from using the information and documents referred to or included in discovery without agreement or further order of this Court. The Reverend also respectfully requests the Court to order the Plaintiff to pay the costs and attorney's fees for this response and motion due to Plaintiff filing a baseless Motion for Sanctions.

Dated: May 19, 2021.

Respectfully submitted,

Reverend Robert Hiller Malm

By Counsel




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Counsel for Defendant, Reverend Robert Hiller Malm

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 19, 2021, a true and accurate copy of the foregoing was  
emailed to the following:

Eric J. Bonetti  
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\_\_\_\_\_  
Wayne F. Cyron



THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

ERIC J. BONETTI

Plaintiff

v.

REVEREND ROBERT HILLER MALM

Defendant.

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Case No.: CL 20002206

ORDER OF COURT

This \_\_\_\_ day of May 2021, having heard arguments from Plaintiff and counsel for the Defendant, the Court grants the following benefits for the Defendant pursuant to Va. Sup. Ct. R. 4:1(c):

1. \_\_\_\_ A protective order barring Plaintiff from publishing to the public information and documents included or referred to in discovery and at trial about Robert Hiller Malm, Leslie Malm, or Lindsey Anders, unless the court later orders otherwise.
2. \_\_\_\_ That Plaintiff pay the costs incurred for the Defendant due to the Plaintiff filing the Motion for Sanctions.
3. \_\_\_\_ That Plaintiff pay the attorney's fees incurred for the Defendant due to the Plaintiff filing the Motion for Sanctions.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDGE

From: Ericbonetti@protonmail.com  
Date: 2/18/21 6:26 PM (GMT-05:00)  
To: "Matthew J. Youssef" <mjyoussef@nilesbarton.com>  
Cc: Wayne Cyron <wcyron@cyronmiller.com>, "Crockett, Heather" <HCrockett@cpg.org>  
Subject: RE: BONETTI v. GRACE EPISCOPAL CHURCH

Matthew,

By the way, one further thought as we prepare for the next wave of litigation: Your client's problem is not primarily legal in nature. Thus, you may well win in court, but doing so will only further undercut the parish's standing in the community, resulting in an acceleration of its precipitous decline. And it will result in a further inflame opinions in the social media.

The reality is that when, as here, a priest repeatedly lies in court, commits perjury, conceals evidence squarely within the ambit of discovery, subpoenas a woman dying of COPD in violation of state law, engages in multiple incidents of witness tampering, proffers multiple false statements of law and fact in court, engages in inflammatory and inappropriate courtroom rhetoric, and more, there is no outcome in court that benefits your client. And you may rest assured that, no matter what attempts are made to obtain confidentiality in discovery, etc., the media will continue to report on this situation. Moreover, I can document every one of these claims, as well as the diocese's response that it will only get involved if Malm faces criminal charges over his conduct.

In short, I can and will outlast Grace Church if it comes to it. Until the church changes its tack and tells the truth, it is going to face unrelenting criticism of its conduct, resulting in a continuing shedding of members and revenue.

That is the reality you confront, as evinced by the attachment I am including, which sets forth three contradictory statements by Mr. Malm, made in court, under oath. Thus, if you wish to defend the conduct described above in court, so be it.

Regards,

Eric



*The*  
**DISCIPLINARY BOARD**  
*of the Supreme Court of Pennsylvania*

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# Bonetti, Eric J.

## Public Information

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**Disciplinary Board**  
@DBoardPA

A Belgian farmer was annoyed that a marker was blocking his tractor, so he moved it two meters. The problem is, he changed the border between France and Belgium. [bbc.com/news/world-eur...](http://bbc.com/news/world-eur...)

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