

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

No. 2021-P-0562

Plymouth County, ss.

R.M., Plaintiff/Appellee,

V.

E.B., Defendant/Appellant.

On Appeal From Order of the Wareham District Court

Defendant/Appellant's Brief

Impounded Version

Date: 29 September 2021

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TABLE OF CONTENTS

Table of Cases, Statutes and Other Authorities	3
Statement of the Issues	4
Statement of the Case	4
Statement of the Facts	5
Standard of Review	8
Argument	9
THE TRIAL COURT ERRED IN ISSUING ITS 23 NOVEMBER 2020 EXTENSION ORDER AS THERE WAS INSUFFICIENT EVIDENCE TO SUPPORT A VIOLATION OF SECTION 43A OF CHAPTER 265 OF THE MASSACHUSETTS GENERAL LAWS	9
Conclusion	25
Certificate of Service	26
Addendum	28
Certificate of Compliance	44

TABLE OF CASES, STATUTES, AND OTHER AUTHORITIES

Cases

<u>Bonome v. Kaysen</u> 17 Mass. L. Rep 695 2004 Mass. Super LEXIS 172 * 13-18 (decided Mar. 3, 2004)	18
<u>Commonwealth v. Brennan,</u> 481 Mass. 146 (2018)	10
<u>Commonwealth v. Chou,</u> 433 Mass. 229(2001)	19, 20, 21
<u>Commonwealth v. McDonald,</u> 462 Mass. 236 (2012).	15, 16
<u>Commonwealth v. Robinson,</u> 444 Mass. 102 (2005)	24
<u>O'Brien v. Borowski,</u> 461 Mass. 415 (2012)	10, 14, 21
<u>Shackelford v. Shirley,</u> 948 F. 2d 935 (5th Cir. 1991)	18, 20
<u>Van Liew, v. Stansfied,</u> 474 Mass. 31 (2016)	22, 23

Statutes

G.L. 265 § 43A	9, 12, 17, 18
G.L. 258E § 1	9

I. STATEMENT OF THE ISSUES

Whether there was a sufficiency of the evidence of criminal harassment as defined by Mass. Gen. Laws c. 265 § 43A to support the trial court's 23 November 2020 extension of the initial harassment prevention order under Mass. Gen. Laws c. 258E § 1.

II. STATEMENT OF THE CASE

On 2 November 2020 the Plaintiff commenced the case by filing a complaint/affidavit seeking a harassment prevention order claiming three separate incidents of harassment and an initial harassment prevention order was issued same date until 12 November 2020. RA 5 and 7. On 12 November 2020 the order was temporarily extended and the extension hearing rescheduled for 23 November 2020 to make service on the Defendant. RA 5, 6, and 8. On 23 November 2020, at hearing, with the Plaintiff and Defendant appearing and providing testimony, the trial court extended the initial harassment prevention order for a year on new grounds of criminal harassment, and being different grounds than the Plaintiff applied for in his complaint/application. Add. 29-32; RA

8,9,10,61 and 63. The trial court made no written findings of fact. Add. 32; RA 8. And it refused to identify the three or more acts it found to support the order. RA 64.

The Defendant appeals the trial court's 23 November 2020 order extending the initial harassment prevention order on the grounds that there was insufficient evidence to find criminal harassment occurred as defined under section 43A of Mass. Gen. Laws chapter 265.

III. STATEMENT OF THE FACTS

The parties were fellow church/parish members at a church in Virginia that had approximately 1000 members where the Plaintiff served as priest. RA 14. The Defendant and Plaintiff had various conflicts surrounding the church in Virginia while they attended same. RA 49. The Defendant accused the Plaintiff of certain improprieties. RA 49. And took formal action against the Plaintiff within church organizational rules. RA 49. And believes the Plaintiff is not qualified to be rector of a church. RA 32. The parties then became adversaries in multiple legal cases/proceedings unrelated to the instant appeal and

harassment prevention order at issue. RA 14, 23, 68-70. The Defendant published to third parties, by way of distributing flyers and the like, that the Plaintiff committed perjury. RA 32. And that there is abuse at the church. RA 55-56. And takes the position the Plaintiff is a perjurer. RA 32 and 33. The Plaintiff applied for and obtained a protective order against the Defendant in Virginia that had expired in January 2020. RA 14. The Plaintiff moved to Massachusetts in October 2019. RA 14. At all times relevant to the extension order the Defendant resided in Virginia. RA 4 and 17. And the Plaintiff resided in Massachusetts. RA 5, 77 and 78. At some time prior to 1 November 2020 the Plaintiff met with the chief of police in Massachusetts concerning the Defendant generally. RA 41. Following that, two more reports were made to the police in Massachusetts complaining of the Defendant's on-line activity. RA 41 and 78. On 1 November 2020 the Defendant stood in the vicinity, but not on the property of, the church/parish the Plaintiff was interim pastor of in Massachusetts and held a sign stating the Plaintiff was a "perjuring priest." Add. 30; RA 10, 78. There was no contact or communication between the Defendant

and Plaintiff on 1 November 2020 and the Defendant never entered church property. RA. 15, 16, 29, 30, and 31. The Plaintiff addressed the church congregation concerning the Defendant while the Defendant was picketing outside. RA 17. The Plaintiff stated to the congregation that he did not believe the Defendant was any true threat but was a very sad man in a very sad situation. RA 17. A person associated with the church called the police about a "suspicious person" at the church. RA 27 and 40. The police traveled to the church and spoke with the Plaintiff. RA 78. The Plaintiff complained of a man standing across the street from the church holding a sign disparaging him and believed it might be the Defendant. RA 78. The Plaintiff also stated any prior restraining order had expired. RA 78. The police interviewed the Defendant while he picketed and later reported their results to the Plaintiff. RA 10 and 29. The police informed the Defendant he was not doing anything illegal and later informed the Plaintiff that the Defendant was not committing any crimes and was allowed to stand on public property. RA 78. The following day the Plaintiff filed his complaint/affidavit for a harassment prevention order.

Add. 29; RA 9-10. The Defendant has not physically abused or made any threats of physical violence toward the Plaintiff. RA 16, 31. The Defendant has not damaged any of the Plaintiff's property or made threats to do so. RA 16, 29, 31. The Plaintiff made no accusation of physical harm to his person or property or any threat of physical harm or damage to his property in his complaint/affidavit. Add. 29; RA 10. And stated there has been no threat of physical violence to person or property in his testimony. RA 15-16.

IV. STANDARD OF REVIEW

The standard for reviewing a harassment prevention order based on a violation of the enumerated statutes in the definition of "harassment" in section 1 of chapter 258E is that, beyond a reasonable doubt, the defendant has committed an act that is a violation of either section 13B, 13F, 13H, 22, 22A, 23, 24, 26C, 43, 43A or chapter 265 or section 3 of chapter 272 of the Massachusetts General Laws. Alternatively, it is whether the trial court could conclude, by a preponderance of the evidence, together with all permissible inferences, that the defendant had committed three or more acts of willful and malicious

conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse or damage to property and that did in fact cause fear, intimidation, abuse or damage to property or has committed an act or acts that is a violation of either section 13B, 13F, 13H, 22, 22A, 23, 24, 26C, 43, 43A or chapter 265 or section 3 of chapter 272 of the Massachusetts General Laws.¹

V. ARGUMENT²

THE TRIAL COURT ERRED IN ISSUING ITS 23 NOVEMBER 2020 EXTENSION ORDER AS THERE WAS INSUFFICIENT EVIDENCE TO SUPPORT A VIOLATION OF SECTION 43A OF CHAPTER 265 OF THE MASSACHUSETTS GENERAL LAWS

The typical application of the harassment prevention statute, defined under section 1 of the statute and requiring three acts of harassment essentially being

¹ After a diligent search, Defendant was unable to locate an appeals level case involving an HPO granted based on a violation of section 43A of chapter 265 of the Massachusetts General Laws to speak to the standard of review. Defendant contends it may be the statute was designed to permit an HPO only for criminal convictions of the enumerated acts in section 1 of chapter 258E and the more lenient standard for the more traditional definition of harassment.

² Defendant argues applying the alternative preponderance of the evidence standard of review and contends if it is not met than if the more stringent standard is adopted it would not be met either.

three actual acts or threats of harm to person or property, are not at issue here. RA 15, 16; O'Brien v. Borowski, 461 Mass. 415 (2012). And not what the trial court based its order on. RA 62.

Instead, the trial court, after many rounds, probes, and enticement of testimony from the Plaintiff, ruled criminal harassment was at play.³ RA 40-56, 62. The elements of criminal harassment are: "(1) the defendant engaged in a knowing pattern of conduct or speech, or series of acts, on at least three occasions; (2) the defendant intended to target the victim with harassing conduct . . . on each occasion; (3) the conduct . . . [was] of such a nature that it seriously alarmed the victim; (4) the conduct . . . [was] of such a nature that [it] would cause a reasonable person to suffer substantial emotional distress; and (5) the defendant committed the conduct 'willfully and maliciously.'" Commonwealth v. Brennan, 481 Mass. 146, 149-150 (2018). Defendant contends the last four of these five elements are lacking because there is nothing to conclude any of

³At two points early in the Plaintiff's testimony, Plaintiff had no further evidence to submit. RA 16 and 30.

the Defendant's acts were of a criminal nature, such as threatening to person or property, or otherwise were outside of constitutional protection especially since there were about a matter or public concern, although adversarial and even unsettling to the Plaintiff.

Overall and in general, the Plaintiff's contention/complaint with the Defendant is that the Defendant was speaking out about him in a derogatory fashion. Add. 30; RA 10. It is clear that the Plaintiff's definition of, and references to, "harassment" include being publicly criticized by statements perceived to him to be harmful to his reputation. Add. 30; RA 10. In his complaint/affidavit he describes what arguably could be defamation and then describes the same as "harassment." Add. 30; RA 10. The Plaintiff's complaint/affidavit reveals this as the Plaintiff identifies 1 November as one of three purported acts of harassment and complains of the Defendant's picketing that day as a ground for an order. Add. 29-30; RA 9-10. And a day where they had no interaction or communication. RA 15,16,18, 21, 29, 30, 31, 78. But a day he was publicly criticized. Add. 30; RA 10.

And the police were called to investigate the Defendant and later did for his simple and peaceful picketing/protesting. Add. 30; RA 10, 78.

In his complaint/affidavit he also complains of the Defendant creating a website "where for months he has *falsely* blogged about me." Add. 30; RA 10. Simply put the complaint shows it is the Defendant's alleged false statements is the basis the Plaintiff sought a harassment prevention order and there is no adequate basis or even allegation in it to support a determination of harassment. Add. 29-30; RA. 9-10; M. G. L. c. 265 § 43A.

With respect to the Plaintiff's testimony, it similarly is obvious that his contention with the Defendant concerns harm to his reputation. RA 23-24, 41. For example, after complaining of the Defendant's 1 November picketing, he states "{h}e's already tried to ruin my reputation, Judge, for over five years." RA 14.⁴

⁴ Plaintiff did testify, after the benefit of reviewing the Defendant's written opposition, in cross examination that he was not concerned with the Defendant sullyng his reputation. RA 25 and 57. However, this is in direct contrast to multiple and continued express and implied statements to the contrary. RA 10, 15, 16, 17, 41, and 56. Such as his statement "And the neighborhood surrounding the

Plaintiff used terminology that needs analysis to understand what his definition is. One part of the Plaintiff's testimony is revealing as to what the Plaintiff found as "intimidation," "harassment," "abuse of First Amendment rights," and "abuse of the legal system." RA 43. This was because the Defendant filed a legal case against him ("stalking charge") and picketed on public property on 1 November outside his church. RA 43.⁵ For example, Plaintiff found it "disturbing" (when he assumed) the Defendant traveled from Virginia to perform his picketing on 1 November in Massachusetts. RA 15. And the Defendant's mere "presence a threat" while he picketed the church on 1 November. RA 29. And the Defendant's travel to Massachusetts to picket represented a "physical threat." RA 61. And Defendant's simple blogging

church, they found little card and pamphlets about protesting [Plaintiff] abuse at []Church. When people hear the word 'abuse' having to do with . . . a priest . . . in a community of faith they think of child abuse. . . so all throughout the community of Alexandria for a number or months there were various signs and leaflet[s] around." RA 56.

⁵ The Plaintiff also does not like to be challenged, he states "every time you hold [the Defendant] accountable to anything, he reacts." RA 43. And "[h]e's had very opportunity to work in every system, ecclesiastical, legal, the internet, to make his case heard. And he doesn't seem to want to stop." RA 62.

about him "harassment." RA 41. Looking past the labels the Plaintiff uses, it is shown his concern is over his reputation and the feelings he purports to have relate to subject matter (bad publicity or legal proceedings) to which he is not entitled to protection from. RA 43; O'Brien v. Borowski, 461 Mass. 415, 427 (2012).

Defendant contends that fear of a person filing a lawsuit, conducting peaceful picketing (regardless of how long it may have taken them to travel to the picketing site), leafletting, all generally being bad publicity, and what the Plaintiff was seeking to prohibit the Defendant from doing, and the type of "abuse," "intimidation," and "upset" the Plaintiff complained of,⁶ is not the type of fear sought to be prohibited by the statute or could be to not offend constitutionally protected free speech. RA 43; U.S. Const. Amend I; Mass. Const. art. XVI; O'Brien v. Borowski, 461 Mass. 415, 427 (2012) ("we narrow the meaning of "fear" under the act to fear of physical harm or fear of physical damage to property."); see

⁶ Plaintiff also complains of Defendant's negative communication about the Plaintiff being "alarming" to other people in his church. RA 51.

also Commonwealth v. McDonald, 462 Mass. 236, 243-44 (2012). And cannot adequately support the last four elements for criminal harassment. U.S. Const. Amend I; Mass. Const. art. XVI.

After there being no actual harm or threat of harm to person or property shown in the Plaintiff's complaint/affidavit or early in the Plaintiff's testimony. Add. 30; RA 10, 15-16. the trial court led the Plaintiff in multiple lengthy question and answer sessions, in almost a suggestive manner, and allowed the Plaintiff to reopen the evidence twice.⁷ Plaintiff had multiple opportunities to supplement to his testimony before the trial court ruled criminal harassment served as a basis to support an extension order. RA 40-43, 44-56. As stated, the trial court refused to identify what the three or more acts that it determined were the serious of acts constituted criminal harassment. RA 64. Instead it referred to unspecified "multiple acts" that any spectator was privy to. RA 64.⁸

⁷ See fn. 3 *supra*.

⁸ Defendant contends it was not obvious what multiple acts the trial court based its ruling on (as none are indeed an adequate basis), thus in the alternative to reversal the trial court should be ordered to identify the three or more acts it rested its decision upon.

There were certain categories of multiple acts the Plaintiff complained of. Most of the acts that were repeatedly done, and much of what the Plaintiff's testifies to in general, concerns Plaintiff's claims of concerns held by third parties and Defendant's acts towards third parties. RA 41, 44, 53-54, 61, 62. The Plaintiff complained of the Defendant's communications about his daughter. RA 54 and 61.⁹ His wife, whom was also blogging "against" the Defendant.¹⁰ RA 55 and 61. And his congregation. RA 53, 61-62. A school of 120 children. RA 62. Parents of 120 children. RA 62. Staff and a head of school. RA 62. Thus, the trial could have determined the Plaintiff's description of Defendant's acts toward his daughter, wife, or people in his congregation were the wrongful acts. RA 62, 64. Since none of these were directed to the Plaintiff, they cannot support a finding of criminal

⁹ Upon close inspection of the transcript, Plaintiff's conclusion that it was the Defendant that posted items about his daughter on "Fairfax Underground" was "who else would do it." RA 48. This is not enough. See Commonwealth v. McDonald, 462 Mass. 236, 241 (2012) ("Nor may a conviction rest upon the piling or inference upon inference or conjecture and speculation.").

¹⁰ Defendant contends this suggests there was a dialogue concerning the affairs of the church and the fitness of the Plaintiff in his position. RA 41, 55.

harassment as the second element of targeting the Plaintiff is lacking. Mass. Gen. Laws c. 265 § 43A.

As Plaintiff's testimony progresses and the trial court continues to probe the Plaintiff, the Plaintiff makes reference to Defendant's on-line postings that made "reference" to or were "about" him. RA. 52, 55. At the same time he was asked directly by the trial court if the Defendant ever contacted him during this time and he said "no." RA 53. His earlier testimony also confirms that the Defendant never communicated with him directly in all of his legal disputes, statements, and various on-line criticisms of the Plaintiff. RA 50. And it also appears to not be saying that the Defendant directed the statements to the Plaintiff, but more was speaking about the Plaintiff. Compare RA 52 with RA 21,37, 41, 56. For example, the trial court inquired "how do you know that that was referred directly to you?" and the Plaintiff replied "[w]ell, my name was used. My name and people at St. Gabriel's church." RA. 52-53.¹¹

¹¹ Defendant contends there is a difference between speaking about someone and speaking to someone, and that generally the latter is required to find communications were targeting the victim and to satisfy constitutional protections on speech. Mass. Gen. Laws. c. 265 § 43A. And adds that the Defendant

Defendant contends that interpreting the testimony of the Plaintiff on the whole,¹² including that the Plaintiff testified there was no direct communication, not threats of harm to person or property, and the Defendant also testifying he does not communicate with the Plaintiff. RA 31 ("I refuse to talk to him. No, I don't have any communication [with the Plaintiff]"). That it was an impermissible inference to conclude the Plaintiff's testimony was stating the Defendant's on-line statements were directed to him for criminal harassment purposes. RA 15-16, Mass. Gen. Laws. c. 265 § 43A. But rather it was just about the Plaintiff to the public and/or calling for change within the church he was a part of. RA 41 and 47; see Shackelford v. Shirley, 948 F. 2d 935, 938 (5th Cir. 1991) (distinguishing between dialogue where participants seek to persuade entitled to constitutional protection and true threats).

has the right to speak about his own life and on matters of public concern. Bonome v. Kaysen, 17 Mass. L. Rep. 695, 2004 Mass. Super LEXIS 172 * 13-18 (Mass. Sup. Ct. 2004).

¹² When asked directly if the Defendant had communicated with him, Plaintiff evasively answered "I'm sure he feels like his is through the internet. He's tried to destroy my reputation for five years." RA. 18. Defendant contends this should be interpreted as an admission in the negative.

Assuming arguendo any of the Defendant's statements complained of were targeting/directed towards the Plaintiff, Defendant contends none of them can be interpreted to have the malicious intent required or be anything a reasonable person could be put in (the adequate type) of fear necessary. On this score, Plaintiff also makes reference to the Defendant referencing "a group of people called the killer bees." RA 51. And a vague connection about "they were coming."¹³ RA 52. Defendant contends it is an impermissible inference to conclude that such statements were intended or could be interpreted to be taken literally, constitute a harmful threat to the Plaintiff, or were made with malicious intent or outside of constitutional protections. See Commonwealth v. Chou, 433 Mass. 229, 236, 741 N.E.2d 17 (2001) ("The term 'true threat' has been adopted to help distinguish between words that literally threaten but have an expressive purpose such as political hyperbole, and words that are intended to place the

¹³ Defendant contends based on Plaintiff's entire testimony and that of the Defendant's these references left vague by the Plaintiff and trial court should be inferred to be expressing other will join the protesting, or some form of expression to add to the dialogue.

target of the threat in fear"); Shackelford v. Shirley, 948 F. 2d 935, 937 (5th Cir. 1991) (intent requirement in statute punishing communication "with intent to terrify, intimidate, or harass and threaten to inflict injury or physical harm" narrowed proscribed speech only to 'a class of true threats' and not social or political advocacy).¹⁴

Plaintiff also stated Defendant posted a picture of a snarling dog or wolf. RA 51. Similarly, this comment would have to have some wrongful conduct associated with it to infer they were intended or could be construed as a threat to person or property, and not expressive statements in a public dialogue (concerning improprieties at a church and the fitness of a person involved with same.)

Commonwealth v. Chou, 433 Mass. 229, 234, 741 N.E.2d 17 (2001) (whether statement is innocent or threatening must be determined in context in which it was made). Defendant contends that given the Defendant's demonstrated picketing/protesting, lawful grievances raised withing the churches procedure, the Plaintiff's

¹⁴ Plaintiff himself stated, while Defendant picketed on 1 November to his congregation, he did not believe the Defendant represented a "true threat." RA 17.

testimony of no physical threat to person or property, and his statements to his congregation on 1 November that the Defendant did not represent a "true threat," the natural inference would be that such statements were intended to have an expressive purpose and were not to be taken literally or as a threat. RA 15, 16, 17.

Defendant stresses, although certain statements not facially malicious or threatening can nonetheless be found to be wrongful and support an HPO order, there must be some surrounding circumstances or context to interpret such a statement one of the wrongful acts violative of the statute. See Commonwealth v. Chou, 433 Mass. 229, 234-35 (2001). There is no code or background that gives added and malicious meaning to these communications to reveal their wrongful nature. Here, there is nothing like that, such as a prior abusive romantic relationship, prior criminal threats or acts, a physical altercation, or context that supports a malicious intent/threat. See O'Brien v. Borowski, 461 Mass. 415, 429 (2012) (describing how even yelling profanity and hurling insults were not wrongful unless supported by more facts evidencing a threat.) Rather, quite the

opposite, what we have here is Defendant's, although adversarial or disagreeable to the Plaintiff, peaceful picketing, leafleting, critical blogging, and use of legal process. RA 10, 29, 43, 61. This cannot support interpreting Plaintiff's strained and vague references to people called the "killer bees" or pictures of a snarling dog or gravestone,¹⁵ statements that could be found to be wrongful in the right circumstances if there was a context to support such an interpretation, to find they were malicious here. RA 48, 50, 51. And the trial court, if it did rely on this testimony, made an impermissible inference or interpretation to the same to find Defendant's communications to be malicious, the Plaintiff to be experiencing the kind of fear subject to proscription, or a reasonable person could have the right type of apprehension. *Id.*; see Van Liew, v. Stansfield, 474 Mass. 31, 39 (2016) (finding "insults" stating the plaintiff was "wrong, uneducated, and stupid," even if

¹⁵ See fn. 8 *supra*, Defendant contends there is insufficient evidence the trial court could conclude Defendant posted any such picture as Plaintiff himself relies upon nothing more than conjecture to attribute statements made on "Fairfax Underground" to the Defendant. RA 48 ("who else would do it."). Especially since Defendant expressly denies same. RA. 35.

delivered in a loud voice, were not "words that would cause someone to fear [physical harm or property damage]" and thus were not harassment under chapter 258E).

Plaintiff also complained about Defendant's picketing in Virginia over 1000 feet away from the Virginia church. RA 55. This happened "dozens" of times. RA 55. As stated, the trial court refused to identify the multiple acts it determined was the serious of wrongful acts, so it could have been based on this picketing. Defendant contends peaceful picketing, albeit damaging to one's reputation, from over 1000 feet away is not a wrongful act for criminal harassment purposes.¹⁶ Thus, it would also be an impermissible inference to conclude those acts were done maliciously or otherwise could be evidence of acts that support criminal harassment as properly interpreted to respect constitutional protections. See Van Liew, v. Stansfied, 474 Mass. 31, 38 (2016) (finding statements plaintiff was "corrupt and a liar"

¹⁶ In addition, this picketing and passing out pamphlets or the like happened during the time the Virginia restraining order was in place, and there was no accusation the Defendant violated that order.

directed at plaintiff, a public official, protected political speech).

There was insufficient evidence to determine that the Defendant's acts would cause a reasonable person to suffer substantial emotional distress. First, it is established that there was no physical violence, physical threats, property damage, or threats to property damage. RA 15-16. Second, the Plaintiff's own description of what troubled him about the Defendant's acts indicate they did not cause him to suffer substantial emotional distress. RA 10, 14, 43, 56. A priest of 1000 people being publicly criticized for wrongdoing is part of the rough and tumble of life; it is not criminal harassment. See Commonwealth v. Robinson, 444 Mass. 102, 106 (2005) (defining "substantial" emotional distress in statute to mean "considerable in amount, value, or worth" and finding jury instruction gave word less than its traditional meaning.).

Instead of the natural inference(s) the trial court might have come to, it should have relied upon the Defendant's peaceful picketing. RA 10. His "protest[ing]" and making his case about the church and the Plaintiff suitability as the context by which

any statement about people called the "killer bees" or a picture of a snarling dog or wolf were made. With that, the proper natural inference is the Defendant was using illustrations to express his part of the dialogue on the fitness of the Plaintiff in his position and the handling of church affairs. U.S. Const. Amend I; Mass. Const. art. XVI.

VI. CONCLUSION

The Defendant seeks that the Court of Appeals:

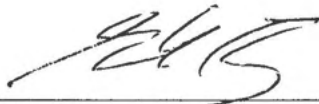
- 1) Find that there was insufficient evidence to support the trial court's 23 November 2020 extension order, and/or that the Defendant's acts were protected speech, and order it vacated and to direct the trial court to order all records of it and the initial order dated 2 November 2020 and the second order continuing it in effect dated 12 November 2020 be destroyed in accordance with Mass. Gen. Laws. c. 258E § 9; or
- 2) Alternatively, to order the trial court to identify the three (or more) acts of the Defendant that are the pattern or series of acts

it rests its finding of criminal harassment upon;
and

3) to fashion any other relief in the Appellant's
favor consistent with justice.

Respectfully submitted,
E.B.,
The Defendant/Appellant,

29 September 2021

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Certificate of Service

I, George E. Bourguignon, Jr., hereby certify that I caused, on behalf of the Defendant/Appellant, a copy of the Defendant/Appellant's Brief (Impounded version) along with a copy of the entire record appendix (Impounded version), in the appeal styled as *R.M., Plaintiff/Appellee v. E.B., Defendant/Appellant*, Massachusetts Appeals Court, Case No. 2021-P-0562, to be served upon the Plaintiff and upon his counsel (for service purposes only) by electronic service on 29 September 2021 to:

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ADDENDUM

TABLE OF CONTENTS

Complaint and 23 November 2020
Extension Order 29

Pertinent Text of 23 November 2020
Extension Order 33

Constitutional Provision;
U.S. Const. Amend. I 34

Constitutional Provision:
Mass. Const. Decl. Rights, Art. 16 34

Statutes; G.L. c. 258E, §
1 and G.L. 265 § 43A (a) 34

Unpublished Decision;
Bonome v. Kaysen,
17 Mass. L. Rep 695 (2004) 37

<input type="checkbox"/> BOSTON MUNICIPAL COURT	<input checked="" type="checkbox"/> DISTRICT COURT	<input type="checkbox"/> JUVENILE COURT	<input type="checkbox"/> SUPERIOR COURT	DIVISION
NAME OF PLAINTIFF (person seeking protection)		NAME OF DEFENDANT (person accused of harassment)		
ROBERT MALM [REDACTED]		ERIC BONETTI [REDACTED]		

I am: 18 or older 17 16 or younger
 The Defendant is: 18 or older 17 16 or younger

I am under the age of 18 and _____, my _____ (relationship to Plaintiff), has filed this Complaint for me.

Are there any prior or pending actions involving the plaintiff and the defendant, including any court actions or administrative or disciplinary proceedings? NO YES

If so, list court or organization, type of action, date and docket no. (if available).
 ALEXANDRIA, VA. COURT - CIVIL SUIT

I SUFFERED HARASSMENT WHEN:

on or about (dates) NOV. 2019 FEB 2020 10/1/20 the Defendant committed 3 or more acts of willful and malicious conduct aimed at me which were committed with the intent to cause fear, intimidation, abuse or damage to property and did in fact cause fear, intimidation, abuse or damage to property.

on or about (date) _____ the Defendant by force, threat or duress caused me to involuntarily engage in sexual relations.

on or about (date) _____ the Defendant committed against me an act that constitutes a violation of one of the following statutes: G.L. c. 265, §§ 13B, 13F or 13H (indecent assault and battery), 22 or 22A (rape), 23 (statutory rape), 24 or 24B (assault with intent to rape), 26C (enticing a child), 43 (criminal stalking) or 43A (criminal harassment), or G.L. c. 272, § 3 (drugging for sexual intercourse).

THEREFORE, I ASK THE COURT:

1. to order the Defendant not to abuse me by physically harming me, attempting to physically harm me, or placing me in fear of imminent serious physical harm, and to stop harassing me (1) by any willful and malicious conduct aimed at me and intended to cause fear, intimidation, abuse or damage to property, or (2) by using force, threat or duress to make me engage in sexual relations unwillingly, or (3) by committing against me any act that constitutes a violation of any of the following statutes: G.L. c. 265, §§ 13B, 13F or 13H (indecent assault and battery), 22 or 22A (rape), 23 (statutory rape), 24 or 24B (assault with intent to rape), 26C (enticing a child), 43 (criminal stalking) or 43A (criminal harassment), or G.L. c. 272, § 3 (drugging for sexual intercourse).

2. to order the Defendant not to contact me, unless authorized to do so by the Court.

3. to order the Defendant to remain away from my residence (as listed on the PLAINTIFF CONFIDENTIAL INFORMATION FORM).

4. to order the Defendant to remain away from my workplace (as listed on the PLAINTIFF CONFIDENTIAL INFORMATION FORM).

5. to order the Defendant to pay me \$ _____ in compensation for the following losses suffered as a direct result of the harassment:

6. to order the relief I have requested, except for compensation for losses suffered, without advance notice to the Defendant because there is a substantial likelihood of immediate danger of harassment. I understand that, if the Court issues such a temporary Order, the Court will schedule a hearing within 10 court business days to determine whether such a temporary Order should be continued, and I must appear in court on that day if I wish the Order to be continued.

Please complete the AFFIDAVIT on the reverse of this page, the PLAINTIFF CONFIDENTIAL INFORMATION FORM, and the DEFENDANT INFORMATION FORM.	DATE 11.2.20	PLAINTIFF'S SIGNATURE x Robert A Malin
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AFFIDAVIT

that was willful and malicious but was not a violation of the listed criminal statutes, you must describe at least 3 separate incidents of such harassment. The judge requires as much information as possible, such as what happened, each person's actions, the dates, locations, any injuries, and any medical or other services sought. Also, describe any history of harassment, with as much of the above detail as possible.

On or about 11.1.2020, the Defendant drove from VA. to MA, and stood across the street from St. Gabriel's Church where I am the Priest. He would not answer the Maria P.D. questions. They told him to not go on Church property. He held a sign with my name and "Perjuring Priest". He was there from approximately 8:30 am - 10:30 am and placed his sign and camera at parishioners leaving the 8 am service and coming to the 10 am service.

Last winter he created a fake St. Gabriel's web site where for months he has falsely blogged about me. Officials from the parish contacted the web host company and the web site was shut down recently.

He has reportedly blogged about my being in MA. While living in Virginia I had a protective order for 2 years 1/20/18 - 1/20/20. He could not come within 1000' of my home, me/wife, family, workplace.

His harassment has been ongoing since July 2015. Now he has come to MA, probably already returning to VA.

If more space is needed, attach additional pages and check this box:

I declare under penalty of perjury that all statements of fact made above, and in any additional pages attached, are true.

DATE SIGNED

11.1.20

PLAINTIFF'S SIGNATURE

x

Robert H. Malin

WITNESSED BY

x

PRINTED NAME OF WITNESS

TITLE/RANK OF WITNESS

HARASSMENT PREVENTION ORDER

G.L. c. 258E

DOCKET NO. 2060RO00467

Massachusetts Trial Court



PLAINTIFF'S NAME

Robert H. Malm

COURT NAME & ADDRESS

Wareham District Court
2200 Cranberry Highway
W. Wareham, Ma 02576

DEFENDANT'S NAME AND ADDRESS

Eric Bonetti
4129 Fountainside Lane #203
Fairfax, VA 22030

ALIAS, IF ANY

DATE OF BIRTH

SEX

Male Female

PLACE OF BIRTH

MOTHER'S MAIDEN NAME (FIRST & LAST)

SOCIAL SECURITY NO.

DAYTIME PHONE NO.

FATHER'S NAME (FIRST & LAST)

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE punishable by imprisonment or fine or both.

A. THE COURT HAS ISSUED THE FOLLOWING ORDERS TO THE DEFENDANT: (only those items checked shall apply)

- This Order was issued without advance notice because the Court determined that there is a substantial likelihood of immediate danger of harassment.
- This Order was communicated by telephone from the Judge named below to: Police Dept. _____ Police Officer _____
- 1. **YOU ARE ORDERED NOT TO ABUSE THE PLAINTIFF** by harming or attempting to harm the Plaintiff physically or by placing the Plaintiff in fear of imminent serious physical harm. **YOU ARE ALSO ORDERED NOT TO HARASS THE PLAINTIFF** (1) by any willful and malicious conduct aimed at the Plaintiff and intended to cause fear, intimidation, abuse or damage to property, or (2) by using force, threat or duress to make the Plaintiff engage in sexual relations unwillingly, or (3) by committing any of the following: indecent assault and battery, rape, statutory rape, assault with intent to rape (G.L. c. 265, §§ 13B, 13F, 13H, 22, 22A, 23, 24, 24B), enticing a child (§ 26C), criminal stalking (§ 43), criminal harassment (§ 43A), or drugging for sexual intercourse (G.L. c.272, §3).
- 2. **YOU ARE ORDERED NOT TO CONTACT THE PLAINTIFF** either in person, by telephone, in writing or otherwise, either directly or through someone else, and to stay at least 100 yards from the Plaintiff even if the Plaintiff seems to allow or request contact. The only exception to this Order is that you may send to the Plaintiff by mail or by sheriff or other authorized officer copies of papers filed with the court when that is required by statute or court rule.
- 3. **YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S RESIDENCE** located at IMPOUNDED and wherever else you have reason to know the Plaintiff may reside.
 If this box is checked, you are also **ORDERED** to remain away from the entire apartment building or other multiple family dwelling in which the Plaintiff's residence is located.
- 4. **YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S WORKPLACE** located at IMPOUNDED and wherever else you have reason to know the Plaintiff may work.
- 5. **YOU ARE ORDERED TO COMPENSATE THE PLAINTIFF** for \$ _____ in losses suffered as a direct result of the harassment, to be paid in full on or before _____, 20____ by mailing directly to the Plaintiff. through the Court.
- 6. _____

B. NOTICE TO LAW ENFORCEMENT

- 1. An appropriate law enforcement officer shall serve upon the Defendant in hand a copy of the Complaint and a certified copy of this Order (and Summons) and make return of service to this court. If this box is checked service may instead be made by leaving such copies at the Defendant's address shown above but only if the police officer is unable to deliver such copies in hand to the Defendant.
- 2. Defendant Information Form accompanies this Order. 3. Police reports are on file at the _____ P.D.
- 4. Outstanding warrants for the Defendant's arrest: PCF No. _____ Docket No(s) _____
- 5. An imminent threat exists of bodily injury to the Plaintiff. _____ P.D. notified by telephone other: _____

DATE OF THIS ORDER 11/2/2020	TIME OF THIS ORDER 3:28 <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF THIS ORDER 11/12/20 at 4 P.M.	SIGNATURE/NAME OF JUDGE Smith
NEXT HEARING DATE 11/12/20 at 9:30 <input type="checkbox"/> A.M. <input checked="" type="checkbox"/> P.M. in Courtroom	X		
FIRST OR CHIEF JUSTICE WITNESS: Hon. Shelby Smith	A TRUE COPY ATTEST: X	CLERK-MAGISTRATE/ASST. CLERK	

The Plaintiff must appear at scheduled hearings, or this Order will expire. The Defendant may appear, with or without an attorney, to oppose any extension or modification of this Order. If the Defendant does not appear, the Order may be extended or modified as determined by the Judge. For good cause, either the Plaintiff or the Defendant may request the Court to modify this Order before its scheduled expiration date. NOTICE TO DEFENDANT: If the Plaintiff is your spouse or former spouse, or you are the parent of a child of the Plaintiff, or you cohabit or have cohabited with the Plaintiff, the purchase and/or possession of a firearm and/or ammunition while this order is in effect is a federal crime, subject to certain exceptions. 18 U.S.C. §§ 922(g)(8) and 925.

31

Wareham District Court
2200 Cranberry Highway
W. Wareham, MA 02576

PLAINTIFF'S NAME

DEFENDANT'S NAME

C. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has **ORDERED** that the prior order issued on _____, 20____ be **MODIFIED** as follows:

The expiration date of this order has been **EXTENDED** (see below). **OTHER MODIFICATION(S)** _____

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

A.M.
 P.M.

at 4 P.M.

NEXT HEARING DATE

at _____ A.M. P.M. in Courtroom _____

D. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has **ORDERED** that the prior order issued on 11/2, 2020 be **MODIFIED** as follows:

The expiration date of this order has been **EXTENDED** (see below). **OTHER MODIFICATION(S)** _____

FOR SERVICE

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

11/2/20

10:00

A.M.
 P.M.

11/20/20

at 4 P.M.

NEXT HEARING DATE

11/28/20

at 9:30

A.M. P.M. in Courtroom _____

X

E. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has **ORDERED** that the prior order issued on 11/23, 2020 be **MODIFIED** as follows:

The expiration date of this order has been **EXTENDED** (see below). **OTHER MODIFICATION(S)** _____

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

11/23/20

2:35

A.M.
 P.M.

11/22/21

at 4 P.M.

NEXT HEARING DATE

11/22/21

at 9:30

A.M. P.M. in Courtroom 1

X

F. PRIOR COURT ORDER (ATTACHED) TERMINATED

This Court's prior Order has been terminated. Law enforcement shall destroy all records of such Order. Terminated at Plaintiff's request.

DATE OF PRIOR ORDER

DATE TERMINATION EFFECTIVE

SIGNATURE/NAME OF JUDGE

DATE OF TERMINATION ORDER

TIME TERMINATION EFFECTIVE

A.M. P.M.

X

A TRUE COPY

ATTEST: X

CLERK-MAGISTRATE/ASST. CLERK

Prior Court Order (Attached) modified/extended: This modification was issued after a hearing at which the Plaintiff appeared . . . and the Defendant appeared. The Court has Ordered that the prior order issued on 11/23, 2020 be modified as follows:

The expiration date of this order has been EXTENDED (see below) . . .

. . . .

Date of this order	Time of this order	Expiration date of this order
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11/23/20	2:35 P.M	11/22/2021 at 4 p.m.
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Next hearing date	Signature of Judge
-------------------	--------------------

11/22/21 at 9:30 A.M. . . . in Courtroom 1	
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	Jeffrey Clifford
--	------------------

U.S. Const. amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Massachusetts Constitution, Declaration of Rights

Article XVI.

The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth. The right of free speech shall not be abridged.

Mass. Gen. Laws c. 258E § 1

Definitions

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

'Abuse', attempting to cause or causing physical harm to another or placing another in fear of imminent serious physical harm.

'Harassment', (i) 3 or more acts of willful and malicious conduct aimed at a specific person committed with the intent to cause fear, intimidation, abuse or damage to property and that does in fact cause fear, intimidation, abuse or damage to property; or (ii) an act that: (A) by force, threat or duress causes another to involuntarily engage in sexual relations; or (B) constitutes a violation of section 13B, 13F, 13H, 22, 22A, 23, 24, 24B, 26C, 43 or 43A of chapter 265 or section 3 of chapter 272.

'Court', the district or Boston municipal court, the superior court or the juvenile court departments of the trial court.

'Law officer', any officer authorized to serve criminal process.

'Malicious', characterized by cruelty, hostility or revenge.

'Protection order issued by another jurisdiction', an injunction or other order issued by a court of another state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or a tribal court that is issued for the purpose of preventing violent or threatening acts, abuse or harassment against, or contact or communication with or physical proximity to another person, including temporary and final orders issued by civil and criminal courts filed by or on behalf of a person seeking protection.

Mass. Gen. Laws c. 265 § 43A (a).

Whoever willfully and maliciously engages in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which seriously alarms that person and would cause a reasonable person to suffer substantial emotional distress, shall be guilty of the crime of criminal harassment and shall be punished by imprisonment in a house of correction for not more than 2 1/2 years or by a fine of not more than \$1,000, or by both such fine and imprisonment. The conduct or acts described in this paragraph shall include, but not be limited to, conduct or acts conducted by mail or by use of a telephonic or telecommunication device or electronic communication device including, but not limited to, any device that transfers signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system, including, but not limited to, electronic mail, internet communications, instant messages or facsimile communications

Bonome v. Kaysen

Superior Court of Massachusetts, At Middlesex

March 3, 2004, Decided

03-2767

Reporter

2004 Mass. Super. LEXIS 172 *; 17 Mass. L. Rep. 695; 32 Media L. Rep. 1520

Joseph Bonome v. Susana Kaysen et al. ¹

Disposition: Motion to dismiss allowed.

Core Terms

legitimate public concern, privacy, boyfriend, details, matters, intimate, right to privacy, disclosure, publish, sexual, private information, public interest, relations, disclose

Case Summary

Procedural Posture

Defendants, an author and a publisher, moved to dismiss, pursuant to Mass. R. Civ. P. 12(b)(6), plaintiff's invasion of privacy action, which was filed pursuant to Mass. Gen. Laws ch. 214, § 1B.

Overview

Plaintiff's complaint arose out of passages from a book that related details of his intimate relationship with the author. The book referred to plaintiff as the author's "boyfriend" and altered details about plaintiff's life, such as his occupation. After publication of the book, plaintiff learned that many friends and family had read the book and understood the portrayal of the "boyfriend" to be a depiction of him. Plaintiff contended that, as a result of the publication, he suffered severe personal humiliation and his reputation was severely damaged. While the court was not unmindful of the injury claimed by plaintiff, the court determined that the author's own personal story, insofar as it related to matters of legitimate public concern, was hers to contribute to the public discourse. It was of importance that the author did not use plaintiff's name in the book. Because the First Amendment

protected the author's ability to contribute her own personal experiences to the public discourse on important and legitimate issues of public concern, disclosing plaintiff's involvement in those experiences was a necessary incident thereto.

Outcome

The court allowed defendants' motion to dismiss the action.

LexisNexis® Headnotes

Civil Procedure > ... > Defenses, Demurrers & Objections > Motions to Dismiss > Failure to State Claim

HN1 [↓] Motions to Dismiss, Failure to State Claim

For purposes of a motion to dismiss pursuant to Mass. R. Civ. P. 12(b)(6), the court will consider the factual allegations contained in the complaint. The court will accept as true all factual allegations and indulge every reasonable inference hospitable to the plaintiff's case.

Civil Procedure > ... > Defenses, Demurrers & Objections > Motions to Dismiss > Failure to State Claim

HN2 [↓] Motions to Dismiss, Failure to State Claim

Under Mass. R. Civ. P. 12(b)(6), a motion to dismiss will be allowed if the plaintiff has failed to state a claim upon which relief can be granted. In deciding a motion, the court will consider the complaint. All factual allegations will be taken as true, and all reasonable inferences arising therefrom will be taken in a light favorable to the

¹ Random House, Inc.



plaintiff.

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN3 [↓] Invasion of Privacy, Public Disclosure of Private Facts

Whether a publication constitutes a violation of Mass. Gen. Laws ch. 214, § 1B is a question of law for the court.

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN4 [↓] Invasion of Privacy, Public Disclosure of Private Facts

See Mass. Gen. Laws ch. 214, § 1B.

Constitutional Law > Bill of Rights > Fundamental Freedoms > General Overview

Governments > Legislation > Statutory Remedies & Rights

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

Constitutional Law > ... > Fundamental Freedoms > Freedom of Speech > General Overview

Constitutional Law > ... > Fundamental Freedoms > Freedom of Speech > Scope

Torts > ... > Defenses > Privileges > Constitutional Privileges

HN5 [↓] Bill of Rights, Fundamental Freedoms

Mass. Gen. Laws ch. 214, § 1B is interpreted to include the common-law tort of public disclosure of private facts as articulated in the Restatement (Second) of Torts. This statutory right is circumscribed by important constitutional rights, namely, the First Amendment right to free speech.

Torts > ... > Defenses > Privileges > Constitutional Privileges

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN6 [↓] Privileges, Constitutional Privileges

The right to control publication of one's private affairs is tempered by the constitutionally protected right of others to publish matters of "legitimate public concern."

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN7 [↓] Invasion of Privacy, Public Disclosure of Private Facts

Defining an unreasonable, substantial, or serious invasion of privacy requires a court to engage in the difficult task of drawing the line between inviolable private information and matters of legitimate public concern. This inquiry often involves balancing important, legitimate, and countervailing interests. Moreover, it is not merely balancing the individual's privacy interest against the public's interest in disclosure. The public, as evidenced by the enactment of Mass. Gen. Laws ch. 214, § 1B, has an equally important interest in safeguarding the individual's right to keep private aspects of his life private.

Torts > ... > Invasion of Privacy > Appropriation > General Overview

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN8 [↓] Invasion of Privacy, Appropriation

Mass. Gen. Laws ch. 214, § 1B, which protects one's right to keep private facts private, implicitly recognizes the more obvious concomitant personal right to disclose one's "private" information as he sees fit.

Constitutional Law > ... > Fundamental Freedoms > Freedom of Speech > Scope

Torts > ... > Defenses > Privileges > Constitutional Privileges

Constitutional Law > Bill of Rights > Fundamental Freedoms > General Overview concern.

HN9 Fundamental Freedoms, Freedom of Speech

The *First Amendment to the United States Constitution* protects the right to publish truthful information that is the subject of "legitimate public concern."

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN10 Invasion of Privacy, Public Disclosure of Private Facts

In determining what is a matter of legitimate public interest, account must be taken of the customs and conventions of the community; and in the last analysis what is proper becomes a matter of the community mores. The line is to be drawn when the publicity ceases to be the giving of information to which the public is entitled, and becomes a morbid and sensational prying into private lives for its own sake, with which a reasonable member of the public, with decent standards, would say that he had no concern.

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN11 Invasion of Privacy, Public Disclosure of Private Facts

The scope of a matter of legitimate concern to the public is not limited to "news," in the sense of reports of current events or activities. It extends also to the use of names, likenesses, or facts in giving information to the public for purposes of education, amusement, or enlightenment, when the public may reasonably be expected to have a legitimate interest in what is published.

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN12 Invasion of Privacy, Public Disclosure of Private Facts

Private information may properly be published when it is sufficiently related to a broader topic of legitimate public

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN13 Invasion of Privacy, Public Disclosure of Private Facts

Only in cases of flagrant breach of privacy that has not been waived or obvious exploitation of public curiosity where no legitimate public interest exists should a court substitute its judgment for that of a publisher.

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN14 Invasion of Privacy, Public Disclosure of Private Facts

Where an autobiographical account related to a matter of legitimate public interest reveals private information concerning a third party, the disclosure is protected so long as there is a sufficient nexus between the private details and the issue of public concern.

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN15 Invasion of Privacy, Public Disclosure of Private Facts

The privilege to disclose private information is limited by the requirement that the disclosure bear the necessary nexus, both logical and proportional, to the issue of legitimate public concern.

Torts > ... > Invasion of Privacy > Public Disclosure of Private Facts > General Overview

HN16 Invasion of Privacy, Public Disclosure of Private Facts

"Publicity" means that a matter is made public, by communicating it to the public at large, or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge.

Judges: [*1] Christopher J. Muse, Justice of the Superior Court.

Opinion by: Christopher J. Muse

Opinion

MEMORANDUM OF DECISION AND ORDER ON DEFENDANTS' MOTION TO DISMISS

Joseph Bonome ("Bonome") filed this action alleging invasion of privacy under G.L.c. 214, § 1B against Susana Kaysen ("Kaysen"), the author of a memoir at the center of this case, and Random House, Inc. ("Random House"), the publisher. The defendants now move to dismiss the complaint pursuant to Mass.R.Civ.P. 12(b)(6).² For the reasons that follow, the defendants' motion to dismiss is *ALLOWED*.

Background

HN1 [↑] For purposes of this motion, this court will consider the factual allegations contained in the complaint as well as the memoir at issue in this case entitled, *The Camera My Mother Gave Me* (The "book"). This court will accept as true all factual allegations and "indulge every reasonable inference hospitable [*2] to [the plaintiff's] case." Schaer v. Brandeis Univ., 432 Mass. 474, 477-78, 735 N.E.2d 373 (2000) (citations omitted). Bonome's complaint arises out of passages from the book which relate details of Bonome's intimate relationship with Kaysen.

1. The Relationship

In the early 1990s, Bonome owned and operated a tree surgery and landscaping business primarily in the Cambridge, Massachusetts area. At the time, he was living in New Hampshire and was married with step-children. Kaysen was an author living in Cambridge. She had gained success and notoriety for her book *Girl, Interrupted* which was made into what has been described to be a critically acclaimed film. In 1994, Bonome met Kaysen and the two began having an affair, including a physical relationship. Kaysen pressured Bonome to leave his wife, and Bonome ultimately succumbed to that pressure. Bonome divorced his wife in 1996 and shortly thereafter moved

into Kaysen's home, where they continued the relationship.

Within six months or a year into the relationship, Kaysen began to experience severe vaginal pain. She began to regularly see doctors for her problem, but over the course of several years was unable to receive [*3] sufficient curative treatment. During this time period, she began working on a new book, which book is the subject of this case. Despite Bonome's inquiries, Kaysen would not reveal the subject of the book to him.³

The fact of their relationship was well-known to Bonome's family, friends, and clientele. However, the details of their physical relationship were private. Bonome's parents and three brothers all spent time, including some holidays, with the couple. However, in July 1998, the relationship "ended" when Kaysen asked Bonome to move out, which he did. Despite the breakup, their physical relationship continued for at least three months longer.

2. The Book

In 2001, Random House published the book. The book only refers to Bonome as Kaysen's "boyfriend" and alters details about his life--such [*4] as where he was from, and his occupation. The book is an autobiographical memoir chronicling the effects of Kaysen's seemingly undiagnosable vaginal pain in a series of ruminations about the condition's effects on many aspects of her life, including her overall physical and emotional state, friendships, and her relationship with her boyfriend. It details her intense pain and discomfort and her many fruitless attempts to obtain an accurate medical diagnosis and effective treatment.

One of the central themes of the book concerns the impact of her chronic pain on the emotional and physical relationship with Kaysen's boyfriend. To that end, the book details, graphically on a few occasions, several sexual encounters between them. It portrays the boyfriend as becoming increasingly frustrated and impatient with Kaysen's condition and her reluctance and/or refusal to engage in physical intimacy. The boyfriend is described as "always bugging [her] for sex" and "whining and pleading" for sex, as well as being ignorant and insensitive to her emotional and physical

² At the hearing, Plaintiff's counsel agreed to dismiss counts I & II. Therefore, counts II & III are hereby *DISMISSED*.

³ Bonome's allegation that Kaysen engaged him in the relationship so that she would have a "boyfriend" to use in the book are baseless and patently contradicted by the undisputed facts and allegations in the record.

state. In this vein, it attributes many aggressive and overtly offensive sexual quotes to him. Ultimately, the development of this [*5] theme culminates in a scene where the boyfriend is physically forceful in an attempt to engage her in sex. This scene is followed by ruminations about whether the relationship had exceeded the bounds of consensual sexual relations into the realm of coerced non-consensual sex.

For a short time I indulged myself in this idea. He was trying to rape me. But he wasn't really, was he? I'd been more than willing five minutes earlier. That was the point though. That was why I felt he was trying to rape me. Because he hadn't seen how willing I was. All he could see was what he wanted.

After publication of the book, Bonome learned that many local friends and family had read the book and understood the portrayal of the "boyfriend" to be a depiction of him. In addition, Bonome's business clientele included friends of Kaysen who also understood that Bonome was the "boyfriend." As a result of the publication, Bonome has suffered severe personal humiliation, and his reputation has been severely damaged among a substantial percentage of his clients and acquaintances.

Discussion

1. Standard

Under Mass.R.Civ.P. 12(b)(6), HN2 [↑] a motion to dismiss will be allowed if the plaintiff has failed to [*6] state a claim upon which relief can be granted. Mass.R.Civ.P. 12(b)(6); Schaer, 432 Mass. at 477-78. In deciding this motion, the court will consider the complaint as well as the book, *The Camera My Mother Gave Me*. All factual allegations will be taken as true, and all reasonable inferences arising therefrom will be taken in a light favorable to the plaintiff. Id. HN3 [↑] Whether the book's publication could constitute a violation of G.L.c. 214, § 1B is a question of law for this court. Jones v. Taibbi, 400 Mass. 786, 801, 512 N.E.2d 260 (1987) (whether published information was matter of "legitimate public concern" is a question of law for the court); Peckham v. Boston Herald, Inc., 48 Mass.App.Ct. 282, 288, 719 N.E.2d 888 (1999) ("we reject the view that the legitimacy of public concern should always be treated as a question of fact, as that view eschews the well-recognized gatekeeper function of the judiciary in these cases . . . It is the role of the court to determine whether a jury question is presented"); Cefalu v. Boston Globe, Inc., 8 Mass. App. Ct. 71, 74, 391 N.E.2d 935 (1979) (pretrial judgment

especially appropriate where "the [*7] stake here . . . is free debate . . . The threat of being put to the defense of a law suit . . . may be as chilling to the exercise of *First Amendment* freedoms as fear of the outcome of the lawsuit itself") (citation omitted).

2. The Right to Privacy

General Laws chapter 214 Section 1B provides that: HN4 [↑] "[a] person shall have a right against unreasonable, substantial or serious interference with his privacy." HN5 [↑] Section 1B has been interpreted to include the common-law tort of "public disclosure of private facts" as articulated in the Restatement (Second) of Torts. See Bratt v. Int'l Bus. Mach. Corp., 392 Mass. 508, 518, 467 N.E.2d 126 (1984); Peckham, 48 Mass.App.Ct. at 284-90, citing Restatement (Second) of Torts § 652D (1977). This statutory right is circumscribed by important constitutional rights--namely, the *First Amendment* right to free speech. Peckham, 48 Mass.App.Ct. at 286, citing, *inter alia*, The Florida Star v. B.J.F., 491 U.S. 524, 533, 105 L. Ed. 2d 443, 109 S. Ct. 2603 (1989); Smith v. Daily Mail Publishing Co., 443 U.S. 97, 103, 61 L. Ed. 2d 399, 99 S. Ct. 2667 (1979); [*8] Cox Broad Corp. v. Cohn, 420 U.S. 469, 492, 43 L. Ed. 2d 328, 95 S. Ct. 1029 (1975). Translated into more concrete terms, HN6 [↑] the right to control publication of one's private affairs is tempered by the constitutionally protected right of others to publish matters of "legitimate public concern." Id.⁴ The Boston Herald, Inc. v. Sharpe, 432 Mass. 593, 612, 737 N.E.2d 859 (2000) ("When the subject matter . . . is of legitimate public concern . . . there is no invasion of privacy"), citing Restatement (Second) of Torts § 652D comment d (1977). The first court in the United States to recognize the right of privacy acknowledged precisely these limits.

[*9] The right of privacy is unquestionably limited by the right to speak and print. It may be said that to give liberty of speech and of the press such wide scope as

⁴The United States Supreme Court has never decided the issue whether the *First Amendment* absolutely protects one's right to publish truthful information. However, in 1979 the Court noted that: "Our recent decisions demonstrate that state action to punish the publication of truthful information seldom can satisfy constitutional standards." Smith v. Daily Mail Publishing Co., 443 U.S. 97, 102, 61 L. Ed. 2d 399, 99 S. Ct. 2667 (1979). Some courts have interpreted Cox Broad Corp. as upholding the constitutional legitimacy of this cause of action. See Anonsen v. Donahue, 857 S.W.2d 700, 702 (Tex.App., 1993).

has been indicated would impose a very serious limitation upon the right of privacy; but if it does, it is due to the fact that the law considers that the welfare of the public is better subserved by maintaining the liberty of speech and of the press than by allowing an individual to assert his right to privacy in such a way as to interfere with the free expression of one's sentiments and the publication of every matter in which the public may be legitimately interested.

Pavesich v. New England Life Ins. Co., 122 Ga. 190, 50 S.E. 68, 74 (Ga. 1905).

HN7 [↑] Defining "an unreasonable, substantial, or serious" invasion of privacy, thus, requires the court to engage in the difficult task of drawing the line between inviolable private information and matters of legitimate public concern. This inquiry often involves, as it does here, balancing important, legitimate, and countervailing interests.⁵ Moreover, it is not merely balancing the individual's privacy interest against the public's interest in disclosure. **[*10]** The *public*, as evidenced by the enactment of *G.L.c. 214, § 1B*, has an equally important interest in safeguarding the individual's right to keep private aspects of his life private. See *G.L.c. 214, § 1B*; *Pavesich*, 50 S.E. at 73 ("Publicity in many cases is absolutely essential to the welfare of the public. Privacy in other matters is not only essential to the welfare of the individual, but also to the well-being of society.").

Furthermore, this statute codifies **[*11]** what some consider a more basic right to control the flow of information about oneself. E.g., Diane L. Zimmerman, *Requiem for a Heavyweight: A Farewell to Warren and Brandeis's Privacy Tort*, 68 Cornell L.Rev. 291, 293 (1983) (describing this right to privacy as "the right to govern authoritatively both the nature of personal information exposed to public view and the conditions under which others may discuss those personal facts" and the "legal power to control the flow of information about one's self to other people"); *Pound, Interests of Personality*, 28 Harv.L.Rev. 343, 363 (1915); *Warren &*

⁵ The *Pavesich* court foretold precisely this difficulty. 50 S.E. at 72 ("It may be said that to establish a liberty of privacy would involve in numerous cases the perplexing question to determine where this liberty ended and the rights of others and of the public began . . . It may be that there will arise many cases which lie near the border line which marks the right of privacy on the one hand and the right of another individual or of the public on the other").

Brandeis. The Right to Privacy, 4 Harv.L.Rev. 193, 214-16 (1890). See also *Peckham*, 48 Mass.App.Ct. at 286. Thus, **HN8** [↑] the statute, which protects one's right to keep private facts private, implicitly recognizes the more obvious concomitant personal right to disclose one's "private" information as he sees fit. *Pavesich*, 50 S.E. at 70-71 (recognizing that the "right of privacy" and the correlative right "to exhibit oneself to the public" are part and parcel of the same fundamental personal liberty). In this light, this **[*12]** case presents an additional challenge in that it pits Kaysen's right of publicity--her own right to disclose intimate facts about herself--directly in conflict Bonome's right to control the dissemination of private information about himself.⁶

2. Bonome's Privacy Interest

Undoubtedly, the information revealed was of an intensely intimate and personal nature. Indeed, commentators and courts have almost universally recognized one's sexual affairs as falling squarely within the sphere of private life. E.g. *Peckham*, 48 Mass.App.Ct. at 282-88 (quoting the Restatement); Prosser, *Privacy*, 48 Cal.L.Rev. 383, 422-23 (1960); *Restatement (Second) Torts § 652D, comment b* ("Sexual relations, **[*13]** for example, are normally entirely private matters"). Moreover, the light in which Bonome is portrayed would be highly offensive to a reasonable person. Indeed, the ruminations in the book depict Bonome engaging in sexual activity and being emotionally unavailable and insensitive to Kaysen's condition. They culminate with the suggestion that he raped her. These subjects lay at the core of the most intimate and highly personal sphere of one's life. Accordingly, Bonome has a legitimate and legally cognizable interest in protecting "an unreasonable, substantial, or serious" disclosure of those details.

3. The Defendants' First Amendment Rights

As noted above, **HN9** [↑] the *First Amendment to the United States Constitution* protects the defendants' rights to publish truthful information which is the subject of "legitimate public concern." *Peckham*, 48 Mass.App.Ct. at 286-89; *Riley v. Harr.*, 292 F.3d 282, 298-99 (1st Cir. 2002). See *Cox Broadcasting Corp.*, 420 U.S. at 492. Thus, the issue is whether the highly

⁶ The Texas Court of Appeals framed this issue as "whether a person's right to make public the most private details of their own life is limited when the information also reveals painful intimacies of other persons." *Arionson*, 857 S.W.2d at 701.

intimate details of both Kaysen's and Bonome's lives are matters of "legitimate public concern."

Courts have broadly defined the scope [*14] of matters of legitimate public concern. As the Appeals Court stated in *Peckham*:

Although the boundaries of "legitimate public concern" have not been comprehensively explored in the Massachusetts case law, the Restatement (Second) of Torts provides the following relevant discussion in *comments g and h to § 652D, at 390-91.*

Included within the scope of legitimate public concern are matters of the kind customarily regarded as "news." To a considerable extent, in accordance with the mores of the community, the publishers and broadcasters have themselves defined the term, as a glance at any morning paper will confirm. Authorized publicity includes publications concerning homicide and other crimes, arrests, police raids, suicides, marriages and divorces, accidents, fires, catastrophes of nature, a death from the use of narcotics, a rare disease, the birth of a child to a twelve-year-old girl, the reappearance of one supposed to have been murdered years ago, a report to the police concerning the escape of a wild animal and many other similar matters of genuine, even if more or less deplorable, popular appeal.

HN10 [↑] In determining what is a matter of legitimate public interest, account [*15] must be taken of the customs and conventions of the community; and in the last analysis what is proper becomes a matter of the community mores. The line is to be drawn when the publicity ceases to be the giving of information to which the public is entitled, and becomes a morbid and sensational prying into private lives for its own sake, with which a reasonable member of the public, with decent standards, would say that he had no concern.

48 Mass.App.Ct. at 287-88. Comment j to Section 652D states further that:

HN11 [↑] The scope of a matter of legitimate concern to the public is not limited to "news." in the sense of reports of current events or activities. It extends also to the use of names, likenesses, or facts in giving information to the public for purposes of education, amusement or enlightenment, when the public may reasonably be expected to have a legitimate interest in what is published.

Similarly, the United States Supreme Court stated that:

the risk of . . . exposure [of the individual to the public] is a necessary incident of life in a society which places a primary value on freedom of speech and of press. Freedom of discussion, if it would fulfill [*16] its historic function in this nation, must embrace all issues about which information is needed or appropriate to enable the members of society to cope with the exigencies of their period.

Time, Inc. v. Hill, 385 U.S. 374, 388, 17 L. Ed. 2d 456, 87 S. Ct. 534 (1967).

Thus, otherwise **HN12** [↑] private information may properly be published when it is sufficiently related to a broader topic of legitimate public concern. *Id.* ⁷ In this case, a critical issue is whether the personal information concerning Bonome is in the book for its relevance to issues of legitimate public concern or is merely "morbid and sensational prying into [Bonome's] private [life] for its own sake."

[*17] In light of the constitutional implications, courts have been generous to publishers in determining that private information relates to issues of legitimate public concern. For example, in *Peckham*, the Appeals Court held that the personal details of a prominent businessman's extramarital affair were related to the several broader "topics that are issues of general modern public interest--workplace liaison between an employee and her superior, the subsequent disavowal of paternity and layoff of the employee, and the possibility that a mother would be forced to seek public assistance because the putative father refused to give support." *48 Mass.App.Ct. at 289.* The concern was cogently articulated by a federal district court in *Dresbach v. Doubleday & Co, Inc.*

We tread on dangerous ground deciding exactly what matters are sufficiently relevant to a subject of legitimate public interest to be privileged. *First Amendment* values could obviously be threatened by the uncertainty such decisions could create for writers and publishers. **HN13** [↑] "Only in cases of flagrant breach of privacy which has not been waived or obvious exploitation of public curiosity where no legitimate [*18] public interest exists should a court substitute its judgment for that of the

⁷ *Nobles v. Cartwright, 659 N.E.2d 1064, 1076 (Ind.App., 1995)* ("when dealing with the disclosure of such allegedly 'private' fact about a plaintiff, courts generally require an appropriate nexus or some sufficient degree of relatedness between the fact or information disclosed and a matter which was . . . of legitimate public interest").

publisher."

518 F. Supp. 1285, 1290-91 (D.D.C. 1981) (citation omitted).

After examining the statements concerning the boyfriend and their relevance to the broader themes of the book, it is clear that the details are included to develop and explore those themes. Specifically, the book explores the way in which Kaysen's undiagnosed physical condition impacted her physical and emotional relationship with "her boyfriend." Moreover, it explores the issue of when undesired physical intimacy crosses the line into non-consensual sexual relations in the context of her condition. These broader topics are all matters of legitimate public concern, and it is within this specific context that the explicit and highly personal details of the relationship are discussed. Thus, the defendants had a legitimate and protected interest to publish these facts.

As noted above, there is an additional interest in this case: Kaysen's right to disclose her own intimate affairs. In this case, it is critical that Kaysen was not a disinterested third party telling Bonome's personal story in order to develop the themes [*19] in her book. Rather, she is telling *her own* personal story--which inextricably involves Bonome in an intimate way. In this regard, several courts have held that HN14 where an autobiographical account related to a matter of legitimate public interest reveals private information concerning a third party, the disclosure is protected so long as there is a sufficient nexus between those private details and the issue of public concern. Id.; Anonsen, 857 S.W.2d at 705-06; Campbell v. Seabury Press, 614 F.2d 395, 397 (5th Cir. 1980).

Where one's own personal story involves issues of legitimate public concern, it is often difficult, if not impossible, to separate one's intimate and personal experiences from the people with whom those experiences are shared. Thus, it is within the context of Bonome and Kaysen's lives being inextricably bound together by their intimate relationship that the disclosures in this case must be viewed. Because the First Amendment protects Kaysen's ability to contribute *her own* personal experiences to the public discourse on important and legitimate issues of public concern, disclosing Bonome's involvement in those experiences [*20] is a necessary incident thereto. Anonsen, 857 S.W.2d at 705-06; Campbell, 614 F.2d at 397.

4. The Degree of the Book's Interference with Bonome's Privacy

As the above-cited cases recognize, HN15 the privilege to disclose private information is limited by the requirement that the disclosure bear the necessary nexus (both logical and proportional) to the issue of legitimate public concern. In this regard, it is of importance that Kaysen did not use Bonome's name in the book. The defendants did not subject Bonome to unnecessary publicity or attention. The realm of people that could identify Bonome as the boyfriend are those close personal friends, family, and business clients that knew of the relationship. This is not to overlook or discount the impact this disclosure may have had on Bonome, or his substantial claim that Kaysen breached a fundamental trust of their relationship. However arguably odious, the defendants did not exercise the right of disclosure in a manner offensive to the balance of those interests. See Restatement (Second) Torts § 652D, comment a HN16 ("Publicity . . . means that the matter is made public, [*21] by communicating it to the public at large, or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge").

5. Conclusion

This court is not unmindful of the injury claimed by Bonome, who alleges to have suffered personal humiliation within his familial circle, as well as with friends and business clientele as a result of the book's publication. Nonetheless, Kaysen's own personal story--insofar as it relates to matters of legitimate public concern--is hers to contribute to the public discourse. This right is protected by the First Amendment. Inasmuch as the book does not exceed the bounds of that constitutional privilege, Bonome's claim for invasion of privacy under G.L.c. 214, § 1B is *DISMISSED*.

Order

For the reasons stated above, it is hereby *Ordered* that counts I, II, & III are *DISMISSED*.

Christopher J. Muse

Justice of the Superior Court

DATED: March 3, 2004

CERTIFICATE OF COMPLIANCE

Undersigned counsel hereby certifies pursuant to Rule 16(k) of the Massachusetts Rules of Appellate Procedure that this brief complies with all applicable rules of court, including but not limited to: Mass. R. A. P. 16(a)(13) (addendum); Mass. R. A. P.16(e) (references to the record); Mass. R. A. P. 18 (appendix to the briefs); Mass. R. A. P. 20 (form and length of briefs, appendices, and other documents); Mass. R. A. P. 21 (redaction). I complied with the applicable length limit of Rule 20 by using new courier monospaced font in 12 point that prints 11 characters an inch and calculated the non-excluded pages to be 24.

Dated: 29 September 2021



George E. Bourguignon, Jr.

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

No. 2021-P-0562

Plymouth County, ss.

R.M., Plaintiff/Appellee,

V.

E.B., Defendant/Appellant.

On Appeal From Order of the Wareham District Court

Record Appendix

Impounded Version

Date: 29 September 2021

George E. Bourguignon, Jr.
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Worcester, MA 01608
(BBO#669444)
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Attorney for the Defendant-Appellant

TABLE OF CONTENTS

Trial Court Docket R.A. 4

Order Impounding Plaintiff's address
(along with order at issue). R.A. 7

Harassment Prevention Order Complaint/AffidavitR.A. 9

Transcript of hearing held on
23 November 2020 R.A. 11

Exhibit 1 admitted into evidence
At 23 November 2020 hearing R.A. 67

Exhibit 2 admitted into evidence
at 23 November 2020 hearing R.A. 68

Exhibit 3 admitted into evidence
at 23 November 2020 hearing R.A. 71

Exhibit 4 admitted into evidence
at 23 November 2020 hearing R.A. 74

Exhibit 5 admitted into evidence
at 23 November 2020 hearing R.A. 77

Exhibit 6 admitted into evidence
at 23 November 2020 hearing R.A. 79

Defendant's Opposition to Plaintiff's Application
for Harassment Prevention Order R.A. 81

Harassment Prevention Extension Order
(order in question) dated 23 November 2020
including typed version of extension
order R.A. 87

Defendant's Notice(s) of Appeal. R.A. 90

Civil Case Summary

2060RO000467 Malm, Robert v. Bonetti, Eric

Case Information

File Date 11/02/2020
 Case Disposition Pending
 Category
 Track
 Case Status Disposed for Statistical Purposes
 Case Disposition Date
 Action Harassment Prevention Order (c258E)
 SCR Elapsed Days 213
 Case Status Date 11/02/2020
 Case Judge
 Session

Party Information: 2

Party Name Party Alias(es)	Party Type	Party Role	Attorney(s)
Malm, Robert	Plaintiff		
Bonetti, Eric	Defendant		Bourquignon, Jr., Esq., George E

Alert(s) 0

Case Schedule: 4 Displaying 4 Records

Date	Start Time	Event Type	Session	Notes	Result	Result Reason
11/22/2021	09:30 AM	1 of Extension Hearing	Restraining Order Session	0		
11/23/2020	09:30 AM	1 of Extension Hearing	Restraining Order Session	0	Held	
11/12/2020	09:30 AM	1 of Extension Hearing	Restraining Order Session	0	Held	Defendant Not Present
11/02/2020	02:30 PM	1 of Ex Parte Hearing	Virtual Court Session	0	Held	

Subsequent Actions/Subject: 0

Service Summary: 0

Fee Generating: 0

Linked Case(s): 0

Financial: 0 Displaying 0 Records **Amount Due: .00** **A/R Amount**
 Due: .00 Holding Money Balance On-Hand: .00
 Ticklers: 0

4

DCM: 0

Case Disposition(s): 1

STATUS	Status Date	Disposition	Disposition Date	Action Code
Disposed for Statistical Purposes	11/02/2020	Pending		Abuse Restraining Order (c209A)

Docket Entries: 17 Displaying 17 Records

Date	File Ref Nbr	Journal Book	Docket Text	Judge	Amount Due	Image
<u>11/02/2020</u>	1		Complaint filed			
<u>11/02/2020</u>	2		Defendant information form filed by plaintiff.			
<u>11/02/2020</u>	3		Plaintiff's confidential information form filed.			
<u>11/02/2020</u>	4		Affidavit in support of C258E complaint for Harassment prevention order filed.			
<u>11/02/2020</u>			Event Scheduled Event: Ex Parte Hearing Date: 11/02/2020 Time: 02:30 PM Result: Held			
<u>11/02/2020</u>			Event Resulted: Ex Parte Hearing scheduled on: 11/02/2020 02:30 PM Has been: Held Hon. Shelby M Smith, Presiding	Smith, Hon. Shelby M		
<u>11/02/2020</u>			Order after ex parte hearing at which plaintiff was present and defendant was not present, to expire on 11/12/2020 at 4 p.m. Judge: Smith, Hon. Shelby M	Smith, Hon. Shelby M		
<u>11/12/2020</u>			Event Resulted: Extension Hearing scheduled on: 11/12/2020 09:30 AM Has been: Held For the following reason: Defendant Not Present Comments: CONTINUED FOR SERVICE Hon. Edward H Sharkansky, Presiding	Sharkansky, Hon. Edward H		
<u>11/12/2020</u>	5		Order entered on 11/02/2020 extended to expire on 11/23/2020 at 4 p.m., after hearing at which plaintiff present and defendant not present. Plaintiff given copy in hand and copies faxed to PD, Defendant copy faxed to Fairfax Virginia Sheriffs Dept for service	Sharkansky, Hon. Edward H		
<u>11/18/2020</u>			Return of service on restraining order Eric Bonetti: Officer service SERVED in hand.			
<u>11/23/2020</u>			Event Resulted: Extension Hearing scheduled on: 11/23/2020 09:30 AM Has been: Held Hon. Jeffrey Clifford, Presiding	Clifford, Hon. Jeffrey		
<u>11/23/2020</u>	6		Order entered on 11/02/2020 extended to expire on 11/22/2021 at 4 p.m., after hearing at which both plaintiff and defendant were present. Judge: Clifford, Hon. Jeffrey	Clifford, Hon. Jeffrey		
<u>11/30/2020</u>	7		Notice of appeal to Appeals Court filed by Eric Bonetti (Mass. R.A.P. 3(d)); trial judge & other parties notified.			
<u>11/30/2020</u>	8		Notice sent to parties. A Notice to the Parties was generated and sent to: Plaintiff: Robert Malm No addresses available Defendant: Eric Bonetti No addresses available			
<u>12/09/2020</u>	9		Appearance filed On this date George E Bourguignon, Jr., Esq. added as Private Counsel for Defendant Eric Bonetti			
<u>12/16/2020</u>	10		Notice of appeal to Appeals Court filed by Eric Bonetti (Mass. R.A.P. 3(d)); trial judge & other parties notified.			
<u>06/03/2021</u>			Misc Entry: Record assembled and sent to Appeals Court			

5

✓ Scanned	✓ Identity
✓ WMS	✓ DVFID
✓ Plaintiff	✓ Defendant

Hobbs Maim

VS.

Eric Bonetti

11.2.20 TI files ~~2585~~ - Pet filed Sat 11/12/20 @ 9:30
 Faxed order to manin PD. Δ copy to
 Fair Fax, VA. Smith

11/12/20 Plf. appears - Dept Not Served - C. 11/23/20 @ 9:30

↳ P. given copy in hand + faxed to PD -

Def. copy faxed to Fairfax, VA Sheriff's Stralung

11.18.20 r/s. Δ served in hand.

11/23/20 - ATTY B filed for PLF

order extended to 11/22/21 after full 2
 party hearing - Clifford

TI was given copies for self, police + prob. notified
 Faxed to Fairfax order + notice

11/30/20 Notice of appeal filed by Δ - All parties
 notified

12.8.20 emended order to Δ atty.

12/15/20 Δ's Notice of Appeal filed

5/19/21 Transcripts Rec. (CD)

6/3/21 Recant assembled + sent to all parties

PLAINTIFF'S NAME Robert H. Malm		COURT NAME & ADDRESS Wareham District Court 2200 Cranberry Highway W. Wareham, Ma 02576	
DEFENDANT'S NAME AND ADDRESS Eric Bonetti 4129 Fountainside Lane #203 Fairfax, VA 22030		ALIAS, IF ANY <i>REB 7/23/20</i>	
DATE OF BIRTH	SEX <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		
PLACE OF BIRTH	MOTHER'S MAIDEN NAME (FIRST & LAST)		
SOCIAL SECURITY NO.	DAYTIME PHONE NO.	FATHER'S NAME (FIRST & LAST)	

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE punishable by imprisonment or fine or both.

- A. THE COURT HAS ISSUED THE FOLLOWING ORDERS TO THE DEFENDANT:** (only those items checked shall apply)
- This Order was issued without advance notice because the Court determined that there is a substantial likelihood of immediate danger of harassment.
 - This Order was communicated by telephone from the Judge named below to:
Police Dept. _____ Police Officer _____
 - 1. YOU ARE ORDERED NOT TO ABUSE THE PLAINTIFF** by harming or attempting to harm the Plaintiff physically or by placing the Plaintiff in fear of imminent serious physical harm. **YOU ARE ALSO ORDERED NOT TO HARASS THE PLAINTIFF** (1) by any willful and malicious conduct aimed at the Plaintiff and intended to cause fear, intimidation, abuse or damage to property, or (2) by using force, threat or duress to make the Plaintiff engage in sexual relations unwillingly, or (3) by committing any of the following: indecent assault and battery, rape, statutory rape, assault with intent to rape (G.L. c. 265, §§ 13B, 13F, 13H, 22, 22A, 23, 24, 24B), enticing a child (§ 26C), criminal stalking (§ 43), criminal harassment (§ 43A), or drugging for sexual intercourse (G.L. c.272, §3).
 - 2. YOU ARE ORDERED NOT TO CONTACT THE PLAINTIFF** either in person, by telephone, in writing or otherwise, either directly or through someone else, and to stay at least 100 yards from the Plaintiff even if the Plaintiff seems to allow or request contact. The only exception to this Order is that you may send to the Plaintiff by mail or by sheriff or other authorized officer copies of papers filed with the court when that is required by statute or court rule.
 - 3. YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S RESIDENCE** located at IMPOUNDED and wherever else you have reason to know the Plaintiff may reside.
 If this box is checked, you are also **ORDERED** to remain away from the entire apartment building or other multiple family dwelling in which the Plaintiff's residence is located.
 - 4. YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S WORKPLACE** located at IMPOUNDED and wherever else you have reason to know the Plaintiff may work.
 - 5. YOU ARE ORDERED TO COMPENSATE THE PLAINTIFF** for \$ _____ in losses suffered as a direct result of the harassment, to be paid in full on or before _____, 20 ____ by mailing directly to the Plaintiff. through the Court.
 - 6. _____

- B. NOTICE TO LAW ENFORCEMENT**
- 1. An appropriate law enforcement officer shall serve upon the Defendant in hand a copy of the Complaint and a certified copy of this Order (and Summons) and make return of service to this court. If this box is checked service may instead be made by leaving such copies at the Defendant's address shown above but only if the police officer is unable to deliver such copies in hand to the Defendant.
 - 2. Defendant Information Form accompanies this Order. 3. Police reports are on file at the _____ P.D.
 - 4. Outstanding warrants for the Defendant's arrest: PCF No. _____ Docket No(s) _____
 - 5. An imminent threat exists of bodily injury to the Plaintiff. _____ P.D. notified by telephone other: _____

DATE OF THIS ORDER 11/2/2020	TIME OF THIS ORDER 3:23 <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF THIS ORDER 11/12/20 at 4 P.M.	SIGNATURE/NAME OF JUDGE <i>Smith</i>
NEXT HEARING DATE 11/12/20	at 9:30 <input checked="" type="checkbox"/> A.M. <input type="checkbox"/> P.M. in Courtroom <i>see above</i>		
FIRST OR CHIEF JUSTICE WITNESS: Hon. Shelby Smith	A TRUE COPY ATTEST: <input checked="" type="checkbox"/>	CLERK-MAGISTRATE/ASST. CLERK	

The Plaintiff must appear at scheduled hearings, or this Order will expire. The Defendant may appear, with or without an attorney, to oppose any extension or modification of this Order. If the Defendant does not appear, the Order may be extended or modified as determined by the Judge. For good cause, either the Plaintiff or the Defendant may request the Court to modify this Order before its scheduled expiration date. **NOTICE TO DEFENDANT:** If the Plaintiff is your spouse or former spouse, or you are the parent of a child of the Plaintiff, or you cohabit or have cohabited with the Plaintiff, the purchase and/or possession of a firearm and/or ammunition while this order is in effect is a federal crime, subject to certain exceptions. 18 U.S.C. §§ 922(g)(8) and 925.

7

MODIFICATION, EXTENSION OR TERMINATION OF HARASSMENT PREVENTION ORDER G.L. c. 258E

COURT NAME & ADDRESS

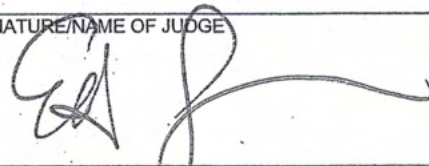
Wareham District Court
2200 Cranberry Highway
W. Wareham, MA 02576

PLAINTIFF'S NAME
DEFENDANT'S NAME

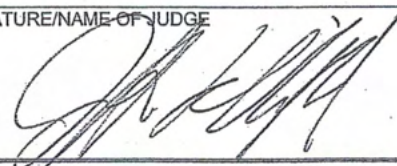
C. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.
The Court has ORDERED that the prior order issued on _____, 20__ be MODIFIED as follows:
 The expiration date of this order has been EXTENDED (see below). OTHER MODIFICATION(S) _____

DATE OF THIS ORDER TIME OF THIS ORDER EXPIRATION DATE OF THIS ORDER SIGNATURE/NAME OF JUDGE
 A.M. P.M. at 4 P.M.
NEXT HEARING DATE at _____ A.M. P.M. in Courtroom _____

D. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.
The Court has ORDERED that the prior order issued on 11/2, 2020 be MODIFIED as follows:
 The expiration date of this order has been EXTENDED (see below). OTHER MODIFICATION(S) _____
FOR SERVICE

DATE OF THIS ORDER TIME OF THIS ORDER EXPIRATION DATE OF THIS ORDER SIGNATURE/NAME OF JUDGE
11/12/20 10:00 A.M. P.M. 11/28/20 at 4 P.M. 
NEXT HEARING DATE 11/28/20 at 9:30 A.M. P.M. in Courtroom _____ X

E. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.
The Court has ORDERED that the prior order issued on 11/23, 2020 be MODIFIED as follows:
 The expiration date of this order has been EXTENDED (see below). OTHER MODIFICATION(S) _____

DATE OF THIS ORDER TIME OF THIS ORDER EXPIRATION DATE OF THIS ORDER SIGNATURE/NAME OF JUDGE
11/23/20 2:35 A.M. P.M. 11/22/21 at 4 P.M. 
NEXT HEARING DATE 11/22/21 at 9:30 A.M. P.M. in Courtroom 1 X

F. PRIOR COURT ORDER (ATTACHED) TERMINATED
This Court's prior Order has been terminated. Law enforcement shall destroy all records of such Order. Terminated at Plaintiff's request.

DATE OF PRIOR ORDER DATE TERMINATION EFFECTIVE SIGNATURE/NAME OF JUDGE
DATE OF TERMINATION ORDER TIME TERMINATION EFFECTIVE
 A.M. P.M. X

A TRUE COPY ATTEST: CLERK-MAGISTRATE/ASST. CLERK

A	<input type="checkbox"/> BOSTON MUNICIPAL COURT	<input checked="" type="checkbox"/> DISTRICT COURT	<input type="checkbox"/> JUVENILE COURT	<input type="checkbox"/> SUPERIOR COURT	DIVISION
---	---	--	---	---	----------

B	NAME OF PLAINTIFF (person seeking protection) ROBERT MALM	NAME OF DEFENDANT (person accused of harassment) ERIC BONETTI
---	--	--

C	I am: <input checked="" type="checkbox"/> 18 or older <input type="checkbox"/> 17 <input type="checkbox"/> 16 or younger The Defendant is: <input checked="" type="checkbox"/> 18 or older <input type="checkbox"/> 17 <input type="checkbox"/> 16 or younger <input type="checkbox"/> I am under the age of 18 and _____, my _____ (relationship to Plaintiff), has filed this Complaint for me.	Are there any prior or pending actions involving the plaintiff and the defendant, including any court actions or administrative or disciplinary proceedings? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES If so, list court or organization, type of action, date and docket no. (if available). ALEXANDRIA, VA. COURT - CIVIL SUIT
---	---	--

D

I SUFFERED HARASSMENT WHEN:

on or about (dates) NOV. 2019 FEB 2020 10/1/20 the Defendant committed 3 or more acts of willful and malicious conduct aimed at me which were committed with the intent to cause fear, intimidation, abuse or damage to property and did in fact cause fear, intimidation, abuse or damage to property.

on or about (date) _____ the Defendant by force, threat or duress caused me to involuntarily engage in sexual relations.

on or about (date) _____ the Defendant committed against me an act that constitutes a violation of one of the following statutes: G.L. c. 265, §§ 13B, 13F or 13H (indecent assault and battery), 22 or 22A (rape), 23 (statutory rape), 24 or 24B (assault with intent to rape), 26C (enticing a child), 43 (criminal stalking) or 43A (criminal harassment), or G.L. c. 272, § 3 (drugging for sexual intercourse).

E

THEREFORE, I ASK THE COURT:

1. to order the Defendant not to abuse me by physically harming me, attempting to physically harm me, or placing me in fear of imminent serious physical harm, and to stop harassing me (1) by any willful and malicious conduct aimed at me and intended to cause fear, intimidation, abuse or damage to property, or (2) by using force, threat or duress to make me engage in sexual relations unwillingly, or (3) by committing against me any act that constitutes a violation of any of the following statutes: G.L. c. 265, §§ 13B, 13F or 13H (indecent assault and battery), 22 or 22A (rape), 23 (statutory rape), 24 or 24B (assault with intent to rape), 26C (enticing a child), 43 (criminal stalking) or 43A (criminal harassment), or G.L. c. 272, § 3 (drugging for sexual intercourse).

2. to order the Defendant not to contact me, unless authorized to do so by the Court.

3. to order the Defendant to remain away from my residence (as listed on the PLAINTIFF CONFIDENTIAL INFORMATION FORM) expanded

4. to order the Defendant to remain away from my workplace (as listed on the PLAINTIFF CONFIDENTIAL INFORMATION FORM).

5. to order the Defendant to pay me \$ _____ in compensation for the following losses suffered as a direct result of the harassment:

6. to order the relief I have requested, except for compensation for losses suffered, without advance notice to the Defendant because there is a substantial likelihood of immediate danger of harassment. I understand that, if the Court issues such a temporary Order, the Court will schedule a hearing within 10 court business days to determine whether such a temporary Order should be continued, and I must appear in court on that day if I wish the Order to be continued.

Please complete the AFFIDAVIT on the reverse of this page, the PLAINTIFF CONFIDENTIAL INFORMATION FORM, and the DEFENDANT INFORMATION FORM.	DATE 11.2.20	PLAINTIFF'S SIGNATURE x Robert A Malm
---	-----------------	--

This is a request for a civil order to protect the Plaintiff from future abuse or harassment. The actions of the Defendant may also constitute a crime subject to criminal penalties. For information about filing a criminal complaint, you may talk with the District Attorney's Office for the location where the alleged harassment occurred.

AFFIDAVIT

Describe detail the most recent incidents of harassment. The harassment consisted only of conduct that was willful and malicious but was not a violation of the listed criminal statutes, you must describe at least 3 separate incidents of such harassment. The judge requires as much information as possible, such as what happened, each person's actions, the dates, locations, any injuries, and any medical or other services sought. Also, describe any history of harassment, with as much of the above detail as possible.

On or about 11.1.2020, the Defendant drove from VA. to MA, and stood across the street from St. Gabriel's Church where I am the Priest, he would not answer the Marine P.D. questions. They told him to not go on Church property. He held a sign with my name and "Perjuring Priest". He was there from approximately 8:30 am - 10:30 am and placed his sign and camera at parishioners leaving the 8 am service and coming to the 10 am service.

Last winter he created a fake St. Gabriel's web site where for months he has falsely blogged about me. Officials from the parish contacted the web host company and the web site was shut down recently.

He has repeatedly blogged about my being in MA. While living in Virginia I had a protective order for 2 years 1/20/18 - 1/20/20. He could not come within 1000' for my home, me/wife, family, workplace.

His harassment has been ongoing since July 2015. Now he has come to MA, probably already returning to VA.

If more space is needed, attach additional pages and check this box:

I declare under penalty of perjury that all statements of fact made above, and in any additional pages attached, are true.

DATE SIGNED

11.1.20

PLAINTIFF'S SIGNATURE

x

Robert H Malin

WITNESSED BY

x

PRINTED NAME OF WITNESS

TITLE/RANK OF WITNESS

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Volume: I
Pages: 1-56
Exhibits: 6

WAREHAM, S.S. COMMONWEALTH OF MASSACHUSETTS DISTRICT COURT DEPARTMENT OF THE TRIAL COURT

* * * * *
ROBERT MALM * Docket No. 2060RO000467
v. *
ERIC BONETTI *
* * * * *

EXTENSION HEARING
BEFORE THE HONORABLE JEFFREY CLIFFORD

APPEARANCES:

For the Plaintiff, Robert Malm:
By: Robert Malm, Pro Se

For the Defendant, Eric Bonetti:
Law Office of George E. Bourguignon, Jr.
37 Mechanic Street
Suite 200
Worcester, Massachusetts 01608
By: George E. Bourguignon, Jr., Esq.

West Wareham, Massachusetts
November 23, 2020

Proceedings recorded by Court Personnel.
Transcript produced by Approved Court Transcriber
Michael Drake, eScribers, LLC

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I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
ROBERT MALM (By Mr. Bourguignon)		6			
ERIC BONETTI (By Mr. Bourguignon)	21				
(By Mr. Malm)		21			
ROBERT MALM (By Mr. Bourguignon)		46			

EXHIBITS:		PAGE
Plaintiff		
6	Blog impersonation response	39
Defendant		
1	Court document	15
2	Amended complaint	16
3	Court document	16
4	Court document	17
5	Police report	18

RULINGS:		
Harassment prevention order extended.		53

12

1 (Court called to order.)

2 (10:53 a.m.)

3 THE CLERK: Robert Malm versus Eric Bonetti.

4 Your Honor, Mr. Bonetti is present via Zoom.

5 THE COURT: He's what?

6 THE CLERK: Present via Zoom.

7 Would both parties please raise your right hand?

8 PARTIES, Sworn

9 MR. MALM: I do.

10 THE DEFENDANT: I do.

11 THE COURT: And, counsel, who do you represent?

12 MR. BOURGUIGNON: Good morning, your Honor. George E.
13 Bourguignon, Jr. for the Respondent-Defendant, Eric Bonetti.

14 THE COURT: Good morning.

15 MR. BOURGUIGNON: Mr. Bonetti is in Virginia.

16 THE COURT: Yes. I see him on the Zoom. Thank you.

17 (Pause.)

18 THE COURT: All right. So starting with Plaintiff, I've
19 had an opportunity to read your affidavit. Is everything in
20 your affidavit true and accurate?

21 MR. MALM: Yes, sir.

22 THE COURT: Okay. And can you tell me why you requested an
23 extension of the order?

24 MR. MALM: This man has harassed me and my family in
25 churches I've served for over five years.

1 THE COURT: Okay.

2 MR. MALM: He was under a protective order in Virginia for
3 two years that went through January of -- January '20. He could
4 have come up here any time after January because there was no
5 longer an order against him in Virginia.

6 I moved up here in October of 2019, and he didn't know
7 where I moved until the diocese of Massachusetts -- I'm an
8 episcopal priest serving in Marion -- sent out a document on the
9 internet. And he obviously found this.

10 And from then on, he began harassing the congregation in
11 Marion on the internet.

12 THE COURT: Okay. And what, if any, relationship did you
13 have with him? How did -- how did you know him?

14 MR. MALM: He was formerly a member of my former parish
15 where I served 30 years in Virginia.

16 THE COURT: And what is -- if you can give me the history
17 of how this order came about. I need to determine --

18 MR. MALM: He drove up here from --

19 THE COURT: -- the initial reason as well as why it --

20 MR. MALM: He drove up here from Virginia and stood outside
21 our church for two hours with some sort of a sign accusing me of
22 abuse or perjury or whatever he does. He's already tried to
23 ruin my reputation, Judge, for over five years. If he has at
24 least three different civil court cases at this time against me
25 and my family. We never thought he'd come from Virginia to

1 Massachusetts, although the leadership at St. Gabriel's had
2 asked me to speak to the chief and the police department in
3 Marion because they were so concerned about it.

4 Again, he could have come up at any time. But probably the
5 reason he came on November 1st was because just a few days
6 before, a fake website that he had created on the internet using
7 St. Gabriel's name and pictures of St. Gabriel's church was
8 taken down because it violated the standards of communications
9 of the one host company.

10 Three days later he shows up, drives over 450 miles each
11 way, doesn't even give his names to the Marion Police. We
12 figured it was him because his car -- or car that I knew he --
13 he had in Virginia with Virginia plates was 75 yards up the
14 street.

15 So this is very disturbing that he would follow us from
16 Virginia to Massachusetts.

17 THE COURT: Okay. And during -- from the time you first
18 met him until now, has he ever physically abused you in any way?

19 MR. MALM: Not me.

20 THE COURT: Who?

21 MR. MALM: He hasn't physically abused anybody.

22 THE COURT: Okay. You said "not me." So I wanted to know
23 if that was -- if you --

24 MR. MALM: Well, he's -- he's verbally attacked other
25 members of my family and my congregation.

1 THE COURT: Okay. Has he ever made threats in those verbal
2 attacks?

3 MR. MALM: Yes, sir. That's why he was under probation --
4 I mean, a protective order in Virginia for two years.

5 THE COURT: So what kind of -- what threats did he make to
6 you within --

7 MR. MALM: Personal threats?

8 THE COURT: Yes.

9 MR. MALM: I can't say that I remember a threat of
10 violence, physical I guess.

11 THE COURT: Okay. Has he ever damaged any of your
12 property?

13 MR. MALM: I'm not aware of that.

14 THE COURT: Okay. Counsel, do you have any questions at
15 this time?

16 MR. BOURGUIGNON: Yes, I do.

17 ROBERT MALM, Previously Sworn

18 CROSS-EXAMINATION

19 BY MR. BOURGUIGNON:

20 Q Mr. Malm, I'm George E. Bourguignon, Jr. I represent Eric
21 Bonetti.

22 How do I pronounce your last name? Is it Malm or Malm?

23 A It's like palm. Malm.

24 Q Palm. Okay, Malm. Okay. On November 30th -- November
25 1st, that was the date that you say my client came up from

1 Virginia and was picketing outside of your church; is that
2 correct?

3 A I believe it was Sunday, November 1st.

4 Q November 1st, correct. And did you address my client's
5 picketing with the congregation during your sermon that day?

6 A No.

7 Q You didn't?

8 A During the announcements at 10 a.m. service, I apologized
9 for this man from Virginia.

10 Q Okay. Let me ask the questions.

11 A It was not during the sermon; it was during announcements.

12 Q Well, okay. During your announcements that day on November
13 1st you shared my client's picketing outside the church that
14 day?

15 A Yes.

16 Q To the congregation --

17 A Yes.

18 Q -- that was there? Okay. And did you say, "I don't think
19 that there is any kind of true threat. He's a very sad man in a
20 very sad situation." Did you say something like that?

21 A Something like that.

22 Q Okay. And were you honest at that time when you shared
23 that with your congregation?

24 A I was speaking about him threatening people from the
25 church, not necessarily me or my wife or my family.

1 Q Okay. But were you -- were you being honest?

2 A Yes, of course.

3 Q Okay. So at that time you said to your congregation that
4 you believe that my client wasn't any true threat; isn't that
5 correct?

6 A Yes.

7 Q All right. And you still believe that today?

8 A I'm not sure.

9 Q Okay.

10 A That's fine.

11 Q I'm not sure. I'm not sure what this man is capable of.

12 Q Okay. All right. Okay. Anything happen? Has my client
13 come back to your church after November 1st?

14 A As far as I know, he hasn't.

15 Q Okay. Has he had any personal interactions with you since
16 November 1st?

17 A He blogs all over the internet.

18 Q Okay. But has he communicated with you?

19 A I'm sure he feels like he is through the internet. He's
20 tried to destroy my reputation for five years.

21 Q It's my turn. Yes, I know, your reputation.

22 MR. BOURGUIGNON: Your Honor, I have a few filings for you.
23 If I could approach.

24 THE COURT: Have you provided a copy to the Plaintiff?

25 MR. BOURGUIGNON: I'm just about to. I'm going to hand to

1 him these documents, Mr. --

2 MR. MALM: Thank you.

3 MR. BOURGUIGNON: Mr. Malm.

4 So, your Honor, I want to bring to your attention first to
5 the affidavit. And then there's a pack of different documents.
6 We're starting with Exhibit A. I think it goes through Exhibit
7 A through Exhibit D.

8 THE COURT: Well, there's no Exhibit A yet until you make
9 it an Exhibit A. So if there's an item you wish to move into
10 evidence, let me know and I'll entertain it. Well, I would -- I
11 would seek to move the affidavit and the documents -- I didn't
12 have a chance to append them, but there's an exhibit, Exhibit A,
13 Exhibit B -- it goes through to Exhibit D.

14 Those, your Honor, they really aren't specifically all that
15 pertinent, but they just show the background between the
16 parties. And they're different documents that speak to the
17 legal proceedings that are pending right now.

18 THE COURT: Right. But what I don't want is for you to
19 collectively submit exhibits to me. So if there's an exhibit
20 that you want me to entertain, present it to me. I will
21 entertain it. I will enter it if it's relevant. And then if
22 there's another exhibit, we can go down the list. So what would
23 you like to submit for evidence as an exhibit?

24 MR. BOURGUIGNON: Okay. Well, Exhibit A, your Honor.

25 THE COURT: All right.

1 MR. BOURGUIGNON: It's a copy of --

2 THE COURT: Exhibit --

3 MR. BOURGUIGNON: -- a civil --

4 THE COURT: -- A which is a -- go ahead.

5 MR. BOURGUIGNON: Civil stalking. It's a copy of a civil
6 stalking complaint that my client has brought against the
7 Petitioner in Virginia, state stamped by the clerk. I'd submit
8 that in evidence.

9 THE COURT: All right. Do you have any objection to this
10 item, sir?

11 MR. MALM: I don't know which one he's talking about.

12 THE COURT: He's talking about what was Exhibit A. It's
13 titled civil stalking complaint.

14 MR. MALM: I've got Exhibit A here, but then there's some
15 kind of document inside there.

16 THE COURT: It's the document right after the thing that
17 says Exhibit A. So Exhibit A --

18 MR. MALM: It says Marion police --

19 THE COURT: -- is the cover page.

20 MR. MALM: -- report in mine.

21 MR. BOURGUIGNON: Mr. Malm, you're looking at the wrong --
22 the wrong pack of papers.

23 MR. MALM: I'm not sure what's the date on this.

24 THE COURT: All right. All right. So this matter is going
25 to be set back -- this is a fairly voluminous amount of

1 material. The Plaintiff has an opportunity -- has a right to
2 read the material before they make a determination as to whether
3 they object to its relevance. So we're going to give this
4 matter further call.

5 Sir, now that you have the discovery that the attorney for
6 the Defendant wishes to enter into evidence, I'm going to break.
7 I'm going to give you an opportunity to read it. And then as he
8 moves these items into evidence, I want you to tell me whether
9 or not you object to those coming into evidence. You can
10 object. You can choose not to object if you wish.

11 Further call so that you can have that opportunity to
12 review those.

13 MR. MALM: Well, I object to this now.

14 THE COURT: Have you had an opportunity to read it?

15 MR. MALM: Not fully, but, I mean, I don't see what
16 something in Virginia has to do with --

17 THE COURT: That's why we're going to give it a further
18 call, sir, based on -- I want you to have an opportunity to read
19 it fully. All right? So have a seat. After you've read it
20 fully, I'll hear your objection. And then we'll move on to the
21 next exhibit.

22 MR. MALM: So can I just ask you, am I supposed to read all
23 these documents? I don't --

24 THE COURT: All right.

25 MR. MALM: Right? All of them?

1 THE COURT: You can either read them now or we can schedule
2 this for --

3 MR. MALM: No, no. I don't want to schedule again. I'll
4 read them now. Thank you.

5 THE COURT: Very good. Further call. Thank you.

6 (Court recessed at 11:06 a.m.)

7 (Court reconvened at 12:40 p.m.)

8 THE COURT: And let's address the Bonetti matter. I know
9 he's out of state. He's been on the Zoom.

10 THE CLERK: Robert Malm versus Eric Bonetti.

11 THE COURT: Sir, we broke to give you an opportunity, Mr.
12 Malm, to read the exhibits that Defense counsel intends to enter
13 or move into evidence in this matter. Have you had an
14 opportunity to do that, sir?

15 MR. MALM: Yes, sir.

16 THE COURT: Okay. All right. So let's resume the hearing.
17 Counsel?

18 MR. BOURGUIGNON: Yes, your Honor. I think I can also
19 streamline that.

20 RESUMED CROSS-EXAMINATION

21 BY MR. BOURGUIGNON:

22 Q Mr. Malm, are you the Defendant in a case in Virginia, the
23 Alexandria, Virginia circuit, docket number 2002002631, where
24 the respondent, Eric Bonetti, is a complainant?

25 A That's what's on here, yes.

1 Q Okay. You're the Defendant in that case?

2 A Yes.

3 Q Okay. And he's accusing of stalking; is that correct?

4 A Fair enough.

5 Q Okay. And you're the Defendant in a case, again, from the
6 Alexandria, Virginia circuit, docket number CL20002926 where the
7 Respondent is the complainant in that case as well; is that
8 correct?

9 A Yes.

10 Q Okay. And that case the complaints are abuse of process,
11 defamation, and intentional infliction of emotional distress; is
12 that right?

13 A Yes.

14 Q Okay. And you're also the Defendant in a case in the -- in
15 Pennsylvania, Court of Common Pleas, docket number 8062020,
16 where the Respondent is the Plaintiff in that case as well; is
17 that correct?

18 A Yes.

19 Q And the claims in that case are seeking some sort of
20 reimbursement of legal fees; is that right?

21 A Yes.

22 Q Okay. And the Respondent in this case is also Plaintiff in
23 a case against the Grace Episcopal Church based in Virginia,
24 again, in the Alexandria circuit. Are you aware of that case?

25 A Yes.

1 Q Okay. And in that case, Respondent is claiming defamation
2 and intentional infliction of emotional distress, correct?

3 A Yes.

4 Q Okay. And there's another case where Respondent is the
5 Plaintiff in a case against a Lindsey Malm Anders, again, in the
6 Alexandria, Virginia circuit. Are you aware of that case?

7 A Yes.

8 Q And the Defendant in that case, is she your daughter?

9 A Yes.

10 MR. BOURGUIGNON: Okay. Thank you, your Honor.

11 I think I would move for admission for Exhibit A.

12 THE COURT: Exhibit A. Any objection to the entrance of
13 Exhibit A into evidence?

14 MR. MALM: Can I speak to it first?

15 THE COURT: Yes.

16 MR. MALM: Okay. I'd just like to say that this is --

17 THE COURT: Well, hold on a minute. Regarding its
18 admissibility. And then you can speak to it at a later time if
19 you have an argument regarding what's credible and --

20 MR. MALM: Just because I'm accepting it to be admitted --

21 THE COURT: That doesn't mean you're accepting it as true.
22 It means that you don't have a basis for objecting to its
23 admissibility. You can still argue against the truth of the --
24 of what's in it.

25 MR. MALM: Mr. Bonetti has filed all these things against

1 me and against my former church and against my daughter. He's
2 done all of this on his own. He doesn't have a lawyer to do
3 this. He's doing it himself.

4 THE COURT: Right.

5 MR. MALM: Okay.

6 THE COURT: So you object to its admissibility?

7 MR. MALM: No, I don't, your Honor.

8 MR. BOURGUIGNON: Okay.

9 THE COURT: All right. So this is admitted as Exhibit
10 Number 1.

11 (The court reporter marks the court document as Exhibit 1.)

12 MR. BOURGUIGNON: Move for admission for -- into evidence
13 of Exhibit B. You can mark it number 2.

14 THE COURT: Any objections to that?

15 MR. MALM: Is B this? No, B -- is this B? Where is B?
16 Oh, B is part of this whole packet here with all the cases that
17 you just listed.

18 THE COURT: Right. It was right after A. So --

19 MR. MALM: Yeah. This whole packet I'm -- I'm fine with,
20 your Honor.

21 THE COURT: All right.

22 MR. BOURGUIGNON: Hang on. So if we can summarize, B, C --
23 I think it goes to E.

24 THE COURT: The amended complaint, correct?

25 MR. BOURGUIGNON: Yes. That's B.

1 THE COURT: There's writing on the top of it as amended
2 complaint. How many pages?

3 MR. BOURGUIGNON: That is one.

4 THE COURT: One page, correct?

5 MR. BOURGUIGNON: Two, three, four.

6 THE COURT: Okay.

7 MR. BOURGUIGNON: Five, six, seven, eight pages.

8 THE COURT: All right. Any objection to that being entered
9 as Exhibit Number 2? No objection, correct, sir?

10 MR. MALM: No objection.

11 THE COURT: It'll be entered as Exhibit 2.

12 (The court reporter marks the amended complaint as Exhibit 2.)

13 MR. BOURGUIGNON: More for admission into evidence the
14 three documents marked as Exhibit Number 3 -- Exhibit numbers --
15 Exhibit C.

16 THE COURT: Exhibit C.

17 MR. BOURGUIGNON: Mark those as number C and move for
18 admission of those.

19 THE COURT: To be entered as Exhibit Number 3. Again, no
20 objection; is that correct, sir?

21 MR. MALM: Yes, sir.

22 (The court reporter marks the court document as Exhibit 3.)

23 MR. BOURGUIGNON: And I'd move for admission of the three
24 pages marked as Exhibit Number D -- if we can mark them as
25 Number 4.

1 THE COURT: Of the Exhibit Number 4, you had no objection,
2 sir?

3 MR. MALM: I would say --

4 THE COURT: Part of the same packet that you noted you
5 weren't objecting to.

6 MR. MALM: No objections.

7 THE COURT: Okay.

8 MR. BOURGUIGNON: Okay, your Honor.

9 THE COURT: Exhibit Number 4.

10 (The court reporter marks the court document as Exhibit 4.)

11 MR. BOURGUIGNON: And the final matter, there is a two -- a
12 three-page document marked as Exhibit A in the opposition
13 document that -- basically the police report. I'd like to move
14 for admission of that document as Exhibit Number 5.

15 THE COURT: Any objection to this document, sir?

16 MR. MALM: That's just the --

17 THE COURT: That's the police report, Marion Police
18 Department.

19 MR. MALM: Just the exhibit. Just the exhibit, not this
20 respondent --

21 THE COURT: Correct.

22 MR. MALM: Okay.

23 THE COURT: Any objection to the police report?

24 MR. MALM: No, sir.

25 THE COURT: That'll be entered as Exhibit Number 5.

1 (The court reporter marks the police report as Exhibit 5.)

2 MR. MALM: I would point out, your Honor, that in this
3 respondent -- respondent opposition, three pages, that he says I
4 made the call to the police. I did not.

5 MR. BOURGUIGNON: Okay.

6 THE COURT: The -- the respondent's opposition is a
7 memorandum that the Court can consider. You can reduce
8 something to writing if you wish as well. It's not evidence.
9 So --

10 MR. MALM: Well, it's filled with mistakes.

11 THE COURT: Well, you -- there's a process here, sir, and
12 we're going to follow that, okay? You have a right to be heard
13 at the end of this proceeding regarding any arguments you have
14 regarding any of the evidence that is presented to this Court,
15 okay?

16 MR. MALM: Yes, sir.

17 THE COURT: So I'll give you that opportunity. So you can
18 respond not only to what this lawyer says or his client, you can
19 respond to the contents of this memorandum also.

20 MR. MALM: Yes, sir.

21 THE COURT: Counsel, any other --

22 MR. BOURGUIGNON: Thank you.

23 BY MR. BOURGUIGNON:

24 Q Mr. -- Mr. Malm, if I could direct your attention to
25 that -- it's Exhibit Number 5 now. But it speaks to the police

1 report there.

2 THE COURT: Madam Clerk?

3 BY MR. BOURGUIGNON:

4 Q Second page.

5 A Yes.

6 Q The last paragraph there, second sentence that starts with
7 the word "there." Could you read that for us?

8 A You'll have to show me where that is.

9 Q The last --

10 A "I later spoke with Malm."

11 Q The last paragraph.

12 A "At this time" --

13 Q Yes, the second sentence.

14 A "There were no threats or contact made between Bonetti and
15 Malm."

16 Q Okay. And do you agree with that, your Honor -- Mr. Malm,
17 that there were no threats between Respondent and you on
18 November 1st?

19 A No verbal threats.

20 Q Okay.

21 A His presence there was a threat.

22 Q Okay. Any physical threats towards you?

23 A No.

24 Q Okay. Any threats to harm any of your property?

25 A No.

1 Q Did he ever enter church property?

2 A He was told not to by the police.

3 Q Okay. Did he ever enter church property?

4 A As far as I know, no. I didn't observe him for an hour and
5 a half. I was in church.

6 MR. BOURGUIGNON: All right. Your Honor, at this point, if
7 I can ask just a few questions of my client.

8 THE COURT: No. We'll get to that in a moment.

9 MR. BOURGUIGNON: Okay. Thank you.

10 So, sir, you have testified before this Court. This
11 attorney has entered some exhibits. Do you have any other
12 evidence you wish to submit to the Court?

13 MR. MALM: Just what I had to say.

14 THE COURT: Okay. You're going to have that opportunity.
15 No other evidence you wish to submit?

16 MR. MALM: No, sir.

17 THE COURT: Okay. So the Plaintiff rests.

18 Counsel, do you wish to inquire of your client?

19 MR. BOURGUIGNON: Yes, I do.

20 THE COURT: And, sir, just to remind you, you were sworn in
21 at the beginning of these proceedings. You are still under
22 oath.

23 Counsel, you may inquire.

24 And just before we proceed, you also have a right to
25 question this witness just like you were questioned by counsel.

1 So you can question the witness or not after direct examination.

2 Counsel, proceed.

3 ERIC BONETTI, Previously Sworn

4 DIRECT EXAMINATION

5 BY MR. BOURGUIGNON:

6 Q Mr. Bonetti, this is Mr. Bourguignon here. I'd like to ask
7 you. Have you ever made a threat of physical violence towards
8 the Petitioner, Mr. Malm?

9 A No, sir.

10 Q Have you ever made a threat to cause property damage to any
11 property that Mr. Malm has owned ever?

12 A No, sir.

13 Q On November 1st, 2020, did you have any communications with
14 Mr. Malm?

15 A I refuse to speak with him. No, I did not have any
16 communication.

17 MR. BOURGUIGNON: Okay. Nothing further, your Honor, for
18 evidence at least.

19 THE COURT: All right. Sir, you may inquire of this
20 witness if you wish. Do you have any questions?

21 MR. MALM: Yes.

22 CROSS-EXAMINATION

23 BY MR. MALM:

24 Q Mr. Bonetti, did you place a website blog that purported to
25 be from St. Gabriel's Church and use St. Gabriel's Church on the

1 web?

2 A I'm sorry. Please -- please repeat the question.

3 Q Did you create on the -- on a website a St. Gabriel's site?

4 A So I did not create a St. Gabriel's site.

5 Q Did you use St. Gabriel's name on the -- on the internet
6 and --

7 A Yes, I --

8 Q -- post pictures -- and post pictures of St. Gabriel's?

9 A Yes. So I had a blog, stgabriels-dot -- I'm sorry,
10 stgabrielsmarion.blogspot.com. And it expressed several issues.
11 One was I believe that a priest like you who has committed
12 perjury in court is an inappropriate choice as rector.

13 In addition, there were copies of the various legal
14 pleadings involved in the case.

15 Q Have I been -- have I been convicted or charged with
16 committing perjury in any court?

17 A So -- so that is one of the issues for the Virginia courts
18 to decide. It has been raised in discovery. Specifically, you
19 have made the assertion that my mom or someone purporting to be
20 here contacted you repeatedly in order to set up appointments
21 only to no-show. At this juncture in discovery, you've refused
22 on a consistent basis to provide any evidence to support that
23 claim. And I believe and I aver that you and I both know that
24 that didn't happen.

25 Q But you have written on the internet. You have signs.

1 You've handed out fliers and cards in Alexandria all over
2 neighborhoods surrounding Grace Church, calling me a perjurer.

3 A You -- you -- in my estimation, sir, you are, in fact, a
4 perjurer. I believe the court will show that. If you disagree
5 with that, you are more than welcome to sue me for defamation.

6 I would --

7 Q Are you --

8 A I would --

9 Q -- representing yourself in all of these cases?

10 A Sir -- sir, if you would let me finish. The floor is mine.
11 Again, you are more than welcome. I would encourage you to
12 file suit if you believe that -- that your statements were
13 truthful. I would note that to date you have not -- you have
14 not done so.

15 Q Are you representing yourself in all of the cases that your
16 attorney here today has submitted for evidence?

17 MR. BOURGUIGNON: Objection, your Honor, to relevance.

18 THE COURT: Sustained.

19 BY MR. MALM:

20 Q Do you have a lawyer that represents you in these cases in
21 Virginia and Pennsylvania?

22 A I believe there was a previous objection to that question.

23 THE COURT: I haven't heard one now.

24 Are you objecting, counsel?

25 MR. BOURGUIGNON: No.

1 THE COURT: Well, answer the question, sir. Your attorney
2 didn't object.

3 THE WITNESS: So I am representing myself.

4 THE COURT: Okay. Next question.

5 BY MR. MALM:

6 Q Do you consider your First Amendment right to blog
7 extensively on the internet about me, my wife, my family,
8 including using semi-pornographic sites?

9 MR. BOURGUIGNON: Objection, your Honor; relevance.

10 THE WITNESS: Objection.

11 THE COURT: Overruled. Answer the question, sir.

12 THE WITNESS: So I did not hear the end of the question.

13 THE COURT: He asked if you were using pornographic sites
14 to refer -- or to address or to speak about his family members
15 and him.

16 THE WITNESS: No, sir, I have not.

17 BY MR. MALM:

18 Q Have you ever blogged about me or my family on Fairfax
19 Underground, a website in Virginia?

20 MR. BOURGUIGNON: Objection, your Honor.

21 THE WITNESS: I have.

22 THE COURT: Overruled.

23 THE WITNESS: I have. And I have -- I have stated, among
24 other things, you have committed perjury during discovery.

25 MR. MALM: Is that an answer, your Honor?

1 THE COURT: Yes. He answered the question. Do you have
2 another question?

3 BY MR. MALM:

4 Q Another question I have for you, Mr. Bonetti, is did you
5 post a photograph of my mother's grave in a cemetery in Marion,
6 Massachusetts?

7 A As I stated in previous litigation, the answer to that is
8 not. And you're aware of that, sir.

9 MR. MALM: Your Honor, I would just say that this
10 Respondent's three-page document here that Mr. Bourguignon has
11 representing Mr. Bonetti here today talks about First Amendment
12 rights and --

13 THE COURT: Well, hold on.

14 MR. MALM: -- abuse of the legal system.

15 THE COURT: Do you have any other questions for this
16 witness first?

17 MR. MALM: Of Mr. Bonetti?

18 THE COURT: Yes.

19 BY MR. MALM:

20 Q How did you find out where I was working at St. Gabriel's
21 Church?

22 MR. BOURGUIGNON: Objection, your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: So the answer, it was actually announced on
25 the Grace Episcopal Church website. It was not a matter of

1 discovering it. It is public knowledge.

2 BY MR. MALM:

3 Q Why were you under a protective order in Virginia for two
4 years?

5 MR. BOURGUIGNON: Objection, your Honor.

6 THE COURT: Sustained as to the form.

7 BY MR. MALM:

8 Q Were you under a protective order in Virginia for two
9 years?

10 A Yes.

11 Q Did you appeal that?

12 A I did.

13 Q Did you drop your appeal?

14 A I did. I dropped it on the ground that you had, among
15 other things, repeatedly committed perjury during discovery. I
16 simply was not prepared to expend additional funds to deal with
17 a priest who is a perjurer.

18 Q So that's a term you keep using though. I think that's
19 your --

20 A It happens to -- it happens to be an accurate term, sir.
21 And if you disagree with that, I encourage you to file an action
22 in slander --

23 THE COURT: There's no question before you, sir. Wait for
24 the next question.

25 BY MR. MALM:

1 Q Mr. Bonetti, are you employed?

2 MR. BOURGUIGNON: Objection.

3 THE WITNESS: I'm retired.

4 MR. BOURGUIGNON: Relevance. He's being harassed.

5 MR. MALM: I think it goes to the issue, your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: I stated I'm retired.

8 BY MR. MALM:

9 Q Have you passed the bar in Virginia?

10 MR. BOURGUIGNON: Objection.

11 THE WITNESS: No, and I did not --

12 THE COURT: Sustained.

13 THE WITNESS: I -- no --

14 THE COURT: Sustained.

15 MR. BOURGUIGNON: Don't answer that.

16 BY MR. MALM:

17 Q Have you ever practiced law in Virginia?

18 MR. BOURGUIGNON: Objection, your Honor.

19 THE COURT: Sustained.

20 BY MR. MALM:

21 Q What law school did you graduate from?

22 MR. BOURGUIGNON: Objection, your Honor.

23 THE COURT: Sustained.

24 BY MR. MALM:

25 Q Have you contacted or communicated with anybody at St.

1 Gabriel's Church?

2 MR. BOURGUIGNON: Objection, your Honor.

3 THE COURT: Overruled.

4 THE WITNESS: I have not.

5 BY MR. MALM:

6 Q Have you contacted bishop of Massachusetts or anybody in
7 the bishop's office concerning me?

8 MR. BOURGUIGNON: Objection, your Honor.

9 THE WITNESS: Yes, I --

10 THE COURT: Overruled.

11 THE WITNESS: Yes. I have -- I stated my objection to a
12 priest serving in the diocese who is a perjurer.

13 MR. MALM: No further questions, your Honor.

14 THE COURT: Okay. All right. Any further questions?

15 MR. BOURGUIGNON: Yeah. I don't have any further questions
16 of Mr. Malm.

17 THE COURT: Okay.

18 MR. BOURGUIGNON: Can I summarize and --

19 THE COURT: All right. All right. Do you have any other
20 evidence you wish to present?

21 MR. BOURGUIGNON: Not any other evidence, just legal
22 argument, your Honor.

23 THE COURT: Okay. All right. So at this time, counsel,
24 you may make your closing argument.

25 And then, Plaintiff, you'll have an opportunity to make

1 yours.

2 MR. BOURGUIGNON: Your Honor, there's two layers that a
3 proponent petitioner needs to meet. First, they need to show
4 that there is actually -- they actually felt some sort of fear,
5 intimidation, abuse, or an intent to damage property. Mr. Malm
6 has publically stated that he believes my client is no true
7 threat. He has not presented any evidence whatsoever to say
8 that he is in fear of his physical body or of his property.

9 He's also shown that there's absolutely no evidence
10 whatsoever that there's been -- that my client has made any
11 statements or any acts or intended to cause fear, intimidation,
12 abuse, or damage to property. He's stated specifically that
13 there's been no violence, no threats of violence, no threats of
14 property damage.

15 He's a very articulate man. He loves the floor. He loves
16 to speak. But essentially, his petition here is misplaced. He
17 thinks that people are not -- are not allowed to criticize him
18 publically. And he's calling what is -- what he -- what he
19 calls harassment was basically just an annoyance. And his
20 interest here today is to silence my client from speaking, not
21 from -- not to try and stop any sort of threat to his physical
22 body or property damage.

23 THE COURT: Okay. Sir, this is your opportunity to respond
24 as well to the Plaintiff. You may proceed when ready.

25 MR. MALM: Your Honor, let me just point to number 4 on

1 this Respondent's reaction defense. Please note that I have no
2 legal training, and I didn't hire a lawyer to represent myself
3 today.

4 First of all, I didn't call the police in Marion. One of
5 our parishioners who came out of the church at eight o'clock and
6 saw Mr. Bonetti standing there did. Because people at St.
7 Gabriel's, knowing about his harassment and the fact that he was
8 under a protective order when they asked me to come and serve in
9 this capacity which was last summer, when I started in October,
10 they were very concerned about the possibility of some sort of
11 threat directed at that congregation because of what he had done
12 to me and the people of Grace Church in Virginia.

13 And we knew, and we were very happy, that the protective
14 order from Virginia covered Massachusetts through January 20th,
15 2020. After that time, we didn't feel like there was an eminent
16 threat --

17 MR. BOURGUIGNON: Your Honor, I have to object. This is
18 supposed to be --

19 THE COURT: The objection is overruled. Proceed.

20 MR. MALM: And I did go to the chief of police when I first
21 started in Marion and explained the whole situation. I gave him
22 a copy of the protective order. And he said if there's any
23 incident that you think you're being harassed in any way, please
24 file a report.

25 And as you know, there were already two reports filed with

1 the Marion Police. The first was when he started blogging about
2 me being in Massachusetts, and specifically St. Gabriel's where
3 he has no previous knowledge of that congregation. So that was
4 the first sign of harassing in Massachusetts. He did that.

5 The second, which was extremely alarming to the people of
6 St. Gabriel's Church, was when he created this fake blog site.
7 So if you Google St. Gabriel's, you might not find our true
8 website. You might find his fake website where he's making all
9 kinds of charges about me and what kind of church could that be
10 that would hire me because I'm a perjurer even though this
11 charge of perjury has only come from him ever. In fact,
12 anything that he's ever charged with me, that's been dismissed
13 by the bishop and diocese of Virginia, been thrown out of some
14 courts in Virginia already, and now he's --

15 THE COURT: I've heard nothing about the -- what is the
16 purpose of these --

17 MR. MALM: Here's one of the cases that he's got against me
18 now right now.

19 THE COURT: And what is he alleging that you --

20 MR. MALM: He says I lied about some meeting with his dead
21 mother. It's in some little response that a lawyer that was
22 representing me and Grace Church down there had given. I
23 didn't --

24 THE COURT: And was there a lawsuit -- were you involved
25 with his mother in some way as a pastor or --

1 MR. MALM: No. I didn't even know his mother's name. But
2 he had a website that he created that he said his mother had
3 created about Grace Church in Virginia. So basically our
4 attorney during this appeal process had to find out who -- you
5 know, did his mother really have this website. And we couldn't
6 get the mother to say she did or didn't. He said he did -- she
7 did.

8 But anyway, this is a long part of the story that's not
9 important. I mean, he created this fake St. Gabriel's website.
10 And it ran for months. We had -- parishioners were coming in
11 and asking about it. What can you do it about? What can you do
12 about it? What can you do about it? Some of our leadership
13 decided that they would find out who was hosting this site, this
14 fake St. Gabriel's site. And they found out who was hosting it.
15 And they contacted --

16 THE COURT: Hold on for one second, sir.

17 (Pause.)

18 THE COURT: Go ahead, sir.

19 MR. MALM: Thank you, your Honor.

20 I just wanted to get this one paper because some of our
21 leaders contacted the folks who are hosting his website. And I
22 have right here -- or I have several papers, but I have the most
23 pertinent one dated -- dated Wednesday, October 28th. "Thank
24 you for your report. We have reviewed your impersonation,
25 impersonation claim and determined that the blog you reported

1 violates, violates blogger content policy. The blog is now
2 suspended and will no longer be viewable."

3 That's on Wednesday. On Sunday he shows up.

4 Now, you talk about intimidation here, harassment, abuse of
5 First Amendment rights and abuse of the legal system. But more
6 importantly, your Honor, no allegation that the Respondent's
7 acts didn't affect, cause fear, intimidation, or abuse. He
8 didn't damage any property yet. I hope he never does. He
9 hasn't hurt me physically. I've got a wife, a family, a
10 congregation, and a school. They all know about this man. You
11 know, every time you hold him accountable to anything, he
12 reacts.

13 The last piece on here that he has in that affidavit, the
14 stalking charge, when did he submit that? A day or two after he
15 found out that I had filed a harassment order against him here
16 in Massachusetts.

17 We don't know what this man is capable of, driving from
18 Virginia to Massachusetts to intimidate and get an entire
19 congregation, let alone one person in his family, upset to us is
20 pretty serious, your Honor, pretty serious.

21 THE COURT: All right. All right. Thank you, sir. All
22 right.

23 So there were a lot of documents that were submitted to me.
24 I want to try to read them in fairness to both parties. So I'm
25 going to take this under advisement and make my ruling at two

1 o'clock. So we'll take a luncheon recess. I'll read all the
2 documents. I'll consider all of the arguments that have been
3 made. And then I'll make my ruling. Thank you.

4 MR. MALM: Do you want me here, your Honor?

5 THE COURT: I want you here at two o'clock, please, sir.
6 Thank you.

7 MR. MALM: Thank you.

8 (Court recessed at 1:09 p.m.)

9 (Court reconvened at 2:08 p.m.)

10 THE CLERK: Robert Malm versus Eric Bonetti.

11 THE COURT: So as we were breaking, sir, you had requested
12 permission to reopen the evidence and submit a document for the
13 Court's consideration; is that correct?

14 MR. MALM: Yes, sir.

15 THE COURT: Okay. And counsel, you've had an opportunity
16 to see the document?

17 MR. BOURGUIGNON: I have, your Honor.

18 THE COURT: All right. Counsel, do you have any objection?

19 MR. BOURGUIGNON: I would object. Relevance and
20 foundation.

21 THE COURT: Okay.

22 MR. BOURGUIGNON: What blog spot they're talking about,
23 what the terms are --

24 THE COURT: Well, foundationally your objection is
25 sustained.

1 But, sir, let me ask you. You've submitted a -- some
2 documents, two documents where you said -- where the document
3 says, "Thank you for your report. We reviewed your
4 impersonation claims and determined that the blog you reported
5 violates blog content" -- what is this pertaining to?

6 MR. MALM: It pertains to the fake St. Gabriel's website
7 that Mr. Bonetti created and ran for about four months.

8 THE COURT: Okay.

9 MR. MALM: And it pertains to the fact that, if you note
10 the date that the website was taken down, October 28th, he shows
11 up in Marion from Virginia three days, four days later, a
12 clear -- clear indication of his of his reaction to that and to
13 his active intimidation.

14 THE COURT: All right. So this is you --

15 MR. MALM: It's our church asking to have the website taken
16 down for a variety of violations of their code of ethics. And
17 that's their email back to St. Gabriel's Church saying they're
18 taking it down on October 28th.

19 THE COURT: Okay. So it says, "Dear blogger user," that
20 would be you?

21 MR. MALM: Well, that's our leadership of our church.

22 THE COURT: Okay.

23 MR. MALM: The earlier date is just to -- August shows you
24 when the complaint was filed to a Google -- a Google company
25 hosting that website.

1 THE COURT: Okay. All right. So now that there's been a
2 foundation laid, do you have any other objections, counsel?

3 MR. BOURGUIGNON: Relevance, your Honor. I mean, I don't
4 understand -- this BlogSpot, he's not -- again, he's not
5 speaking about any sort of fear or intimidation, the kind that
6 is harassing. It just doesn't speak to -- it's very tenuous.

7 THE COURT: So what was posted on this blog that resulted
8 in you and your church entity reaching out to the blogger team?

9 MR. MALM: Well, I think Mr. Bonetti answered that himself
10 when he admitted to creating a blog site using St. Gabriel's.

11 THE COURT: All right. I'm not asking Mr. Bonetti to
12 comment. I'm asking for you to comment. So tell me what
13 specifically --

14 MR. MALM: The comment --

15 THE COURT: -- was posted on -- hold on. What specifically
16 is posted on the blog? Don't talk in generalizations, sir. I
17 need to know factually so I can make a determination.

18 MR. MALM: Lies about me.

19 THE COURT: Okay. That's --

20 MR. MALM: Lies about --

21 THE COURT: -- a generalization. What did -- what was
22 said?

23 MR. MALM: Well, I can't remember everything he wrote over
24 the course of four or five months, your Honor.

25 THE COURT: All right. So over four or five months, there

1 were postings from Mr. Bonetti, correct?

2 MR. MALM: Yes.

3 THE COURT: How many?

4 MR. MALM: I -- several.

5 THE COURT: Three?

6 MR. MALM: More.

7 THE COURT: A hundred? Ten?

8 MR. MALM: I would just guess somewhere between 10 and 20.

9 THE COURT: Okay. And do you remember the content of any
10 of those posts?

11 MR. MALM: I remember his criticism of the congregation for
12 hiring me to be the interim rector. I remember repeating
13 charges of me being a perjurer and under investigation in
14 Virginia. I remember -- those are the two main things he went
15 and --

16 THE COURT: Okay. On more than one occasion?

17 MR. MALM: Yes. He also used pictures of our church and
18 our name.

19 THE COURT: Okay. And you mentioned something as using the
20 picture of your mother's gravestone. Can you describe that?

21 MR. MALM: My mother --

22 THE COURT: Was that his blog site or was that somewhere
23 else?

24 MR. MALM: That's somewhere else. He's got several blog
25 sites, your Honor. But one that has the most offensive and some

1 would even say pornographic comments, pictures. It is called
2 Fairfax Underground in Virginia. And he posted -- of course, he
3 said that he didn't, somebody did, who else would do it -- a
4 picture of the cemetery gravesite where my mother is buried,
5 along with many of her relatives.

6 THE COURT: And how do you know that it's his site or
7 that's -- that it was him that posted it?

8 MR. MALM: Well, there's a whole series of bloggings back
9 and forth on a thing called Fairfax Underground.

10 He also has set up a website where if you just type my
11 name, Bob Malm, whatever, you'll see all this stuff about me,
12 that he's done all this kind of -- not just writing things but
13 pictures, pictures of me with comments underneath.

14 THE COURT: And when did you observe that?

15 MR. MALM: Oh, that's been going on for five years. It
16 continues.

17 THE COURT: That's not an answer my question. When did you
18 first observe that?

19 MR. MALM: Probably 2017.

20 THE COURT: And it's been going on --

21 MR. MALM: Ever since.

22 THE COURT: Well, it's 2020, almost 2021. So almost four
23 years?

24 MR. MALM: Yes, sir.

25 THE COURT: All right. Getting back to your exhibit,

1 Defense counsel's objection is noted. This is going to be
2 entered as Exhibit Number 6.

3 (The court reporter marks the blog impersonation response as
4 Exhibit 6.)

5 THE COURT: I'm going to ask you one more question. You
6 said that harassment went back to 2015. What happened then?
7 Tell me about what initially caused this interaction.

8 MR. MALM: Well, you would have -- you'd have to ask him.
9 But I think what initially caused it was when he stopped
10 attending Grace Episcopal Church at Alexandria, Virginia.

11 THE COURT: Okay.

12 MR. MALM: And he held me responsible for his
13 dissatisfaction with congregation.

14 THE COURT: Okay.

15 MR. MALM: His first charge against me was that I basically
16 bullied him and kicked him out of the church. He can't do that,
17 your Honor.

18 THE COURT: Okay. And when -- when did -- when did he
19 first allege that to you?

20 MR. MALM: I think that was probably -- I found out about
21 it when the bishop and the bishop's office in Virginia told me
22 in the summer of 2015 that he had filed disciplinary actions
23 against me.

24 THE COURT: Okay. And then after that, when was the next
25 time he contacted you directly?

1 MR. MALM: I'm not sure that he ever contacted me directly.
2 It's all through other sources, other dioceses, or his lawyers.

3 THE COURT: Okay. So tell me about the next time that you
4 learned of.

5 MR. MALM: Excuse me?

6 THE COURT: Tell me about the -- after he reported you to
7 your diocese, what was the next thing he did that you're aware
8 of?

9 MR. MALM: Well, once -- once the bishop and the
10 disciplinary committee found there was no -- dismissed his
11 charges, he filed other charges. And when he stopped filing
12 charges against me, he began to file charges against the bishop
13 and the congregation. That's why on the affidavit you received,
14 he's trying to sue an entire parish. He's already dropped his
15 civil suits against the bishop and my wife. He's dropped those
16 just like he had dropped the appeal when he appealed the
17 protective order.

18 THE COURT: All right. So you filed an order against him
19 in Virginia, correct?

20 MR. MALM: We filed a protective order against him in
21 January of 2018. Yes, sir.

22 THE COURT: All right. Why?

23 MR. MALM: Because of his repeated blogs that, in a tenure
24 of the blogs, that threatened dogs being set loose in the
25 congregation, people --

1 THE COURT: Okay. So this is -- you haven't told me this
2 yet. So you have to -- you have to --

3 MR. MALM: Well, your Honor, I could be here all afternoon,
4 and we wouldn't be able to tell you --

5 THE COURT: Well, that's the purpose of this hearing, sir.
6 So you need to tell me the facts.

7 MR. MALM: The facts are --

8 THE COURT: Okay.

9 MR. MALM: -- that we had the FBI turn with the case in the
10 fall of 2017 when he stopped listening to the bishop, when he
11 refused to engage in any kind of reconciliation. And
12 furthermore, he wouldn't listen to the Alexandria Police --

13 THE COURT: All right.

14 MR. MALM: -- who said that --

15 THE COURT: I need to know -- but listen, okay, because you
16 need to tell me factually what he has done, not what the FBI has
17 done, not what the congregation has done. What he has done
18 specifically. So --

19 MR. MALM: Well, this is --

20 THE COURT: -- you said something about releasing dogs.
21 Tell me about that.

22 MR. MALM: Those were blogs that he wrote on several
23 different blog sites. He'd have a picture of like a snarling
24 wolf or a dog. He talked repeatedly about a group of people
25 called the killer bees. But, your Honor, we would --

1 THE COURT: Well, hold on. You're not -- I don't want you
2 switching subjects before you --

3 MR. MALM: Okay.

4 THE COURT: -- address that one.

5 MR. MALM: Okay.

6 THE COURT: So what does that have to do with you? Did he
7 refer to your church? Did he refer to --

8 MR. MALM: Yes.

9 THE COURT: -- you in --

10 MR. MALM: Yes. They were coming --

11 THE COURT: You're acting like I know this. I don't know
12 this unless you tell me, sir.

13 MR. MALM: Yes. It referred to me and to the congregation.
14 A congregation can't get a restraining order -- a protective
15 order in Virginia. A person does on behalf of themselves --

16 THE COURT: Right. When evidence is presented to the
17 Court --

18 MR. MALM: So the evidence --

19 THE COURT: -- that allows the Court to make a
20 conclusion --

21 MR. MALM: The evidence --

22 THE COURT: -- based on those facts. I need to hear the
23 facts here so I can make a legal conclusion. So killer bees was
24 referred. There were pictures of dogs. And how do you know
25 that that was referred directly to you?

1 MR. MALM: Well, my name was used. My name and people at
2 St. Gabriel's Church.

3 THE COURT: Okay.

4 MR. MALM: All this --

5 THE COURT: And what was the next incident?

6 MR. MALM: All this evidence -- well, the next thing that
7 happened was the police tried to reason with him in the winter
8 or the fall of 2017. He accused the police of police abuse.

9 THE COURT: All right. Hold on. I'm not asking you right
10 now. And you told me a lot about the police. And you told me
11 about other people. I'm asking you about what he has done,
12 okay? You just told me about one incident. Tell me about the
13 next incident after the killer bees, after the --

14 MR. MALM: Well, I would say that the next thing that he
15 did is he tried to appeal the protective order.

16 THE COURT: Okay. That's something he did to a court.
17 What -- did he contact you?

18 MR. MALM: No.

19 THE COURT: Okay. Did he post any other blogs after that?

20 MR. MALM: Many, many blogs.

21 THE COURT: So tell me about the next one.

22 MR. MALM: Your Honor, it's very difficult to summarize a
23 five-year situation in five minutes at the --

24 THE COURT: You have as much time as you need, sir. But
25 I'm asking you --

1 MR. MALM: He referred to my daughter --

2 THE COURT: -- to answer the questions.

3 MR. MALM: -- as a C-U-N-T --

4 THE COURT: Okay.

5 MR. MALM: -- on several occasions. How about that? He --

6 THE COURT: Don't say "how about that" to me, sir.

7 MR. MALM: Okay.

8 THE COURT: I'm being respectful to you.

9 MR. MALM: Yes, sir.

10 THE COURT: Okay?

11 MR. MALM: I'm sorry.

12 THE COURT: I expect the same in return.

13 MR. MALM: I'm sorry.

14 THE COURT: All right? So he referred to your daughter as
15 a C-U-N-T. When did that happen?

16 MR. MALM: I'm not sure, probably sometime in the winter of
17 2018.

18 THE COURT: And how did that happen? What -- did he say
19 it? What did he --

20 MR. MALM: Fairfax Underground.

21 THE COURT: Okay. And how do you know he was referring to
22 your daughter when he said it?

23 MR. MALM: He posted pictures of my daughter that he got
24 off Facebook.

25 THE COURT: And with those pictures, he posted that word?

1 MR. MALM: Derogatory comments about her, names, same about
2 my wife.

3 THE COURT: So what --

4 MR. MALM: Same about me.

5 THE COURT: -- did he say about your wife?

6 MR. MALM: You know, same about me.

7 THE COURT: What did he say about your wife?

8 MR. MALM: Overweight, blabber mouth, she was blogging
9 against him, that's why he hasn't had a case against her, but he
10 dropped the case.

11 THE COURT: And what is the next incident after that that
12 you recall?

13 MR. MALM: Well, he began showing up 1,000 feet away from
14 the church, holding a sign that said, "Protesting abuse at Grace
15 church."

16 THE COURT: Okay. And when -- when did that occur?

17 MR. MALM: All during the winter and spring of 2018, after
18 the protective order had been put in place.

19 THE COURT: Okay.

20 MR. MALM: He did --

21 THE COURT: And how many times approximately did --

22 MR. MALM: Dozens.

23 THE COURT: Dozens.

24 MR. MALM: Dozens.

25 THE COURT: Okay.

1 MR. MALM: And the neighborhood surround the church, they
2 found little cards and pamphlets about protesting Bob Malm,
3 abuse at Grace Church.

4 Your Honor, when people hear the word "abuse" having to do
5 with a minister, priest, a rabbi in a community of faith, they
6 think of child abuse or sexual abuse. That's the first thing
7 that comes to their mind. So all through the community of
8 Alexandria for a number of months, there were various signs and
9 leaflet around.

10 THE COURT: And how long did that go on from the first
11 incident up until the time you obtained the restraining order or
12 the harassment prevention order in Virginia?

13 MR. MALM: It went on until I left Virginia.

14 THE COURT: And from what to do what? So is that a year?
15 Is that two years?

16 MR. MALM: It went on from January of 2018 until October of
17 2019 when I left.

18 THE COURT: Okay. All right. Thank you, sir.

19 So, counsel, I know I asked some additional questions. If
20 you wish to inquire, you may. Again, I've opened the evidence.
21 I've let him enter an exhibit. But I've also inquired of him.
22 If you have any additional questions, you may ask.

23 ROBERT MALM, Previously Sworn

24 CROSS-EXAMINATION

25 BY MR. BOURGUIGNON:

1 Q Mr. Malm, when you speak of fear, are you concerned about
2 him filing lawsuits against you?

3 A No.

4 Q Okay. All right. Are you concerned about him sullyng
5 your reputation?

6 A No.

7 Q Are you concerned about picketing anymore?

8 A Not really, although I would like for him to be a thousand
9 feet away.

10 MR. BOURGUIGNON: Nothing further, your Honor. I'd just
11 like to summarize and legal argument. That's all.

12 THE COURT: You may.

13 And I'm going to give you another opportunity to make an
14 argument too because I elicited more evidence.

15 Counsel?

16 MR. BOURGUIGNON: Your Honor, Mr. Malm is under the
17 impression that if you defame somebody arguably or if you
18 threaten bad publicity or lawsuits or you're going to provide
19 more discipline or you're picketing somebody, that somehow that
20 is -- that meets the definition of harassment under the statute.
21 And as we know, it doesn't. He has done nothing but show that
22 he has -- he has experienced what he calls fear and
23 intimidation. But it's very clear that this is fear and
24 intimidation of more bad publicity or picketing or criticizing
25 him publically.

1 He has not said anything about the idea that he is in fear
2 of his -- of his physical body or for any property damage. He
3 has admitted under oath that he stated to his congregation in
4 the announcements on that day on November 1st that he -- he did
5 not think there was any kind of true threat. And he just
6 continued to disparage my client as a very sad man in a very bad
7 situation. It is very clear that they're just trying to use
8 this process to chill my client's First Amendment rights and
9 just to disparage him.

10 If he believes that these things -- it's very clear that
11 what his problem here is, that he wants you to stop my client
12 from what he calls lying about him. And that is not what this
13 statute is designed to prohibit.

14 This statute is designed to prohibit the actual feeling of
15 fear and intimidation to your physical body and to property
16 damage and also to prohibit communications and acts that
17 actually are acts of harassment that are malicious to cause the
18 kind of -- to cause bodily harm or property damage. He has not
19 identified any acts whatsoever my client has taken that would
20 objectively show my client is trying to threaten him in his
21 bodily integrity or to property.

22 And in addition, you have my client's what I believe very
23 credible statements that he has never threatened Mr. Malm. And
24 he has never threatened Mr. Malm's property. And this latest --
25 this petition was stipulated from my client's recent act of

1 coming to Massachusetts and picketing outside of a church. He
2 is in his rights to do so. And someone needs to make it very
3 clear to Mr. Malm that this Court and this statute is not here
4 to silence his critics. It is here to actually prohibit
5 violence, threats of violence, and threats of bodily -- to
6 property damage.

7 This is not the defamation court. This is not a bad
8 publicity court. This is not the, "You need to stop harassing
9 me in the normal common way that people speak of harassment,"
10 bothering people, annoying people. There's plenty of cases.
11 And in my opposition I cite them.

12 This is not the kind of, you know, annoying, being
13 bothersome, giving bad publicity, even legal threats, threats of
14 even economic harm. None of those are subject matter that this
15 statute deals with. This is about bodily harm, and this is
16 about property damage. And there's been no accusation on either
17 end that even anything my client has said is supposed to be a
18 threat towards either of those two things, bodily harm or
19 property damage, not either way. And he's not said that he has
20 any -- that he has experienced any fear in that sense either.

21 So a little -- as you saw in my opposition and listened to
22 the other hearings and, oh, there's three and he's -- you know,
23 he's tried to move a little bit more towards that side, but it's
24 very clear -- he made it very clear that -- in his own
25 statements that he wasn't fearful of harm to his body or to his

1 property. And all this other extraneous stuff about his
2 daughter and his wife and the church and all this is not him.
3 That's all irrelevant.

4 Your Honor, and I submitted those documents there. I
5 almost regret I did so, but those were only to simply show that
6 there's motive on his part that there actually -- there's five
7 different legal proceedings pending, three directly against him
8 and one against his daughter and one against his church just to
9 simply show that there's motivation here of his interest in
10 silencing my client. And on the form, as we know, there's a box
11 that you can check to say, hey, if there's any other legal
12 proceedings -- and that's -- so those documents are under that
13 vein. That's it. That's all we were trying to show.

14 With regards to the police report that we have in evidence
15 as well, you can read the police report. There's absolutely no
16 evidence whatsoever of any sort of threat of bodily harm. The
17 police emphatically say that there was -- there was no
18 interactions between the two of them, and there was no threat
19 made between the two of them. This is simply a man that is a
20 very good orator. He loves the spotlight it seems like. And he
21 wants to stop my client from criticizing. It may be annoying.
22 It may even be defamatory. But there's other avenues for him to
23 take. And that's -- those are the avenues that he needs to take
24 to try to remedy if he wants to try to silence my client from
25 speaking up.

1 THE COURT: Thank you, counsel.

2 Sir?

3 MR. MALM: Your Honor, my reputation is fine. And this
4 man, regardless of what he tries to do to me, is not going to
5 destroy 43 years of faithful ministry to the episcopal church,
6 30 years in a congregation of a thousand people in Alexandria,
7 Virginia, and now the bishop of Massachusetts having me serve
8 here.

9 As I answered counsel earlier when he first started, no,
10 I'm not worried about him picketing. I'm not worried about him
11 writing anything about me. I am worried about the physical
12 threat that his irrational behavior on the internet and now
13 coming up here from Virginia represents.

14 Clergy of all faiths, house of -- houses of worship,
15 churches, synagogues, mosques, we're all easy targets for
16 somebody who has some axe to grind. I don't know what turns a
17 man to become violent. But I can tell you this: He's had every
18 opportunity to work in every system, ecclesiastical, legal, the
19 internet, to make his case heard. And he doesn't seem to want
20 to stop.

21 So no wonder my daughter in Ohio is worried about him
22 showing up there. He came to Massachusetts. Ohio is closer to
23 Virginia than Massachusetts. No wonder my wife is afraid if I
24 go away for an overnight or something. No wonder the
25 congregation when they see what happened to other houses of

1 worship are nervous, or a school, both a school of 120 children
2 down in Alexandria, Virginia -- I cannot tell you the parents
3 that were worried about this, the staff, the head of school. No
4 wonder the judge in Virginia gave us a two-year protective
5 order, because they knew this man should not be close to a house
6 of worship, to a school, or to a priest.

7 And, your Honor, I'm not an attorney. If I felt like I had
8 to go up a very qualified attorney that Mr. Bonetti was going to
9 have here today, I probably would have found your own.

10 But I will tell you this: Fear, intimidation, and
11 harassment will mean a whole lot more than just a punch in the
12 face.

13 THE COURT: All right. Thank you, sir.

14 So I've had an opportunity to listen to both the Plaintiff
15 and the Defendant's arguments and to consider all of the
16 evidence that was presented to me regarding this criminal -- I'm
17 sorry, this harassment prevention order.

18 And I make the following conclusion, that the Plaintiff in
19 this matter, Mr. Robert Malm, is that the correct way to
20 pronounce it, sir?

21 MR. MALM: Yes, sir.

22 THE COURT: Okay -- is suffering from harassment. And the
23 basis is I find that he's suffering from criminal harassment
24 which is one of the enumerated acts in the statute that permits
25 the issuance or the extension of this order. The Defendant

1 engaged in a known pattern of conduct or speech or in a series
2 of acts on more than three occasions that the Defendant intended
3 to target Mr. Robert Malm with this misconduct, speech, and
4 series of acts on each occasion, that the conduct, speech, and
5 series of acts, were such a nature that they seriously alarmed
6 Robert Malm, that the conduct and speech and series of acts were
7 of such a nature that they would cause a reasonable person to
8 suffer substantial emotional distress, and the Defendant
9 committed the conduct and speech and series of acts willfully
10 and maliciously.

11 And for the reason, this order is extended with the same
12 conditions. So in this case, Mr. Eric Bonetti, you are ordered
13 not to abuse the Plaintiff. You are ordered not to contact the
14 Plaintiff and stay at least 100 yards away. You're ordered to
15 be away from the Plaintiff's residence. That residence is
16 impounded. You're also ordered to stay away from the entire
17 building that that residence is in.

18 You're ordered to remain away from the Plaintiff's
19 workplace. That location is also impounded.

20 And this order is from today's date until -- we're looking
21 what --

22 THE CLERK: 11/22/21.

23 THE COURT: To 11/22/21.

24 Sir, if you wish to extend this order, then I'm talking to
25 the Plaintiff, you need to be back in this court at 9:30 a.m. on

1 11/22/21.

2 And counsel and Defendant, Mr. Bonetti, if you wish to
3 oppose the extension of this order, you need to be back in this
4 Court on November 22nd, 2021 at 9:30 a.m. If not, if the
5 Plaintiff does not appear on that date, the order will expire at
6 4 p.m. on that date.

7 Thank you.

8 MR. BOURGUIGNON: Your Honor, could I -- could I ask the
9 Court identify the three different acts in its ruling as a
10 motion for clarification?

11 THE COURT: There were multiple acts. There were more than
12 three. No, there's a transcript or a tape of the entire
13 proceeding. You've heard the testimony. You were sitting here,
14 as well as I was. And the Court has made its ruling. Thank
15 you.

16 MR. MALM: Thank you, your Honor.

17 THE DEFENDANT: Your Honor, I would -- just have one
18 further question which is, will you please carve out an
19 exception in the order to allow the current litigation in
20 Virginia and Pennsylvania to proceed? We will -- we will out of
21 necessity have contact in the Virginia and Pennsylvania courts.

22 MR. MALM: Your Honor, the Pennsylvania case is second
23 appeal that Mr. Bonetti has made. The legal representation I
24 have in Pennsylvania has made no comment that I'm going to have
25 to appear in Pennsylvania.

1 And the Virginia case is still under review. There's no --

2 THE COURT: If there's any litigation in court, obviously

3 I'm not going to bar the parties from pursuing their --

4 MR. MALM: So there --

5 THE COURT: -- their --

6 MR. MALM: In other words, I would have to show up --

7 THE COURT: I don't have the authority to do that.

8 MR. MALM: If I have to show up in a courtroom situation

9 and Mr. Bonetti is there too, that's okay under this order.

10 THE COURT: In a courtroom proceeding only, the parties are

11 certainly not barred from being present.

12 MR. MALM: I understand.

13 THE COURT: Thank you.

14 THE DEFENDANT: Does that extend to depositions, your

15 Honor?

16 THE COURT: What, sir?

17 THE DEFENDANT: Does that extend to depositions, your

18 Honor? I do intend to depose Mr. Malm in one or more of the

19 cases.

20 THE COURT: You have an attorney, sir. You can speak with

21 your attorney about your depositions --

22 THE DEFENDANT: I --

23 THE COURT: -- and any other legal acts. Okay? The

24 hearing is over. Thank you.

25 (Hearing concluded at 2:38 p.m.)



The Commonwealth of Massachusetts
OFFICE OF COURT MANAGEMENT, Transcription Services

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COMMENTS: _____

65A

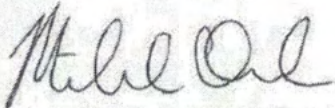
C E R T I F I C A T I O N

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I, MICHAEL DRAKE, COURT-APPROVED TRANSCRIBER, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT FROM THE RECORD OF THE COURT PROCEEDINGS IN THE ABOVE ENTITLED MATTER.

I, MICHAEL DRAKE, FURTHER CERTIFY THAT THE FOREGOING IS IN COMPLIANCE WITH THE ADMINISTRATIVE OFFICE OF THE TRIAL COURT DIRECTIVE ON TRANSCRIPT FORMAT.

I, MICHAEL DRAKE, FURTHER CERTIFY THAT I NEITHER AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF THE ACTION.



January 7, 2021

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66

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

ERIC J. BONETTI,

Plaintiff,

vs.

ROBERT H. MALM

Defendant

CIVIL ACTION NUMBER: 20062681

CLERK OF COURT
CITY OF ALEXANDRIA
JAN 11 2017 10:00 AM

CIVIL STALKING COMPLAINT

Eric J. Bonetti, in support of his Complaint against defendant Robert H. Malm hereby states the following:

NATURE OF THE ACTION

1. This is an action pursuant to Va. Code § 8.01-42.3, which provides a civil cause of action for conduct prohibited under § 18.2-60.3, whether or not the individual has been charged or convicted for the alleged violation, for the compensatory damages incurred by the victim as a result of that conduct, in addition to the costs for bringing the action.
2. In relevant part (§ 18.2-60.3.A), the above-referenced statute provides: "If the person contacts or follows or attempts to contact or follow the person at whom the conduct is directed after being given actual notice that the person does not want to be contacted or followed, such actions shall be prima facie evidence that the person intended to place that other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member." (Emphasis added)
3. On December 31, 2017, Defendant received actual notice to have no further contact with Plaintiff, either directly through others, after making various fabricated claims to the Alexandria police department alleging that Plaintiff threatened him. Exhibit A.
4. In subsequent litigation, Defendant made various perjurious statements under oath, including alleging that Plaintiff's mother or someone purporting to be her contacted him repeatedly. Defendant has yet to produce any evidence to support this claim, yet insists the statement is truthful. Plaintiff therefore believes Defendant may be mentally ill and unable to differentiate between fact and fiction.

EXHIBIT

1

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67

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

ERIC J. BONETTI,

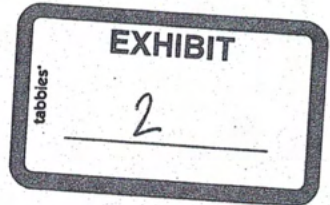
Plaintiff,

vs.

ROBERT H. MALM,

Defendant

CIVIL ACTION NUMBER:



AMENDED COMPLAINT

Eric J. Bonetti, in support of his Complaint against defendant Robert H. Malm hereby states the following:

NATURE OF THE ACTION

1. This abuse of process action, claim for the intentional infliction of emotional distress, and for defamation per se arises out of a Petition for Protective order that Defendant Robert H. Malm (Mr. Malm) filed in the Alexandria General District Court against Plaintiff Eric J. Bonetti in December 2018. In his Petition Mr. Malm claimed that various words, taken out of context from a blog published by the late Sigrid Yahner, who was the Plaintiff's mother, constituted threats against him.

2. Specifically, Mr. Malm claimed that the use of a collective online pseudonym, "The Killer B's," used by Ms. Yahner and her friends for many years and derived from an identical collective pseudonym used by members of the Pittsburgh Steelers football team; use of the word "suicide;" use of the phrases "psychological torture," and "murder," inter alia quoted from an online publication written by a mental health professional discussing the psychological effects on victims of behavior similar to Mr. Malm's; and a factually satirical passage about "terrorism" involving the conduct of the authors' children constituted threats.

3. Mr. Malm's claims are categorically and demonstrably false, as no rational actor would conclude that use of the words above constituted an "immediate and present danger of any act of violence, force, or threat or evidence sufficient to establish probable cause that an act of violence, force, or threat has recently occurred," within the meaning of the Virginia Protective Order Statute, set forth at Va. Code § 19.2-152.7 et seq.

1

AFFIDAVIT FOR SERVICE OF PROCESS ON THE SECRETARY OF THE COMMONWEALTH

Case No. CL20002631

Commonwealth of Virginia VA. CODE §§ 8.01-301, -310, -329; 55-218.1; 57-51

City of Alexandria

Circuit Court

Eric J. Bonetti

v. Robert H. Malm *REB 8/29/2021*

4129 Fountainside Lane 203

Fairfax VA 22030

TO THE PERSON PREPARING THIS AFFIDAVIT: You must comply with the appropriate requirements listed on the back of this form.

Attachments:	<input checked="" type="checkbox"/> Summons and Complaint	<input type="checkbox"/> Notice
		<input type="checkbox"/>

I, the undersigned Affiant, state under oath that

the above-named defendant whose last known address is same as above

- is a non-resident of the Commonwealth of Virginia or a foreign corporation and Virginia Code § 8.01-328.1(A) applies (see NON-RESIDENCE GROUNDS REQUIREMENT on page 2).
- is a person whom the party seeking service, after exercising due diligence, has been unable to locate (see DUE DILIGENCE REQUIREMENT ON BACK)

Nov. 15, 2020

is the hearing date and time on the attached process or notice (if applicable).

DATE

PARTY PARTY'S ATTORNEY PARTY'S AGENT PARTY'S REGULAR AND BONA FIDE EMPLOYEE

State of _____ City County of _____

Acknowledged, subscribed and sworn to before me this day by _____

PRINT NAME OF SIGNATORY

DATE

CLERK MAGISTRATE NOTARY PUBLIC

Notary Registration No. _____ My commission expires: _____

Verification by the clerk of court of the date of filing of the certificate of compliance is requested. A self-addressed stamped envelope was provided to the clerk at the time of filing this Affidavit.

NOTICE TO THE RECIPIENT from the Office of the Secretary of the Commonwealth of Virginia:

You are being served with this notice and attached pleadings under Section 8.01-329 of the Code of Virginia which designates the Secretary of the Commonwealth as statutory agent for Service of Process. The Secretary of the Commonwealth's ONLY responsibility is to mail, by certified mail, return receipt requested, the enclosed papers to you. If you have any questions concerning these documents, you may wish to seek advice from a lawyer.

SERVICE OF PROCESS IS EFFECTIVE ON THE DATE WHEN SERVICE IS MADE ON THE SECRETARY OF THE COMMONWEALTH.

CERTIFICATE OF COMPLIANCE

I, the undersigned, Clerk in the Office of the Secretary of the Commonwealth, hereby certify the following:

- On _____, legal service in the above-styled case was made upon the Secretary of the Commonwealth, as statutory agent for persons to be served in accordance with Section 8.01-329 of the Code of Virginia, as amended.
- On _____, papers described in the Affidavit and a copy of this Affidavit were forwarded by certified mail, return receipt requested, to the party designated to be served with process in the Affidavit.

SERVICE OF PROCESS CLERK, DESIGNATED
BY THE AUTHORITY OF THE SECRETARY OF THE COMMONWEALTH

69

2

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

ERIC J. BONETTI,

Plaintiff.

v

ROBERT H. MALM,

Defendant.

Case No. 20002206

DEMURRER, STATUTE OF LIMITATIONS, ADDITIONAL PLEADINGS and ANSWER AND GROUNDS OF DEFENSE TO THE AMENDED COMPLAINT

COME NOW Defendant, ROBERT H. MALM (hereinafter referred to as MALM) by counsel, and as and for his DEMURRER, STATUTE OF LIMITATIONS, ADDITIONAL PLEADINGS and ANSWER AND GROUNDS OF DEFENSE to the AMENDED COMPLAINT filed herein and each Claim thereof, states as follows:

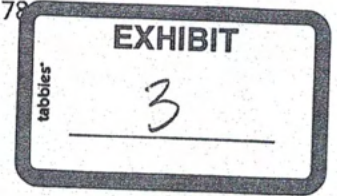
1. That MALM, by counsel, is without sufficient knowledge and information to admit or deny the allegations contained in Paragraphs 9, 18, 19, 23, 32, 34, 36, 37, 38, 39, 40, 41 and 44 of the AMENDED COMPLAINT and, therefore, must deny the same and demand strict proof of each and every allegation contained therein.

2. That MALM, by counsel, admits the allegations contained in Paragraph 22 of the AMENDED COMPLAINT.

3. That MALM, by counsel, denies the allegations contained in Paragraphs 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 20, 24, 25, 26, 27, 28, 29, 30, 31, 33, 35, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 57,

----- Forwarded message -----

From: CircuitCourtChambers@alexandriava.gov<CircuitCourtChambers@alexandriava.gov>
Date: On Tue, Oct 6, 2020 at 8:49 AM
Subject: Fwd: Re: [EXTERNAL]Bonetti v. Grace Episcopal Church - Case No.: CL-2000-2178
To: Diane DiBlasio <dediblasio@nilesbarton.com>,case.intake@alexandriava.gov
<case.intake@alexandriava.gov>
Cc: Craig D. Roswell <cdroswell@nilesbarton.com>,Ericbonetti@protonmail.com
<Ericbonetti@protonmail.com>



Courtesy copy received in Judges' Chambers.

Please note: **Original filings** (notices, pleadings, attachments/exhibits, proposed orders, etc.) **must** be filed with the Clerk of Circuit Court. A document is not deemed filed until it is received and file-stamped by the Clerk of Court's office. Judges' Chambers will not be responsible for forwarding emails/pleadings/documents to the Clerk of Court.

During Covid-19, the Clerk's Office is accepting filings by U.S. Mail, by the drop box located in the vestibule of the courthouse, or by email at case.intake@alexandriava.gov.

- **The best methods to submit documents to the Clerk's Office are by U.S. Mail or using the drop box located in the vestibule of the courthouse.**

Documents received by U.S. Mail or the drop box may be processed quicker than documents that are emailed. The drop box is checked regularly throughout the day by Clerk's Office employees.

Due to high volume and reduced staff in the Clerk's Office in response to the COVID-19 pandemic, there may be a delay in processing notices, pleadings, attachments/exhibits, and proposed orders, and signed orders.

If you are attempting to schedule your case for a motions day, the Clerk's office is responsible for docketing the case after receiving the notice/praeceipe.

Jennifer

From: Diane DiBlasio <dediblasio@nilesbarton.com>
Sent: Monday, October 5, 2020 5:39 PM
To: case.intake@alexandriava.gov <case.intake@alexandriava.gov>
Cc: CircuitCourtChambers@alexandriava.gov <CircuitCourtChambers@alexandriava.gov>; Craig D. Roswell <cdroswell@nilesbarton.com>; Ericbonetti@protonmail.com <Ericbonetti@protonmail.com>
Subject: [EXTERNAL]Bonetti v. Grace Episcopal Church - Case No.: CL-2000-2178

Dear Clerk Parks,

Attached please find the following (which are also being sent via federal express):

1. Our cover letter;
2. Defendant's Demurrer (including the Memorandum in Support, Table of Authorities, and proposed Order); and
3. Defendant's Plea in Bar (including the Memorandum in Support with Exhibit A, Table of Authorities, and proposed Order).

Sincerely,

Diane E. DiBlasio, Esq.



Niles, Barton & Wilmer, LLP

111 South Calvert Street, Suite 1400

Baltimore, Maryland 21202

Direct: (410) 783-6340 | Fax: (410) 783-6454

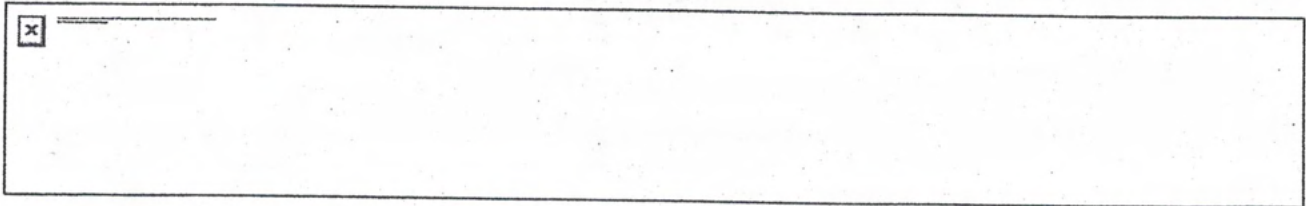
dediblasio@nilesbarton.com | www.nilesbarton.com

Admitted to practice in Maryland, New York, Virginia and the District of Columbia

[BIO](#) | [VCARD](#) | [LinkedIn](#)

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VIRGINIA:

3

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

ERIC J. BONETTI,

Plaintiff,

v.

GRACE EPISCOPAL CHURCH,

Defendant.

Case No.: CL20002178

* * * * *

PRAECIPE

The Clerk is requested to place the captioned matter on the docket for 10:00 a.m., on December 23, 2020, so that the Defendant, Grace Episcopal Church's Demurrer may be heard for argument.

The matter will be heard remotely via Microsoft Teams. Opposing counsel/party will receive an email from the Court two (2) days prior to the Motions Day hearing. The Court's email will include a link to the Microsoft Teams meeting and a telephone number to be used by those participants who do not have internet access.

Respectfully submitted,

GRACE EPISCOPAL CHURCH
By Counsel

Craig D. Roswell, Esquire (VSB No. 33901)
Matthew J. Youssef, Esquire (VSB No. 85339)
Diane Elizabeth DiBlasio, Esquire (VSB No. 90925)
NILES, BARTON & WILMER, LLP
111 S. Calvert Street, Suite 1400
Baltimore, MD 21202
(410) 783-6340 - Phone
(410) 783-6474 - Fax

73

Motions Day 9/9

09/09/2020

JUDGE: Clark, James C

FILE #
TIME

<u>INIT-DATE</u>	<u>STYLE OF CASE</u>	<u>ATTORNEY</u>
CL12004097 10:00AM 08/27/2012	Home Properties Virginia Village LLC VS Valladeres, Roger et al	Rowlett, Jennifer L Deutschman, Jolie S
CL16001715 10:00AM 03/16/2016	Boutros, Victor VS Boutros, Tricia	Xanttopoulos, Alexander H Pro se
CL18002698 10:00AM 07/20/2018	Arce Runzer, Carlos VS Seminario, Fabiola	Pro se Langone, Joseph M
CL19002391 10:00AM 07/01/2019	Hadidi, Enas VS Smallwood, Xavier	Murphy, Paul A Cochran, Janet Whitaker
CL19002547 10:00AM 07/22/2019	Bloom, David VS Shkor, Matthew et al	Mullins, Alison R
CL19002804 10:00AM 08/27/2019	Mccarthy, John VS Graham, Dria	Lisull, Evan M Gupta, Roopal
CL19002959 10:00AM 09/17/2019	Browning, Lori VS Hadaway, Ronald et al	Kohl, Mark A Clarry, Brian C
CL20001269 10:00AM 02/06/2020	Old Town #1 LLC VS Animators At Law Inc	Hames, Cameron
CL20001408 10:00AM 02/27/2020	Swanson, Daniel VS Swanson, Stacy	Pro se Hagan, David C

75

Circuit Court

Motions Day 9/9

09/09/2020

JUDGE: Clark, James C

CL20001477 10:00AM 03/04/2020	Woodbine Convalescent & Nursing Care VS Johnson, Denice et al	Forrester, J Casey
CL20001551 10:00AM 03/16/2020	Cooper, Marc VS Amato, Maria	Hirsch, Brian M
CL20001606 10:00AM 03/25/2020	Slade, Jo VS Alexandria Knolls West Condo et al	Byrnes, Kevin E Mugavero, Thomas C
CL20001814 10:00AM 05/28/2020	Dynasty Properties, LLC VS CFRE Investments Flips I Corporation	Gehrig, Nicholas J
CL20001941 10:00AM 06/26/2020	Bonetti, Eric VS Anders, Lindsey	Pro se
CL20002007 10:00AM 07/10/2020	Watergate at Landmark Condomini VS Carmeli, Michelle et al	Kessler, Aimee T H
CL20001375 2:00PM 02/21/2020	Haybyrne, James VS Dumapias, Marilou	Kurz, James S Anderson, Elizabeth Marshall

Incident #: 20-354-OF
Call #: 20-7665

Date/Time Reported: 11/01/2020 0844
Report Date/Time: 11/01/2020 1057
Status: Incident Open

Reporting Officer: Jonathan Tracy
Approving Officer: Sergeant Derryl Lawrence

Signature: _____

Signature: _____



#	SUSPECT(S)	SEX	RACE	AGE	SSN	PHONE
1	BONETTI, ERIC 4094 MAJESTIC LN Apt. #162 FAIRFAX VA 22033	M	W	56		
Military Active Duty: N BODY: NOT AVAIL. DOB: [REDACTED] LICENSE NUMBER: NOT AVAIL. COMPLEXION: NOT AVAIL. PLACE OF BIRTH: NOT AVAIL. ETHNICITY: NOT HISPANIC						

#	OFFENSE(S)	ATTEMPTED	TYPE
1	HARASSMENT 265/43A/A	N	Misdemeanor
LOCATION TYPE: Church/Synagogue/Temple SAINT GABRIEL'S CHURCH 124 FRONT ST MARION MA 02738 Zone: Marion Center OCCURRED: 11/01/2020 0844 SUSPECTED OF USING: Not Applicable			

#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE
1	MALM, ROBERT 124 FRONT ST MARION MA 02738	M	W	69	NOT AVAIL	508-748-1507
DOB: [REDACTED] EMPLOYER: ST GABRIEL'S CHURCH ETHNICITY: Not of Hispanic Origin RESIDENT STATUS: Non Resident VICTIM CONNECTED TO OFFENSE NUMBER(S): 1 RELATION TO: BONETTI ERIC CONTACT INFORMATION: Home Phone (Primary) [REDACTED]						

#	VEHICLE(S)	YEAR	MAKE	STYLE	COLOR1	COLOR2	REG	VALUE
1								\$1,000.00
STATUS: Evidence (Not Nibrs Reportable) OWNER: BONETTI, ERIC VIN: [REDACTED] DATE: 11/01/2020								

Attachments for 20-354-OF	
Description	Type
PICTURE OF BONETTI	PDF
Attachment#: DCCBA90ADEC1430BA406280FE629D711	

77

Ref: 20-354-OF

On 11/1/20 at 0844 hours I was dispatched to Saint Gabriel's Church for a report of a suspicious person. I arrived and spoke with Pastor Robert Malm. Malm reported he was a pastor in Virginia for several years and in 2019 he moved Massachusetts and is not the pastor for the St. Gabriel's Church. Malm stated while in Virginia he had a harassment prevention order against Eric Bonetti. The order expired in January 2020. Today Malm stated a man matching the description of Bonetti was on South Street across from the church entrance holding a sign. The man was wearing a mask and Malm could not say for sure it was Bonetti.

I located the the man holding a sign that said something like Robert Malm, perjury, wwwbobmalm.com. I asked him if he was Eric Bonetti. He did not wish to confirm or deny it. I spoke with him briefly and explained the concerns Malm brought up. Bonetti stated he knows there are no orders in effect and he asked if he was doing anything illegal. I told him no.

Saint Gabriel's staff wanted the man told to not go on their property. I explained to him he is not welcome on the church property. He stated he understood and has no plans to go on the church property.

I located a [REDACTED] with Virginia registration plate # [REDACTED] parked on South Street. The vehicle is registered to Eric Bonetti out of Fairfax, VA. I explained to the staff and Malm that Bonetti was not committing any crimes and he is allowed to stand on public property. Bonetti had no interaction with the patrons or staff and was only standing across the street with a sign. Bonetti was holding a camera device that connected to his cellphone and it appeared he was video recording our interactions with him.

Marion Police have had previous reports regarding Malm and Bonetti. 19-364-OF, 19-382-OF, and 20-26-OF. Connected to one of the reports was a picture of Bonetti. The man we spoke with today appears to be the same person from the picture of Bonetti.

I later spoke with Malm and went over the emergency harassment orders options. Malm stated he plans to go to Wareham District Court in the morning to apply for the temporary harassment order. I attached a picture of Bonetti to this report.

At this time this case should be filed. There were no threats or contact made between Bonetti and Malm. Bonetti left the area a short time after we spoke with him.

Gmail

St Gabriels <stgabrielsmarion@gmail.com>

[8-9344000030160]

cases-consult@google.com <cases-consult@google.com>
To: stgabrielsmarion@gmail.com

Wed, Oct 28, 2020 at 6:28 AM

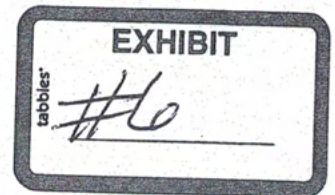
Dear Blogger user,

Thank you for your report!

We have reviewed your impersonation claim and determined that the blog you reported violates Blogger Content Policy. The blog is now suspended and will no longer be viewable.

Sincerely,

The Blogger Support Team



79

10/28/2020, 8:50 AM

Someone is pretending to be a company or organization

If someone is impersonating your company or organization, let us know.

Note: Content that talks about an entity is not considered impersonation.

This form should be completed by an official representative of the company or organization.

 Give feedback about this article

Your email has been sent to our team! Due to the preventative measures being taken for our support specialists in light of COVID-19, it may take longer than usual to respond to your support request. We apologize for any inconvenience this may cause, and we'll send you a reply as soon as we can.

Was this helpful?

Yes

No



interaction between the Parties. A copy of the police report partially redacted is attached hereto as Exhibit A.

3. Petitioner also made statements from the pulpit on 1 November 2020 about the Respondent's petitioning on that date. At about 30 minutes into the service, he addressed the matter and described the Respondent in an unflattering manner, but he concluded "I don't think that there is any kind of true threat, but he is a very sad man in a very sad situation." From the Petitioner's own words, the Respondent does not represent a threat of bodily harm, but just to Petitioner's reputation, which this application is all about.
4. Petitioner's acts, in calling the police, and in filing this matter, indicates his purpose is the silence the Respondent. In other words his real intent is to chill the Respondent's First Amendment rights, and it is an abuse of the legal system.

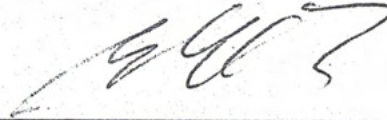
B. There is not the type of fear alleged sought to be proscribed by the statute.

5. There is no indication that the Petitioner even fears imminent physical harm or property damages. Thus, there has been no allegation that the Respondent's acts did "in fact cause fear, intimidation, abuse or damage to property" as required. Mass. Gen. Laws c. 258E § 1; P.W. v. J.K., 2019 Mass. App. Unpub. LEXIS 12 * 3, (decided Jan. 4, 2019)(finding plaintiff's annoyance with defendant's refusal to communicate in manner requested "not the type of fear, intimidation, abuse, or property damage that G.L. c. 258E proscribes.").
6. To conclude, there is not one act of harassment averred to in the complaint/affidavit and not even the proper type of fear claimed. The Petitioner's complaint implies a defamation claim, which is not an adequate basis for a harassment.

WHEREFORE, the Respondent moves this Honorable Court for an Order denying the Petitioner's application.

Respectfully submitted,
Eric Bonetti,,
By his attorney,

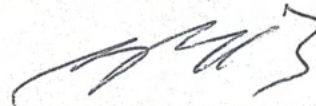
Dated: 23 November 2020



George E. Bourguignon, Jr.
(BBO # 669444)
37 Mechanic Street
Worcester, MA 01608
Phone: (508) 769-1359
Facsimile: (508) 796-2311.
gbourguignon@ bourguignonlaw.com

Certificate of Service

I, George E. Bourguignon, Jr. hereby certify that a copy of the foregoing was served in hand upon the Petitioner/Plaintiff, namely Robert H. Malm.



George E. Bourguignon, Jr.

Exhibit A

89

Marion Police Department
Incident Report

Incident #: 20-354-OF
Call #: 20-7665

Date/Time Reported: 11/01/2020 0844
Report Date/Time: 11/01/2020 1057
Status: Incident Open

Reporting Officer: Jonathan Tracy
Approving Officer: Sergeant Derryl Lawrence

Signature: _____
Signature: _____



#	SUSPECT(S)	SEX	RACE	AGE	SSN	PHONE
1	BONETTI, ERIC 4094 MAJESTIC LN Apt. #162 FAIRFAX VA 22033	M	W	56		

Military Active Duty: N
BODY: NOT AVAIL.
DOB: [REDACTED]
LICENSE NUMBER: NOT AVAIL.

COMPLEXION: NOT AVAIL.
PLACE OF BIRTH: NOT AVAIL.
ETHNICITY: NOT HISPANIC

#	OFFENSE(S)	ATTEMPTED	TYPE
1	HARASSMENT 265/43A/A	N	Misdemeanor

LOCATION TYPE: Church/Synagogue/Temple
SAINT GABRIEL'S CHURCH
Zone: Marion Center

MARION VA 02738
Handwritten: 9/28/2021

OCCURRED: 11/01/2020 0844
SUSPECTED OF USING: Not Applicable

#	VICTIM(S)	SEX	RACE	AGE	SSN	PHONE
1	MALM, ROBERT 21 FRONT ST MARION VA 02738	M	W	69	NOT AVAIL	508-749-1507

DOB: [REDACTED]
EMPLOYER: ST GABRIEL'S CHURCH
ETHNICITY: Not of Hispanic Origin
RESIDENT STATUS: Non Resident
VICTIM CONNECTED TO OFFENSE NUMBER(S): 1
RELATION TO: BONETTI ERIC
CONTACT INFORMATION:
Home Phone (Primary) [REDACTED]

Handwritten: 11/28/2021

#	VEHICLE(S)	YEAR	MAKE	STYLE	COLOR1	COLOR2	REG	VALUE
1								\$1,000.00

STATUS: Evidence (Not Nibrs Reportable)
OWNER: BONETTI, ERIC
VIN: [REDACTED]
DATE: 11/01/2020

Attachments for 20-354-OF	
Description	Type
PICTURE OF BONETTI	PDF
Attachment#: DCCBA90ADEC1430BA406280FE629D711	

Handwritten: 85

Ref: 20-354-OF

On 11/1/20 at 0844 hours I was dispatched to Saint Gabriel's Church for a report of a suspicious person. I arrived and spoke with Pastor Robert Malm. Malm reported he was a pastor in Virginia for several years and in 2019 he moved Massachusetts and is not the pastor for the St. Gabriel's Church. Malm stated while in Virginia he had a harassment prevention order against Eric Bonetti. The order expired in January 2020. Today Malm stated a man matching the description of Bonetti was on South Street across from the church entrance holding a sign. The man was wearing a mask and Malm could not say for sure it was Bonetti.

I located the the man holding a sign that said something like Robert Malm, perjury, wwwbobmalm.com. I asked him if he was Eric Bonetti. He did not wish to confirm or deny it. I spoke with him briefly and explained the concerns Malm brought up. Bonetti stated he knows there are no orders in effect and he asked if he was doing anything illegal. I told him no.

Saint Gabriel's staff wanted the man told to not go on their property. I explained to him he is not welcome on the church property. He stated he understood and has no plans to go on the church property.

I located a [REDACTED] with Virginia registration plate # [REDACTED] parked on South Street. The vehicle is registered to Eric Bonetti out of Fairfax, VA. I explained to the staff and Malm that Bonetti was not committing any crimes and he is allowed to stand on public property. Bonetti had no interaction with the patrons or staff and was only standing across the street with a sign. Bonetti was holding a camera device that connected to his cellphone and it appeared he was video recording our interactions with him.

Marion Police have had previous reports regarding Malm and Bonetti. 19-364-OF, 19-382-OF, and 20-26-OF. Connected to one of the reports was a picture of Bonetti. The man we spoke with today appears to be the same person from the picture of Bonetti.

I later spoke with Malm and went over the emergency harassment orders options. Malm stated he plans to go to Wareham District Court in the morning to apply for the temporary harassment order. I attached a picture of Bonetti to this report.

At this time this case should be filed. There were no threats or contact made between Bonetti and Malm. Bonetti left the area a short time after we spoke with him.

HARASSMENT PREVENTION ORDER G.L. c. 258E		DOCKET NO. 2060RO00467	Massachusetts Trial Court
PLAINTIFF'S NAME Robert H. Malm		COURT NAME & ADDRESS Wareham District Court 2200 Cranberry Highway W. Wareham, Ma 02576	
DEFENDANT'S NAME AND ADDRESS Eric Bonetti 4129 Fountainside Lane #203 Fairfax, VA 22030	ALIAS, IF ANY 24B 2/28/2021		MOTHER'S MAIDEN NAME (FIRST & LAST) FATHER'S NAME (FIRST & LAST)
	DATE OF BIRTH [REDACTED]	SEX <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	
	PLACE OF BIRTH		
	SOCIAL SECURITY NO.	DAYTIME PHONE NO.	

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE punishable by imprisonment or fine or both.

A. THE COURT HAS ISSUED THE FOLLOWING ORDERS TO THE DEFENDANT: *(only those items checked shall apply)*

This Order was issued without advance notice because the Court determined that there is a substantial likelihood of immediate danger of harassment. This Order was communicated by telephone from the Judge named below to:
Police Dept. _____ Police Officer _____

1. **YOU ARE ORDERED NOT TO ABUSE THE PLAINTIFF** by harming or attempting to harm the Plaintiff physically or by placing the Plaintiff in fear of imminent serious physical harm. **YOU ARE ALSO ORDERED NOT TO HARASS THE PLAINTIFF** (1) by any willful and malicious conduct aimed at the Plaintiff and intended to cause fear, intimidation, abuse or damage to property, or (2) by using force, threat or duress to make the Plaintiff engage in sexual relations unwillingly, or (3) by committing any of the following: indecent assault and battery, rape, statutory rape, assault with intent to rape (G.L. c. 265, §§ 13B, 13F, 13H, 22, 22A, 23, 24, 24B), enticing a child (§ 26C), criminal stalking (§ 43), criminal harassment (§ 43A), or drugging for sexual intercourse (G.L. c.272, §3).

2. **YOU ARE ORDERED NOT TO CONTACT THE PLAINTIFF** either in person, by telephone, in writing or otherwise, either directly or through someone else, and to stay at least 100 yards from the Plaintiff even if the Plaintiff seems to allow or request contact. The only exception to this Order is that you may send to the Plaintiff by mail or by sheriff or other authorized officer copies of papers filed with the court when that is required by statute or court rule.

3. **YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S RESIDENCE** located at IMPOUNDED
and wherever else you have reason to know the Plaintiff may reside.
 If this box is checked, you are also **ORDERED** to remain away from the entire apartment building or other multiple family dwelling in which the Plaintiff's residence is located.

4. **YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S WORKPLACE** located at IMPOUNDED
and wherever else you have reason to know the Plaintiff may work.

5. **YOU ARE ORDERED TO COMPENSATE THE PLAINTIFF** for \$ _____ in losses suffered as a direct result of the harassment, to be paid in full on or before _____, 20 ____ by mailing directly to the Plaintiff. through the Court.

6. _____

B. NOTICE TO LAW ENFORCEMENT

1. An appropriate law enforcement officer shall serve upon the Defendant in hand a copy of the Complaint and a certified copy of this Order (and Summons) and make return of service to this court. If this box is checked service may instead be made by leaving such copies at the Defendant's address shown above but only if the police officer is unable to deliver such copies in hand to the Defendant.

2. Defendant Information Form accompanies this Order. 3. Police reports are on file at the _____ P.D.

4. Outstanding warrants for the Defendant's arrest: PCF No. _____ Docket No(s). _____

5. An imminent threat exists of bodily injury to the Plaintiff. _____ P.D. notified by telephone other: _____

DATE OF THIS ORDER 11/2/2020	TIME OF THIS ORDER 3:23 <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF THIS ORDER 11/12/20 at 4 P.M.	SIGNATURE/NAME OF JUDGE Smith
NEXT HEARING DATE 11/12/20	at 9:30 <input checked="" type="checkbox"/> A.M. <input type="checkbox"/> P.M. in Courtroom see clerk		CLERK-MAGISTRATE/ASST. CLERK X
FIRST OR CHIEF JUSTICE WITNESS: Hon. Shelby Smith	A TRUE COPY ATTEST: X		

The Plaintiff must appear at scheduled hearings, or this Order will expire. The Defendant may appear, with or without an attorney, to oppose any extension or modification of this Order. If the Defendant does not appear, the Order may be extended or modified as determined by the Judge. For good cause, either the Plaintiff or the Defendant may request the Court to modify this Order before its scheduled expiration date. **NOTICE TO DEFENDANT:** If the Plaintiff is your spouse or former spouse, or you are the parent of a child of the Plaintiff, or you cohabit or have cohabited with the Plaintiff, the purchase and/or possession of a firearm and/or ammunition while this order is in effect is a federal crime, subject to certain exceptions. 18 U.S.C. §§ 922(g)(8) and 925.

87

**MODIFICATION, EXTENSION OR TERMINATION
OF HARASSMENT PREVENTION ORDER**
G.L. c. 258E

DOCKET NO.

Massachusetts Trial Court

COURT NAME & ADDRESS

**Wareham District Court
2200 Cranberry Highway
W. Wareham, MA 02576**

PLAINTIFF'S NAME

DEFENDANT'S NAME

C. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has **ORDERED** that the prior order issued on _____, 20__ be **MODIFIED** as follows:

The expiration date of this order has been **EXTENDED** (see below). **OTHER MODIFICATION(S)** _____

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

NEXT HEARING DATE

at _____ A.M. P.M. in Courtroom _____

D. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has **ORDERED** that the prior order issued on 11/2, 2020 be **MODIFIED** as follows:

The expiration date of this order has been **EXTENDED** (see below). **OTHER MODIFICATION(S)** _____

FOR SERVICE

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

NEXT HEARING DATE

at 9:30 A.M. P.M. in Courtroom _____

E. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has **ORDERED** that the prior order issued on 11/23, 2020 be **MODIFIED** as follows:

The expiration date of this order has been **EXTENDED** (see below). **OTHER MODIFICATION(S)** _____

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

NEXT HEARING DATE

at 9:30 A.M. P.M. in Courtroom 1

F. PRIOR COURT ORDER (ATTACHED) TERMINATED

This Court's prior Order has been terminated. Law enforcement shall destroy all records of such Order. Terminated at Plaintiff's request.

DATE OF PRIOR ORDER

DATE TERMINATION EFFECTIVE

SIGNATURE/NAME OF JUDGE

DATE OF TERMINATION ORDER

TIME TERMINATION EFFECTIVE

X

A.M. P.M.

CLERK-MAGISTRATE/ASST. CLERK

A TRUE COPY ATTEST: X

Prior Court Order (Attached) modified/extended: This modification was issued after a hearing at which the Plaintiff appeared . . . and the Defendant appeared. The Court has Ordered that the prior order issued on 11/23, 2020 be modified as follows:

The expiration date of this order has been EXTENDED (see below) . . .

.

Date of this order Time of this order Expiration date of this order

11/23/20 2:35 P.M 11/22/2021 at 4 p.m.

Next hearing date

Signature of Judge

11/22/21 at 9:30 A.M. . . . in Courtroom 1

Jeffrey Clifford

89

November 24, 2020

Clerk of Court
Wareham District Court
2200 Cranberry Hwy
West Wareham, MA 02576

MALM v. BONETTI NOTICE OF APPEAL

Dear Madam/Sir:

1. This is a notice of appeal from the November 23, 2020 ruling of the Wareham District Court in the matter of Malm v. Bonetti.
2. Defendant intends to appeal a variety of issues of law including, but not limited to:
 - a. May the trial court issue a harassment protection order (258E Order) when, as in the instant case, there has been no communication or contact whatsoever between Plaintiff and Defendant in more than a year?
 - b. May the trial court issue a harassment protection order when, as in the instant case, both Plaintiff and Defendant have stated in sworn courtroom testimony that Defendant has made no threats to Plaintiff's person or property?
 - c. May the trial court issue a harassment protection order when, as in the instant case, Plaintiff states both in court and elsewhere that he does "not consider defendant to be much of a threat."?
 - d. May the trial court issue a harassment protection order when, as in the instant case, the Plaintiff explicitly states in court that at no point did he actually fear for his life, his personal safety, or potential harm to his property?
 - e. May the trial court issue a harassment protection order when, as in the instant case, the judge refuses to identify the three separate instances, required by Massachusetts law, in which the Plaintiff allegedly was in objectively reasonable fear of imminent harm to his person or property, thus preventing the Defendant from rebutting or otherwise speaking to those allegations?
 - f. May the trial court issue a harassment protection order when, as in the instant case, all of the Plaintiff's allegations, while they may be annoying, irritating, or unpopular, including leafletting, blogging, and protesting, are protected by the First Amendment and the Constitution of the Commonwealth of Massachusetts?
 - g. May the trial court may issue a harassment protection order when, as in the instant case, the order effectively creates a 60-mile wide First Amendment-free zone by forbidding Defendant from approaching the Plaintiff's residence, yet impounds information as to the even the general location of that residence, thus chilling free speech by failing to provide adequate information to permit voluntary compliance without risk of unintentional violation?
 - h. May the trial court may issue a harassment protection order when, as in the instant case, the court refuses to specify whether Defendant, now representing himself pro se in various litigation in Virginia and Pennsylvania against the Plaintiff, may meet Plaintiff in person in order to conduct depositions and conduct other discovery essential to the litigation?
 - i. May trial court issue a harassment protection order when, as in the instant case, the local police have expressly stated that no contact, harassment, or illegal conduct has occurred?

RECEIVED
NOV 30 2020
Wareham District Court
Clerk's Office

90

- j. May the trial court issue a harassment protection order when, as in the instant case, the evidence alleged by the Plaintiff is insufficient to permit any reasonable person to make findings of fact consistent with those of the trial court?
3. Defendant therefore appeals the issuance of the above-captioned 258A Order.
4. Kindly provide a copy of the final order, pleadings, filings, and all other related documents needed to pursue an appeal.
5. Defendant will obtain a recording from FTR and thus respectfully requests a copy of the requisite transcript form.
6. Please find enclosed a cashier's check for \$180.00.
7. Defendant's mailing address and contact information:

Eric J. Bonetti
4129 Fountainside Lane 203
Fairfax VA 22030

703-973-4984

Eric.bonetti@protonmail.com

1000/30/2001

Thank you for your kind assistance in this matter.

Regards,



Eric J. Bonetti
Defendant

COMMONWEALTH OF MASSACHUSETTS
DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT
WAREHAM DIVISION

PLYMOUTH, SS.

Civil Action No. 2060 RO 467

Robert H. Malm,

Plaintiff,

v.

Eric Bonetti,

Defendant.

DEFENDANT'S NOTICE OF APPEAL

COMES NOW, Eric Bonetti, the Defendant in the above-captioned civil action and files this notice of appeal.

Designation of the judgment, decree, adjudication, or order being appealed

1. In accordance with Rule 3(c) of the Massachusetts Rules of Appellate Procedure, the Defendant Eric Bonetti designates the "Harassment Protection Order" dated 23 November 2020 and issued same date as the judgment, decree, adjudication, or order being appealed, and attaches same hereto, partially redacted to protect personally identifiable information, as Exhibit 1.

RECEIVED

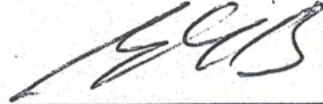
DEC 15 2020

Wareham District Court
Clerk's Office

92

Respectfully Submitted,
Eric Bonetti,

Dated: 10 December 2020



George E. Bourguignon, Jr.
(BBO # 669444)
37 Mechanic Street
Worcester, MA 01608
Phone: (508) 769-1359
Facsimile: (508) 796-2311.
gbourguignon@bourguignonlaw.com

Certificate of Service

I, George E. Bourguignon, Jr., hereby certify that I caused a copy of this document to be served upon the Plaintiff in the above-captioned case in the following manner on 10 December 2020 to:

Mr. Robert H. Malm

c/o St. Gabriel's Episcopal Church
124 Front Street
Marion, MA 02738

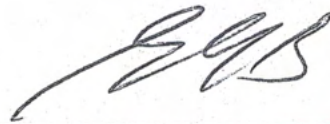
And by electronic mail at:

Bmalm917@gmail.com

*12/10/2020
8/25/2021*

*12/10/2020
8/25/2021*

Mr. Wayne F. Cyron
Cyron & Miller, LLP
Bankers Square Office Building
100 North Pitt Street, Suite 200
Alexandria, Virginia 22314
cml@cyronmiller.com
(by mail and electronic mail).



George E. Bourguignon, Jr.,


Exhibit 1

RECEIVED

DEC 15 2020

Wareham District Court
Clerk's Office

84

HARASSMENT PREVENTION ORDER G.L. c. 258E		DOCKET NO. 2060RO00467	Massachusetts Trial Court 
PLAINTIFF'S NAME Robert H. Malm		COURT NAME & ADDRESS Wareham District Court 2200 Cranberry Highway W. Wareham, Ma 02576	
DEPENDANT'S NAME AND ADDRESS Eric Bonetti 4129 Fountainside Lane #203 Fairfax, VA 22030	ALIAS, IF ANY		
	DATE OF BIRTH	SEX	
	PLACE OF BIRTH	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	MOTHER'S MAIDEN NAME (FIRST & LAST)
	SOCIAL SECURITY NO.	DAYTIME PHONE NO.	FATHER'S NAME (FIRST & LAST)

VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE punishable by imprisonment or fine or both.

A. THE COURT HAS ISSUED THE FOLLOWING ORDERS TO THE DEFENDANT: (only those items checked shall apply)

- This Order was issued without advance notice because the Court determined that there is a substantial likelihood of immediate danger of harassment. This Order was communicated by telephone from the Judge named below to:
Police Dept. _____ Police Officer _____
1. **YOU ARE ORDERED NOT TO ABUSE THE PLAINTIFF** by harming or attempting to harm the Plaintiff physically or by placing the Plaintiff in fear of imminent serious physical harm. **YOU ARE ALSO ORDERED NOT TO HARASS THE PLAINTIFF** (1) by any willful and malicious conduct aimed at the Plaintiff and intended to cause fear, intimidation, abuse or damage to property, or (2) by using force, threat or duress to make the Plaintiff engage in sexual relations unwillingly, or (3) by committing any of the following: indecent assault and battery, rape, statutory rape, assault with intent to rape (G.L. c. 265, §§ 13B, 13F, 13H, 22, 22A, 23, 24, 24B), enticing a child (§ 26C), criminal stalking (§ 43), criminal harassment (§ 43A), or drugging for sexual intercourse (G.L. c.272, §3).
2. **YOU ARE ORDERED NOT TO CONTACT THE PLAINTIFF** either in person, by telephone, in writing or otherwise, either directly or through someone else, and to stay at least 100 yards from the Plaintiff even if the Plaintiff seems to allow or request contact. The only exception to this Order is that you may send to the Plaintiff by mail or by sheriff or other authorized officer copies of papers filed with the court when that is required by statute or court rule.
3. **YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S RESIDENCE** located at IMPOUNDED and wherever else you have reason to know the Plaintiff may reside.
 If this box is checked, you are also **ORDERED** to remain away from the entire apartment building or other multiple family dwelling in which the Plaintiff's residence is located.
4. **YOU ARE ORDERED TO REMAIN AWAY FROM THE PLAINTIFF'S WORKPLACE** located at IMPOUNDED and wherever else you have reason to know the Plaintiff may work.
5. **YOU ARE ORDERED TO COMPENSATE THE PLAINTIFF** for \$ _____ in losses suffered as a direct result of the harassment, to be paid in full on or before _____, 20____ by mailing directly to the Plaintiff. through the Court.
6. _____

B. NOTICE TO LAW ENFORCEMENT

1. An appropriate law enforcement officer shall serve upon the Defendant in hand a copy of the Complaint and a certified copy of this Order (and Summons) and make return of service to this court. If this box is checked service may instead be made by leaving such copies at the Defendant's address shown above but only if the police officer is unable to deliver such copies in hand to the Defendant.
2. Defendant Information Form accompanies this Order. 3. Police reports are on file at the _____ P.D.
4. Outstanding warrants for the Defendant's arrest: PCF No. _____ Docket No(s) _____
5. An imminent threat exists of bodily injury to the Plaintiff. _____ P.D. notified by telephone other: _____

DATE OF THIS ORDER 11/2/2020	TIME OF THIS ORDER 3:23 <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.	EXPIRATION DATE OF THIS ORDER 11/12/20 at 4 P.M.	SIGNATURE/NAME OF JUDGE Smith
NEXT HEARING DATE 11/12/20	at 9:30 <input checked="" type="checkbox"/> A.M. <input type="checkbox"/> P.M. in Courtroom see clerk		
FIRST OR CHIEF JUSTICE WITNESS: Hon. Shelby Smith	A TRUE COPY ATTEST: X	CLERK-MAGISTRATE/ASST. CLERK	

The Plaintiff must appear at scheduled hearings, or this Order will expire. The Defendant may appear, with or without an attorney, to oppose any extension or modification of this Order. If the Defendant does not appear, the Order may be extended or modified as determined by the Judge. For good cause, either the Plaintiff or the Defendant may request the Court to modify this Order before its scheduled expiration date. **NOTICE TO DEFENDANT:** If the Plaintiff is your spouse or former spouse, or you are the parent of a child of the Plaintiff, or you cohabit or have cohabited with the Plaintiff, the purchase and/or possession of a firearm and/or ammunition while this order is in effect is a federal crime, subject to certain exceptions. 18 U.S.C. §§ 922(a)(2) and 925.

95

MODIFICATION, EXTENSION OR TERMINATION OF HARASSMENT PREVENTION ORDER
G.L. c. 258E

DOCKET NO.

Massachusetts Trial Court

COURT NAME & ADDRESS

Wareham District Court
2200 Cranberry Highway
W. Wareham, MA 02576

PLAINTIFF'S NAME

DEFENDANT'S NAME

C. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has ORDERED that the prior order issued on _____, 20__ be MODIFIED as follows:

The expiration date of this order has been EXTENDED (see below). OTHER MODIFICATION(S) _____

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

A.M.
 P.M.

at 4 P.M.

NEXT HEARING DATE

at _____ A.M. P.M. in Courtroom _____

D. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has ORDERED that the prior order issued on 11/20/20, 2020 be MODIFIED as follows:

The expiration date of this order has been EXTENDED (see below). OTHER MODIFICATION(S) _____

FOR SERVICE

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

11/20/20

10:00

A.M.
 P.M.

11/20/20

at 4 P.M.

NEXT HEARING DATE

11/28/20

at 9:30 A.M. P.M. in Courtroom _____

X

E. PRIOR COURT ORDER (ATTACHED) MODIFIED/EXTENDED: This modification was issued after a hearing at which the Plaintiff appeared did not appear and the Defendant appeared did not appear.

The Court has ORDERED that the prior order issued on 11/23, 2020 be MODIFIED as follows:

The expiration date of this order has been EXTENDED (see below). OTHER MODIFICATION(S) _____

DATE OF THIS ORDER

TIME OF THIS ORDER

EXPIRATION DATE OF THIS ORDER

SIGNATURE/NAME OF JUDGE

11/23/20

2:35

A.M.
 P.M.

11/22/21

at 4 P.M.

NEXT HEARING DATE

11/22/21

at 9:30 A.M. P.M. in Courtroom 1

X

F. PRIOR COURT ORDER (ATTACHED) TERMINATED
This Court's prior Order has been terminated. Law enforcement shall destroy all records of such Order. Terminated at Plaintiff's request.

DATE OF PRIOR ORDER

DATE TERMINATION EFFECTIVE

SIGNATURE/NAME OF JUDGE

DATE OF TERMINATION ORDER

TIME TERMINATION EFFECTIVE

A.M. P.M.

X

DEC 15 2020

A TRUE COPY ATTEST: _____ CLERK-MAGISTRATE/ASST. CLERK

X

Wareham District Court
Clerk's Office

RECEIVED

96