

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

HAMPDEN, SS.

DISTRICT COURT DEPARTMENT
PALMER DIVISION
Docket No: 22433RO404

TIMOTHY SYMINGTON)
Plaintiff)
v.)
PAUL SILVERNAIL)
Defendant)

**ORDER ON COMPLAINT FOR
HARASSMENT PREVENTION ORDER G.L. c. 258E**

After hearing from the parties and reviewing the documentation entered as exhibits, the complaint for a harassment prevention order pursuant to G.L. c. 258E is respectfully denied. The required burden of proof has not been met because the speech attributable to the defendant encompassed constitutionally protected speech. Taken in context the speech was aggressive and filled with hyperbole and conspiratorial language, but it was constitutionally protected because it did not rise to the level of “true threats” or “fighting words.” Therefore, it cannot be the basis for issuing a 258E Harassment Prevention Order.

The plaintiff was investigated by law enforcement years ago and no criminal charges were lodged because there was “insubstantial evidence” to support the claims. *See* Defendant’s Hearing Exhibit 1, page 9. The defendant’s actions may be tortious in the nature of defamation,

intentional infliction of emotional distress, and/or invasion of privacy. But those are claims that must be pursued in Superior Court. A 258E order may not act as a substitute for such claims.

Entered this 5th day of December 2022.

/s/ Michael E. Mulcahy

Michael E. Mulcahy,
First Justice
Palmer District Court