

STATEMENT OF SMALL CLAIM AND NOTICE OF TRIAL

DOCKET NO. 158750187

Trial Court of Massachusetts Small Claims Session

☐ BOSTON MUNICIPAL COURT

☒ DISTRICT COURT

☐ HOUSING COURT

PLAINTIFF'S NAME, ADDRESS, ZIP CODE AND PHONE

John & Corey Spaulding
230 Prospect St
Framingham MA
508-875-5156

DEFENDANT'S NAME, ADDRESS, ZIP CODE AND PHONE

Teresa Carney
22 Rutledge Rd
Malden MA
508-647-0670

PHONE NO.

BBO NO.

Name:

Address:

Name:

Address:

PHONE NO.

508-647-0670

PLAINTIFF'S CLAIM. The defendant owes \$ 80.00 plus \$ 40.00 court costs for the following reasons:

Give the date of the event that is the basis of your claim.

There has been a long standing pattern of antagonism & retaliation by the Natick Public School Committee/District. We currently have a case before the Middlesex Superior Court. My daughter Sarah, was to attend a field trip @ \$80- was paid. Natick refused to communicate the time the bus was to pick Sarah up. This acknowledgment is owed. DATE 8/3/15

SIGNATURE OF PLAINTIFF X

MEDATION: Mediation of this claim may be available prior to trial if both parties agree to discuss the matter with a mediator who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date. ☒ The plaintiff is willing to attempt to settle this claim through court mediation.

MILITARY AFFIDAVIT: The plaintiff states under the pains and penalties of perjury that the:

☐ above defendant(s) is (are) not serving in the military and at present live(s) or work(s) at the above address.

☐ above defendant(s) is (are) serving in the military

SIGNATURE OF PLAINTIFF

DATE

NOTICE TO PLAINTIFF:

You have sued the above defendant in Small Claims Court. You are directed to appear for trial of this matter on the date and time noted to the right. You should call the court prior to the hearing date to learn whether the defendant's notice of trial was delivered and whether the defendant has filed an answer. SEE ADDITIONAL INSTRUCTIONS ON THE BACK OF THIS FORM

CLERK-MAGISTRATE OR DESIGNEE

BRIAN J. KEARNEY

ROOM NO.

DATE

TIME

11.4.15 AT 1:00pm

DATE AND TIME OF HEARING

600 CONCORD ST

NATICK DIVISION

DISTRICT COURT DEPARTMENT

TRIAL COURT OF THE COMMONWEALTH

BOTH THE PLAINTIFF AND THE DEFENDANT MUST APPEAR AT THIS COURT ON THE DATE AND TIME SPECIFIED

COURT USE ONLY

PART 1

PART 2

PART 2

PART 4

PART 5

PART 6

NOTICE OF TRIAL

INSTRUCTIONS FOR FILING A SMALL CLAIM - You must complete Parts 1-6 of this form. See instructions on reverse.

PLAINTIFF'S NOTICE

**MOTION TO THE COURT
AND AFFIDAVIT - PAGE 2**

CASE DOCKET NO.

13875C000276

Please note that you must comply with any court rules that govern your specific motion. Attach any materials you wish the Court to consider. Include all reasons for your motion; failing to include a reason may bar you from raising it later. As indicated on page one, note that any factual statements are made under the penalties of perjury.

Unfortunately, Defendants Marilyn Lavery and Brian Lavery are unable to defend this action in person, as both have already taken too much time from their respective jobs, and any additional time devoted to this action would be detrimental to their employers. In order to not inconvenience Plaintiff Spaulding, a copy of this document is being emailed directly to her.

Defendants Marilyn Lavery and Brian Lavery respectfully request that this court award Plaintiff Spaulding the \$90.00 dollars that was sent as promised on October 29, 2013 and returned via the Magistrate on February 13, 2014. Defendants Marilyn Lavery and Brian Lavery further request that this court award NO recovery of filing fees since Defendant Spaulding requested and received her check AS she was filing this Small Claim. Defendants Marilyn Lavery and Brian Lavery further request that this court award NO interest, as it was Defendant Spaulding's sole decision to not cash the check which she requested and received. Based on Plaintiff Spaulding's BAD FAITH actions, unwillingness to negotiate through mediation, false accusations of threats from Defendant Marilyn Lavery, and mystifying reluctance to cash the \$90.00 check which she received as promised, she should not now benefit by those actions to recover the filing fees and interest. Her misconduct and abuse of the court system should prevent her from any further recovery. IN BAD FAITH, Plaintiff Spaulding chose to continue to pursue Defendant Lavery for the full amount plus filing fees, and never reported to the court that she had actually received the check until during or after mediation. Plaintiff Spaulding has wasted the court's time by continuing this now frivolous matter. Defendant Lavery has been to court 3 times already on this matter, and can no longer afford to pursue the matter in person. Defendant Lavery has paid the \$25.00 appeal fee in anticipation of being able to defend this claim in person and posted the \$100.00 appeal bond. Defendant Lavery stands ready to immediately honor whatever decision this court renders.

Relevant Facts:

Plaintiff Spaulding placed an order and paid via PayPal on June 1, 2013 for 3 T-shirts totaling \$45.00. Plaintiff Spaulding placed a second, identical order and paid via PayPal on July 18, 2013. With our Wilson Middle School storefront closed, no contact took place through October 9, 2013. After numerous email exchanges, Plaintiff Spaulding filed a PayPal dispute on October 18, 2013. On October 19, 2013, Defendant Lavery contacted PayPal and authorized a refund. On October 27, 2013, Plaintiff Spaulding informed Defendant Lavery that she had not received the refund. On October 27, 2013, Defendant Lavery contacted PayPal and was told that PayPal does not issue refunds after 60 days. On October 28, 2013, Defendant Lavery offered Plaintiff Spaulding three options A) Pick up the 3 T-shirts and \$45 any day that week, B) Pick up the check for \$90 any day that week, C) Have a check mailed. On October 28, 2013, in SIX separate emails, Plaintiff Spaulding demanded to know when the check would be mailed. Each was answered by Defendant Lavery. Defendant Lavery requested confirmation of a mailing address and that an adult would be available to sign for the check. On October 29, 2013, Defendant Lavery sent a full refund via certified mail.

In Summary:

As late as January 28, 2014, Plaintiff Spaulding wanted to know when she could expect a refund check, even after she was told she could pick it up on January 29, 2014. She asked to have the check mailed. On January 29, 2014, Plaintiff Spaulding was informed that the check was being sent by certified mail, the same day she filed this claim.

Corey Spaulding - Plaintiff

Date	Type	Reference
6/9/2014	Bill	To refund original p
6/10/2014	Bill	To refund the genius
6/11/2014	Bill	Neurotic Overreactio
6/12/2014	Bill	She holds live che

Original Amt.
45.00
45.00
40.00
3.14

Balance Due	Discount	Check Amount
45.00		45.00
45.00		40.00
3.14		3.14
		133.14

1520

Payment
45.00
45.00
40.00
3.14
133.14

Natick Federal

Brain
Lavery

Paid in full copy

133.14



With a nod to the towns of Framingham and Natick, the Framingham and Natick school systems, the Barbieri School, Wilson Middle School, their respective PTOs, New England Consultants in Gastroenterology & Hepatology, every courthouse you have frequented, every person that you have wronged, and every person that personally opened their wallet and paid you simply to make you go away, I respectfully request that you do the right thing with this check and donate it to a worthy charity. You deserve nothing. Your final reward is having to live with yourself and your conscience.

230 Prospect Street
Framingham, MA 01701
August 5, 2015

Suzanne and Avi Binder
7 Lillian Road
Framingham MA 01701

Hello Neighbors!

I left a note on your front door last week asking if you wanted me to help you dispose of the dead fallen tree but it looks like you managed it. The storm yesterday knocked down part of another tree from your yard that fell onto my deck/house - I realize that your neighbor on Lillian road's tree fell onto your yard so we are all dealing with the same tree issues.

I was wondering if you contacted your insurance company or how the tree on my yard was going to be disposed of?

Thanks so much - so thankful it happened when no one was injured.

All the best,

Corey Spaulding
cspaulding5@gmail.com
508-879-5156

Exhibit C

230 Prospect Street
Framingham, MA 01701
August 5, 2015

Suzanne and Avi Binder
7 Lillian Road
Framingham MA 01701

Hello Neighbors!

I left a note on your front door last week asking if you wanted me to help you dispose of the dead fallen tree but it looks like you managed it. The storm yesterday knocked down part of another tree from your yard that fell onto my deck/house - I realize that your neighbor on Lillian road's tree fell onto your yard so we are all dealing with the same tree issues.

I was wondering if you contacted your insurance company or how the tree on my yard was going to be disposed of? There also seems to be damage to the deck/house/garage.

Thanks so much - so thankful it happened when no one was injured.

All the best,

Corey Spaulding
cspaulding5@gmail.com
508-879-5156

I just saw your tree people in my yard and I asked them if they were going to be taking your tree off my house so that your insurance company can come do an estimate - he was under the impression that he was to only take the tree on your property. In the future, if you could please contact me prior to authorizing workers to come onto my property - thanks so much. I look forward to resolving this soon.

Volume I
Pages: 1-25
Exhibits: 0

COMMONWEALTH OF MASSACHUSETTS

DISTRICT COURT DEPARTMENT
OF THE TRIAL COURT

AVI FINDER
Plaintiff

v.

COREY SPAULDING
Defendant

HEARING

BEFORE THE HONORABLE DOUGLAS STODDART

APPEARANCES:

For the Plaintiff:
By: Avi Finder, Pro Se

For the Defendant:
By: Mark McMahon, Esq.

Framingham, Massachusetts
August 25, 2015

Recording produced by digital audio recording system. Transcript
produced by Approved Court Transcriber, Donna Holmes Dominguez

I N D E X

WITNESS DIRECT CROSS REDIRECT RECROSS

Avi Finder
By Mr. McMahon
Corey Spaulding
By Mr. McMahon

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P R O C E E D I N G S

(Court called to order.)

THE CLERK: Okay. Avi Finder over here.

Corey Spaulding over here.

Judge, it was a 258E.

THE COURT: Yeah. I remember.

THE CLERK: Right up here. Thank you.

(Discussion off the record.)

PARTIES, Sworn

THE COURT: So what was the following thing in which you

made reference to?

MR. FINDER: I have pictures of her coming into my street to

take pictures of me talking to someone in my street.

She doesn't live on my street. She lives on -- on a

perpendicular street.

And she came there, and then while she was doing that, she

was making threats to me.

THE COURT: Sure.

Can counsel -- you can -- how can we do it so we don't --

do you have it?

MR. FINDER: They're on their way to get the --

THE COURT: All right.

MR. FINDER: -- my phone and the -- my laptop, and --

THE COURT: So I remember the case. Do you want to cross

examine him at all or --

MR. MCMAHON: Yeah. If I may, Your Honor.

THE COURT: Sure.

EXAMINATION OF AVI FINDER

BY MR. MCMAHON:

Q Mr. Finder, this incident started after a tree fell from your property onto Ms. Spaulding's property?

A Yes, a tree that had to do with a storm on August 4th --

Q And --

A -- an act of God.

Q And that tree -- that tree caused damage to Ms. Spaulding's property?

A It -- from -- from what I understand, it did not cause any damage.

She's alleging that it caused damage.

Q And you did business with a tree removal service following the storm?

A I did do business with a -- with two tree removal business -- two -- two different companies, one for a tree that fell from a neighbor's yard onto my yard, and one that fell from my yard onto her yard which immediately I wanted to help clear that tree from her yard.

But she refused to get help. And I have documentation from that tree company that she actually did not -- she had said she wanted them to help her --

Q Mr. Finder, you're -- you're aware that Ms. Spaulding had --

1 THE COURT: Can I see that letter? Do you have that?

2 MR. MCMAHON: Sure.

3 THE COURT: Is it a letter or a note or --

4 MR. FINDER: It's a -- so here's a letter from the first

5 tree company.

6 THE COURT: Okay.

7 MR. FINDER: And then I have a tree -- a -- a letter from

8 another tree company.

9 Q Now, Mr. Finder, you're -- you're aware that Ms. Spaulding

10 had some objection to the tree service entering her property?

11 A According to her first note -- certified letter, she says

12 that they had indicated that they would not -- they did not

13 want to remove -- she says two conflicting things in her

14 letter.

15 And it's her own writing.

16 One, that the tree company --

17 THE COURT: Is this --

18 A -- refused to --

19 THE COURT: Do you have a duplicate of this? Or is that your

20 only one?

21 MR. FINDER: That's my only one, but --

22 THE COURT: We'll make a copy of it after the hearing.

23 A So -- so one of the letters -- in -- in the same -- in the

24 letter, she says first that they did not agree to -- to remove

1 branches from her --

2 Q Mr. Finder --

3 A One second. I'm -- I'm answering your question.

4 So -- so allow me to finish my -- my answer.

5 Q Mr. Finder, you did answer my question.

6 A No, no, no. I didn't answer your question. She said two things.

7 One, in one statement, she said she -- they did not agree to remove branches.

8 But then afterwards, she also said she did not want them -- that they trespassed her property --

9 Q So she did make known to you that she had some objection to them coming onto her property?

10 A She did not until the -- the three removal --

11 Q Mr. Finder, you just testified a second ago that --

12 THE COURT: No, but I don't think he was even present.

13 A I -- I was in New Hamp -- I was in -- they were supposed to come on Saturday because the -- most of the tree was about to fall on my house, so they came that day without my knowledge.

14 So I had no --

15 Q Mr. Finder --

16 A -- I didn't even have time to notify her.

17 Q But I'm asking you in the present tense, you are currently aware that she had some objection to a tree service coming on her property?

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1 A Currently now she's alleging that she has objection to --
2 Q No. In this letter that you provided, it says here Corey
3 Spaulding told me and my workers to leave her property. That's
4 in the letter that you provided to us dated August 14th?
5 A That is absolutely true.

6 Q And she's --

7 THE COURT: Where's the second letter by the way? Do you

8 have that?

9 MR. FINDER: Yeah. So these are letters from here which --

10 THE COURT: (Inaudible at 04:35, low audio.)

11 MR. FINDER: -- which -- and this is -- I have a letter from

12 a neighbor.

13 She has issues with neighbors. She has issues with --

14 THE COURT: How about the other tree --

15 MR. FINDER: -- litigious.

16 Okay. This is from another tree company.

17 THE COURT: All right. Hold on.

18 MR. FINDER: And this tree company --

19 THE COURT: Hold on. Let me finish here.

20 Okay. You can get a copy of that too. That guy's not too

21 happy with your client.

22 MR. MCMAHON: I understand, your Honor, but my question --

23 THE COURT: All right. So, do you have any --

24 MR. MCMAHON: The --

25 MR. FINDER: The issue that I have --

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MR. MCMAHON: Mr. Finder --

MR. FINDER: -- is I want to be --

THE COURT: Hang on, hang on.

Q Mr. Finder --

THE COURT: Let me ask his question.

Q The question here is about the restraining order, not about the tree.

A My restraining order, I didn't --

THE COURT: Mr. Finder --

A -- it's harassment. Or is that the same thing?

THE COURT: Slightly different.

Q You're aware that -- that Ms. Spaulding is contemplating filing an action in small claims against you?

A Yes.

Q And you filed for this anti-harassment order after the interaction with Ms. Spaulding, right?

A Yeah, because I'm being harassed. You see --

Q Mr. --

A -- she can --

THE COURT: Hang on. Hang on.

Q Is your answer yes, Mr. Finder?

A Yes.

Q And Ms. Spaulding -- Ms. Spaulding's communications to you were two certified letters?

A She gave me -- actually, there's three letters, but two

1 came in one envelope.

2 Q Okay.

3 A Yes.

4 Q But it -- it -- we're talking about mailings?

5 A They're -- yes. Yes.

6 MR. MCMAHON: Nothing further, your Honor.

7 MR. FINDER: I -- I want --

8 THE COURT: So did -- hang on.

9 MR. FINDER: (Inaudible at 06:33, low audio) after the fact

10 that the Court should be aware.

11 THE COURT: She saw (Inaudible at 06:39, low audio.)

12 MR. FINDER: Yes.

13 THE COURT: Okay. What happened?

14 MR. FINDER: Something else happened.

15 She called the police saying, which is completely false, so

16 she lied to police officers.

17 She called the police to say that I called her and the

18 police officer -- the funny thing, he's the same police

19 officer who came to my house and guided me to come here to

20 Court to file the harassment suit.

21 And she claimed to the police officer that I called her,

22 and so then he came to me, and he told me it says your name on

23 the caller ID.

24 And I thought, wow, that is interesting. So I looked at all

25 my logs, because obviously I would have never called her. I'm

1 placing a harassment suit.

2 I'm curious to know when this happened and when she got

3 served.

4 But I know that when she -- when the police officer came to

5 my --

6 So I was thinking she probably got a line in -- with the

7 caller ID saying Avi Finder.

8 I don't know why -- how she did that, but I wanted to know

9 the number. I wanted to know what number it came from.

10 The police officer went back to her house and she would not

11 open the door for him, so he didn't get to --

12 And I actually met that police officer last week when I

13 came in here, and he told me that, that he just -- he couldn't

14 speak to her. He wouldn't -- he didn't have a chance to speak

15 with her.

16 So I'm very curious to find out what number she used.

17 THE COURT: All right.

18 So do you want to present evidence or --

19 MR. MCMAHON: Yes, your Honor. It's my burden.

20 THE COURT: Sure.

21 MR. MCMAHON: I don't know where I should have her go.

22 THE COURT: Right there is fine.

23 EXAMINATION OF COREY SPAULDING

24 BY MR. MCMAHON:

25 Q You remember you're under oath?

1 A Yes.

2 Q Okay. When did this incident start?

3 A It started on August 4th.

4 Q What happened on August 4th?

5 A There was a storm and a tree from the plaintiff's yard fell
6 onto my back deck and took his fence onto my property as well.
7 THE COURT: Well, the tree guy says you lied about it
8 injuring your deck, and you asked him to lie for you.
9 MS. SPAULDING: That was (inaudible at 08:42, low audio.)
10 THE COURT: And that's --
11 MS. SPAULDING: I didn't ask anyone to lie. I --
12 THE COURT: Well, do you have an estimate where your deck is
13 damaged?
14 MS. SPAULDING: No. I contacted my --
15 THE COURT: Well, he said you lied.
16 MS. SPAULDING: Well --
17 THE COURT: So where would the estimate be to fix your deck?
18 MS. SPAULDING: When the storm happened, I have pictures to
19 show that the tree fell onto my deck and my house.
20 I contacted my insurance company. They said you should talk
21 to your neighbor and find out what's going on.
22 So I put the first letter on my neighbor's doorstep,
23 Exhibit B, I believe, and then I had gone -- I had heard some
24 people out in my backyard when I came home.
25 It was the (inaudible at 09:22, low audio) tree service

1 that the plaintiff had hired.
2 I went out and said to them are you -- they were on my
3 property with chain saws, and I said are you here to take down
4 the tree from my deck?

5 And they said -- my insurance company said you're going to
6 have to remove the tree to see the damage.

7 And they said no, that the plaintiff said only his -- the
8 tree limbs here, they had the chain saws to the fence.

9 THE COURT: I think the guy was going to clear a branch for
10 free.

11 MS. SPAULDING: That's not true, Your Honor.

12 THE COURT: It wasn't -- it wasn't going to cost you
13 anything.

14 MR. FINDER: No, no, no. It wasn't for free.

15 MS. SPAULDING: Your Honor, I --

16 MR. FINDER: I had to pay for it.

17 THE COURT: Right. You paid for it.

18 MR. FINDER: I was --

19 THE COURT: But not her?

20 MR. FINDER: Yes. For her, it would be free. For me, it
21 would have been --

22 THE COURT: Right.

23 MR. FINDER: -- I was being -- I mean --

24 THE COURT: he -- he was trying to do you a favor.

25 MS. SPAULDING: (Inaudible at 10:02, low audio), Your Honor.

1 THE COURT: Why not? It's a down limb. It was going to cost

2 MS. SPAULDING: If I may continue?

3 THE COURT: -- be of no cost to you.

4 MS. SPAULDING: May I just continue?

5 THE COURT: Sure.

6 MS. SPAULDING: Thank you.

7 So when I heard them out with the chain saws, I went out

8 and said to the -- because in July, the plaintiff had another

9 dead tree fall on his property, and I had offered at that

10 time, because I hadn't speaking to -- spoken to the neighbors

11 in the last five years, and I had said to the neighbors would

12 you like me to (inaudible at 10:26, low audio) no, would you

13 like me to remove that tree.

14 They stated -- they never replied, and their landscaper

15 took that dead tree away.

16 MR. FINDER: I was out of town.

17 MS. SPAULDING: So then -- excuse me.

18 Mr. Finder, if I may.

19 So then with the -- when Amazon Tree was out there, they

20 said no, we're not going to take that tree down, just

21 (inaudible at 10:41, low audio) for the plaintiff and getting

22 the fence back on his property.

23 I said did the tree get hit by lightning because the --

24 seen the picture that was all dark and brown on the inside.

1 They said no, it's rotted, look here, look at all the rot,
2 it rotted from the inside.

3 I said, you know, that's the second tree to fall down in
4 his property because of a dead fallen tree.

5 THE COURT: So what?

6 MS. SPAULDING: So I then said is -- are they going to take
7 the rest of the -- he had some other dead trees that were on
8 my property line.

9 I said is he going to -- are they going to take those trees
10 down? And they said, no, just this here.

11 I said okay.

12 So then I went back to the -- their house, and I left a

13 note, a second amended letter saying that I asked Amazon Tree
14 did you think there's damage done to my house.

15 And (inaudible at 11:29, low audio) and the gutter looks

16 like it had been damaged.

17 So then I sent a second letter to Mr. Finder, the

18 plaintiff, and the next morning, he called me, and he was very
19 disrespectful and very condescending.

20 And so I said you, know what, I -- I'm okay, I'm just going
21 to -- and I sent a certified letter that day. I said I would

22 just go to small claims because I feel that there was a -- a
23 negligence of having a lot of trees in the yard and -- and

24 they weren't really (inaudible at 11:57, low audio) help me

25 out with it. They weren't even going to work -- all three

1 houses had issues with trees on. We could all work together
2 like neighbors.

3 And he said no, not willing to help you out at all.

4 I said okay. So I put that in the -- in the mail. He had
5 said that he talked to his attorney, he had no liability.

6 I put the certified letter in the mail on August 6th, I

7 believe it was, at like 9:15 in the morning.

8 I got another three or four phone calls. Mr. Finder came to
9 my house, ringing my doorbell, and I wouldn't answer the

10 doorbell.

11 I -- I asked him to leave my property. I had asked them in

12 writing to please let me know if anybody else was going to be
13 trespassing onto my property, and I just need to know.

14 And then Mrs. Finder wouldn't leave my doorstep, but she

15 called me and said I'm here at your doorstep, I want to talk

16 to you.

17 And it -- and then the next day, I -- I had gotten the note
18 that day, I called around to get some tree estimates to get

19 the tree removed.

20 And one of -- I had A-1 come out, and they said it would be

21 300, and then I had Bill's Tree Service come out and I have

22 the estimate and pictures, and Bill's Tree estimate said it

23 would be 800 dollars, that they would -- I said -- both

24 companies said that they would access the left side.

25 He said -- Bill's Tree Service said I'm doing that

1 (inaudible at 13:14, low audio) your yard.
2 You know, if I could access your yard with my bobcat, I
3 could just go down in. That would make my life easier because
4 the plaintiff has very little access to get to the back part
5 of his driveway.
6 And so I said, no, it's just not a good relationship, and,
7 you know, I choose not to work with them.
8 And then I think I talked to the other tree guy, A-1. He
9 said (inaudible at 13:40, low audio) I don't think it's doing
10 any damage to the back of the house.
11 So I had it written out in small claims -- you know, it's a
12 small claim because there was damage, but there wasn't, so you
13 know, I wasn't going to bother with it.
14 My other neighbor said, you know, I have a chain saw,
15 Corey. I'll just take the tree away for free. And I think it
16 was really kind of like no issue until I got -- when I was
17 talking to Bill's Tree Service person, he said to me that he
18 knew somebody at the DPW and even if I didn't get his
19 permission to go to my yard, there was the access road on
20 Prospect Street to get down to -- to the end of the road.
21 I said well, I'm going to be in the hospital all day Monday
22 to have a procedure. And I got to know if you're going to be
23 driving a bobcat up and down the side of my property.
24 He said no, I won't.
25 So then there was all kind of -- like that weekend, my

neighbor was going to come help me. I already bought like a little wood chipper. It was all set.

I came home.

I went to the hospital Monday morning. And I came home, and Bill's Tree Service was there unauthorized. I --

Anyway, and he had parked so I couldn't get in the driveway.

My daughter was being disciplined so she was home alone

that day so she was in the house by herself, and I was

panicking. And so I called 911 and this -- you have to call

the Framingham Police.

So I had --

THE COURT: Why did you call 911?

MS. SPAULDING: Because I was driving home and the tree

service was at my house. My daughter was home alone. I

couldn't get into my driveway. There was a bobcat in the front

lawn.

THE COURT: Well, that's nuts. Why -- why would you call 911

for a --

MS. SPAULDING: I didn't --

THE COURT: -- business just doing work?

MS. SPAULDING: Well, because they weren't authorized and my

daughter was home alone.

THE COURT: Well, why didn't you get out of your car and

say, hi, I'm a homeowner, what's going on?

1 MS. SPAULDING: Well, it was the person that --
2 THE COURT: Who -- who calls 911 that -- at the first
3 instance?
4 MS. SPAULDING: Well, I was -- had just gotten out of the
5 hospital. I was terrorized -- terrified that my daughter was
6 home alone. My --
7 THE COURT: You're terrorized by a tree company?
8 MS. SPAULDING: That --
9 MR. MCMAHON: She misspoke, your Honor. She meant to say
10 terrified.
11 MS. SPAULDING: Yeah. Terrified. I had already told them not
12 to be there on Monday.
13 THE COURT: Can you explain why two complete strangers think
14 that you're completely irrational and you -- one of them
15 claims you asked him to lie for you?
16 MS. SPAULDING: I didn't ask anyone to lie, your Honor. Why
17 would I ask them to lie?
18 THE COURT: Why would strangers say that --
19 MS. SPAULDING: He's not exactly --
20 MR. MCMAHON: Your Honor, if I may --
21 THE COURT: You're -- you're irrational and --
22 MR. MCMAHON: Your Honor, if I may, both of those
23 individuals have a preexisting business relationship with Mr.
24 Flinder, and these letters are dated after the conversations
25 where she indicated she might --

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THE COURT: I -- I find you're incredible. I don't believe a word you say.

MS. SPAULDING: Well, if you'd like to see the evidence, your Honor, --

THE COURT: No.

MS. SPAULDING: -- I'd like to present it.

THE COURT: I don't -- I don't believe --

MR. FINDER: Can I --

THE COURT: No, you're winning.

MR. FINDER: I just wanted to --

THE COURT: I don't know if you know this, you're winning.

MR. FINDER: -- say just one little tiny -- I know that.

MS. FINDER: Can I say something too?

MR. FINDER: But there's a little statement, and I don't

want to -- I just want to say something --

THE COURT: You want to --

MR. FINDER: -- my insurance company --

THE COURT: -- seize defeat for victory?

MR. FINDER: No. I just -- my -- my insurance company was

going -- was -- I notified them, they didn't want to pay, and she got upset. That's when --

MR. MCMAHON: Your Honor --

MR. FINDER: -- it started.

MS. SPAULDING: That's not true.

MR. MCMAHON: Your Honor, may I offer just --

1 THE COURT: You -- I don't think -- no offense to you
2 counsel, you have a very difficult client. I don't believe a
3 word she's saying.
4 MS. FINDER: And I just wanted to say we don't want
5 problems. We just don't want to be bothered. I -- that's all.
6 MR. FINDER: We have two little girls. I'm concerned about -
7 -
8 MS. SPAULDING: Your Honor -
9 MR. FINDER: -- my family.
10 MS. SPAULDING: -- would you be willing to look at the
11 certified letters that I sent?
12 MR. FINDER: I have them here.
13 MS. SPAULDING: And I have an email that I sent to the DPW
14 director.
15 And I have a proposal with the bobcat (inaudible at 16:55,
16 low audio.)
17 MR. MCMAHON: Your Honor, if I may just very briefly --
18 THE COURT: You can -- you can sue the heck out of him, good
19 luck with a jury, I don't -- I don't think a jury's ever going
20 to believe you ever.
21 MR. MCMAHON: Your Honor, if I may just very briefly offer
22 up --
23 THE COURT: Sir, you can make an offer of proof. I've
24 already decided.
25 You can make an offer of proof on appeal.

1 What's your -- what do you want to put on the record?

2 MR. MCMAHON: Well, what I want to put on the record, your
3 Honor, is that even by Mr. Finder's testimony, every

4 communication he had with Ms. Spaulding was related to a
5 legitimate purpose, even if she might -- even if your Honor
6 believes she might not win in small claims which we're not
7 here to discuss right now, and I'm not representing her on
8 that claim, even if you believe she might not win on that
9 claims in small claims, all that --

10 THE COURT: All right. Let me see -- let me see the tape.

11 MS. FINDER: Your Honor, she told me when I called her to

12 try to have her feel better --

13 MR. MCMAHON: Honestly, your Honor, I'm not sure who this

14 is.

15 THE COURT: She can speak.

16 MS. FINDER: I'm his wife.

17 She -- she hung up on me and told me I'll see you in Court,
18 and that was --

19 MS. SPAULDING: I didn't want any more --

20 MR. MCMAHON: She hung up. You called her, right?

21 MS. FINDER: I called her --

22 MR. MCMAHON: Okay.

23 MS. SPAULDING: Yeah.

24 MS. FINDER: -- to try to --

25 MS. SPAULDING: After I asked you not to.

MS. FINDER: -- make things better.

Your Honor --

MR. MCMAHON: Anyways -- anyways, your Honor, just very

briefly to sum it up, my point is that all the communications with Mr. Finder, even the letters related to a legitimate purpose. None of this is harassment.

THE COURT: Okay.

MR. MCMAHON: If you -- if she showed --

THE COURT: That's not -- it's not a function of that.

MR. FINDER: This is in -- this is in my street. This is her taking pictures of me on my street.

THE COURT: Counsel, come on over. You can see it.

MS. SPAULDING: Well, they're picture I have right here,

Your Honor.

THE COURT: All right. Can you turn it --

MS. SPAULDING: That's me, that's him --

MR. FINDER: I know she's taking pictures of me on my

street, and I'm taking pictures of her on my street.

THE COURT: All right. So what are these so-called threats

to which you're referring?

MR. FINDER: So verbally, that -- she was taking videos. I

wish she would show her video, there's videos, she was taking,

she was threatening you're done, I'm going to get you --

THE COURT: Well, that's your -- you're under oath. That's

Your testimony.

1 MR. FINDER: Yes.

2 THE COURT: She said you're done, I'm going to get you?

3 MR. MCMAHON: Can I see, Your Honor?

4 MR. FINDER: That's her taking pictures of me on my street. She came over --

5 MR. MCMAHON: This is -- this is pictures of you taking --

6 this is a picture of you taking a picture of her.

7 MR. FINDER: On my street. She's on my street. She came to my street to take pictures to me. She's lives -- I'm not in --

8 I'm not going to her house. She's coming to my house, to my --

9 my street to take pictures of me.

10 MR. MCMAHON: Was she -- was she on your property, Mr. Finder?

11 MR. FINDER: What right does she have to come to -- to harass me and take pictures?

12 MR. MCMAHON: (Inaudible at 19:08, low audio.)

13 THE COURT: All right.

14 MS. SPAULDING: Your Honor --

15 MR. FINDER: To come and take pictures of me, to harass me?

16 MS. SPAULDING: I was documenting the fact that you had a relationship --

17 MR. FINDER: Documenting what?

18 MS. SPAULDING: You hired the tree service --

Defendant's affidavit. If 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.

AFFIDAVIT

EX A

On or about 08/06/2015, the Defendant sent me a certified letter asking me how I was going to dispose of a tree branch that had fallen on her yard and asking me to contact my insurance company. She also said that there had been people who were clearing the tree on her yard and she wanted me to notify her before having people on her yard. I called neighbor using the number that was left on the letter. I told her that I did not know the people from the tree company were coming on the same day I contacted them. They would try to make it the next day, because of the imminent danger to my home due to the tree leaning towards my house because of the wind damage. I told the neighbor (over the phone) my home owner's insurance recommended me to have her call her home owner's insurance because of the nature of the claim. I also told her that the tree people would be back and because of her situation I would be happy to pay for them to remove the branch. ☐ More space is needed at the bottom of the page 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	PLAINTIFF'S SIGNATURE	PRINTED NAME OF WITNESS	TITLE/RANK OF WITNESS	WITNESSED BY
	X			X

I also mentioned to Corey that I want
special to attorney to find out how
best to handle the situation because
she was claiming damage to her house
On about 08/07/2015 I received
another certified letter that
I have responded with aggression
to her letter, which was untrue
My Tree Service Amazon, were like
get her property after wanting
to clear her tree on the first day
after the storm. She claims that
I said they did not trespass,
I was not aware that they were
working on her yard that same day.
She mentioned getting an estimate
from another Tree Service Bill Tree,
instead of using a friend.
Corey mentions in the letter that
she intends to take me to court
and that is why she using Bill's
Tree Service. She did use Bill's
Tree Service, but called the Bill's
When they were done, said that she
never authorized them to do work.
had them removed and they did not get
for doing hard work.

She claims that I am disrespectfully
and harassing her as a means
to harass & intimidate me. The
claims are not true. On 10/09/15
I went to my house because
I heard of the news that
she had called the police on
the tree company that cleared
her yard. I went to my next
door neighbor to talk to Bill, the
owner of the tree company because
I needed him to help me with
more debris in my property.
Cory, drove her car into my
street, made a U turn came
to where I was and started
taking pictures & video threats
to make sure I was dead with
in court. I feel Cory is unstable
and is a threat to me and my family.
She is harassing us.