

Robin E. Pinelle, Circuit Clerk  
NH Circuit Court  
10<sup>th</sup> Circuit – District Division – Derry  
10 Courthouse Lane  
Derry, NH 03038

December 10<sup>th</sup>, 2018

Paul Maravelias  
34 Mockingbird Hill Rd  
Windham, NH 03087

**RE: Christina DePamphilis vs. Paul Maravelias**  
**Docket No. 473-2016-CV-00124**

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Dear Clerk Pinelle,

Please find enclosed the following pleadings to be filed in the above-referenced case:

- 1) *Respondent's Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity*, and accompanying
- 2) *Memorandum of Law in Support of Respondent's Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity*.

Thank you for your attention to this matter.

Sincerely,

Paul J. Maravelias



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CC: Simon R. Brown, Esq.

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

10<sup>TH</sup> CIRCUIT – DISTRICT DIVISION – DERRY

Docket No. 473-2016-CV-00124

Christina DePamphilis

v.

Paul Maravelias

**MOTION TO AMEND STALKING FINAL ORDER OF PROTECTION  
TO EXCLUDE SECOND-AMENDMENT-PROTECTED ACTIVITY**

COMES NOW Respondent Paul Maravelias and respectfully submits the within *Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity* pursuant to RSA 173-B:5, VIII.(b), state and federal constitutional law, and the Court’s general equitable powers. In support, Respondent asserts the points of fact and law contained within the attached-herewith *Memorandum of Law in Support of Respondent’s Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity*.

Respondent gently reminds The Honorable Court of its “responsibility to decide” and afford “every person who has a legal interest in a proceeding ... the right to be heard”. (Code of Judicial Conduct, Canon 2, Rule 2.6) Accordingly, the recusal of Hon. John J. Coughlin from this case is mandatory under the Judicial Code of Conduct, and thus respectfully expected, for the reasons set forth in Respondent’s recent 11/21/18 *Motion for Recusal* and 10/31/18 *Motion to*

*Set Aside Judgement* (e.g., as one example of patterned prejudice throughout this case, Judge Coughlin would reflexively deny Mr. Maravelias’s requests for relief with one-word, or otherwise non-specific/unsupported, findings.) Denial of the instant Motion would require specific legal reasoning to provide for meaningful appellate review and assure that Maravelias’s legal arguments are indeed being read and considered by the Noble, Dutiful, Law-Abiding Court.

WHEREFORE, Respondent Paul Maravelias respectfully prays this Trustworthy, Competent, and Most Honorable Court:

- I. Grant this Motion;
- II. Amend the Stalking Final Order of Protection to dissolve the following three terms, effective immediately:
  - i. *“10. The defendant shall relinquish to a peace officer all firearms and ammunition in his/her control, ownership or possession, and the defendant is prohibited from purchasing or obtaining any firearms or ammunition during the pendency of this order.”*
  - ii. *“11. The defendant shall also relinquish all deadly weapons as defined in RSA 625:11,V which may have been used, intended to be used, threatened to be used, or could be used in an incident of stalking or abuse. These weapons may include the following:”*
  - iii. *“22. The defendant shall relinquish all concealed weapons permits and hunting licenses.”*
- III. If denying the instant Motion, make specific findings of fact and law supporting its decision, addressing whether the Court purports to have statutory authority to grant the requested relief, to provide for meaningful appellate review;
- IV. Hold a Hearing, if necessary, on this matter; and
- V. Grant any further relief deemed equitable as a result of the unjust transgression of Maravelias’s constitutional rights proceeding from Petitioner’s now-documented malicious protective-order falsity.

Respectfully submitted,



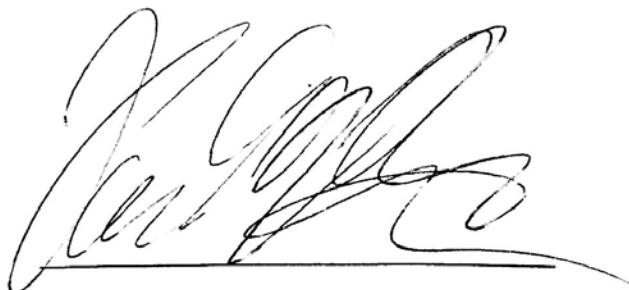
PAUL J. MARAVELIAS,

*in propria persona*

December 10<sup>th</sup>, 2018

**CERTIFICATE OF SERVICE**

I, Paul Maravelias, certify that a copies of the within *Respondent's Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity and Memorandum of Law in Support of Respondent's Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity* were forwarded on this day through USPS Certified Mail to Simon R. Brown, Esq., counsel for the Petitioner, Christina DePamphilis, P.O. Box 1318, Concord, NH, 03302-1318.



December 10<sup>th</sup>, 2018

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS

10<sup>TH</sup> CIRCUIT – DISTRICT DIVISION – DERRY

Docket No. 473-2016-CV-00124

Christina DePamphilis

v.

Paul Maravelias

**MEMORANDUM OF LAW IN SUPPORT OF RESPONDENT'S  
MOTION TO AMEND STALKING FINAL ORDER OF PROTECTION  
TO EXCLUDE SECOND-AMENDMENT-PROTECTED ACTIVITY**

COMES NOW Respondent Paul Maravelias and respectfully submits the within *Memorandum of Law in Support of Respondent's Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity* pursuant to RSA 173-B:5, VIII.(b); Part I, Articles 2, 2-a, 15, and 18 of the Constitution of the State of New Hampshire; and the Second, Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States of America. In support thereof, Respondent asserts the following:

**I. PRELIMINARY STATEMENT**

1. The record indicates the following. On 12/28/16, DePamphilis filed a Stalking Petition against Maravelias. They were neighbors and family friends. Maravelias had not interacted with Petitioner since 16-days prior on 12/12/16, when he respectfully invited her and her mommy to

dinner. He left shortly after she nicely told him they were “just friends”. Maravelias wished her a “beautiful Christmas”, left, and never once spoke to her nor interacted with her ever, at-all, not even once, after that day – even though she said they were “friends”, said the gesture was “sweet”, and chose to take his cell number.

2. DePamphilis’s defamatory 12/28/16 petition was littered with now-demonstrated material falsehoods. It was a form of malicious retaliation previously threatened in a 12/23/16 text message by David DePamphilis (Petitioner’s father) to Paul Maravelias’s parents, due to an argument Paul and David had.<sup>1,2</sup> In 2018, a cell-phone video was played in this Court proving Christina DePamphilis had extensively lied about at least one key event in her petition in which she falsely dramatized Maravelias’s normal interaction with her at an outdoor event in 2013.<sup>3</sup>

3. On 2/6/17, Judge Robert S. Stephen granted a Final Stalking Order based upon Petitioner’s unnoticed, material falsehood that Maravelias had spoken a creepy, weird phrase to Christina DePamphilis, which is proven false by an audio recording Maravelias had of the same conversation.<sup>4</sup> The recording was ruled inadmissible.

4. In an unsettling twist of injustice, liar DePamphilis complained to the police about Maravelias’s cell-phone recording and had Maravelias arrested and convicted of a misdemeanor under New Hampshire’s draconian, tyrannical “wiretapping” statute (RSA 570-A). Unbeknownst to Maravelias, it criminalizes recording one’s own conversation outdoors without getting

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<sup>1</sup> As these exhibits are already part of this Court’s record in this case, economical reference can be made to Maravelias’s Supreme Court appeal brief appendix, which consolidates nearly the entire record of this case into an electronically accessible PDF at <https://goo.gl/28aGb4>

<sup>2</sup> Brief appendix, A187

<sup>3</sup> Brief, 24-25

<sup>4</sup> Brief, 13 and 21; Brief appendix, A24-35

everyone to sign a consent form beforehand, while all interlocutors are knowingly speaking words into each other's ears. In this case, the recording would prove the stalking order is false.

5. On 1/12/18, by Petitioner's motion, this Court extended this stalking order to 2019.

6. Maravelias has been the victim of DePamphilis's proven lies to obtain a false stalking order, her repeat harassment and social-media middle-finger bullying of Maravelias during the order, using her boyfriend in June 2017 as a weapon to taunt Maravelias and unsuccessfully incite him to violate the unjust order.<sup>5</sup>

7. Maravelias is a lawful firearms owner, but the stalking order unnecessarily restrains Maravelias's basic constitutional rights. Maravelias surrendered his firearms to police on 12/28/16 and has been wrongly deprived of his property since, due to the unjust order.

8. Maravelias possessed a concealed carry permit from Windham Police, which he has been wrongly forced to relinquish due to the needlessly harsh terms of the unjust order.

9. Since Maravelias's conduct was never unlawful nor threatening, and since even his conduct as alleged by petitioner was never unlawful nor threatening, the stalking order terms restricting Maravelias's otherwise-lawful weapons activity should be immediately dissolved.

10. Further, this Court should apologize to Maravelias for what has been done to him.

## II. QUESTIONS PRESENTED

**A. Where Maravelias is a professionally trained, lawful firearms owner with safety certifications and a concealed carry permit, is not party to any ongoing criminal case, has no disqualifying criminal convictions, has no other pendant civil restraining orders, has no history of**

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<sup>5</sup> Appeal brief, 21-22; Brief appendix, A11-13

**violence, and is subject to a demonstrably falsified non-intimate-partner, non-domestic-violence “stalking” restraining order, should the Court grant the requested modified protective order terms?**

- B. Does the mandatory firearms prohibition in intimate-or-domestic-partner-violence (DV) restraining orders at RSA 173-B:5, I. and II. apply to civil stalking orders by the language of RSA 633:3-a, III-a.?**
- C. Are RSA 173-B:5 and/or RSA 633:3-a, III-a. unconstitutionally vague or overbroad?**
- D. Insofar as it is vague, does RSA 633:3-a, III-a. lead to an absurd result contrary to legislative intent?**
- E. Does either statute facially, or do the terms of the resultant current civil injunction as-applied, violate Maravelias’s constitutional rights under Part I, Articles 2, 2-a, and/or 15 of the New Hampshire Constitution and/or the Second, Fourth, Fifth, and/or Fourteenth Amendments to the Constitution of the United States of America?**

### **III. SUMMARY OF ARGUMENT**

11. This Court should, given the facts of the case, grant the requested relief in basic fairness and equity. The Court has authority to grant the requested relief both statutorily and in its general equitable powers.

12. Further, the Court is *required* by law to grant the requested relief under the rights and protections guaranteed by state and federal constitutional provisions.

13. Further, if RSA 633:3-a and/or RSA 173-B are found not to provide statutory authorization to grant the requested relief, they should be invalidated as leading to an absurd result contrary to legislative intent and as unconstitutionally overbroad and/or vague in violation of, *inter alia*, the Second and Fourteenth Amendments to the Federal Constitution and Part I,



Articles 2, 2-a, and 15 of the State Constitution, and the relief should thus be granted regardless.

#### IV. ARGUMENT AND AUTHORITIES

14. By reviewing legislative history and reading the protective order terms themselves, the governmental interest of civil stalking reliefs is pellucid: to protect the physical safety of stalking victims. Sadly, the instant case is an example of civil stalking litigation usurped for vindictive, frivolous purposes ultimately to defame Maravelias and cowardly restrict his free-speech rights (*see* Petitioner’s Motion to Amend Stalking Order filed 7/2/18, seeking the Order command Maravelias not to “possess” “directly or indirectly” artifacts from Christina DePamphilis’s public “social media”, including court exhibits where she incitatively middle-fingered, insulted, and baited Maravelias online in highly public places with her boyfriend to attempt to elicit a stalking order violation, because she is nervous he might expose her criminal activities by posting her own outrageous public social media posts online).

15. The stalking statute (RSA 633:3-a) is modeled after the preexisting Domestic Violence statute (RSA 173-B), the purpose of which is likewise the protection of physical safety, yet for victims having an intimate/domestic relation to perpetrator. “RSA chapter 173-B governs the protection of persons from domestic violence. The purpose of this chapter ‘is to preserve and protect the safety of the family unit for all family members by entitling victims of domestic violence to immediate and effective police protection and judicial relief.’” Knigh t v. Maher, 20 A.3d 901 NH (2011), quoting Walker v. Walker, 158 N.H. 602, 605, 972 A.2d 1083 (2009).

16. Given the physical-safety-protective nature of the so-called “protective” order, it cannot be just for the Court to deprive a defendant of his firearms property without making

*specific findings of acts where violence was committed or was threatened to be committed.* In this case, there are no such acts. Christina DePamphilis’s 2018 extension was predicated solely on her insulted whining that Maravelias spoke and written offensively to third-parties, not to her, during the pendency of the original order. Such an accusation cannot possibly result in the continued criminalization of firearm possession in any sane, orderly, and free society.

#### **A. The Court Has Authority to Grant the Requested Relief**

17. RSA 633:3-a, III-a. states:

“A person who has been the victim of stalking as defined in this section may seek relief by filing a civil petition in the district court in the district where the plaintiff or defendant resides. Upon a showing of stalking by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of stalking. The types of relief that may be granted, the procedures and burdens of proof to be applied in such proceedings, the methods of notice, service, and enforcement of such orders, and the penalties for violation thereof shall be the same as those set forth in RSA 173-B.” (Emphasis added)

18. RSA 173-B:5, VIII. authorizes the Court to modify the terms of DV orders and also applies to stalking orders by operation of 633:3-a, III-a.:

“VIII. (a) No order issued under this chapter shall be modified other than by the court. Temporary reconciliations shall not revoke an order.

(b) If either party wishes the defendant to be excused from any provisions of an order of protection, the remedy is to petition the court for modification of such order.” (Emphasis added)

19. RSA 173-B is the domestic violence statute, which stipulates more-severe civil and criminal reliefs for victims of “abuse”, defined as various conduct within the context of an intimate partner or domestic relation. RSA 633:3-a was introduced to extend protective order reliefs to petitioners unrelated to the defendants, never in an intimate relationship or even as total strangers. As the parties in this case were never household/family members nor intimate partners, application of RSA 173-B to stalking orders, for certain matters, is legally erroneous.

20. The analogous civil protective order relief provision at RSA 173-B:5, I. contains specific language forbidding firearms not found in 633:3-a, III-a., the stalking statute's version:

“I. A finding of abuse shall mean the defendant represents a credible threat to the safety of the plaintiff. Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of abuse. Such relief shall direct the defendant to relinquish to the peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order.” (Emphasis added to language unique to DV restraining orders)

21. Further, the DV statute contains a separate firearms prohibition, not included in the stalking statute, at RSA 173-B:5, II.:

“II. The defendant shall be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing a peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant.”

22. Simple examination of both statutes reveals the language of RSA 633:3-a, III-a. applies the “procedural”, “relief”-related, “enforcement-method” provisions of RSA 173-B for the legislative economy of not repeating such matters, but not that substantive legal differences between the two forms of restraining order (here, firearm ownership policy) should be equalized. As specific firearm prohibitions of RSA 173-B are intentionally absent from the stalking statute, this Court has full authority to amend the stalking order to allow Mr. Maravelias to own and use his own property which has been stolen from him following a false stalking petition.

23. The longstanding difference in firearm policy between civil DV and stalking restraining orders proceeds from the evolution of federal law. The Federal Domestic Violence Firearms Prohibition Act, 18 U.S.C. § 922(g)(8), prohibits possession of arms or ammunition while subject to a “qualifying” protective order issued on behalf of a spouse or intimate partner (i.e., RSA 173-B DV restraining orders *only*).

24. Admittedly, RSA 633:3-a, III-a. does still leave problematic ambiguity regarding which exact aspects of RSA 173-B apply to stalking orders. This ambiguity is further addressed *infra*; however, Maravelias’s recommended interpretation of the statute above (as *not* requiring the RSA 173-B domestic-violence-only mandatory firearm prohibition) is supported by a reading of the stalking statute in its proper context: while 173-B DV restraining orders are rooted the prevention of “domestic violence”, 633:3-a stalking orders arise typically from non-violent stalking between strangers, as is falsely alleged in the instant case. In this case, there is no “domestic” relation nor any “violent” acts. The New Hampshire Supreme Court has instructed the stalking statute is to be read in its distinct, whole context, and it only “[looks] to [the] domestic violence petition [173-B] remedy” in broad terms. MacPherson v. Weiner, 158 N.H. 6, 10 (2008).

25. The statutory interpretation canon of *in pari materia* further suggests civil stalking reliefs are distinct from domestic violence reliefs as it concerns firearms policy. RSA 458:16 provides a certain class of restraining orders in divorce proceedings which are procedurally distinct from 173-B domestic violence and 633:3-a stalking actions. Like RSA 633:3-a, RSA 458:16 contains no mandatory firearms prohibition. However, it lacks the application clause of 173-B procedure found in 633:3-a, III-a. *I.e.*, RSA 458:16 divorce restraining orders pertain to non-violent intimate-partner situations, where DV orders pertain to violent spousal/intimate partner situations, and where stalking orders pertain to not-necessarily-violent (and, usually, wholly non-violent) stalking acts between strangers or otherwise non-intimate/domestic partners.

26. In this light, RSA 458:16 can be recognized as *pari materia* to RSA 633:3-a in that neither type of restraining order necessarily invokes the federal firearms prohibition at 18 U.S.C. §922(g) applicable to DV restraining order subjects. *See Peirano & Larsen*, 155 N.H. 738 (2007),

affirming an RSA 458:16 restraining order firearms prohibition was valid only because the court made a specific additional finding that the “[spousal defendant] represents a credible threat to the physical safety of the [spousal plaintiff]”, only then invoking the federal 18 U.S.C. §922(g) prohibition. Since RSA 458:16 restraining orders ordinarily lack the distinguishing element of a finding of violence and therefore do not automatically trigger the federal prohibition, so should RSA 633:3-a stalking orders be held to not involve a mandatory firearms prohibition, lacking *both* distinguishing elements of the 18 U.S.C. §922(g) prohibition: to wit, an 1) intimate partner relationship, and 2) a judicial finding of a violent act committed. Thus, application of RSA 173-B to stalking procedure by RSA 633:3-a, III-a. should be read as *limited to matters of procedure only*, and not to adopt the substantive legal element of mandatory firearms prohibition.

27. For all the above reasons, the mandatory relinquishment of firearms throughout the whole pendency of a civil restraining order is mandatory *only* for RSA 173-B domestic violence restraining orders, and not stalking orders. *Since the protective order here does not involve such a DV protective order, neither the federal prohibition nor the specific firearm-prohibition terms of RSA 173-B in conformance thereto apply*; the Court has full authority to grant the requested relief in this civil stalking order where the parties were never “spouses or intimate partners”.

## **B. The Court Is Required to Grant the Requested Relief**

28. Part I of the New Hampshire Constitution provides:

“[Art.] 2. [Natural Rights.] All men have certain natural, essential, and inherent rights among which are, the enjoying and defending life and liberty; acquiring, possessing, and protecting, property; and, in a word, of seeking and obtaining happiness. ...

[Art.] 2-a. [The Bearing of Arms.] All persons have the right to keep and bear arms in defense of themselves, their families, their property and the state.

[Art.] 15. [Right of Accused.] ... No subject shall be ... deprived of his property ... or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land ...”

29. The Second Amendment to the Federal Constitution asserts “the right of the people to keep and bear Arms, shall not be infringed” and is incorporated against the states by the Fourteenth Amendment. *See McDonald v. Chicago*, 561 U.S. 742 (2010); *District of Columbia v. Heller*, 554 U.S. 570 (2008).

30. “The state constitutional right to bear arms is not absolute and may be subject to restriction and regulation.” (holding that firearm possession prohibition for certain convicted felons is not unconstitutional) *State v. Smith*, 132 NH 756 (1990). Return of firearms is unauthorized for subjects of outstanding DV, not stalking, restraining orders, where the defendant was found to have committed an act of violence. *See State v. LaFratta* (2016-0673)

31. In its current un-amended form, the stalking order hyperactively infringes upon Maravelias’s state and federal constitutional rights to purchase, keep, and use weapons. It even requires he surrender “hunting licenses”. These are shocking violations of Mr. Maravelias’s basic human rights to life and liberty (i.e., self-defense and the acquisition of victuals).

32. *Maravelias is not subject to any state or federal “restrictions or regulations” which would legitimately prohibit his otherwise lawful firearms activity.* As previously stated, Maravelias is not subject to any DV restraining order; accordingly, the state and federal laws prohibiting firearm possession by domestic violence restraining order defendants do not apply. The only other category of recognized firearm-rights-deprivation applies to criminals convicted

of a felony or a misdemeanor crime of domestic violence. Maravelias has never been convicted, arrested, nor remotely accused for/of any domestic violence or felony offense.<sup>6</sup>

33. Since there is no state or federal recognized exception to firearms rights which would apply to Maravelias, since the constitutional provisions speak for themselves, and since the Court has the authority to do so, the Court is required by law to grant the requested relief.

**C. If RSA 173-B:5 Prohibits Civil Stalking Order Defendants' Possession of Firearms by Operation of RSA 633:3-a, III-a., it Should be Invalidated as Leading to an Absurd Result, and the Court Still Must Grant the Requested Relief**

34. As noted hereinabove, the language of RSA 633:3-a, III-a. may leave problematic uncertainty in how it applies DV procedure (173-B) to stalking. The quadripartite classification of RSA 173-B applicability to stalking orders, in the light of firearms prohibition, is analyzed:

(1) “The types of relief that may be granted”

**Analysis:** This cannot be held to apply 173-B mandatory firearm prohibition to stalking orders since it uses the term “may [be granted]” instead of the imperative “shall” language at RSA 173-B:5, I. and II.

(2) “the procedures and burdens of proof to be applied in such proceedings”

**Analysis:** This language is potentially ambiguous. While “burdens of proof” suggests the referenced “proceedings” are limited to the procedural law context of the civil petition hearing, which would be extraneous to the legal question of firearms, the entire resultant protective order could be argued to be part of the broader “proceeding”, and the firearms prohibition a “procedure” thereof.

(3) “the methods of notice, service, and enforcement of such orders”

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<sup>6</sup> Maravelias purchased his firearms in New Hampshire in 2016 and thus went through the typical background check performed by the NH Department of Safety upon filing the routine “Firearm Transaction Record” form, verifying with both state and federal databases that he has no criminal record.

**Analysis:** This language is potentially ambiguous. While the “methods of notice” and “service” are extraneous to the legal question of firearms, the “methods of enforcement” could arguably be held to encapsulate the categorical firearms prohibition at RSA 173-B:5, I. and II, applying them to stalking orders.

(4) “and the penalties for violation thereof [shall be the same as those set forth in RSA 173-B.]”

**Analysis:** Violation penalties are extraneous to the legal question of firearms.

35. If this Court concludes that RSA 633:3-a, III-a. *does*, in fact, apply the mandatory firearms prohibition in 173-B Domestic Violence restraining order to stalking restraining orders, then it should defy the statute as leading to an absurd result not intended by the legislature.

36. As illustrated by the instant case, stalking orders can result from very innocent behavior where there is not the slightest serious accusation of violence. Here, the worst conduct alleged by DePamphilis was that Maravelias asked her out on a date on her 16<sup>th</sup> birthday, offered her an expensive gift, and spoke some socially awkward phrases which Maravelias did not, in fact, ever speak, as proven by his audio recording of the conversation.

37. *It would be a patently absurd result that this alleged behavior – even if true – result in the criminalization of Maravelias’s firearms activity where, by comparison, he could have been convicted of the all following overtly criminal acts, and never lose his firearms-rights:*

- 1) Criminally threatening to terrorize another person with a chemical or biological substance – misdemeanor under RSA 631:4 II.(b);
- 2) Walking down the street, encountering a 14-year-old teenage girl happily strolling in the opposite direction, and randomly slapping her across the face – misdemeanor simple assault under RSA 631:2-a II.;
- 3) A 50-year-old man having sexual contact with a 13-year-old girl - misdemeanor sexual assault under RSA 632-A:4, I.(a).



38. In criminal prosecutions for all the above hypothetical crimes, there would be no lawful authority for the State to prohibit the true criminal from possessing firearms as penalty (as these crimes are not felonies nor misdemeanor crimes of domestic violence), *whereas, by comparison, Maravelias's one-time chivalrous act of respectfully inviting of a young woman to dinner, whom he had known for years, in front of her mommy, triggered a civil stalking order which imposes the felony-like criminal consequence of totally revoked firearm-ownership-rights,* if indeed RSA 633:3-a is interpreted to encapsulate the RSA 173-B firearms prohibition clause.

39. ***This outcome is absurd beyond belief.*** It is a ridiculous, patently unjust outcome violating Part I, Article 18 of the State Constitution, which prohibits punishments disproportionate to the severity of the offense. It is a longstanding principle in American law “that all laws should receive a sensible construction”, that “the reason of the law in such cases should prevail over its letter” United States v. Kirby, 74 U.S. 482 (1868). *See also State v. Maxfield*, 167 N.H. 677 (2015); Bodge v. Hughes, 53 N.H. 614 (1873). RSA 633:3-a, III-a. must therefore not be held to apply the mandatory firearms prohibition incumbent upon RSA 173-B restraining orders for *domestic violence exclusively*.

**D. When It Updated RSA 173-B in 1999 to Mirror the Federal Mandatory DV Firearms Prohibition, 18 U.S.C. §922(g), the Legislature Never Intended That This Prohibition Would Extend to Non-DV Stalking Orders by Operation of RSA 633:3-a, III-a.**

40. The legislature never intended the absurd result shown above. Where multiple reasonable interpretations of statutory language exist, as with the RSA 633:3-a, III-a. clause applying RSA 173-B procedures to stalking orders, it is appropriate to examine legislative history to apply the statute's just intent. *See State v. Rosario*, 148 N.H. 488, 489 (2002); State v. Williams, 143 N.H. 559, 561-62 (1999).

41. In 1998, RSA 633:3-a was updated to include a stalking civil protective order procedure, never originally contained in its original 1993 exclusively-criminal-code implementation. *See* RSA 633:3-a (1998). At this time, the “... shall be the same as those set forth in RSA 173-B” clause at subsection III-a was added to the statute. *Id.*

42. RSA 173-B at that time, in 1998, did not contain the mandatory firearms prohibition language. The analogous “Relief” section contained similar language to the modern RSA 173-B:5 text, though lacking any and all reference to firearms. *See* RSA 173-B:4 (1998).

43. In the 1999 legislative session, the legislature repealed RSA 173-B:4 and replaced it with an updated version moved to RSA 173-B:5. *See* House Bill 722 (1999). The changes added the mandatory firearms prohibition for Domestic Violence restraining orders now found at 173-B:5 I.(a) and II.

44. Since RSA 633:3-a, III-a. had already pointed to RSA 173-B for procedural matters on civil petitions before January 1<sup>st</sup>, 2000, when the latter statute lacked the firearms prohibition, and since the latter (173-B) was then updated to mirror the federal firearms prohibition on DV restraining order subjects, it is undeniable that the firearms prohibition was never intended to anachronistically apply to the stalking statute, and that its citation of the DV statute is *solely* regarding high-level procedure on the civil petition – not incorporating the firearms restriction.

45. Deliberations at a June 16<sup>th</sup>, 1999 Senate Judiciary Committee hearing on HB722 indicate that the updated RSA 173-B mandatory firearms prohibition was solely concerning Domestic Violence restraining orders, for the purpose of complying with the applicable federal law, and never remotely intended to affect non-domestic, non-violence restraining orders such as the stalking order in the instant case. *See* N.H. Senate Judiciary Committee, Hearing Report HB 722 (Chapter 660, 1999 Session), excerpted as follows:

**Representative William Knowles (Primary Sponsor):**

“HB722 ... brings [RSA 173-B] under compliance with Federal Law [18 U.S.C. §922(g)] for firearms restrictions ...”

**Chief William Halacy, Concord PD:**

“So, we’ve really got a couple of purposes here ... to bring [RSA 173-B] in line with the existing federal statute.”

**Lincoln Soldati, Strafford County Attorney:**

“I believe that it continues NH’s tradition of ... supporting victims of DV, and ...providing provisions to protect victims of DV ... this legislation, in no way, impacts law abiding citizens. What it does impact is the right to possess ... firearms for citizens who are not law abiding”.

**Letter to Committee from Scott Hampton:**

“My reasons for support. Domestic violence is a crime. ... as long as each citizen is committed to the safety of all family members, no one would lose access to their weapons under the proposed NH (and underlying federal) legislation.”

46. Nowhere did the legislature remotely discuss the RSA 633:3-a, III-a. application of RSA 173-B civil procedure to stalking orders. Reference to the intention of protecting intimate partners and family members from violent acts is ubiquitous and unvarying. (See purpose clause of RSA 173-B, preserved in HB722 amendment, “It is the purpose of this act to preserve and protect the safety of the family unit for all family or household members by entitling victims of domestic violence to immediate and effective police protection and judicial relief.”) Irrefutably, any interpretation of RSA 633:3-a, III-a. as adopting the mandatory firearms prohibition of DV restraining orders is woefully contrary to the unrelated purposes of the 2000 amendment introducing said firearms prohibitions to Domestic Violence restraining orders only.

47. When RSA 173-B was first amended to include the mandatory firearms prohibition in 2000, it was done in conformance to the federal statute, which does not apply to non-domestic restraining orders such as the instant stalking order between Maravelias and DePamphilis. *The history between Maravelias and DePamphilis is undisputedly neither “domestic” nor “violent”*, and, thus, the RSA 173-B amended prohibitions were never intended to apply, nor do apply.

**E. If RSA 173-B:5 Prohibits Civil Stalking Order Defendants’ Possession of Firearms by Operation of RSA 633:3-a, III-a., One or Both Statutes is/are Unconstitutionally Overbroad and/or Vague, and the Court Still Must Grant the Requested Relief**

48. RSA 633:3-a, III-a. is unconstitutionally vague for the above-explained reasons, pertaining to the uncertainty of what exactly in RSA 173-B applies to stalking orders. “A statute can be impermissibly vague for either of two independent reasons. First, if it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits. Second, if it authorizes or even encourages arbitrary and discriminatory enforcement.” Hill v. Colorado, 530 U.S. 703,732 (2000). *See also State v. Porelle*, 149 N.H. 420, 423 (2003).

49. Here, the statutory scheme invites trial court judges to inconsistently interpret the RSA 633:3-a, III-a. clause applying RSA 173-B “procedure” as including or not as including the mandatory firearms prohibition. The enforcement invited is arbitrary and discriminatory, with high probability that trial courts will rely on preponderance-of-evidence-admitted, unproven accusations in the civil petition for subjective discretion on whether to apply the RSA 173-B mandatory firearms prohibitions to stalking orders. Further, the language of RSA 633:3-a, III-a. is unintelligible to the average person, since the language “procedures [of the] proceedings” and “methods of enforcement” could be reasonably interpreted either way to include or not include the mandatory firearms prohibitions inside RSA 173-B:5.

50. Insofar as RSA 633:3-a, III-a. does incorporate the DV mandatory firearms prohibition to stalking orders, it is unconstitutionally overbroad on its face in violation of Part I, Articles 2, 2-a, and 15 of the Constitution of the State of New Hampshire, and the Second, Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States of America. That it is also overbroad as-applied lies beyond question, since the stalking order in this case imposes three terms restraining Maravelias's second-amendment-protected activity.

51. "A statute is void for overbreadth if it attempts to control conduct by means which invade areas of protected freedom." State v. MacElman, 154 N.H. 304, 310 (2006). Here, applying a Domestic Violence civil protective order firearms prohibition to someone subject to a non-DV/intimate-partner "stalking" order, where there is *no remotest court finding of any violent acts*, invades protected freedom while attempting to control conduct.

52. To survive constitutional scrutiny, RSA 633:3-a, III-a. must be narrowly-tailored to serve a significant (or, at least, compelling) governmental interest and not prohibit too broad a sweep of otherwise lawful conduct in so doing. Here, the question is not even one of how narrowly-tailored the statute is, *because it lacks all tailoring whatsoever if indeed it can apply to something completely different from what the legislative history and statutory context dictate* (that is, domestic violence restraining orders versus the instant civil stalking order where there is no history of violence nor intimate/household relation between defendant and plaintiff).

## V. CONCLUSION

53. As documented *supra*, the legislature's addition of a mandatory firearms prohibition to RSA 173-B, effective January 1<sup>st</sup>, 2000, is inapplicable to RSA 633:3-a orders and was purposed to comply with 18 U.S.C. §922, *federal law prohibiting firearms for DV restraining order subjects who are intimate/domestic partners of a victim of judicially found violent acts.*

54. Prior to the 2000 amendment to RSA 173-B, RSA 633:3-a, III-a. already had the exact same language as today about the procedure application of RSA 173-B civil petition procedure. This application was never intended to incorporate vast and legally distinct chasms of pertinent DV law to civil stalking orders, such as the mandatory firearms prohibition. As such, the legislature's deliberations invariably excluded mention of stalking procedure and withal never envisioned an instance where the prohibition would apply outside its limited DV context.

55. Maravelias is subject therefore to absolutely no state nor federal statutory mandate that he continue to be divested of his firearms property. As Maravelias is a professionally trained, safety-certified, law-abiding firearms owner and victim of David DePamphilis's longstanding course of protective-order-falsification legal abuse instrumentalizing his young 17-year-old teenage daughter Christina DePamphilis<sup>7</sup>, this Court must inescapably dissolve the

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<sup>7</sup> Maravelias anticipates and offers-in-advance DePamphilis's counsel's obligatory NPC-like reminder that five years ago in 2013, over three years before December 2016, she was 12.

Maravelias anticipates and contests-in-advance DePamphilis's counsel's obligatory NPC-like repeated slander that Maravelias "grabbed the arm" of DePamphilis's daughter in 2013, which was a groundless accusation totally disproven, and that Maravelias took a "secret photo" containing her at his own house, when Maravelias introduced a normal picture he happened to take during casual photography around a summer family party, proving that she lied about being "scared" while attending his own party.

Maravelias anticipates and disputes-in-advance DePamphilis's counsel's obligatory, unprofessional, predictable, baseless, NPC-like request for attorney's fees in connection with having to respond to this valid and necessary motion. Maravelias has a right to use the court system to recover his wrongfully stolen firearms and his legal abusers must accept the English adversarial process: that American citizens, unfortunately for bullies and tyrants, have rights.

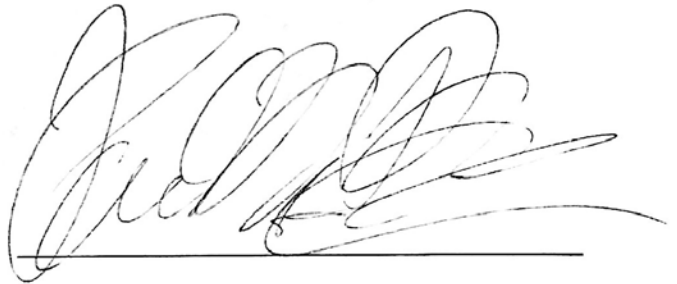
unrequired, constitutionally unlawful restraining order terms currently prohibiting Maravelias's second-amendment-protected firearms possession and activity.

WHEREFORE, Respondent Paul Maravelias respectfully prays this Honorable Court grant the relief specifically requested and set-forth in his attached-herewith *Motion to Amend Final Stalking Order of Protection to Exclude Second-Amendment-Protected Activity*.

Respectfully submitted,

PAUL J. MARAVELIAS,

*in propria persona*



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December 10<sup>th</sup>, 2018

**CERTIFICATE OF SERVICE**

I, Paul Maravelias, certify that a copies of the within *Respondent's Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity* and *Memorandum of Law in Support of Respondent's Motion to Amend Stalking Final Order of Protection to Exclude Second-Amendment-Protected Activity* were forwarded on this day through USPS Certified Mail to Simon R. Brown, Esq., counsel for the Petitioner, Christina DePamphilis, P.O. Box 1318, Concord, NH, 03302-1318.



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December 10<sup>th</sup>, 2018

EXHIBITS

 <h2 style="text-align: center;">The Commonwealth of Massachusetts</h2> <h3 style="text-align: center;">BASIC FIREARMS SAFETY CERTIFICATE</h3> <p style="text-align: center;">The following named individual has successfully completed a Basic Firearms Safety Course as prescribed by G.L. c.140, § 131P and 515 CMR 3.05.</p>					
Paul Maravelias _____ (Name)		5/24/1995 _____ (Date of Birth)			
MA Pistol License Course _____ (Certified Course Title)		LTC 020 _____ (Course Certification Number)			
Melvin Clark _____ (Instructor's Name)	BFS-003701 _____ (Certification Number)	8/10/2022 _____ (Certification Expiration Date)	8/16/2017 _____ (LTC Expiration Date)		
_____ X _____ (Valid for LTC) (Valid for FID Only)					
I hereby certify the person named in this certificate has successfully completed a Basic Firearms Safety Course as prescribed by G.L. C. 140, § 131P and 515 CMR 3.05.					
Instructor's Signature 		Date Course Completed <u>June 24, 2016</u>			
Mass Firearms School Holliston, MA					





# CERTIFICATE OF COMPLETION

THIS IS TO CERTIFY THAT

**Paul Maravelias**

HAS COMPLETED ALL REQUIRED COURSEWORK AND TRAINING CURRICULUM FOR THE

## MASSACHUSETTS PISTOL LICENSE CLASS

required for a Commonwealth of Massachusetts Class A License to Carry

A handwritten signature in black ink, appearing to read 'Melvin Clark', is written over a horizontal line.

Melvin Clark, Instructor

NRA - 172368211

INSTRUCTOR ID

Mass Firearms School  
100 Kuniholm Drive - Holliston, MA 01746  
(800) 308-6212 www.MassFirearmsSchool.com

June 24, 2016

DATE

