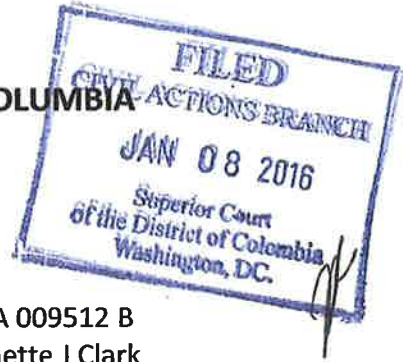


SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION



**TWO RIVERS PUBLIC CHARTER SCHOOL,
INC., et al.,**

Plaintiffs,

v.

ROBERT WEILER, JR., et al.,
3203 Maygreen Ave
Forestville, MD 20747
(301) 310-2798
weilerrobertjr@gmail.com

Defendants.

Case No.: 2015 CA 009512 B
Judge: Judge Jeanette J Clark
Next Event: Initial Conference
March 11, 2016

PKP

ANSWER OF DEFENDANT ROBERT WEILER, JR.

WHEREAS, Plaintiffs Two Rivers Public Charter School, Inc., et al. filed a complaint in this court on December 09, 2015, Defendant Robert Weiler, Jr., *pro se* acknowledges he received service of this complaint by certified and first class mail on December 22, 2015¹, and files this answer on his own behalf.

Defendant Robert Weiler, Jr. (hereafter "Weiler" "Mr. Weiler" or "Defendant") states that he is not an attorney and prays the Court grant him the modest leeway due to a *pro se* litigant. It is the understanding of Mr. Weiler after research into the Superior Court's Rules of Civil Procedure that an answer is to consist of only a short statement of the truth or falsity of each factual assertion in the numbered paragraphs of the complaint. Therefore, Mr. Weiler's opposition to the Plaintiff's request for a Preliminary Injunction is

¹ Delivery was made at a slightly earlier date to defendant's father, Robert Weiler, Sr., while the defendant was travelling on business out of state. Defendant returned to his home on Tuesday, December 22, 2015, and was effectively served on that date.



filed separately. If such a filing should have been included in the Answer, Defendant asks to Court to construe it as part of the Answer.

Responses to Factual Allegations

As stated above, the paragraph numbers in this response will directly correspond to the paragraph numbers contained in the complaint.

1. Defendant lacks information to form a belief as to the veracity of the statements in this paragraph with the exception that an elementary and middle school are operating at these locations.
2. Defendant lacks information to form a belief as to the veracity of these statements.
3. Defendant admits he is a resident of Maryland. Defendant admits he was previously convicted of Possession of an Unregistered Firearm, Possession of a Firearm by a Prohibited Person, and Attempting to Damage or Destroy a Facility that Provides Reproductive Health Services, and that he was sentenced to five years for these convictions. Defendant denies having ever been convicted of intending or attempting to "shoot doctors". Defendant was released in 2010, not 2011. Defendant denies ever being on parole and states that a parole system was no longer in use by the Federal Bureau of Prisons at the time of his release. Defendant was originally sentenced to serve three years of Supervised Release after his term of incarceration and he successfully completed his supervised release term in 2013. Defendant admits he was arrested in 2014 while peacefully protesting, however, no convictions resulted from that arrest and Defendant asserts he was in fact assaulted and falsely charged by Officer James Ignowski of the Berwyn Heights Police Department and is in possession of a video that proves this assertion. Furthermore, Defendant believes most of the factual allegations in this paragraph are completely irrelevant to the matter before this Court.

4. Upon information and belief the statements in this paragraph are true, with the exception of Mr. Darnel's residence. Upon information and belief Defendant believes Mr. Darnel is a resident of the State of Maryland.
5. Defendant has met Ms. Handy on only two occasions and lacks information or belief to confirm or deny the veracity of these statements.
6. To the Defendant's knowledge he has never met Ms. Nicdao and lacks information or belief to confirm or deny the veracity of these statements.
7. To the Defendant's knowledge he has never met Mr. Cirignano and lacks information or belief to confirm or deny the veracity of these statements.
8. Defendant admits that the person pictured and identified as John Doe 1 was present at that location on November 16, 2015.
9. Defendant lacks information or belief to confirm or deny the veracity of these statements.
10. Defendant agrees that jurisdiction and venue in the Superior Court of the District of Columbia, Civil Division, is proper.
11. Defendant agrees that jurisdiction and venue in the Superior Court of the District of Columbia, Civil Division, is proper.
12. Defendant agrees that jurisdiction and venue in the Superior Court of the District of Columbia, Civil Division, is proper.
13. Defendant denies engaging in outrageous and extreme conduct.
 - a. Defendant categorically denies engaging in the behaviors described in this subparagraph.
 - b. Defendant admits that on a single occasion he held a sign that stated "THEY KILL BABIES NEARBY! Tell your parents to stop them". Defendant denies holding any graphic images at that location at any time and denies the remainder of this subparagraph as it relates to him individually.

- c. Defendant denies obstructing students or parents from entering the school or pursuing any person to the doors of the school.
 - d. Defendant denies following students or parents attempting to access alternative entrances to the school, and denies ever being present in the alleyways behind the school.
 - e. Defendant denies disrupting the ability of students to engage in regularly scheduled school activities and has no power or responsibility to alter school activity schedules.
14. Defendant lacks information to confirm or deny the veracity of these statements.
 15. Defendant denies these allegations as they pertain to him individually.
 16. Defendant lacks information to confirm or deny the veracity of these statements.
 17. Defendant lacks information to confirm or deny the veracity of these statements.
 18. Upon information and belief, Defendant believes these statements to be true.
 19. Upon information and belief, Defendant believes these statements to be true.
 20. Upon information and belief, Defendant believes these statements to be true.
 21. Upon information and belief, Defendant believes these statements to be true.
 22. Upon information and belief, Defendant believes these statements to be true.
 23. Upon information and belief, Defendant believes these statements to be true.
 24. Upon information and belief, Defendant believes these statements to be true.
 25. Defendant lacks information to confirm or deny the veracity of these statements.
 26. Defendant lacks information to confirm or deny the veracity of these statements.
 27. Upon information and belief, Defendant believes these statements to be true.
 28. Upon information and belief, Defendant believes these statements to be true.
 29. Upon information and belief, Defendant believes these statements to be true.
 30. Defendant lacks information to confirm or deny the veracity of these statements.
 31. Defendant lacks information to confirm or deny the veracity of these statements.

32. Defendant lacks information to confirm or deny the veracity of these statements.
33. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
34. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
35. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
36. Defendant has no information, knowledge, or belief as to the veracity of the statements in this paragraph. Defendant denies any knowledge of the alleged e-mail prior to it appearing in this complaint.
37. Defendant admits the truth of these statements, and adds that the "drop off lane" referred to in this paragraph is a public street not maintained or owned by Plaintiffs, and that the sidewalk referred to is to the best of the Defendant's knowledge a public sidewalk.
38. Defendant admits the truth of these statements.
39. Defendant admits that he never sought or obtained a permit for this demonstration and further states that none was legally required.
40. Defendant admits that signs were set up along the sidewalk, but denies taking part in setting them up. Defendant admits holding a banner.
41. Defendant admits holding the banner on the public sidewalk and at the corner of 4th Street NE and Florida Ave NE. Defendant admits he was previously convicted of Possession of an Unregistered Firearm, Possession of a Firearm by a Prohibited Person, and Attempting to Damage or Destroy a Facility that Provides Reproductive Health Services, and that he was sentenced to five years for these convictions. Defendant denies having ever been convicted of intending or attempting to "shoot doctors". Defendant was released in 2010, not 2011. Defendant denies ever

being on parole and states that a parole system was no longer in use by the Federal Bureau of Prisons at the time of his release. Defendant was originally sentenced to serve three years of Supervised Release after his term of incarceration and he successfully completed his supervised release term in 2013. Defendant admits he was arrested in 2014 while peacefully protesting, however, no convictions resulted from that arrest and Defendant asserts he was in fact assaulted and falsely charged by Officer James Ignowski of the Berwyn Heights Police Department and is in possession of a video that proves this assertion. Furthermore, Defendant believes most of the factual allegations in this paragraph are completely irrelevant to the matter before this Court.

42. Defendant lacks any knowledge regarding the events of August 22, 2015. Defendant admits he witnessed Ms. Handy holding a graphic sign on November 16, 2015, but denies it was directed at students. As the photo accompanying this paragraph in the complaint shows, Ms. Handy was standing on the public sidewalk directly in front of the Planned Parenthood construction, and she had started holding this sign in that area after the majority of students were inside the school.
43. Defendant lacks information to confirm or deny the veracity of these statements.
44. Defendant lacks information to confirm or deny the veracity of these statements.
45. Defendant admits repositioning himself a few times to achieve maximum visibility for the demonstration. Defendant denies shouting at any time at or towards any person.
46. Defendant admits witnessing Mr. Darnel distributing handbills, but was not in earshot for the majority of that time and therefore cannot confirm or deny any specific words spoken.
47. Defendant admits that John Doe 1 was the most vocal of the demonstrators present on November 16, 2015. Defendant lacks recollection as to the specific words spoken by John Doe 1.
48. Defendant does not recollect hearing John Doe 1 make this statement.
49. Defendant lacks information to confirm or deny the veracity of these statements.
50. Defendant does not recollect hearing this statement.

51. Defendant does not recollect hearing this statement.
52. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
53. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
54. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
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63. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
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65. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
66. Defendant was not present on this occasion nor is he alleged to have been, and lacks any knowledge or belief as to the veracity of these statements.
67. Defendant admits that any abortion facility, but especially a Planned Parenthood, is the target of protests by various groups. Defendant denies having had any specific plans to return to 4th Street NE at any point in the future prior to the filing of the complaint, as most of his activism takes place in his home State of Maryland.
68. Defendant has no affiliation with Priests for Life or Frank Pavone, and is unable to confirm or deny statements made by or plans of Frank Pavone or Priests for Life.
69. The defendant lacks information to confirm or deny the veracity of these statements.
70. The defendant lacks information to confirm or deny the veracity of these statements.
71. Defendant denies any pattern of behavior or making any threats.
72. The defendant lacks information to confirm or deny the veracity of these statements.
73. The defendant lacks information to confirm or deny the veracity of these statements.
74. The defendant lacks information to confirm or deny the veracity of these statements.
75. Defendant denies these statements.
76. The defendant lacks information to confirm or deny the veracity of these statements.
77. The defendant lacks information to confirm or deny the veracity of these statements.

Conclusion

As detailed in Defendant's Opposition to Request for a Preliminary Injunction, plaintiffs are not entitled to relief under any tort recognized in the District of Columbia.

Certification

I, Robert Weiler, Jr., *pro se* declare under penalty of perjury under the laws of the United States of America, that all of the proceeding statements contained in this answers are true to the best of my knowledge and belief. I have filed this answer with the clerk of the court on the 8th day of January, 2016.



Robert Francis Weiler Jr., *pro se*
3203 Maygreen Ave
Forestville, MD 20747
weilerrobertjr@gmail.com
(301) 310-2798

Certification Of Service

I, Robert Weiler, Jr., declare under penalty of perjury under the laws of the United States of America that a true and complete copy of this answer was sent postage prepaid by first class mail to the plaintiffs' attorney, Michael L. Murphy Esq., Bailey Glasser LLP, 1054 31st Street NW, Suite 230, Washington, DC, on the 4th day of January, 2016.



Robert Francis Weiler, Jr., *pro se*
3203 Maygreen Ave
Forestville, MD 20747
weilerrobertjr@gmail.com
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**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

**TWO RIVERS PUBLIC CHARTER SCHOOL,
INC., et al.,**

Plaintiffs,

v.


ROBERT WEILER, JR., et al.,
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Defendants.

Case No.: 2015 CA 009512 B

Judge: Judge Jeanette J Clark

Next Event: Initial Conference
March 11, 2016


WHEREAS, the Plaintiffs in this case have asked the Court to grant a preliminary injunction, Defendant Robert Weiler, Jr., *pro se*, files this opposition to such an injunction.

PRELIMINARY INJUNCTION SHOULD BE DENIED

1. Plaintiffs' request for a preliminary injunction should be denied because the plaintiffs' case is not substantially likely to succeed on the merits.
 - a. To grant an injunction, the trial court must find, among other things, that "the moving party has clearly demonstrated" a "substantial likelihood" of success on the merits. *Feaster v. Vance*, 832 A.2d 1277, 1287 (D.C. 2003). (quotation marks and citation omitted).
2. Plaintiffs' claim of Intentional Infliction of Emotional Distress is not likely to succeed on the merits as the actions alleged do not suffice to prove the elements of that tort.

- a. No person claiming emotional distress is a party to this case. Neither the unidentified persons alleged to have suffered injury, nor their legal representatives are named as plaintiffs.
- b. In order to prove the tort of intentional infliction of emotional distress, a plaintiff must show (1) extreme and outrageous conduct on the part of the defendant which (2) intentionally or recklessly (3) causes the plaintiff [to suffer] severe emotional distress. *Baltimore v. District of Columbia*, 10 A.3d 1141, 1155 (D.C. 2011) (internal quotation marks and citations omitted).
- c. DC case law establishes strict tests for the elements of intentional infliction of emotional distress “Liability will only be imposed for conduct so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized community.” *Homan v. Goyal*, 711 A.2d 812, 818 (D.C. 1998); accord *Wood v. Neuman*, 979 A.2d 64, 77 (D.C. 2009).
- d. In any context, no liability can be “imposed for ‘mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities.’” *Homan*, supra, 711 A.2d at 818 (internal citations omitted). As a result, “[t]he requirement of outrageousness is not an easy one to meet.” *Drejza v. Vaccaro*, 650 A.2d 1308, 1312 (D.C. 1994).
- e. In general, the conduct complained of is part and parcel “of the frictions and irritations and clashing of temperaments incident to participation in a community life,” especially life in a society that recognizes a right to public political protest. *Homan*, supra, 711 A.2d at 818 (internal quotation marks and citation omitted).

While serious threats would be grounds for the imposition of liability, the alleged oblique threats of future disturbance in this case do not rise to that level. See *id.* at 820 (liability imposed where defendant had reason to believe plaintiff's life would be threatened, and it was).

- f. "In some, indeed most, instances, a few unwelcome visits," accompanied by "some harassing" conduct, "would not be cognizable in an action for a tort which requires proof of extreme or outrageous conduct." *Id.* Other hallmarks of extreme and outrageous conduct that DC Courts have identified previously, like abusing a position of authority over another, *District of Columbia v. Tulin*, 994 A.2d 788, 801 (D.C. 2010) (police officer's swearing and insults not outrageous, but causing plaintiff to be arrested and prosecuted without legal justification sufficiently outrageous), or callously disregarding another's known weakness, *Drejza*, *supra*, 650 A.2d at 1312-13 (plaintiff was a rape victim who accused the defendant detective of derogatory and belittling comments during her interview), are also not present in this case.
- g. Defendants are shielded from liability for Intentional Infliction of Emotional Distress by the First Amendment to the United States Constitution. "The Free Speech Clause of the First Amendment—"Congress shall make no law . . . abridging the freedom of speech"— can serve as a defense in state tort suits, including suits for intentional infliction of emotional distress. See, e.g., *Hustler Magazine, Inc. v. Falwell*, 485 U. S. 46, 50–51 (1988)." – Holding in the Supreme Court case *Snyder v. Phelps* 562 U.S. ____ (2011).

3. Plaintiffs' claim for Private Nuisance is not substantially likely to succeed on the merits as it is a field of liability and not a standalone tort in the District of Columbia, and would first require the elements of the Intentional Infliction of Emotional Distress claim to be proven.
- a. Where a plaintiff alleges both nuisance and intentional infliction of emotional distress, DC Courts have explained that "nuisance is a type of damage and not a theory of recovery in and of itself," so the elements of a theory of recovery must be established with reference to the elements of "the intentional infliction of emotional distress claim." *Jonathan Woodner Co., supra*, 665 A.2d at 934. See also *Bernstein, supra*, 649 A.2d at 1072-73 ("[n]uisance ordinarily is not a separate tort in itself but a type of damage," so that a plaintiff seeking to recover on a nuisance theory must allege and prove some sort of tortious conduct.") (internal citation omitted).

Conclusion

4. Because the Plaintiffs' claims are not substantially likely to succeed on the merits, Defendant Robert Weiler, Jr., prays this Court deny the request for a preliminary injunction.

Respectfully Submitted this 8th day of January, 2016.



Robert Weiler, Jr., pro se
3203 Maygreen Ave
Forestville, MD 20747
(301) 310-2798
weilerrobertjr@gmail.com

Certification of Service

I, Robert Weiler, Jr., declare under penalty of perjury under the laws of the United States of America, that a true and complete copy of this Opposition was sent postage prepaid by first class mail to the plaintiffs' attorney, Michael L. Murphy, Esq., Bailey Glasser LLP, 1054 31st Street NW, Suite 230, Washington, DC, on the 6th day of January, 2016.



Robert Weiler, Jr., *pro se*
3203 Maygreen Ave
Forestville, MD 20747
(301) 310-2798
weilerrobertjr@gmail.com