

Appendix “A”

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF
PENNSYLVANIA
CIVIL TRIAL DIVISION

TENTH	:	
PRESBYTERIAN	:	PHILADELPHIA
CHURCH	:	COUNTY
Plaintiff(s)	:	COURT OF
	:	COMMON PLEAS
vs.	:	
	:	Case No.
PHILIP SYNDER	:	190703016
Defendant(s)	:	
	:	Control No.
	:	1907543

ORDER

AND NOW, this 10th day of February, 2020, upon consideration of the foregoing Plaintiff Tenth Presbyterian Church's Emergency Motion for Injunctive Relief, it is hereby **ORDERED** and **DECREED** that the said Motion is **GRANTED**. It is further Ordered that Defendant Philip Snyder is **ENJOINED** from:

1. Distributing, picketing, leafleting, harassing, intimidating, placing in fear, threatening, or

otherwise communicating to Church members within five thousand (5,000) feet of the church located at 1701 Delancey Street, Philadelphia, PA 19103 on Sundays;

2. Appearing within five thousand (5,000) feet of all property owned and/or occupied by Tenth Presbyterian Church, including but not necessarily: 1700 Spruce Street, 1701 Delancey Street, 315 S. 17th Street, 1710 Spruce Street, and 1716 Spruce Street, Philadelphia, PA 19103;
3. Tenth Presbyterian Church shall not be required to file a bond; and
4. This injunction shall continue until further Order of this Court.

BY THE COURT:

/s/ Paula A. Patrick
J.

Appendix “B”

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF
PENNSYLVANIA
CIVIL TRIAL DIVISION

TENTH	:	
PRESBYTERIAN	:	PHILADELPHIA
CHURCH	:	COUNTY
Plaintiff/	:	COURT OF
Appellee	:	COMMON PLEAS
	:	
vs.	:	Case No.
	:	190703016
PHILIP SYNDER	:	
Defendant/	:	Control No.
Appellant		190754

OPINION

Patrick, J.

August 21, 2020

Defendant/Appellant Philip Snyder filed an appeal from this Court's Order dated February 10, 2020, granting Tenth Presbyterian Church's Emergency Motion for Injunctive Relief. This Court now submits the following Opinion in support of its ruling and in accordance with the requirements of Rule 1925(a) of the Pennsylvania Rules of Appellate Procedure. For the reasons set forth below, this Court's decision should be affirmed.

FACTUAL/PROCEDURAL HISTORY

In 2008, Defendant/Appellant Philip Snyder (“Appellant”) moved to Philadelphia from California to join Tenth Presbyterian Church (“Appellee”).¹ Appellee owns several properties throughout Philadelphia, but the primary church building is located at 1701 Delancey Street (the “Property”).² In August, 2016, Appellant was excommunicated by Appellee for violating the Book of Order (the governing document) of the Presbyterian Church, U.S.A.³ Thereafter, Appellant testified he began picketing and handing out letters outside the Property, protesting Appellee's conduct and his excommunication.⁴ Specifically at issue was Appellant's contention that a former church employee engaged in inappropriate behaviors in 2001 while employed at Cairn University, before this employee ever joined the congregation and before Appellant himself moved to Philadelphia.⁵ The individual in question left Appellee's employment in 2014.⁶ On January 17, 2017, Appellant filed a complaint against two individual members of Appellee claiming damages for defamation.⁷ Appellant's complaint

During that case, the Honorable Abbe Fletman

¹ February 10, 2020, N.T. at 31.

² Appellee's July 24, 2019, Complaint at 1-2, ¶¶ 1-5.

³ Appellee's July 24, 2019, Complaint at 2, ¶ 8.

⁴ February 10, 2020, N.T. at 8.

⁵ February 10, 2020, N.T. at 30.

⁶ January 30, 2020, N.T. at 117.

⁷ Case No. 170102293

found that Appellant had “knowingly circulated letters to congregants with the intent to leave a false and negative impression that Rev. Goligher and Mr. McFarland were involved in alleged wrongdoing.”⁸ Appellant appealed that Order and Judge Fletman filed an opinion with the Superior Court of Pennsylvania which affirmed her determination. In her opinion, Judge Fletman noted that Appellant admitted he mailed letters to Appellee's congregants so that they “would think ill of the Church's current pastors and leadership even though the events described in the letters may have occurred before the current pastors' tenure.”⁹ Judge Fletman opined that Appellant's testimony in this regard “led the Court to find that he intentionally wrote to Church congregants to mislead them into believing that members of the Church's current leadership were involved in wrongdoing.”¹⁰ Following a trial on Appellant's underlying defamation claims before the Honorable Marlene Lachman, on March 22, 2019, the jury returned a verdict in favor of Appellee and against Appellant.¹¹ After the jury verdict, and because he was unhappy with the result¹², Appellant began picketing and protesting outside the Property every Sunday before, during, and after church services.¹³ On July 24, 2019, Appellee filed a

⁸ Case No. 170102293, October 19, 2017, Order at 2.

⁹ Judge Fletman's January 10, 2018 Opinion at 2.

¹⁰ Judge Fletman's January 10, 2018 Opinion at 2.

¹¹ Appellant's August 20, 2019, Reply to Appellee's Motion, Exhibit A.

¹² February 10, 2020, N.T. at 37.

¹³ January 30, 2020, N.T. at 110.

Complaint and Emergency Motion for Injunctive Relief enjoining Appellant from coming within one-thousand (1,000) feet of several properties that Appellee owns.¹⁴ On July 30, 2019, this Court heard oral argument on Appellee's Motion. At the hearing, Appellant voluntarily stipulated to Appellee's requested relief temporarily so that he could secure counsel. As such, this Court ordered granted Appellee's Motion temporarily.

After several stipulated continuances, On January 30, and February 10, 2020, this Court heard oral argument on the Motion where both parties were represented by counsel. At oral argument, Appellant testified he began picketing outside the Property after the March 22, 2019, jury verdict more frequently with a sign that contained the phrases "naked beatings", "lying", and "rape" because he was displeased with the result of the case.¹⁵ Appellant further testified that he protested while wearing a body camera and filming congregants outside the Property.¹⁶ With respect to Judge Fletman's October 19, 2017, Order that found Appellant had purposefully lied to Appellee's congregants, Appellant testified that Judge Fletman's Order and subsequent Opinion intentionally misrepresented the truth.¹⁷ Douglas Baker, Appellee's former administrator, testified that Appellant frequently wore a visible "concealed" firearm to

¹⁴ Appellee's July 24, 2019, Complaint at 2.

¹⁵ January 30, 2020, N.T. at 110.

¹⁶ January 30, 2020, N.T. at 112.

¹⁷ February 10, 2020, N.T at 40-40.

church services when he was a member and that he continued the practice while picketing with the sign and body camera.¹⁸ Mr. Baker further testified that Appellant would verbally harass and yell at congregants outside the Property and then post the body camera videos on a blog.¹⁹ Dr. William Goligher, senior minister for Appellee, testified that Appellant called him “the son of Satan” and a liar.²⁰ Dr. Goligher also testified that Appellant had verbally disparaged his own family for not committing to his protest and not being faithful, including referring to his wife as Job's²¹ wife.²² Dr. Goligher further testified that he held meetings with Appellant and various individuals concerning any and all events that Appellant took umbrage with, but that Appellant would come away from those meetings even more entrenched and convinced of a conspiracy by Appellee's leadership.²³ Dr. Goligher also testified that Appellant seemed preoccupied with safety and firearms, such that he would stand beside Dr. Goligher and point out individuals who he thought were carrying firearms.²⁴ Appellant's fixation on security and policing even minor behaviors of church congregants went on for

¹⁸ January 30, 2020, N.T. at 25.

¹⁹ January 30, 2020, N.T. at 26.

²⁰ February 10, 2020, N.T. at 105.

²¹ In the Book of Job, Chapter 2, verse 9-10, after God fails to spare Job from suffering, Job's wife asks: “Do you still persist in your integrity? Curse God, and die.” Job replies: “You speak as any foolish woman would speak.”

²² February 10, 2020, N.T. at 105.

²³ February 10, 2020, N.T. at 98-99.

²⁴ February 10, 2020, N.T. at 93.

years and included concerns about stolen phones, money, and immigrants.²⁵ Appellant himself provided testimony that throughout all of the court proceedings he has been the only individual telling the truth²⁶, that he has mailed 100 pages of material to 200 members of the Church²⁷, that he will never stop any of his behaviors until Appellee's leadership has resigned in full²⁸, and that Appellee was trying to poison him and hire a hitman to assassinate him.²⁹ Susan Elzey, a congregant, testified that outside of church services on June 16, 2019, Appellant told her he was an instrument of God, similar to a prophet, and that only Appellant knows the true nature of Dr. Goligher's soul.³⁰ Appellant went on to tell Ms. Elzey that Dr. Goligher was a son of Satan, and that any congregants who support Dr. Goligher are doing Satan's work.³¹ Appellant also told Ms. Elzey that he was unhappy with his wife, described her as Job's wife because she did not support him, and that his oath to remove Dr. Goligher from the church was more important to him than his family.³²

By Order dated February 10, 2020, this Court granted Appellee's Motion and ordered enjoined Appellant from appearing within five-thousand

²⁵ February 10, 2020, N.T. at 96.

²⁶ February 10, 2020, N.T. at 41.

²⁷ February 10, 2020, N.T. at 48.

²⁸ February 10, 2020, N.T. at 47.

²⁹ January 30, 2020, N.T. at 132-133.

³⁰ January 30, 2020, N.T. at 76.

³¹ January 30, 2020, N.T. at 76.

³² January 30, 2020, N.T. at 76-77.

(5,000) feet of Appellee's properties located at (1) 1701 Delancey St.; (2) 1700 Spruce St.; (3) 315 S. 17 St.; (4) 1710 Spruce St.; and (4) 1716 Spruce St. On March 4, 2020, Appellant filed a Notice of Appeal to the Superior Court of Pennsylvania. On March 5, 2020, this Court ordered Appellant to file a 1925(b) Concise Statement of Matters Complained of on Appeal. On March 17, 2020, Appellant timely filed his 1925(b) Statement.

ISSUES

Appellant raised the following issues in his 1925(b) Statement of Matters Complained of on Appeal:

1. The trial court erred by granting Appellee's Motion because Appellant's actions were protected by Article I, Section VII of the Pennsylvania State Constitution and the First Amendment to the U.S. Constitution.
2. The trial court erred by granting Appellee's Motion because the order was not narrowly tailored and this Court failed to address the six (6) factor test
3. The trial court erred by granting Appellee's Motion because it was an

error to find that “Appellant posed the risk of imminent violent behavior, when there was no evidence that Appellant threatened any of Appellee's parishioners or other member of the public.”

DISCUSSION

- I. **THIS COURT PROPERLY GRANTED APPELLEE'S MOTION BECAUSE APPELLANT'S ACTIONS WERE NOT PROTECTED SPEECH UNDER PENNSYLVANIA STATE OR FEDERAL LAW (ISSUES 1).**

On appeal, Appellant claims this Court erred by granting Appellee's Motion for Injunctive Relief because Appellee's conduct was protected speech under the Pennsylvania State and United States constitutions. Appellant's claim must fail. Appellant's conduct interfered with the privacy rights of Appellee and the church congregation as a whole. Additionally, this Court heard ample evidence and testimony (delineated *supra*) that Appellant's attitude and prior relationship with Appellee, along with the escalation in Appellant's behavior, created a threat to the safety of Appellee's congregation, especially in light of the recent mass shootings at houses of worship across the country.³³ Therefore, this Court properly granted

³³

[https://www.washingtonpost.com/graphics/2018/national/mass-](https://www.washingtonpost.com/graphics/2018/national/mass-shootings-map/)

Appellee's Motion because the injunctive relief is content neutral and reasonably limits the time, place, and manner of Appellant's conduct. Accordingly, Appellant's claim should be dismissed.

The U.S. Supreme Court has outlined First Amendment free speech protections, noting that "speech on matters of public concern... is at the heart of the First Amendment's protection" *Dun & Broadstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 758-759 (1985). Specifically, "speech on public issues occupies the highest rung of the hierarchy of First Amendment values and is entitled to special protection." *Connick v. Myers*, 461 U.S. 138, 145 (1983). However, "where matters of purely private significance are at issue, First Amendment protections are often less rigorous because restricting speech on purely private matters does not implicate the same constitutional concerns as speech on public matters. *Snyder v. Phelps*, 562 U.S. 443, 452 (2011). Importantly, "[e]ven protected speech is not equally permissible in all places and at all times". *Frisby v. Schultz*, 487 U.S. 474,479 (1988). For a court to determine whether speech is of public or private concern, the court must examine the "content, form, and context" of the speech "as revealed by the whole record". *Dun & Broadstreet, Inc. v. Greenmoss Builders, Inc.*,*supra* at 761. Importantly, the speech

shootings-in-america.

<https://www.nytimes.com/2018/10/27/us/mass-shootings-church-synagogue-temple.html>.

<https://www.nytimes.com/2020/03/02/us/church-shooting-california.html>.

itself is "subject to reasonable time, place, or manner restrictions". *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984). Such reasonable restrictions on speech are "dependent upon a showing that substantial privacy interests are being invaded in an essentially intolerable manner." *Cohen v. California*, 403 U.S. 15, 20 (1971).

When discussing privacy rights with respect to picketing outside an individual's home, the United States Supreme Court has opined that "[t]he tensions and pressures may be psychological, not physical, but they are not, for that reason, less inimical to family privacy and truly domestic tranquility" *Frisby v. Schultz*, *supra* at 485. Indeed, the Pennsylvania Superior Court utilized just that analysis when it upheld an injunction prohibiting abortion protests outside a doctor's home because "there are a wide variety of alternative places and methods of communication". *Klebanoff v. McMonagle*, 552 A.2d 677, 682 (Pa.Super. 1988). That court specified that because of the government's "substantial interest in protecting the use and enjoyment of one's own home, the injunction does no more than target the exact source of the evil it seeks to remedy". *Id.* at 681.

The Superior Court of Pennsylvania also noted that "the [U.S.] Supreme Court has been especially hostile to regulating the publication or distribution of printed or written materials because these are seen to be closer to pure speech", but contrasted that with the fact that "[t]he closer the regulated activity is to

conduct rather than to pure speech, the wider the scope of permissible regulation." *Id.* at 680-681. Notably, and of particular concern in the case *sub judice*: "If the expressive conduct comes into conflict with another legitimate public interest such as peace and order in the public parks and near school buildings, or an individual's right to privacy, the reasonableness of the regulation limiting First Amendment rights will be scrutinized for its constitutionality." *Id.* The Superior Court cited to *Grayned v. City of Rockford*, 408 U.S. 104 (1972) where the U.S. Supreme Court held that with respect to expressive conduct, the "nature of a place" and the "pattern of its normal activities" must be taken into consideration.

The Superior Court has further opined that, "as a person's activities move away from pure speech and into the area of expressive conduct they require less constitutional protection. As the mode of expression moves from the printed page or from pure speech to the commission of public acts the scope of permissible regulation of such expression increases." *Rouse Philadelphia Inc. v. Ad Hoc* '78,417 A.2d 1248, 1254 (Pa.Super. 1979). Citing *U.S. v. O'Brien*, 391 U.S. 367 (1968), and *Commonwealth v. Winkleman*, 326 A.2d 496 (Pa.Super. 1974). Therefore, one party's expressive conduct that conflicts with another's right to privacy is subject to reasonable time, place, or manner restrictions.

The often cited Pennsylvania case of *Willing v.*

Mazzocone, 393 A.2d 1115 (Pa. 1978) is factually inapposite to the case *sub judice* and reliance thereon is misplaced. In that case, the Pennsylvania Supreme Court held that an injunction preventing a former client from picketing outside a law office was an invalid restraint on speech. At issue specifically was the subjective nature of the client's speech, where she claimed, without evidence or foundation, that she was defrauded by the law office. However, the Pennsylvania Supreme Court held that the client's thoughts and opinions were protected speech and that her picketing with signs that contained potentially defamatory and libelous statements outside an office building could not be restricted. *Id.* at 1156-1157.

The Free Exercise Clause of the First Amendment to the United States Constitution has long been applicable to the States via incorporation through the Fourteenth Amendment. *Cantwell v. Connecticut*, 310 U.S. 296,303 (1940). Article 1, Section 3 of the Pennsylvania Constitution lays out the foundation for religious freedom in the Commonwealth: "All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience, and no preference shall ever be given by law to any religious establishments or modes of worship." "It is incontrovertible, of course, that the

guarantee of the free exercise of religion is a fundamental constitutional right". *Christian Sch. Ass'n of Greater Harrisburg v. Com., Dep't of Labor & Indus.*, 423 A.2d 1340, 1347 (Pa.Cmwlth. 1980). The United States Supreme Court has noted that the freedom to associate and maintain privacy in those associations, such through communal religious worship, is a First Amendment right: "Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association". *NAACP v. State of Alabama*, 357 U.S. 449, 462 (1958). See *Griswold v. Connecticut*, 381 U.S. 479, 483 (1965). This freedom protects not only one's beliefs and assembly, but the performances and physical acts associated with religious worship. *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 710 (2014). See also *Employment Div., Dep't of Human Res. of Oregon v. Smith*, 494 U.S. 872, 877 (1990).

Here, Appellee's congregation's privacy rights to worship freely are impeded by Appellant's harassing behavior toward congregants as they come and go from the Property. Moreover, Appellant creates an atmosphere of fear due to his history of openly carrying firearms, his confrontational attitude, and his singlemindedness with respect to his "mission" to destroy Appellee's church leadership.³⁴ Specifically, Susan Elzey, a congregant, testified that outside of church services on June 16, 2019, Ms. Elzey approached Appellant during his protesting: "I commented to him that he should trust God to be

³⁴ January 30, 2020, N.T. at 76.

judge and to administer justice. His reply to me was that God uses human instruments, such as the prophets, and he saw himself to be God's instrument of justice, in that he claimed that nobody knew except for him and God who [Dr. Goligher] really is. That [Dr. Goligher] was the son of Satan, and that any congregant who supports Dr. Goligher is doing Satan's work."³⁵ Appellant's obsession and fixation on the actions of an individual who no longer works for Appellee has not abated and has only gotten worse and Appellant believed his complaint would prove that church leadership lied to the congregation and defamed Appellant. Thereafter, Appellant would not let the issue rest and was determined to expose Appellee and the entire judicial system as corrupt crooks. Appellant's escalation is of considerable note to this Court, as well as his inability to acknowledge a reality outside his preconceived ideas. Even after several rulings in Court against Appellant by both Judge Fletman³⁶ and a civil jury before Judge Lachman³⁷, Appellant was not persuaded that he was wrong.

This is not to say that Appellant is not entitled to his opinions, as was the issue in *Willing v. Mazzocone*, 393 A.2d 1115 (Pa. 1978). This Court fully acknowledges that the content of Appellant's speech is protected as his subjective opinion. However, the

³⁵ January 30, 2020, N.T. at 76.

³⁶ Case No. 170102293, October 19, 2017, Order at 2.

³⁷ Appellant's August 20, 2019, Reply to Appellee's Motion, Exhibit A.

Court is concerned about Appellant's overall behavior and demeanor with respect to Appellee and the singlemindedness of his "mission from God". Indeed, the United States Supreme Court famously opined that "[t]he most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic." *Schenck v. United States*, 249 U.S. 47, 52 (1919). In this case, as discussed *supra*, Appellant's protests and picketing escalated after he lost his defamation case and the Superior Court affirmed Judge Fletzman's determination that Appellant's protest materials were designed to maliciously influence Appellee's congregation by spreading false and misleading information.³⁸ It is Appellant's behavior with respect to Appellee and his readiness to consider violence as a solution to problems that necessitated the order granting injunctive relief. This Court took into consideration the privacy and safety rights of Appellee's congregation and found that the congregation was unable to worship peacefully while Appellant protested near church property given the history between the parties. Particularly concerning was the testimony regarding Appellant's family who have not joined his crusade, Appellant's disdain for them, and the fact that they would be welcomed back at the Church by Dr. Goligher and the congregation.³⁹

Importantly, the injunctive relief granted in this case is narrowly tailored because Appellant is free

³⁸ Judge Fletzman's January 10, 2018, Opinion at 2.

³⁹ February 10, 2020, N.T. at 80-81.

to protest and distribute material outside of the five-thousand (5,000) foot restriction from Appellee's properties. Appellant is free to continue mailing information and he is free to continue updating his blog and speaking to the press about Appellee. This Court's Order reasonably curtailed the time, place, and manner of Appellant's protests because of the contentious and litigious history between the parties, and because of Appellant's potentially violent behavior. This Court made no judgment or restriction as to the content of Appellant's speech, but merely considered the nature of Appellant's demeanor and his actions with respect to the congregation when deciding that Appellee's privacy rights were impeded by Appellant's constant presence. Therefore, this Court properly granted Appellee's Motion for Injunctive Relief because the Order is narrowly tailored to limit the time, place, and manner of Appellant's protest in the interest of Appellee's privacy rights during the pendency of the underlying action. Accordingly, Appellant's claim should be dismissed.

II. THIS COURT PROPERLY GRANTED APPELLEE'S MOTION BECAUSE APPELLEE SATISFIED THE PRELIMINARY INJUNCTION STANDARD (ISSUES 2-3).

On appeal, Appellant claims this Court erred by granting Appellee's Motion for Injunctive Relief because Appellee failed to meet the Preliminary

Injunction standard under Pennsylvania common Jaw. Appellant's claim must fail. Appellee provided ample evidence and legal argument to justify this Court's proper granting of the Motion for Injunctive Relief pending the resolution of the underlying case in equity. Accordingly, Appellant's claim should be dismissed.

As discussed *supra*, the Superior Court of Pennsylvania also noted that "the [U.S.] Supreme Court has been especially hostile to regulating the publication or distribution of printed or written materials because these are seen to be closer to pure speech", but contrasted that with the fact that "[t]he closer the regulated activity is to conduct rather than to pure speech, the wider the scope of permissible regulation." *Id.* at 680-681. Importantly, and of particular concern in the case sub judice: "If the expressive conduct comes into conflict with another legitimate public interest such as peace and order in the public parks and near school buildings, or an individual's right to privacy, the reasonableness of the regulation limiting First Amendment rights will be scrutinized for its constitutionality." *Id.* The Superior Court cited to *Grayned v. City of Rockford*, 408 U.S. 104 (1972) where the U.S. Supreme Court held that with respect to expressive conduct, the "nature of a place" and the "pattern of its normal activities" must be taken into consideration.

The Superior Court has further opined that, "as a person's activities move away from pure speech and

into the area of expressive conduct they require less constitutional protection. As the mode of expression moves from the printed page or from pure speech to the commission of public acts the scope of permissible regulation of such expression increases." *Rouse Philadelphia Inc. v. Ad Hoc '78*, 417 A.2d 1248, 1254 (Pa.Super. 1979). Citing U.S. v. O'Brien, 391 U.S. 367, (1968), and *Commonwealth v. Winkleman*, 326 A.2d 496 (Pa.Super. 1974). Therefore, one party's expressive conduct that conflicts with another's right to privacy is subject to reasonable time, place, or manner restrictions.

Under Pennsylvania jurisprudence, the standard of review for the trial court's granting of a preliminary injunction is deferential: "we recognize that on an appeal from the grant or denial of a preliminary injunction, we do not inquire into the merits of the controversy, but only examine the record to determine if there were any apparently reasonable grounds for the action of the court below. Only if it is plain that no grounds exist to support the decree or that the rule of law relied upon was palpably erroneous or misapplied will we interfere with the decision of the [trial court]." *Roberts v. Board of Dirs. Of Sch. Dist.*, 341 A.2d 475,478 (Pa 1975).

With respect to the preliminary injunction standard itself, the petitioner must satisfy six (6) prerequisites:

1. The injunction is necessary to

prevent immediate and irreparable harm that cannot be adequately compensated by damages.

2. Greater injury would result from refusing the injunction than from granting it, and it will not substantially harm, other interested parties.
3. The injunction will properly restore the parties to the status as it existed prior to the alleged wrongful conduct.
4. The activity the injunction seeks to restrain is actionable, the right to relief is clear, and petitioner is likely to prevail on the merits.
5. injunction is reasonably suited to abate the offending activity.
6. injunction will not adversely affect the public interest.

Summit Towne Center, Inc., v. Shoe Show of Rocky Mount, Inc., 828 A.2d 995, 1001 (Pa. 2003).

In this case, Appellee satisfied each of the

prerequisites for this Court to grant injunctive relief pending resolution of the underlying case. First, the injunction is necessary to prevent Appellant's contentious and harassing behavior towards Appellee's congregants that is preventing them from peacefully assembling to worship. Moreover, given the contentious and litigious history of the parties, the injunction is necessary to prevent further escalation of the protesting standoff including the possibility of violence. Second, greater injury would result from the injunction being denied because of Appellants behavior and inclination to violence. As discussed supra, Appellant has exhibited a fascination with Appellee's security and firearms where he claimed he could identify numerous individuals that were wearing concealed firearms during church services.⁴⁰ Appellant's behavior has frequently fixated on what he believes to have been unpunished crimes committed on Appellee's property including stolen phones, money, and immigrants.⁴¹ Appellant's own beliefs that Appellee was attempting to poison him or hire a hitman to assassinate him are further evidence of Appellant's mindset and perception of reality.⁴² However, perhaps most indicative of Appellant's mindset were his June 19, 2018, statements to Ms. Elzey outside the Property where he described Dr. Goligher and the congregation as doing Satan's work and reaffirmed his status as a prophet.⁴³

⁴⁰ February 10, 2020, N.T. at 93

⁴¹ February 10, 2020, N.T. at 96.

⁴² January 30, 2020, N.T. at 132-133.

⁴³ January 30, 2020, N.T. at 76.

Third, the injunction restores the status quo because Appellant is prevented from the type of harassing behavior he engaged in and escalated after he lost the defamation trial, and Appellee's right to peaceful worship without interference is restored. Fourth, Appellee's right to relief is clear and actionable in equity because Appellant is harassing and intimidating Appellee's congregation and their right to peacefully worship. Fifth, the injunction is reasonably suited to abate Appellant's activity because it reasonably limits the time, place, and manner of Appellant's expressive conduct with no mention or curtailment of the content thereof. Sixth. The injunction will not adversely affect the public interest because Appellee's right to worship will be restored and Appellant's time, place, and manner of speech will only be reasonably limited.

With respect to Appellant's contention that the injunctive relief was improper because "there was no evidence that Appellant threatened any of Appellee's parishioners or other member of the public"⁴⁴, this Court must disagree. As discussed *supra*, Appellee presented testimony and evidence from Dr. Liam Goligher, Douglas Baker, and Susan Elzey who all described numerous interactions with Appellant both before and after his ex-communication detailing the escalation of Appellant's behavior. All three of these individuals indicated that they personally felt threatened and harassed by Appellant's actions and

⁴⁴ Appellant's March 17, 2020, 1925(b) Statement.

attitudes toward themselves and the congregation at large, noting specific incidents where Appellant refused to listen to reason. Of particular concern to this Court was the testimony that Appellant believed he was on a mission from God to remove Appellee's leadership and that his own family had betrayed God for not joining his crusade.⁴⁵ In addition, this Court took notice of the testimony that after Dr. Goligher tried to counsel Appellant and organized a meeting between him and the individuals he complained about, Appellant doubled down on his conviction that everyone was lying.⁴⁶

Indeed, it was this Court's job to hear all the evidence and testimony presented by both parties and weigh their credibility to ultimately make a just determination. In opposition to Appellee's lengthy evidence and testimony concerning Appellant's conduct and character, Appellant only presented one character witness, retired Judge of the Delaware County Court of Common Pleas Nathaniel Nichols. Judge Nichols' testimony was limited to interactions he had with Appellant at Appellant's son's martial arts classes.⁴⁷ However, Judge Nichols testified that that he did not have much personal interaction with Appellant outside of these classes and that he could not speak to Appellant's character or behavior "outside of those two hours a week".⁴⁸ Most striking

⁴⁵ January 30, 2020, N.T. at 76-77.

⁴⁶ February 10, 2020, N.T. at 98-99.

⁴⁷ February 10, 2020, N.T. at 125-127.

⁴⁸ February 10, 2020, N.T. at 135-136.

was Appellant's own testimony where he appeared combative and unwilling to answer simple questions from either his own counsel, opposing counsel, or even the Court. While this alone is not determinative, taken in totality, this Court was presented with contradicted character evidence and testimony that Appellant's conduct and single-minded fixation on Appellee and Dr. Goligher has intensified since the conclusion of the March, 2019, defamation trial. Therefore, this Court properly granted Appellee's Motion due to Appellant's conduct, character, and behavior which has resulted in a toxic powder keg relationship between the parties that has the possibility to escalate into something violent and dangerous. Accordingly, this Court properly granted Appellee's Motion for Injunctive Relief pending the resolution of the underlying case, and Appellant's claim should be dismissed.

CONCLUSION

For all the foregoing reasons, this Court respectfully requests that its judgment be affirmed in its entirety.

BY THE COURT:

/s/ Paula A. Patrick

Appendix “C”

**ON-PRECEDENTIAL DECISION – SEE
SUPERIOR COURT I.O.P. 65.37**

TENTH	:	IN THE SUPERIOR
PRESBYTERIAN	:	COURT OF
CHURCH	:	PENNSYLVANIA
	:	
v.	:	
	:	
PHILIP SYNDER	:	No. 849 EDA 2020
Appellant	:	

Appeal from the Order Entered February 10, 2020
In the Court of Common Pleas of Philadelphia
County Civil Division at No(s): No. 190703016

BEFORE: BOWES, J., STABILE, J., and
MUSMANNO, J.

MEMORANDUM BY MUSMANNO, J.:

FILED OCTOBER 18, 2021

Philip Snyder (“Snyder”) appeals from the Order granting the Emergency Motion for Injunctive Relief (“the Emergency Motion”) filed by Tenth Presbyterian Church (the “Church”). We affirm in part, reverse in part, and remand for further proceedings.

The Church owns several properties in Philadelphia. The Church’s primary facility is located

at 1701 Delancey Street (“the Property”). Snyder moved to Philadelphia in 2008, after which he joined the Church, where he remained a member until the Church excommunicated Snyder in August 2016. Snyder thereafter began picketing at the Property regarding his excommunication and the conduct of certain current and prior Church officials. Snyder brought a defamation action against individual members of the Church, but ultimately, a jury tendered a verdict against Snyder.

After the verdict in the defamation action, Snyder protested outside of the Property every Sunday, before and after Church services. On July 24, 2019, the Church filed a Complaint for an injunction and an Emergency Motion for Injunctive Relief for a preliminary injunction. The Church sought to restrict Snyder from coming within 1,000 feet of all properties owned by the Church. Following oral argument, Snyder temporarily agreed to the Church’s requested relief.

The trial court subsequently conducted a hearing on the Church’s Motion for a preliminary injunction on January 30, 2020, and February 10, 2020. The trial court described the evidence presented at that hearing as follows:

[Snyder] testified [that] he began picketing outside [of] the Property after the March 22, 2019, jury verdict more frequently[,] with a sign that contained the phrase “naked beatings,” “lying,” and

“rape[,]” because he was displeased with the results of the case. [Snyder] further testified that he had protested while wearing a body camera and film[ed] congregants outside [of] the Property. [Snyder] testified that [a trial court Order and subsequent Opinion in the defamation case] misrepresented the truth. Douglas Baker [“[] Baker”), [the Church’s] former administrator, testified that [Snyder] frequently wore a visibl[y] “concealed” firearm to church services when he was a member[,] and that he continued the practice while picketing with the sign and body camera. [] Baker testified that [Snyder] would verbally harass and yell at congregants outside the Property and then post body camera videos on a blog. Dr. William Goligher [“Dr. Goligher”), senior minister for [the Church], testified that [Snyder] called him the “son of Satan” and a liar. Dr. Goligher testified that [Snyder] had verbally disparaged [Snyder’s] own family for not committing to his protest and not being faithful, including referring to [Snyder’s] wife as Job’s wife.... Dr. Goligher also testified that [Snyder] seemed preoccupied with safety and firearms, such that he would stand beside Dr. Goligher and point out individuals who[m] he thought were carrying firearms. [Snyder’s] fixation on

security and policing[,] even minor behaviors of [the C]hurch congregants[,] went on for years and included concerns about stolen phones, money, and immigrants. [Snyder] himself provided testimony that he has been the only individual telling the truth, that he has mailed 100 pages of material to 200 members of the Church, that he will never stop any of his behaviors until [the Church's] leadership has resigned in full, and that [the Church] was trying to poison him and hire a hitman to assassinate him. Susan Elzey ("Ms. Elzey"), a congregant, testified that outside of [C]hurch services on June 16, 2019, [Snyder] told her he was an instrument of God, similar to a prophet, and that only [Snyder] knows the true nature of Dr. Goligher's soul. [Snyder] went on to tell Ms. Elzey that Dr. Goligher was a son of Satan, and that any congregants who support Dr. Goligher are doing Satan's work. [Snyder] also told Ms. Elzey that he was unhappy with his wife, described her as Job's wife because she did not support him, and that his oath to remove Dr. Goligher from the [C]hurch was more important to him than his family.

By Order dated February 10, 2020, [the trial court] granted [the

Church's] Motion and enjoined [Snyder] from appearing within **five[]thousand (5,000) feet** of [the Church's] properties located at (1) 1701 Delancey [Street]; (2) 1700 Spruce [Street]; (3) 315 S. 17[th Street]; (4) 1710 Spruce [Street]; and (5) 1716 Spruce [Street]....

Trial Court Opinion, 8/21/20, at 1-5 (emphasis added). Thereafter, Snyder filed the instant timely Notice of Appeal, followed by a court-ordered Pa.R.A.P. 1925(b) Concise Statement of matters complained of on appeal.

Snyder presents the following claims for our review:

1. Did the [trial court] commit an error of law and/or abuse its discretion by enjoining [Snyder] from peaceful protest that is constitutionally protected?
2. Did the [trial court] commit an error of law and/or abuse its discretion by failing to narrowly tailor its injunction to address the alleged harms claimed by [Snyder]?
3. Did the [trial court] commit an error of law and/or abuse its discretion by enjoining [Snyder] from peaceful protest where [the Church] had other

adequate remedies at law?

4. Did the [trial court] commit an error of law and/or abuse its discretion in finding that [Snyder] posed the risk of imminent violent behavior, when there was no evidence that [Snyder] threatened any of [the Church's] parishioners or other members of the public?

Brief for Appellant at 4.

We will address Snyder's first two claims together, as they are related. Snyder first claims that the trial court improperly enjoined him from constitutionally protected peaceful protest. *Id.* at 12. Snyder argues that his activities are protected under the First Amendment to the United States Constitution, and Article I, Section 7, of the Pennsylvania Constitution. *Id.* According to Snyder, our Supreme Court has held that the Pennsylvania Constitution prohibits "prior restraint on Pennsylvanians' right to speak." *Id.* at 14 (citations omitted).

Snyder relies upon our Supreme Court's decision in *Willing v. Mazzacone*, 393 A.2d 1155 (Pa. 1978), wherein our Supreme Court held that an injunction violated a protestor's "state constitutional right to freely speak her opinion[,] regardless of whether that opinion is based on fact or fantasy." Brief for Appellant at 14-15 (quoting *Willing*, 393 A.2d at

1158). According to Snyder, *Willing* is “directly applicable to these circumstances[.]” *Id.* at 15. Snyder disputes the Church’s claim that *Willing* is distinguishable because, the Church asserts, “[Snyder’s] actions are uniquely malicious[.]” *Id.* Snyder points out that the Church offers no case law in support of its interpretation of *Willing*. *Id.*

Additionally, Snyder directs our attention to this Court’s decision in *Klebanoff v. McMonagle*, 552 A.2d 677 (Pa. Super. 1988). Brief for Appellant at 17. According to Snyder, the *Klebanoff* Court, while upholding a permanent injunction against an abortion protestor in front of a physician’s private residence, nevertheless assured that the protestors remained free to protest in front of the physician’s practice, distribute leaflets, and telephone neighbors. *Id.*

Snyder disputes that his actions caused Church members to avoid the Church’s services and prevented nonmembers from attending the Church. *Id.* at 18. According to Snyder, “[c]ourts recognized that all expressive conduct—especially acts of protest—by definition seek to influence the conduct of others.” *Id.* Snyder also disputes the allegation that he will imminently undertake violent action against the Church and its worshipers. *Id.* at 19. Snyder asserts that such a claim is speculative and “based upon faulty reasoning.” *Id.* According to Snyder, he is a productive member of society, working as a mechanic, and he has never been arrested. *Id.* at 20.

In his second claim, Snyder argues that the

trial court improperly imposed a preliminary injunction that is not “narrowly tailored” to address the harms claimed by the Church. *Id.* at 27. Snyder asserts that, in the Emergency Motion, the Church sought to enjoin him from protesting within one thousand feet of multiple Church facilities. *Id.* at 28. According to Snyder, “if granted, this injunction would prevent [him] from engaging in all expressive conduct within this geographic boundary[,] and does not leave open ample alternative channels for communication.” *Id.* (emphasis in original, internal quotation marks omitted). Further, Snyder claims that the trial court “inexplicably,” and on its own “initiative,” quintupled the Church’s request, and improperly imposed a five-thousand-foot injunction. *Id.* Snyder points out that previously, his conduct had been limited to the public sidewalks abutting the Church’s property. *Id.* at 29.

Our review of a trial court’s decision to grant or deny preliminary injunctive relief is “highly deferential.” *Weeks v. Dep’t of Human Servs.*, 222 A.3d 722, 727 (Pa. 2019). Our standard of review for granting a preliminary injunction “requires an appellate court only to determine if there were any apparently reasonable grounds for the lower court’s action.” *Turner Constr. v. Plumbers Local 690*, 130 A.3d 47, 66 (Pa. Super. 2015) (citations omitted).

To obtain a preliminary injunction, the requesting party must establish that

- (1) the injunction is necessary to prevent immediate and irreparable

harm that cannot be compensated adequately by damages;

(2) greater injury would result from refusing the injunction than from granting it, and, concomitantly, the issuance of an injunction will not substantially harm other interested parties in the proceedings;

(3) the preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct;

(4) the party seeking injunctive relief has a clear right to relief and is likely to prevail on the merits;

(5) the injunction is reasonably suited to abate the offending activity; and,

(6) the preliminary injunction will not adversely affect the public interest.

Marcellus Shale Coal. v. Dep’t of Envtl. Prot. of Pa., 185 A.3d 985, 1007- 08 (Pa. 2018). Importantly, a preliminary injunction must be crafted so as to be no broader than is necessary for the petitioner’s interim protection. ***Santoro v. Morse***, 781 A.2d 1220, 1230 (Pa. Super. 2001).

Snyder’s claims implicate his constitutional right to freedom of speech. The First Amendment to

the United States Constitution provides as follows:

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

U.S. CONST. amend. I.

The United States Supreme Court has mandated that orders affecting First Amendment rights “must be tailored as precisely as possible to the exact needs of the case.” *Carroll v. Comm’rs*, 393 U.S. 175, 184 (1968). Therefore, “[a]n order issued in the area of First Amendment rights must be couched in the narrowest terms that will accomplish the pinpointed objective permitted by constitutional mandate and the essential needs of the public order.” *Turner Constr.*, 130 A.3d at 69 (citation omitted, emphasis added). As this Court has explained,

[u]nder the federal constitution, any system of prior restraint bears heavy presumption against validity. *New York Times Co. v. United States*, 403 U.S. 713 ... (1971). *See also[] Near v. Minnesota*, 283 U.S. 697 ... (1931). The U.S. Supreme Court has refused to uphold injunctions against speech

intended to harm economically the business of another, even where the state courts have found the activities in question to be “coercive and intimidating, rather than informative.”

Franklin Chalfont Assocs. v. Kalikow, 573 A.2d 550, 555-56 (Pa. Super. 1990).

The Pennsylvania Constitution affords greater protection to speech and conduct in this Commonwealth than does its federal counterpart, the First Amendment. ***Willing***, 393 A.2d at 1158; ***William Goldman Theaters, Inc. v. Dana***, 173 A.2d 59, 61 (Pa. 1961). Article I, Section 7 of the Pennsylvania Constitution provides that “[t]he free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty....” PA. CONST. art. I, § 7. Thus, Under Pennsylvania law, “peaceful picketing conducted in a lawful manner and for a lawful purpose is lawful, even though it shuts down, bankrupts or puts out of business the company or firm which is picketed.” ***Franklin Chalfont Assocs.***, 573 A.2d at 556 (citation omitted).

Moreover, this special protection for free speech rights is deeply rooted in a history that is unique to Pennsylvania:

The “profound national commitment to the principle that debate on public issues

should be uninhibited, robust, and wide open,” has special meaning for this Commonwealth, whose founder, William Penn, was prosecuted in England for the “crime” of preaching to an unlawful assembly and persecuted by the court for daring to proclaim his right to a trial by an uncoerced jury. It is small wonder, then, that the rights of freedom of speech, assembly, and petition have been guaranteed since the first Pennsylvania Constitution, not simply as restrictions on the powers of government, as found in the Federal Constitution, but as inherent and “invaluable” rights of man.

Bodack v. Law Enft All. of Am., 790 A.2d 277, 278-79 (Pa. 2001).

In ***Willing***, relied upon by Snyder, a former client of a Philadelphia law firm, Helen Willing (“Willing”), picketed in a pedestrian plaza between office buildings, which also was a pedestrian pathway between two court buildings. ***Willing***, 393 A.2d at 1156. Willing wore a sandwich-board sign claiming that the firm’s two attorneys (“Attorneys”) stole money from her and sold her out to an insurance company. ***Id.*** Willing also pushed a shopping cart with an American flag, rang a cow bell, and blew a whistle to attract further attention. ***Id.*** In a case in equity to enjoin Willing’s activities, the trial court granted an injunction, prohibiting Willing from displaying patently false and libelous statements about

Attorneys. *Id.* The equity court determined that Willing was “a woman firmly [in] the thrall of the belief that [the law firm] had defrauded her, an idee fixe which, either by reason of eccentricity or an even more serious mental instability, refuses to be dislodged by the most convincing proof to the contrary.” *Id.* at 1157.

Ultimately, on allowance of appeal, our Supreme Court reversed, concluding that Attorneys had an adequate remedy at law, in the form of an action for defamation. *Id.* at 1158. The Supreme Court explained that “the equity court [had] violated [Willing’s] state constitutional right to freely speak her opinion—regardless of whether that opinion is based on fact or fantasy—regarding [Attorneys’] professional integrity” *Id.*

With this in mind, our review of the record discloses that at the hearing, the Church presented the testimony of Church Administrator Douglas Baker (“Baker”).⁴⁹ N.T., 1/30/20, at 17. Baker testified that, approximately two weeks after the defamation trial, a Church member alerted him that Snyder was on the sidewalk outside of the Church’s property. *Id.* at 19-20. According to Baker, Snyder appeared every consecutive Sunday, until the court temporarily enjoined his actions. *Id.* at 20. Baker filed a police report on Snyder’s activities, based upon emails from Church members that “there were direct threats

⁴⁹ Baker testified that, at the time of the hearing, he was no longer employed by the Church. N.T., 1/30/20, at 18.

against our senior minister, taking him out, things of this nature.” *Id.* at 20-21. According to Baker, “I became so concerned for the senior minister’s welfare that I felt it incumbent upon my office, with his permission, to file a police report, at least notating what was going on, with the Philadelphia Police Department.” *Id.* at 21.

Baker testified regarding his understanding that Snyder wore a concealed weapon near the Property. *Id.* at 25. Baker explained that “[a]lmost a week did not go by” where he was not stopped by Church members, who were alarmed by Snyder’s presence. *Id.* at 26. Members told Baker that they were concerned for their safety, after receiving emails from Baker. *Id.* Baker indicated that he received a “steady stream” of complaints from Church members. *Id.* at 35.

Regarding Snyder’s actions on the sidewalk outside of the Property, Baker testified as follows:

From my own observation and the recollection of others who spoke to me directly, post trial and verdict, there was an increased animation in [Snyder’s] behavior. There were much more actions with verbal intrusions to the members when they would come than it was before trial. [Snyder] would definitely speak to members as they were entering the [C]hurch with more literature and the body camera, which he was wearing, and

those videos would be posted on a social media site following his encounter with [Church] members and guests.

Id. at 26-28. Regarding Snyder's physical actions, Baker testified that Snyder "would step forward over the line, which he was legally bound not to cross, and speak with people, other members. I have witnessed that myself[,] as well as others in the membership as well." *Id.* at 27. Baker indicated that the "line" that Snyder crossed was 20 feet from the Property. *Id.* at 45.

Baker further testified that, following the verdict in the defamation trial, [Snyder] was noticeably different as he stood outside. It wasn't just the sign. It was the way that he interacted with members, the way that he posted videos, the way that he kept pamphleteering, as it were, the congregation after the verdict was given. They seemed to escalate after that, and, also, a new social media presence that we had not seen before....

Id. at 36. Baker explained that, as part of a committee to upgrade the Church's security, he received training in order to develop a security plan for the Church's facilities. *Id.* at 27. According to Baker, Snyder was the sole reason for the upgrade to security. *Id.* at 28. After attending training on active shooter situations,

Baker became concerned over Snyder's behavior.⁵⁰ ***Id.*** at 32. On cross-examination, Baker acknowledged that he had not personally observed the weapon concealed on Snyder. ***Id.*** at 42.

The Church also presented the testimony of Ms. Elzey, a member of the Church. Ms. Elzey testified regarding her interaction with Snyder on June 16, 2019:

As I was approaching the [Property] with my daughter and our guest, I was leading them towards the front entrance of the [Property], as [we] turned the corner to approach that entrance, I was aware of [] Snyder's presence, although I did not in any way engage with him, but as I continued towards the door, I heard him call out to me by name, very loudly. He proceeded to accuse me of being a liar, telling me very loudly that I should be ashamed of myself for lying. As he did so, in an effort to deescalate his behavior, I purposely did not make eye contact with him, and I proceeded into the [Property], but as I continued all the way up the stairs into the [Property], he continued to verbally harass me very loudly.

⁵⁰ On cross-examination, Baker acknowledged that Snyder was not the sole reason for his attendance at the training session. N.T., 1/30/20, at 47.

Id. at 71. Ms. Elzey explained that she had testified on behalf of Dr. Goligher and another Church official at the defamation trial. *Id.* at 74. Ms. Elzey estimated that Snyder was at least 20 feet from her at that time, “if not more.” *Id.* at 72.

Later that month, Ms. Elzey again encountered Snyder:

I had observed that [Snyder] was in a conversation with a close friend of mine. I decided that I would join that conversation. I felt safe to do so, because there were other people near by who were clearly observing and ready to intervene if necessary. I directly wanted to know why [] Snyder had considered me a liar.

....

I commented to [Snyder] that he should trust God to be judge and to administer justice.

His reply to me [] was that God uses human instruments, such as the prophets, and he saw himself to be God’s instrument of justice, in that he claimed that nobody knew except for him and God who [Dr.] Goligher really is. That was the son of Satan, and that any congregants who supports [sic] Dr.

Goligher is doing Satan's work.

....

He also stated to me that he had made an oath to God that he would never, ever cease his pursuit to see Dr. Goligher gone, and, at the same time, we discussed that we were concerned for his family.

[Snyder] stated that he was very unhappy with his wife. He referred to her as Job's wife, because she did not support him.

Id. at 76. According to Ms. Elzey, Snyder also represented that his oath to remove Dr. Goligher was more important than his oath to his family. *Id.* at 77. Ms. Elzey acknowledged that Snyder did not follow her into the Property. *Id.* at 101. However, Ms. Elzey testified that Snyder's verbal protests could be heard inside of the Property, and alarmed members therein. *Id.* at 72.

Ms. Elzey stated that, at times during their discussion, Snyder became "very agitated. His hands were shaking. He was gesticulating a lot, and again, as I said, with an aggressive tone. At some points his demeanor would alternate between that and very agitated." *Id.* at 77. Ms. Elzey was concerned because there was "no amount of testimony or evidence that will disabuse [Snyder] of his false narrative concerning these events that he claims took place." *Id.*

at 80.

At the hearing, Snyder testified that he was excommunicated from the Church on October 23, 2016. N.T., 2/10/20, at 8. According to Snyder, at that time, Dr. Goligher served him with a no-trespassing notice. *Id.* Snyder indicated that he began handing out letters, in front of the Property, on September 10, 2017. *Id.* Snyder testified that he has only held signs and protested at the Property near the corner of 17th Street and Spruce Street. *Id.* at 15. Snyder further asserted that he has always stood on the public sidewalk for his protests, and not on the Property. *Id.* at 15-16.

Snyder denied ever blocking the entrance or exit to the Property. *Id.* at 17. Snyder later clarified that he has not been on the Property since October 23, 2016. *Id.* at 21. Snyder denied ever physically attacking or restraining anyone outside of the Property. *Id.* at 17. Snyder explained that he protested in front of the Property, because the back exit “is not wide enough to give a wide berth to people.” *Id.*

Regarding his firearm, Snyder testified that he had obtained a license to carry a firearm in November 2012. *Id.* at 22. Snyder explained that he “was an armored car guard, so I previously had a .38 revolver from that, and I also inherited a .38 revolver from my uncle Darvin.” *Id.* at 22-23. Snyder denied ever carrying a firearm while protesting in front of the Property. *Id.* at 23. Snyder stated that he voluntarily,

permanently surrendered his firearms to the State Police and denied possessing firearms of any kind. *Id.* at 24-25. However, Snyder conceded that there is no restriction preventing him from purchasing another firearm. *Id.* at 26.

After the defamation trial, Snyder testified, he began a “blog.” *Id.* at 43. Snyder testified that he began the blog “[s]ince I have been prevented from being on the sidewalk[.]” *Id.* at 44. Snyder confirmed that it was his desire to continue his protests and dissemination of articles until he is successful at removing Dr. Goligher from the Church. *Id.* at 47. Snyder admitted that people attending the Church “appear to be afraid of what they think I might do, not what I’ve actually done.” *Id.* at 58. Snyder further acknowledged telling others that the only way to stop him would be if there was a “crucifixion or burning at the stake[.]” *See id.* at 62 (wherein Snyder acknowledged making such statements). Notwithstanding, Snyder acknowledged that if the court placed a one-thousand-foot restriction on his protests, he would abide by the restriction, but continue to protest. *Id.* at 75.

At the conclusion of the hearing, the trial court expressed its concern over violent actions taken against churches throughout the country:

The only thing I’m saying is this. Let’s be realistic here. That is that [Snyder] can allege all he wants to, but there’s something that’s important here that we

need to understand, as I said, the defense to defamation is truth.

We know that, and if there's not truth to all the things he's saying, clearly it's actionable. Why? Because the law is designed to protect us, ... from any conduct that would harm us, that is not right.

Now, I'm not of the belief that we should have politically correct speech. I don't believe that, even as the [c]ourt, and I don't think there should be a law to protect being politically correct. [Snyder] can say what he wants to say. But the face [sic] is that is what he says, it should be truthful, because the other side, they have right[s,] too.

N.T., 2/10/20, at 169-70. The trial court ultimately ruled, “[T]he record is clear as to what the [c]ourt is doing, and I'm not going to say that [Snyder] should be within 1,000 feet of the [Property]. Absolutely not. He should be [sic] within, at least, 5,000 feet of that [C]hurch.” *Id.* at 173.

In its Opinion, the trial court justified its grant of injunctive relief as narrowly tailored, because “Snyder is free to protest and distribute material outside of the five-thousand (5,000) foot restriction from [the Church's] properties. [Snyder] is free to continue mailing information and he is free to

continue updating his blog and speaking to the press about [the Church].” Trial Court Opinion, 8/21/20, at 11. The trial court found that the five-thousand-foot perimeter was necessary because of the “contentious litigious history between the parties, and because of [Snyder’s] potentially violent behavior.” *Id.*

Applying our “highly deferential” standard of review, we agree that the trial court had “apparently reasonable grounds” for the imposition of a preliminary injunction against Snyder. *See Weeks*, 222 A.3d at 727; *Turner Constr.*, 130 A.2d at 66. However, we cannot conclude that the five-thousand-foot injunction imposed upon Snyder was crafted so as to “be no broader than is necessary for the petitioner’s interim protection.” *See Santoro*, 781 A.2d at 1230 (citation omitted). Rather, the trial court couched its preliminary injunction in the broadest terms to protect the interest of the Church and its members, disregarding Snyder’s constitutional right to protest the Church and its leadership. A five-thousand-foot restriction places Snyder well beyond the point at which his constitutional right to protest is utterly extinguished.⁵¹ Put succinctly, the five-thousand-foot

⁵¹ We point out that the Church broadly requested a one-thousand-foot prohibition on Snyder’s protests. Complaint, 7/24/19, at 10-11 (unnumbered). The Complaint couches the requested relief in the broadest terms, but does not afford Snyder his constitutional right to protest the Church and its leadership. Any preliminary injunction must be narrowly tailored to address the physical realities of each Church property, while balancing Snyder’s federal and state right to free speech. *See Santoro*, 781 A.2d at 1230.

restriction is not “couched in the narrowest terms that will accomplish the pin-pointed objective permitted by constitutional mandate and the essential needs of public order.” *Carroll*, 393 U.S. at 183.

Thus, we are constrained to reverse that portion of the preliminary injunction imposing a five-thousand-foot prohibition on Snyder’s protests, not because no reasonable grounds supported the Order, but because the relief awarded far exceeded the proper scope of relief in a proceeding for a preliminary injunction. *See Santoro*, 780 A.2d at 1230 (reversing the grant of a preliminary injunction that exceeded the proper scope of relief). We remand for further proceedings to impose a preliminary injunction that properly balances the interests of the Church with the constitutional rights of Snyder, and is “couched in the narrowest terms that will accomplish the pin- pointed objective permitted by constitutional mandate and the essential needs of public order.” *Carroll*, 393 U.S. at 183.

In his third claim, Snyder argues that the trial court improperly enjoined his protest, where the Church had an adequate remedy at law. Brief for Appellant at 24. Snyder points out that the Church repeatedly has characterized his actions as defamatory. *Id.* at 26. Snyder asserts that, by the Church’s own admission, an adequate remedy at law exists for a defamation action. *Id.*

Relatedly, in his fourth claim, Snyder challenges the trial court’s finding that he posed a risk

of imminent violent behavior. *Id.* at 30. Snyder contends that there is no evidence that he threatened anyone. *Id.* Snyder further argues that there is no evidence that he ever carried a gun to the Church. *Id.* According to Snyder, the trial court attempted to support its conclusions with references to shootings at houses of worship. *Id.* at 31.

As set forth above, the record reflects that Snyder engaged in aggressive and agitated behavior that frightened and agitated Church members inside and outside of the Property. *See* N.T., 1/30/20, at 45 (wherein Baker testified that Snyder had crossed the 20-foot restriction when engaging in his protests), 27 (wherein Baker testified regarding Snyder's video recording congregants and posting them on social media), 26 (wherein Baker stated that he had received complaints that Snyder's actions alarmed congregants), 43 (wherein Baker testified regarding notifications from members that they would not attend services because of Snyder), 72 (wherein Ms. Elzey testified that Snyder's verbal protests could be heard inside of the Property, and alarmed members therein). We cannot conclude that an adequate remedy at law exists to compensate for impact to the rights of the Church and its members.

Regardless of whether these specific findings are supported in the record, our standard of review "requires an appellate court only to determine if there were any apparently reasonable grounds for the lower court's action." *Turner Constr.*, 130 A.3d at 66. Because there is a reasonable basis for the trial court's

imposition of an injunction, we cannot grant Snyder relief on this aspect of his appeal.

In summary, while we affirm the trial court's determination that a preliminary injunction is warranted, we reverse the imposition of a five-thousand-foot restriction against Snyder. We remand for the trial court to fashion a limitation that achieves the specific needs of this case, *i.e.*, a distance that is sufficient to protect congregants' access to the Church and its services, yet continues to uphold Snyder's constitutional right to convey his dissatisfaction with the Church and its leadership. *See Turner, supra.*

Order affirmed in part and reversed in part. Case remanded for further proceedings consistent with this Memorandum. Superior Court jurisdiction relinquished.

Judgement Entered.

/s/ Joseph D. Steletyn
Joseph D. Steletyn, Esq.
Prothonotary

Date: 10/28/2021

Appendix “D”

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF
PENNSYLVANIA
CIVIL TRIAL DIVISION

TENTH	:	
PRESBYTERIAN	:	PHILADELPHIA
CHURCH	:	COUNTY
Plaintiff(s)	:	COURT OF
	:	COMMON PLEAS
vs.	:	
	:	Case No.
PHILIP SYNDER	:	190703016
Defendant(s)	:	
	:	Control No.
	:	1907543

ORDER

AND NOW, this 10th day of November, 2021, upon consideration of the Superior Court of Pennsylvania's October 18th, 2021, Opinion affirming in part and reversing in part this Court's February 10, 2020, Order, and Plaintiff Tenth Presbyterian Church's Emergency Motion for Injunctive Relief as well as any response thereto, it is hereby **ORDERED** and **DECREED** that this Court's February 10, 2020, Order is **VACATED**.

IT IS FURTHER ORDERED that Plaintiff Tenth Presbyterian Church's Emergency Motion for Injunctive Relief is **GRANTED**. The Defendant Philip Snyder is **ENJOINED** from:

1. Distributing, picketing, leafleting, harassing, intimidating, placing in fear, threatening, or otherwise communicating to Church members within one thousand (1,000) feet of the church located at 1701 Delancey Street, Philadelphia, PA 19103 on Sundays;
2. Appearing within one thousand (1,000) feet of all property owned and/or occupied by Tenth Presbyterian Church, including but not necessarily: 1700 Spruce Street, 1701 Delancey Street, 315 S. 17th Street, 1710 Spruce Street, and 1716 Spruce Street, Philadelphia, PA 19103;
3. Tenth Presbyterian Church shall not be required to file a bond; and
4. This injunction shall continue in full force until further Order of this Court.

BY THE COURT:

/s/ Paula A. Patrick

Appendix “E”

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF
PENNSYLVANIA
CIVIL TRIAL DIVISION

TENTH	:	
PRESBYTERIAN	:	PHILADELPHIA
CHURCH	:	COUNTY
Plaintiff/	:	COURT OF
Appellee	:	COMMON PLEAS
	:	
vs.	:	Case No.
	:	190703016
PHILIP SYNDER	:	
Defendant/	:	Control No.
Appellant		190754

OPINION

Patrick, J.

April 7, 2022

Defendant/Appellant Philip Snyder filed an appeal from this Court's Order dated November 10, 2021, granting Tenth Presbyterian Church's Emergency Motion for Injunctive Relief. This Court now submits the following Opinion in support of its ruling and in accordance with the requirements of Rule 1925(a) of the Pennsylvania Rules of Appellate Procedure. For the reasons set forth below, this Court's decision should be affirmed.

FACTUAL/PROCEDURAL HISTORY

In 2008, Defendant/ Appellant Philip Snyder ("Appellant") moved to Philadelphia from California to join Tenth Presbyterian Church ("Appellee").¹ Appellee owns several properties throughout Philadelphia, but the primary church building is located at 1701 Delancey Street (the "Property").² In August, 2016, Appellant was excommunicated by Appellee for violating the Book of Order (the governing document) of the Presbyterian Church, U.S.A.³ Thereafter, Appellant testified he began picketing and handing out letters outside the Property, protesting Appellee's conduct and his excommunication.⁴ Specifically at issue was Appellant's contention that a former church employee engaged in inappropriate behaviors in 2001 while employed at Cairn University, before this employee ever joined the congregation and before Appellant himself moved to Philadelphia.⁵ The individual in question left Appellee's employment in 2014.⁶ On January 17, 2017, Appellant filed a complaint against two individual members of Appellee claiming damages for defamation.⁷

¹ February 10, 2020, N.T. at 31.

² Appellee's July 24, 2019, Complaint at 1-2, 1-5

³ Appellee's July 24, 2019, Complaint at 2, 8

⁴ February 10, 2020, N.T. at 8.

⁵ February 10, 2020, N.T. at 30.

⁶ January 30, 2020, N.T. at 117.

⁷ Case No. 170102293.

During that case, on October 19, 2017, the Honorable Abbe Fletman found that Appellant had "knowingly circulated letters to congregants with the intent to leave a false and negative impression that Rev. Goligher and Mr. McFarland were involved in alleged wrongdoing."⁸ Appellant appealed that Order and Judge Fletman filed an opinion with the Superior Court of Pennsylvania which affirmed her determination. In her opinion, Judge Fletman noted that Appellant admitted he mailed letters to Appellee's congregants so that they "would think ill of the Church's current pastors and leadership even though the events described in the letters may have occurred before the current pastors' tenure."⁹ Judge Fletman opined that Appellant's testimony in this regard "led the Court to find that he intentionally wrote to Church congregants to mislead them into believing that members of the Church's current leadership were involved in wrongdoing."¹⁰

Following a trial on Appellant's underlying defamation claims before the Honorable Marlene Lachman, on March 22, 2019, the jury returned a verdict in favor of Appellee and against Appellant.¹¹ After the jury verdict, and because he was unhappy with the result¹² Appellant began picketing and protesting outside the Property every Sunday before,

⁸ Case No. 170102293, October 19, 2017, Order at 2.

⁹ Judge Fletman's January 10, 2018, Opinion at 2.

¹⁰ Judge Fletman's January 10, 2018, Opinion at 2.

¹¹ Appellant's August 20, 2019 Reply to Appellee's Motion, Exhibit A.

¹² February 10, 2020, N.T. at 37.

during, and after church services.¹³ On July 24, 2019, Appellee filed a Complaint and Emergency Motion for Injunctive Relief enjoining Appellant from coming within one-thousand (1,000) feet of several properties that Appellee owns.¹⁴ On July 30, 2019, this Court heard oral argument on Appellee's Motion. At the hearing, Appellant voluntarily stipulated to Appellee's requested relief temporarily so that he could secure counsel. As such, this Court granted Appellee's Motion temporarily.

After several stipulated continuances, On January 30, and February 10, 2020, this Court heard oral argument on the Motion where both parties were represented by counsel. At oral argument, Appellant testified he began picketing outside the Property after the March 22, 2019, jury verdict more frequently with a sign that contained the phrases "naked beatings", "lying", and "rape" because he was displeased with the result of the case.¹⁵ Appellant further testified that he protested while wearing a body camera and filming congregants outside the Property.¹⁶ With respect to Judge Fletman's October 19, 2017 Order which found Appellant had purposefully lied to Appellee's congregants, Appellant testified that Judge Fletman's Order and subsequent Opinion intentionally misrepresented the truth.¹⁷ Douglas Baker, Appellee's former administrator, testified that Appellant

¹³ January 30, 2020, N.T. at 110.

¹⁴ Appellee's July 24, 2019, Complaint at 2.

¹⁵ January 30, 2020, N.T. at 110.

¹⁶ January 30, 2020, N.T. at 112.

¹⁷ February 10, 2020, N.T. at 40-40.

frequently wore a visible "concealed" firearm to church services when he was a member and that he continued the practice while picketing with the sign and body camera.¹⁸ Mr. Baker further testified that Appellant would verbally harass and yell at congregants outside the Property and then post the body camera videos on a blog.¹⁹ Dr. William Goligher, senior minister for Appellee, testified that Appellant called him "the son of Satan" and a liar.²⁰ Dr. Goligher also testified that Appellant had verbally disparaged his own family for not committing to his protest and not being faithful, including referring to his wife as Job's²¹ wife.²² Dr. Goligher further testified that he held meetings with Appellant and various individuals concerning any and all events that Appellant took umbrage with, but that Appellant would come away from those meetings even more entrenched and convinced of a conspiracy by Appellee's leadership.²³ Dr. Goligher also testified that Appellant seemed preoccupied with safety and firearms, such that he would stand beside Dr. Goligher and point out individuals who he thought were carrying firearms.²⁴ Appellant's fixation on security and policing even

¹⁸ January 30, 2020, N.T. at 25.

¹⁹ January 30, 2020, N.T. at 26.

²⁰ February 10, 2020, N.T. at 105.

²¹ In the Book of Job, Chapter 2, verse 9-10, after God fails to spare Job from suffering, Job's wife asks: "Do you still persist in your integrity? Curse God, and die." Job replies: "You speak as any foolish woman would speak."

²² February 10, 2020, N.T. at 105.

²³ February 10, 2020, N.T. at 98-99.

²⁴ February 10, 2020, N.T. at 93.

minor behaviors of church congregants went on for years and included concerns about stolen phones, money, and immigrants.²⁵ Appellant himself provided testimony that throughout all of the court proceedings he has been the only individual telling the truth²⁶, that he has mailed 100 pages of material to 200 members of the Church²⁷, that he will never stop any of his behaviors until Appellee's leadership has resigned in full²⁸, and that Appellee was trying to poison him and hire a hitman to assassinate him.²⁹ Susan Elzey, a congregant, testified that outside of church services on June 16, 2019, Appellant told her he was an instrument of God, similar to a prophet, and that only Appellant knows the true nature of Dr. Goligher's soul.³⁰ Appellant went on to tell Ms. Elzey that Dr. Goligher was a son of Satan, and that any congregants who support Dr. Goligher are doing Satan's work.³¹ Appellant also told Ms. Elzey that he was unhappy with his wife, described her as Job's wife because she did not support him, and that his oath to remove Dr. Goligher from the church was more important to him than his family.³²

By Order dated February 10, 2020, this Court granted Appellee's Motion and ordered Appellant

²⁵ February 10, 2020, N.T. at 96.

²⁶ February 10, 2020, N.T. at 41.

²⁷ February 10, 2020, N.T. at 48.

²⁸ February 10, 2020, N.T. at 47.

²⁹ January 30, 2020, N.T. at 132-133.

³⁰ January 30, 2020, N.T. at 76.

³¹ January 30, 2020, N.T. at 76.

³² January 30, 2020, N.T. at 76-77.

from appearing within five thousand (5,000) feet of Appellee's properties located at (1) 1701 Delancey St.; (2) 1700 Spruce St.; (3) 315 S. 17 St.; (4) 1710 Spruce St.; and (4) 1716 Spruce St. On March 4, 2020, Appellant filed a Notice of Appeal to the Superior Court of Pennsylvania. On March 5, 2020, this Court Ordered Appellant to file a 1925(b) Concise Statement of Matters Complained of on Appeal. On March 17, 2020, Appellant timely filed his 1925(b) Statement. On August 28, 2020, this Court submitted its Opinion in support of its ruling and in accordance with the requirements of Rule 1925(a) of the Pennsylvania Rules of Appellate Procedure. On October 18, 2021, the Superior Court of Pennsylvania issued a Memorandum under the docket number 849 EDA 2020 affirming in part and reversing in part this Court's February 10, 2020 Order. In the Memorandum, the Superior Court affirmed this Court's determination that a preliminary injunction was warranted in this matter. However, the Superior Court reversed the imposition of a five thousand (5,000) foot restriction against Appellant. The Superior Court remanded the matter to this Court to "fashion a limitation that achieves the specific needs of this case, i.e., a distance that is sufficient to protect congregants' access to the Church and its services yet continues to uphold Snyder's constitutional right to convey his dissatisfaction with the Church and its leadership."³³

³³ See October 18, 2021 Superior Court of Pennsylvania Memorandum, Docket No. 849 EDA 2020.

ISSUES

Appellant raised the following issues in his 1925(b) Statement of Matters Complained of on Appeal:

1. The trial court erred by granting Appellee's Motion because Appellant's actions were protected by Article I, Section VII of the Pennsylvania State Constitution and the First Amendment to the U.S. Constitution.
2. The trial court erred by granting Appellee's Motion because an injunction that enjoins Appellant from permanently appearing within one thousand (1,000) feet of all property owned by Appellee is not narrowly tailored to address the harm alleged by Appellee.
3. trial court erred by granting Appellee's Motion because it limits Appellants right to engage in peaceful protest where Appellee had an adequate remedy at law.
4. The trial court erred by granting Appellee's Motion because the order was not narrowly tailored and this Court failed to address the six (6) factor test for Preliminary Injunctions as found in *Summit Towne Centre, Inc. v. Shoe Show of Rocky Mt., Inc.*, 828 A.2d 995, 1001 (Pa. 2003).

5. The trial court erred by granting Appellee's Motion because it was an error to find that "Appellant posed the risk of imminent violent behavior, when there was no evidence that Appellant threatened any of Appellee's parishioners or other members of the public."

DISCUSSION

- I. **UNDER THE LAW OF THE CASE DOCTRINE, APPELLANT IS NOT PERMITTED TO RELITIGATE THE RESOLUTION OF LEGAL QUESTIONS THAT WERE PREVIOUSLY DECIDED BY THE APPELLATE COURT IN THIS MATTER. (Issues 1, 3, 4, and 5).**

On appeal, Appellant makes several claims that this Court erred by granting Appellee's Preliminary Injunction but fails to note these issues were previously ruled upon by the Superior Court of Pennsylvania. Thus, Appellant's claims must fail. Under the law of the case doctrine, Appellant is not permitted to relitigate the resolution of legal questions that were previously decided by the Appellate Court in this matter. The Superior Court affirmed in part this Court's February 10, 2020 Order and discussed their rulings in detail in the October 18, 2021 Memorandum under Docket No. 849 EDA 2020. Therefore, this Court nor the Superior Court is permitted to alter or relitigate legal questions that

have been previously decided in this matter. Accordingly, Appellant's claims should be dismissed.

Under the "law of the case doctrine, a court involved in later phases of a litigated matter should not reopen questions decided by another judge of the same court or by a higher court in earlier phases of the matter." *Riccio v. American Republic Ins. Co.*, 705 A.2d 422, 425 (Pa. 1997); see also *Melley v. Pioneer Bank, NA.*, 834 A.2d 1191, 1204 (Pa. Super. 2003). "Upon remand for further proceedings, a trial court may not alter the resolution of a legal question previously decided by the appellate court in the matter; (2) upon a second appeal, an appellate court may not alter the resolution of a legal question previously decided by the same appellate court." *Commonwealth v. Viglione*, 842 A.2d 454, 461-62 (Pa. Super. 2004) (Citing *Commonwealth v. Starr*, 541 Pa. 564, 578, 664 A.2d 1326, 1333 (Pa. 1995)). "When an appellate court has considered and decided a question submitted to it upon appeal, it will not, upon a subsequent appeal on another phase of the case, reverse its previous ruling." *Neidert v. Charlie*, 143 A.3d 384, 391 (Pa. Super. 2016). "To determine whether the law of the case doctrine applies, a court must examine the rulings at issue in the context of the procedural posture of the case." *Stein v. Magarity*, 102 A.3d 1010, 1017 (Pa. Super. 2014).

"The rule of the "law of the case" is one largely of convenience and public policy, both of which are served by stability in judicial decisions, and it must be accommodated to the needs of justice by the

discriminating exercise of judicial power." *Com. v. Schultz*, 116 A.3d 1116, 1123 (Pa. Super. 2015) (quoting *Benson v. Benson*, 624 A.2d 644,647 (Pa. Super. 1993)). Further, "the various rules which make up the law of the case doctrine serve not only to promote the goal of judicial economy ... but also operate (1) to protect the settled expectations of the parties; (2) to [ensure] uniformity of decisions; (3) to maintain consistency during the course of a single case; (4) to effectuate the proper and streamlined administration of justice; and (5) to bring litigation to an end." *Commonwealth v. Starr*, 664 A.2d 1326, 1331 (Pa. 1995); *Zane v. Friends Hosp.*, 836 A.2d 25, 29 (Pa. 2003). "Departure from either of these principles is allowed only in exceptional circumstances such as where there has been an intervening change in the controlling law, a substantial change in the facts or evidence giving rise to the dispute in the matter, or where the prior holding was clearly erroneous and would create a manifest injustice if followed." *George v. Ellis*, 911 A.2d 121, 125 (Pa. Super. 2006); see also *Mariner Chestnut Partners, L.P. v. Lenfest*, 152 A.3d 265,282 (Pa. Super. 2016).

In the present matter, it is evident that the law of the case doctrine is applicable. On October 18, 2021, the Superior Court issued a ruling affirming this Court as to the majority of the issues contained in Appellant's December 15, 2021 1925(b) Statement of Matters.³⁴ To determine whether the law of the case

³⁴ See October 18, 2021 Superior Court of Pennsylvania Memorandum, Docket No. 849 EDA 2020; see also Appellant's

doctrine applies, this Court must examine the rulings at issue in the context of the procedural posture of this matter.³⁵ The substantially similar February 10, 2020 Order in this case was appealed previously to the Superior Court of Pennsylvania. On March 5, 2020, this Court ordered Appellant to file a 1925(b) Concise Statement of Matters Complained of on Appeal. On March 17, 2020, Appellant timely filed his first 1925(b) Statement. In his first 1925(b) Statement, Appellant claimed virtually identical issues as addressed in his later December 15, 2021 1925(b) Statement.³⁶ When an appellate court has considered and decided a question submitted to it upon appeal as it has in this matter, it will not, upon a subsequent appeal on another phase of the case, reverse its previous ruling.³⁷ Further, no exceptional circumstances apply here to permit altering or relitigating the issues that have been previously decided. As such, the rule of the case doctrine applies as these issues have been resolved previously by the Superior Court in its October 18, 2021 Memorandum under Docket No. 849 EDA 2020.³⁸ Accordingly, Appellant's claims should be dismissed under the law

December 15, 2021 1925(b) Statement of Matters Complained of on Appeal.

³⁵ *Stein v. Magarity*, 102 A.3d 1010, 1017 (Pa. Super. 2014).

³⁶ See Appellant's March 5, 2020 1925(b) Statement; *see also* Appellant's December 15, 2021 1925(b) Statement.

³⁷ *Neidert v. Charlie*, 143 A.3d 384, 391 (Pa. Super. 2016).

³⁸ "Upon a second appeal, an appellate court may not alter the resolution of a legal question previously decided by the same appellate court." *Commonwealth v. Viglione*, 842 A.2d 454, 461-62 (Pa. Super. 2004).

of the case doctrine because the Superior Court has already affirmed the ruling of this Court.³⁹

II. **THIS COURT PROPERLY GRANTED APPELLEE'S MOTION ENJOINING APPELLANT FROM APPEARING WITHIN 1000 FEET OF APPELLEE'S PROPERTY BECAUSE IT IS NARROWLY TAILORED TO ACHIEVE THE SPECIFIC NEED TO PROTECT APPELLEE'S CONGREGANTS WHILE UPHOLDING APPELLANT'S RIGHT TO CONVEY HIS DISSATISFACTION. (Issue 2)**

On appeal, Appellant claims this Court erred by granting Appellee's Preliminary Injunction because an injunction that enjoins Appellant from permanently appearing within one thousand (1,000) feet of all property owned by Appellee is not narrowly tailored to address the harm alleged by Appellee. Appellant's claim must fail. This Court properly granted Appellee's Preliminary Injunction Enjoining Appellant from appearing within one thousand (1,000) feet of Appellee's property because it is

³⁹ See October 18, 2021 Superior Court of Pennsylvania Memorandum, Docket No. 849 EDA 2020 at 19 ("We cannot conclude that an adequate remedy at law exists to compensate for impact to the rights of the Church and its members... because there is a reasonable basis for the trial court's imposition of an injunction, we cannot grant Snyder relief on this aspect of his appeal."); and at 20, "we affirm the trial court's determination that a preliminary injunction is warranted".

narrowly tailored to achieve the specific need to protect congregants' access to Appellee and its services, while upholding Appellant's right to convey his dissatisfaction with Appellee's leadership. Accordingly, Appellant's claim should be dismissed.

The United States Supreme Court has mandated that orders affecting First Amendment rights "must be tailored as precisely as possible to the exact needs of the case." *Carroll v. Comm'rs*, 393 U.S. 175, 184 (1968). To do so, "an order issued in the area of First Amendment rights must be couched in the narrowest terms that will accomplish the pin-pointed objective permitted by constitutional mandate and the essential needs of the public order." *Turner Const. v. Plumbers Loe*, 690, 130 A.3d 47, 68 (Pa. Super. 2015). The Pennsylvania Constitution affords greater protection to speech and conduct than does the First Amendment of the United States Constitution. *Willing v. Mazzacane*, 393 A.2d 1155, 1158 (Pa. 1978); see also *William Goldman Theaters, Inc. v. Dana*, 173 A.2d 59, 61 (Pa. 1961). Article I, Section 7 of the Pennsylvania Constitution states "[t]he free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty" PA. CONST. art. I, § 7. Thus, Under Pennsylvania law, "peaceful picketing conducted in a lawful manner and for a lawful purpose is lawful, even though it shuts down, bankrupts or puts out of business the company or firm which is picketed." *Franklin Chalfont Assocs. v. Kalikow*, 573 A.2d 550, 555-56 (Pa. Super. 1990).

Additionally, under Pennsylvania jurisprudence, a preliminary injunction "must be crafted so as to be no broader than is necessary for the petitioner's interim protection." *Santoro v. Morse*, 781 A.2d 1220, 1230 (Pa. Super. 2001). An order involving a party's First Amendment rights must further be "couched in the narrowest terms that will accomplish the pin-pointed objective permitted by constitutional mandate and the essential needs of the public order." *Id.* The Court may not employ "means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved." *Shelton v. Tucker*, 364 U.S. 479, 488 (1960). The participation of both sides is necessary for the purpose of ensuring the order is tailored to be as precise as possible to fit the needs of the case. *Turner Const. v. Plumbers Loe*, 690, 130 A.3d 47, 68 (Pa. Super. 2015). An injunction is narrowly tailored to protect a significant public interest when its scope does not exceed that which is necessary to protect the interest involved. *Klebanoff v. McMonagle*, 552 A.2d 677, 680 (Pa. Super. 1988).

In the present case, as discussed *supra*, the Superior Court held that this Court's granting of a preliminary injunction was warranted as "the record reflects that [Appellant] engaged in aggressive and agitated behavior that frightened and agitated [Appellee's] members inside and outside of the Property."⁴⁰ However, the Superior Court reversed the imposition of a five thousand (5,000) foot

⁴⁰ See *Tenth Presbyterian Church v. Snyder*, at 19 (Pa. Super. No. 849 EDA 2020, filed Oct. 18, 2021).

restriction against Appellant. The Superior Court further indicated this case was remanded so that the Trial Court could specifically "fashion a limitation that achieves the specific needs of the case, i.e., a distance that is sufficient to protect congregants' access to the Church and its services, yet continues to uphold [Appellant's] constitutional right to convey his dissatisfaction with [Appellee] and its leadership."⁴¹ In compliance with the Superior Court, this Court issued a narrowly tailored Order on November 10, 2021, imposing a one thousand (1,000) foot restriction against Appellant.

This Court fully acknowledges that the content of Appellant's speech is protected as his subjective opinion. However, Appellee's congregation's privacy rights to worship freely are also impeded by Appellant's harassing behavior toward congregants as they come and go from the Property. Moreover, Appellant creates an atmosphere of fear due to his history of openly carrying firearms, his confrontational attitude, and his singlemindedness with respect to his "mission" to destroy Appellee's leadership.⁴² It is Appellant's behavior with respect to Appellee and his readiness to consider violence as a solution to problems that necessitated the order granting injunctive relief as well as some level of restriction. Further, this Court's ruling as to these issues was affirmed by the Superior Court on

⁴¹ *Id.* at 20.

⁴² January 30, 2020, N.T. at 76.

Appellant's previous Appeal.⁴³ In its prior ruling, the Superior Court took into consideration the privacy and safety rights of Appellee's congregation and found that the congregation was unable to worship peacefully while Appellant protested near church property given the history between the parties as well as Appellant's potential for violence.⁴⁴

Importantly, the injunctive relief granted in this case is in fact narrowly tailored because Appellant is free to protest and distribute material more than one thousand (1,000) feet from Appellee's properties. Appellant is free to continue mailing information and he is free to continue updating his blog as well as speak to the press about Appellee. This Court's Order is also reasonably couched in the narrowest terms possible because it is a restriction that will accomplish the pin-pointed objective of protecting Appellee's leadership and congregants

⁴³ See October 18, 2021 Superior Court of Pennsylvania Memorandum, Docket No. 849 EDA 2020 at 19 ("We cannot conclude that an adequate remedy at law exists to compensate for impact to the rights of the Church and its members ... because there is a reasonable basis for the trial court's imposition of an injunction, we cannot grant Snyder relief on this aspect of his appeal."); and at 20, "we affirm the trial court's determination that a preliminary injunction is warranted".

⁴⁴ See *Tenth Presbyterian Church v. Snyder*, at 19 (Pa. Super. No. 849 EDA 2020, filed Oct. 18, 2021) ("the record reflects that [Appellant] engaged in aggressive and agitated behavior that frightened and agitated [Appellee's] members inside and outside of the Property.").

while they worship.⁴⁵ There is not a restriction that can be more narrowly achieved because of the contentious and litigious history between the parties, and because of Appellant's threat of potentially violent behavior.⁴⁶

Further, the participation of both sides is necessary for the purpose of ensuring the order is tailored to be as precise as possible to fit the needs of the case.⁴⁷ Here, the participation of both parties in reaching the one thousand (1,000) foot restriction is readily apparent. The record reflects that Appellee requested a one thousand (1,000) foot restriction in its initial Complaint for Injunctive Relief.⁴⁸ Furthermore, Appellant himself also previously agreed to a one thousand (1,000) foot restriction in this case at the July 30, 2019, hearing.⁴⁹ Appellant's acceptance of the one thousand (1,000) foot restriction in the past indicates it is sufficient to allow him to uphold his constitutional right to convey dissatisfaction with Appellee and its leadership.⁵⁰ Moreover, the initial agreement here is indicative of the participation of both sides and demonstrates that

⁴⁵ *Santoro v. Morse*, 781 A.2d 1220, 1230 (Pa. Super. 2001).

⁴⁶ *Shelton v. Tucker*, 364 U.S. 479, 488 (1960).

⁴⁷ *Turner Const. v. Plumbers Loe.* 690, 130 A.3d 47, 68 (Pa. Super. 2015).

⁴⁸ See Appellee's July 24, 2019 Complaint and Emergency Motion for Injunctive Relief.

⁴⁹ See *Tenth Presbyterian Church v. Snyder*, at 2. (Pa. Super. No. 849 EDA 2020, filed Oct. 18, 2021).

⁵⁰ See *Klebanoff v. McMonagle*, 552 A.2d 677, 680 (Pa. Super. 1988).

both parties' needs are met with this specific restriction.

Accordingly, Appellant's claim should be dismissed because a one thousand (1,000) feet restriction, as directed by the Superior Court, achieves the specific need to protect congregants' access to Appellee and its services, while upholding Appellant's right to convey his dissatisfaction with its leadership.

CONCLUSION

For all the foregoing reasons, this Court's judgment should be affirmed in its entirety.

BY THE COURT:

/s/ Paula A. Patrick
Paula A. Patrick, J.

Appendix “F”

IN THE SUPREME COURT OF
PENNSYLVANIA
EASTERN DISTRICT

TENTH	:	No. 494 EAL 2021
PRESBYTERIAN	:	
CHURCH,	:	
Respondent	:	Petition for Allowance of Appeal
v.	:	from the Order of Superior Court
PHILIP SYNDER,	:	
Petitioner	:	

ORDER

PER CURIAM

AND NOW, this 3rd day of May, 2022, the Petition for Allowance of Appeal is **DENIED**.

A true Copy
As of 05/03/2022

Attest: /s/ Patricia Johnson
Patricia A. Johnson
Chief Clerk
Supreme Court of Pennsylvania

Appendix “G”

EXCERPTS FROM PETITIONER'S ANSWER
TO PLAINTIFF'S EMERGENCY MOTION FOR
INJUNCTIVE RELIEF AND PETITIONER'S
MEMORANDUM OF LAW IN OPPOSITION TO
RESPONDENT'S EMERGENCY MOTION FOR
INUNCTIVE RELIEF

...

7. Denied. As stated more fully in Defendant's Memorandum of Law, Defendant avers that his "activities" and "communication" have at all times been peaceful, expressive conduct that is protected by the United States Constitution and the Pennsylvania State Constitution.

...

24. Denied. As argued in the attached Memorandum of Law, Defendant's expressive conduct is lawful, and is protected under the United States Constitution and the Pennsylvania State Constitution. Plaintiff has failed to adduce any evidence that Defendant's purpose is to "harass and strike fear in the congregation", and strict proof thereof is demanded at the time of trial, or hearing, if relevant.

25. Denied. As argued in the attached Memorandum of Law, Defendant's

expressive conduct is lawful, and is protected under the United States Constitution and the Pennsylvania State Constitution. Plaintiff has failed to adduce any evidence that Defendant's purpose is to "interfere with the Church and its members right to practice their religion and worship", and strict proof thereof is demanded at the time of trial, or hearing, if relevant.

...

27. Denied. As stated more fully in Defendant's Memorandum of Law, Defendant's expressive conduct is lawful, and is protected under the United States Constitution and the Pennsylvania State Constitution. Moreover, Plaintiff has failed to allege facts or present any evidence that Defendant's intends to harm the Church "by his disturbing, harassing, and disruptive activities", and strict proof thereof is demanded at the time of trial or hearing, if relevant.
28. Denied. As stated more fully in Defendant's Memorandum of Law, Defendant's expressive conduct is lawful, and is protected under the United States Constitution and the Pennsylvania State Constitution. Moreover, Plaintiff has failed to allege facts or present any evidence that

Defendant's actions have invaded the privacy interests of the Church, and strict proof thereof is demanded at the time of trial or hearing, if relevant.

...

33. Denied. As stated more fully in Defendant's Memorandum of Law, Defendant's expressive conduct is lawful, and is protected under the United States Constitution and the Pennsylvania State Constitution. Moreover, Plaintiff has failed to allege facts or present any evidence that Defendant has targeted Goligher with "threats, harassment, and slanderous communications and conduct", and strict proof thereof is demand at the time of trial or hearing, if relevant.

...

56. Denied. As argued in the attached Memorandum of Law, Plaintiff will suffer injury if this petition for an injunction is granted because the injunction seeks to prohibit Plaintiff from engaging in expressive conduct that is clearly protected by the United States Constitution and the Pennsylvania State Constitution.

...

1. Plaintiff is not entitled to Injunctive Relief as Defendant's Activities are Protected by the First and Fourteenth Amendments of the United States Constitution and by Article 1, Section 7 of the Pennsylvania Constitution

The facts alleged by Plaintiff, even if true, do not entitle it to injunctive relief since Snyder's expressive activities are entitled to ... under the First and Fourteenth Amendments to the United States Constitution. *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 102 S.Ct. 3409 (1982); *Cohen v. California*, 403 U.S. 15, 91 S.Ct. 1780 (1971); *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 91 S.Ct. 1575 (1971); *Thornhill v. Alabama*, 310 U.S. 88, 60 S.Ct. 736 (1940).

Under the federal constitution, any system of prior restraint on speech bears a heavy presumption against validity. *New York Times Co. v. United States*, 403 U.S. 713, 91 S.Ct. 2140, 29 L.Ed.2d 822 (1971). *See also, Near v. Minnesota*, 283 U.S. 697, 51 S.Ct. 625 (1931). The United States Supreme Court refuses to uphold injunctions against speech, even where the state courts have found the activities in question to be "coercive and intimidating, rather than informative." *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 91 S.Ct. 1575 (1971). In *Keefe*, the majority observed that "no prior decisions support the claim that the interest of an individual in being free from public criticism ... in

pamphlets or leaflets warrants use of the injunctive power of a court.” 402 U.S. at 419, 91 S.Ct. at 1577. Merely because the speech is intended to influence conduct does not remove it from First amendment protection. *Id.*

Accordingly, peaceful picketing carried on in a location generally open to the public is, absent other factors involving the purpose or manner of the picketing, protected by the First Amendment. *Amalgamated Food Employees v. Logan Valley Plaza*, 458 U.S. 886, 102 S.Ct. 3409, 73 L.Ed.2d 1215 (1982). Speech in the form of a boycott, marches, and picketing, which urges action in which listeners are legally permitted to engage, is protected, *NAACP v. Claiborne Hardware*, 458 U.S. at 907, 102 S.Ct. at 3422, as is peaceful picketing of a business even though the purpose “was concededly to induce customers not to patronize” the business. *Id.*, citing *Thornhill v. Alabama*, 310 U.S. 88, 60 S.Ct. 736, 84 L.Ed. 1093.

...

Similarly, Snyder’s activities are protected under the... Federal constitution[]...

The Church further suggests that Snyder’s expressive conduct is not entitled to constitutional protection because it interferes with Church members’ freedom of religion. But while the Church alleges “[u]pon information and belief, [Snyder] has caused members of the Church to avoid going to the

Church because of his presence and likely has prevented others who are not members from attending the church due to his presence”, the fact that Snyder influenced the conduct of others by his activity does not make his speech less deserving of constitutional protection. Rather, Courts recognize that all expressive conduct – especially acts of protest –by definition seek to influence the conduct of others. *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971) (“The claim that the expressions were intended to exercise a coercive impact ... does not remove them from the reach of the First Amendment. Petitioners plainly intended to influence respondent's conduct by their activities; this is not fundamentally different from the function of a newspaper.”). Otherwise, there is no allegation that Snyder has prevented any individual from worshiping at the Church. Rather Snyder's activities are confined to a public sidewalk outside of the Church. There is no allegation that Snyder has entered the Church, blocked access to the Church, or otherwise physically prevented anyone from entering the Church.

...

While the Church's request for a preliminary injunction should be denied in its entirety – as it would be an unconstitutional restraint on Snyder's speech and because there is an adequate remedy at law – even if granted, the injunction requested by the Church is not narrowly tailored to the alleged harm.

As the Church correctly states, public streets, including sidewalks, are public for a and the right to limit assembly and discourse thereon is permissible for substantial reasons. “In this quintessential public forum, injunctions which effect the time, place and manner of expression are proper if they are content-neutral, are narrowly tailored to serve a significant governmental interest, and leave open ample alternative channels for communication.” *See Perry Educational Ass’n v. Perry Local Educators’ Assn.*, 460 U.S. 37, 45, 103 S.Ct. 948, 955 (1983). Thus, it must be shown that a ban on Snyder’s expression is content-neutral, narrowly tailored to serve a significant government interest, and that the ban affords Snyder ample alternative channels for communication. Ultimately, the injunction should do “no more than target the exact source of evil it seeks to remedy.” *Frisby*, 108 S. Ct. at 2502.

...

Here, Snyder’s expressive conduct is confined to the *public* sidewalks that abet Church property. The Church’s injunction seeks to permanently prevent Snyder from engaging in this conduct and does not leave Snyder with alternative means to communicate....

Appendix “H”

**EXCERPTS FROM PETITIONER'S CONCISE
STATEMENT OF ERRORS COMPLAINED OF
ON APPEAL**

...

- b. The Court committed an error of law by enjoining Appellant from engaging in peaceful protest that is constitutionally protected by the First Amendment to the United States Constitution. *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 91 S.Ct. 1575 (1971)....

Appendix “I”

EXCERPTS FROM PETITIONER'S PETITION FOR ALLOWANCE OF APPEAL

...

The behavior engaged by Petitioner is an expressive activity protected by both the First and Fourteenth Amendments of the United States Constitution...

The Supreme Court of the United States has refused to uphold injunctions against speech even when state courts have found the activities in question to be coercive and intimidating rather than informative. *Organization for a Better Austin v. Keefe*, 402 U.S. 415, 419 (1971). Peaceful picketing carried on in a location generally open to the public is, absent other factors involving the purpose or manner of the picketing, protected by the First Amendment. *Amalgamated Food Employees v. Logan Valley Plaza*, 458 U.S. 886, 313 (1982). Speech in the form of a boycott, marches, and picketing, which urges action in which listeners are legally permitted to engage, is protected, *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 907 (1982) as is peaceful picketing of a business even if the purpose encourage people not to patronize the business. *Id.* at 909. (*citing Thornhill v. Alabama*, 310 U.S. 88 (1940)).

...

The right to free speech is fundamental right enjoyed by both Americans and Pennsylvanians. The right to

free speech as guaranteed by the First Amendment of the United States Constitution is one of the most famous aspects of American society.... Any decision negatively impacting this right—like the one in question herein—is automatically one in which the Pennsylvania Supreme Court needs to have a say....

Appendix “J”

**OBERMAYER REBMANN MAXWELL &
HIPPEL LLP**

By: Gary M. Samms, Esquire
William D. Oleckna, Esquire
Center Square West, 34th Floor
1500 Market Street
Philadelphia, PA 19103 Attorneys for Plaintiff,
(215) 665-3000 Tenth Presbyterian Church

:
TENTH : **PHILADELPHIA**
PRESBYTERIAN : **COUNTY**
CHURCH :
1700 Spruce Street : **COURT OF**
Philadelphia, PA : **COMMON PLEAS**
19103 :
Plaintiff, :
 : **JULY TERM 2019**
vs. :
 :
PHILIP SYNDER : No.:
107 Linda Lane :
Media, PA 19063 :
Defendant.

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering

a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**PHILADELPHIA BAR ASSOCIATION LAWYER
REFERRAL AND INFORMATION SERVICES**
One Reading Center, 1101 Market Street
Philadelphia, PA 19107
Telephone: 215-238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificaci6n. Hace falta asentar una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y

puede continuar la demanda en contra suya sin previo aviso o notificación. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO IMMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

**ASOCIACION DE LICENCIADOS DE
FILADEFIA SERVICIO DE REFERENCIA E
INFORMACION
LEGAL**

**One Reading Center, 1101 Market Street
Filadelfia, PA 19107
Telefono: 215-238-1701**

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Defendant.

COMPLAINT

Plaintiff Tenth Presbyterian Church, by and through its undersigned counsel, Obermayer Rebmann Maxwell & Hippel LLP, hereby submits the following Verified Complaint in equity against defendant, Philip Snyder, seeking relief in the form of

a preliminary injunction and thereafter a permanent injunction, pursuant to Pennsylvania Rule of Civil Procedure 1531, and in support thereof avers as follows:

THE PARTIES

1. Plaintiff is Tenth Presbyterian Church (the "Church"), which is a Pennsylvania non-profit corporation, with a registered address of 1700 Spruce Street, Philadelphia, PA 19103.

2. Defendant Philip Snyder is an adult individual residing at 107 Linda Lane, Media, PA 19063.

3. The Church is a religious association that has a sanctuary for worship located at 1701 Delancey Street, Philadelphia, PA 19103 (the "Sanctuary").

5. The Church is a congregation of more than two-thousand (2,000) members located in Center City, Philadelphia, Pennsylvania.

5. The Church also owns and/or occupies the following additional properties in the city of Philadelphia in close vicinity to the Church: 1700 Spruce Street, 315 S. 17th Street, 1710 Spruce Street and 1716 Spruce Street, Philadelphia, PA 19103.

JURISDICTION AND VENUE

6. Jurisdiction and venue are proper as Plaintiff and Defendant are Pennsylvania residents and all occurrences from which the instant action arises occurred in Philadelphia, Pennsylvania.

EQUITABLE RELIEF SOUGHT

7. The Church files this action to enjoin Defendant, preliminarily and then permanently from appearing within one thousand (1000) feet of the Sanctuary and aforementioned properties owned or operated by the Church to protest, demonstrate, harass, communicate, and leaflet.

FACTUAL BACKGROUND

8. Defendant was excommunicated from the Church in August of 2016.

9. In January of 2017, Defendant filed a defamation lawsuit against two of the Church's leaders, Senior Minister Liam Goligher and Clerk of Session George McFarland.

10. On or about March 22, 2019 a jury returned a verdict for the Defendants and against Plaintiff.

11. Thereafter, Defendant has engaged in malicious expressive conduct directly in front of

Church implying criminal conduct upon the Church and its leaders, as well as harassing and intimidating members of the Church who are traveling to its sanctuary to worship.

12. Defendant has appeared in front of the Sanctuary with the malicious intent to intimidate, harass, and harm the Church and its members each and every Sunday since the defense verdict.

13. Defendant has declared war against the Church and its leaders.

14. Defendant's harmful behavior has included picketing the Church before, during, and after Sunday services at the Church with, among other things, a tall banner, at least twelve (12) feet high, that contains five (5) shocking words on it: "Naked"; "Beatings"; "Lies"; "Rape"; and "Threats."

15. The content of Defendant's banner imputes crimes and dishonesty upon the Church and its leaders.

16. Senior Minister of the Church, Dr. Liam Goligher, has been the target of Defendant's threats, intimidation, harassment, and defamatory conduct.

17. Defendant has called Goligher a lying criminal alien and the tool of Satan that he must get rid of Goligher and that such an action is "of God" and, as such, the civil authorities have no jurisdiction over the affairs of God.

18. Defendant's conduct is defamatory per se.

19. Moreover, Defendant has engaged, yelled, and harassed members of Church as they walked into to the Sanctuary.

20. For example, Defendant harassed a female member in front of her children, by among other things, calling her a liar.

21. Upon information and belief, Defendant is mentally ill.

22. Defendant is licensed to carry a firearm and, upon information and belief, is armed while he harasses and intimidates the Church and its members every week.

23. There have been shootings in churches across the country that have caused legitimate and reasonable fears inside the Church that Defendant intends to kill Goligher and/or conduct a mass shooting to "cleanse" the Church.

24. Douglas Baker, Administrator of the Church, attended an ALICE training conducted by Brandon Rhone, who is a retired police officer and Captain of the Philadelphia Police Department.

25. Mr. Rhone confirmed that it is imperative that the Church take immediate action to prevent Defendant from appearing near the Church

on Sundays, otherwise a mass shooting is likely imminent.

26. Defendant, according to Capt. Rhone fits the profile of a mass shooter.

27. Defendant's intimidating and harassing actions have frightened Church members and their children.

28. The Church previously had a "Stay Away Order" created with respect to Defendant and the Church, but Defendant has repeatedly stated the Order is illegitimate because the civil authorities, including the police and/or courts, do not have jurisdiction over him and he refused to obey it.

29. Defendant compared himself to Jesus Christ because he believes - like Jesus - that the Church's leaders will put him to death.

30. Defendant has embraced this role and stated that he is martyr.

31. Defendant's expressive conduct, from harassing and intimidating the Church and its members, includes invading their privacy and right to practice religion.

32. Defendant must be prohibited from continuing his malicious, intimidating and harassing conduct that seeks to harm the Church and has no legitimate purpose.

33. Defendant has engaged in picketing in front of the Church seeking to shock, strike fear, and harm the Church and its members directly and indirectly through publications to the general public and neighbors.

34. Defendant seeks to shock the Church, its members, and general public by implying serious and scandalous crimes upon the Church.

35. Defendant's conduct is not a legitimate means of expression.

36. Defendant has willfully, knowingly, and purposefully harassed, intimidated, interfered with and disrupted the Church and its members.

37. Defendant's actions are not peaceful, truthful, and has no lawful purpose.

38. Defendant's forms of expression have actually harmed the Church and its members, by among other things, causing fear and distress, and disrupting the Church and its members' privacy and freedom to practice their religion, as well as defaming the Church and its leadership.

39. Defendant has disrupted the members' ingress and egress to the Church, as well as interfered with their ability to congregate outside of the Church.

40. In addition, Defendant has publicized intentionally false and/or misleading accusations

against the Church, and allegations involving its leaders, including but not limited to sexual assault, rape, false imprisonment and other serious felonious allegations.

41. Defendant's publication of unfounded accusations is reckless and done with the malicious intent of harming the reputation of the Church, interfering with its conduct of worship, and disturbing the peace of those going to the Church.

42. Upon information and belief, Defendant has caused members of the Church to avoid going to Church because of his presence and likely has prevented others who are not members from attending church due to his presence.

43. Defendant has previously admitted under oath that he knowingly communicated to members with the intent to leave a false and negative impression that the Church leaders were involved in alleged wrongdoing before they occupied their leadership roles.

44. Defendant's expressive conduct is criminal, defamatory, and directly interferes with the Church and its members' constitutional rights of freedom of religion.

45. The harm caused by Defendant is beyond economic interest, as it involves the privacy interests of third parties, including the members, which has been interfered with by Defendant's actions.

46. The Church and its members have privacy interests and first amendment rights are worthy of protection and the safety, privacy, and well-being of the Church needs to be protected through an injunction.

47. Defendant's purposefully interfering with the peace of the Church and its members' freedom to worship.

48. Defendants' worsening conduct and apparent delusional divine inspiration that getting rid of Goligher, and all leaders of the Church, have caused great distress and fear.

49. Despite appealing to the administrative body of the Church, the Church's leaders, and filing and losing his lawsuit, Defendant's activities have continued and he has stated he will continue his harmful and harassing conduct until he gets rid of Dr. Goligher.

50. Defendant's irreparably harmful activities and communications have worsened and, upon information and belief, they will continue to worsen if this Court does not intervene.

51. Upon information and belief, Defendant will imminently undertake violent action against Church leaders and worshippers imminently.

52. The members cannot handle or address Defendant's grievances, therefore, the only purpose

for his conduct is to harm and harass its members and general public, as well as the Church.

53. Moreover, Defendant knocked on the doors of neighbors to communicate his false and unfounded allegations.

54. Additionally, upon information and belief, his banner is viewed by the general public who transverse on the sidewalk and street.

55. Defendant has endeavored to irreparably harm the Church, its leaders, and members.

56. Defendant's actions are malicious and reckless.

57. Defendant's actions in spreading false, misleading, and unfounded allegations against the Church and its leadership have an immeasurable impact for which there is no adequate remedy at law.

58. Granting injunctive relief would place an incidental burden on Defendant's speech while protecting hundreds, if not thousands, from malicious, reckless, and intentionally disruptive material that has no lawful purpose.

59. The Church seeks legal protection of its peace and privacy for its members.

60. The Church's substantial privacy rights are being invaded in an essentially intolerable manner.

61. This Court must enter an Order enjoining Defendant's activities, subject to reasonable time, place, and manner restrictions, for the well-being, tranquility, and peace of the Church.

62. In order to justify a preliminary injunction, a plaintiff must show that:

- a) the injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages;
- b) greater injury would result from refusing an injunction than from granting it;
- c) a preliminary injunction will properly restore the parties to their status quo ante;
- d) the party seeking the injunction is likely to succeed on the merits of its claim;
- e) the injunction is reasonably suited to abate the offending activity; and

- f) an injunction will not adversely affect the public interest.

See e.g., Warehime v. Warehime, 580 Pa. 201, 860 A.2d 41, 46-47 (2004).

63. Pennsylvania Rule of Civil Procedure 1531 provides that "if it appears to the satisfaction of the court that immediate and irreparable injury will be sustained before notice can be given or a hearing held,... the court may issue a preliminary or special injunction without a hearing or without notice." Pa. R.C.P. 153 1(a).

64. Defendant has harassed, intimidated and intentionally disrupted the members' freedom of religion, invaded their peace and privacy through his expressive conduct in front of the Church on Sundays, which is not constitutionally protected and serves no legitimate purpose.

65. An injunction is necessary to prevent immediate and irreparable harm to the Church and its members including Defendant's interference with their freedom of religion, the peace of the Church, their right to worship, damage to the Church's reputation, and disruption of their freedom to worship.

66. An injunction is necessary to prevent the Defendant's actions from causing irreparable harm to the Church by, *inter alia*: (a) interfering with the members privacy and interfering with their freedom

to worship; (b) terrorizing and invoking fear among the Church's members; (c) burdening the Church members with false allegations and slanderous accusations that are made to distress the members and their children; (d) interfering with the Church and its members' rights to quiet and peaceful practice of their religion; and (e) causing unfounded hysteria amongst the members of the Church concerning the safety of the Church, thereby resulting in permanent harm to the Church's reputation.

67. The balance of harms weighs heavily in favor of issuing the injunction since greater harm would result from denying the injunction than granting it.

68. Injunctive relief would restore the parties to the status quo, which would be the last actual, peaceable, and lawful non-contested status which preceded the pending controversy.

69. Likewise, the continued disregard of the Church and its members' rights to worship and peace disrupts the spirit of the community and their privacy interests, diminishes the Church's reputation, and impacts its membership and support by instilling fear and distress in the community.

70. The right of free speech is not absolute at all times and under all circumstances.

71. Freedom of speech gives no right of intimidation or coercion and no right to damage or injure another's business or property.

72. Lies, knowingly and deliberately published, should enjoy not the immunity of free speech.

73. A complete ban on all expressive activity in a traditional public forum is permissible if substantial privacy interests are being invaded in an essentially intolerable manner.

74. Moreover, the government can prohibit offensive speech as intrusive when the captive audience cannot avoid the objectionable speech.

75. The Church's need for, and right to, relief is clear since Defendant is invading the privacy and right to worship of the Church and members by harassing them and communicating intentionally false and misleading statements is not protected speech or conduct.

76. The injunction sought by the Church will not adversely affect the public interest.

77. The Church is likely to prevail on the merits of its claim.

78. The requested injunction is reasonably suited to abate the offending activity by preventing Plaintiff from harassing and intimidating Church

members and prohibiting Defendant from interfering with the Church's conduct of religious services, the members' freedom to worship, and the neighboring public's right to privacy.

79. Following a hearing, a final, permanent injunction is warranted and necessary to prevent Defendant from continuing to commit legal wrong(s) through his disruptive, intimidating, and harassing behavior aimed at the members of the Church for which there is no adequate redress at law.

80. Issuance of a final injunction is needed to avoid injury which cannot be compensated by damages as monetary damages will not compensate Plaintiff and/or remedy the harm imposed by Defendant.

WHEREFORE, Plaintiff, Tenth Presbyterian Church, based on the foregoing verified facts, respectfully requests that this Honorable Court enter an Order that an injunction be issued preliminarily, until hearing, and finally thereafter, prohibiting Defendant from picketing, handbilling, speechmaking, demonstrating, boycotting, and other appearing outside the Church or within one thousand (1000) feet of the Church located at 1701 Delancey Street, Philadelphia, PA; 1700 Spruce Street, 315 S. 17th Street, 1710 Spruce Street and 1716 Spruce Street, Philadelphia, PA 19103 and award the Tenth Presbyterian Church attorney's fees and costs in connection with this action, and any other relief the court deems just and proper.

Respectfully submitted,

OBERMAYER REBMANN MAXWELL &
HIPPEL LLP

BY: _____

GARY M. SAMMS, ESQUIRE
WILLIAM D. OLECKNA, ESQUIRE
Attorneys for Plaintiff,
Tenth Presbyterian Church

Dated: July 24, 2019

