

At I.A.S. Part __ of the Supreme Court of the State of New York, held in and for the County of Schenectady, at the Courthouse thereof, 612 State Street, Schenectady, New York on the 17th day of August, 2021.

PRESENT: HON. MICHAEL R. CUEVAS
Justice of the Supreme Court

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SCHENECTADY

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THE PEOPLE OF THE STATE OF NEW YORK, :
by LETITIA JAMES, Attorney General of the :
State of New York, :

Plaintiff, :

-against- :

DAVID ELMENDORF, :

Defendant. :
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Index No. 2021-416

**DEFAULT
JUDGMENT & ORDER**

Upon the annexed Motion for Default Judgment dated June 15, 2021, as well as the Affirmation of Richard Sawyer dated June 15, 2021, the accompanying Exhibits thereto, the Inquest Memorandum of Law dated August 16, 2021, and the accompanying Exhibits thereto, upon good cause shown, and in the interest of justice, therefore, it is:

ORDERED that Plaintiff's Motion for Default Judgment against Defendant Elmendorf pursuant to CPRL § 3215 is granted without opposition submitted; and it is further

ORDERED that the Court finds that Defendant violated CRL §§ 79-n and 40-c; and it is further

ORDERED that Defendant is hereby permanently enjoined from:

- (a) threatening to assault or use physical force or violence, intimidating, coercing, or harassing any person or group of persons based on race or color or perceived race or color;
- (b) possessing or brandishing an air rifle or any deadly weapon or dangerous instrument, as defined by the New York Penal Law, within 1,000 feet of any person or group of persons peacefully protesting;
- (c) threatening to use physical force or violence, intimidating, coercing, harassing, or attempting to assault, threaten, intimidate, coerce or harass any person or causing or attempting to cause damage to or trespass upon the property of any person because he or she did or might complain or testify about acts alleged in the Complaint or acts prohibited by New York or federal law or did or might cooperate in any investigation concerning such acts;
- (d) telephoning, writing or otherwise communicating with any of the victims who submitted affidavits in this action or who were known to defendant to have been present for the June 30, 2020 protest at the former Bumpy's ice cream stand in Schenectady, New York;
- (e) summoning a police or peace officer against any person without reason to suspect a criminal violation in whole or in part because of their race or color or perceived race or color;
- (f) encouraging or causing any other person to engage in conduct prohibited in paragraphs (a)-(f) above or assisting any person in engaging in such conduct; and it is further

ORDERED that Defendant shall pay to Plaintiff, pursuant to Civil Rights Law § 40-d, the sum of Five Hundred and no/100 (\$500.00) Dollars as and for a penalty for each of nine violations of Civil Rights Law § 40-c established by the affidavits of the victims submitted herein, for a total penalty of Four Thousand Five Hundred and no/100 (\$4,500.00) Dollars; and it is further

ORDERED that this Court retains jurisdiction over any matter pertaining to this judgment.

SO ORDERED.

ENTER:

A handwritten signature in black ink, appearing to read "Michael R. Cuevas", written over a horizontal line.

MICHAEL R. CUEVAS, J.S.C.