

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
Northern Judicial District

SUPERIOR COURT
216-2026-CV-00201

*****Expedited Processing Required*****

JOHN M. FORMELLA, ATTORNEY GENERAL

v.

DIANE DURGIN

**ATTORNEY GENERAL JOHN M. FORMELLA'S COMPLAINT
UNDER THE NEW HAMPSHIRE CIVIL RIGHTS ACT**

NOW COMES John M. Formella, Attorney General, (“State”) with a complaint against Diane Durgin (“Defendant”) for four violations of the New Hampshire Civil Rights Act, RSA 354-B:1. The State asks that this Court find that Defendant violated the New Hampshire Civil Rights Act once when she threatened the use of physical force against the victim, X.G., by pointing her gun at him and threatening to kill him. The State asks that this Court find that Defendant violated the New Hampshire Civil Rights Act three times when she attempted to and threatened to damage the victim’s property and threatened to use physical force against the victim by firing her gun at the victim while he was driving his car away. The evidence demonstrates that race motivated Defendant’s conduct and his actions interfered with the rights of her victim.

As detailed in this complaint, the State asks that this Court impose civil penalties upon Defendant, permanently enjoin Defendant from committing future Civil Rights Act violations, and issue other remedies. Filed contemporaneously with this complaint are a motion and memorandum in support of a preliminary injunction to enjoin Defendant from future unlawful

conduct and to protect the individuals targeted or affected by Defendant until the Court grants a permanent injunction. **As required by RSA 354-B:4, IV, this Court must prioritize this matter in its schedule.**

In support of this complaint, the State submits the following:

INTRODUCTION

1. The New Hampshire Civil Rights Act, RSA 354-B:1, provides that all persons have the right to engage in lawful activities and to exercise and enjoy the rights secured by the United States and New Hampshire Constitutions and the laws of the United States and New Hampshire without being subject to actual or threatened physical force or violence against them or any other person or by actual or threatened damage to or trespass on property, when such actual or threatened conduct is motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability.

2. On October 20, 2024, Defendant violated the Civil Rights Act when she pointed her gun at him while he was in his car and threatened to kill him after he mistakenly drove to their property to complete the prearranged purchase of a car part. When he attempted to leave, Defendant fired her gun at his fleeing car twice. The assault took place on Defendant's property in Weare, New Hampshire.

3. In committing these acts, Defendant threatened the use of physical force or violence against X.G., both by pointing her gun at him and threatening to kill him and by firing her gun at his car twice as he was attempting to escape. Defendant also attempted and threatened to damage X.G.'s property, specifically his car, by firing her gun at X.G.'s car twice as he was attempting to escape. The threats of violence and damage to property and the attempted damage to property violated the Civil Rights Act because it was motivated by the victim's race.

4. Defendant exited her home with her gun by her side after X.G. mistakenly drove to Defendant's property to pick up a car part he had arranged to purchase. When she saw X.G. in the driver's seat of his car and was able to see that he is Black, she drew and pointed her gun at him and told him not to move. X.G. explained why he was there and offered to leave, but Defendant continued to point her gun at him and called him a "Black motherfucker." When asked by a 911 dispatcher why she shot at X.G., Defendant responded by telling the dispatcher that X.G. was lurking around her yard¹, is Black, and she believed he may be going to steal something. The 911 call was recorded. The statements made by Defendant to X.G. and to the 911 dispatcher clearly demonstrate that X.G.'s race motivated Defendant's conduct. That conduct interfered with X.G.'s ability to engage in lawful activities and enjoy his rights in New Hampshire, including his right to be free from threats and uses of deadly violence.

5. In response to this violation, the Attorney General asks this Court to find that Defendant violated the Civil Rights Act, impose civil penalties against Defendant, and enjoin her from, among other things, further violating the Civil Rights Act.

PARTIES

6. John M. Formella is the Attorney General of New Hampshire. The Attorney General's Office is located at 1 Granite Place—South, Concord, NH 03301.

7. Pursuant to RSA 354-B:2, whenever the Attorney General has probable cause to believe that any person has violated any provision of RSA chapter 354-B, the Attorney General may bring a civil action for injunctive or other appropriate equitable relief in the Superior Court in the county where the alleged violator resides or where the alleged conduct occurred.

8. Defendant, Diane Durgin, resides at 356 Colby Road, Weare, NH, 03281.

¹ Despite stating this, Defendant's statements to police indicate that X.G. never left his vehicle until it crashed after being struck by Defendant's husband's shot from his shotgun.

9. The alleged conduct occurred on October 20, 2024, in the town of Weare, New Hampshire.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to RSA 354-B:2, II.

11. Hillsborough County is the proper venue for this action because the unlawful conduct occurred in Weare, New Hampshire, a city located within Hillsborough County.

FACTS

12. On October 20, 2024, X.G., who is Black, drove to Weare, New Hampshire to complete the purchase of a car part he had prearranged with a seller online. At approximately 6:00 a.m., X.G. arrived at the Defendant's residence and drove down her driveway, mistakenly believing it to be the seller's address.

13. Soon after X.G. arrived, Defendant, who is White, exited her home with her handgun by her side and approached X.G. in his car. When she approached close enough to the car to see X.G. in the driver's seat and to see that he is Black, Defendant drew and pointed her gun at X.G. X.G. then quickly explained why he was there and showed Defendant his phone conversation with the seller arranging the purchase. Defendant continued to point her gun at X.G., called him a "Black motherfucker," told him not to move, and said she would kill him.

14. Defendant moved around from the driver's side of the car to the passenger side, at which time X.G. rolled down his window so Defendant could see there was no one else in the car. Defendant continued to point her gun at X.G. and repeated her threat to kill him. At that

time, X.G. began to drive his car down the driveway in an attempt to escape. As he was driving away, Defendant fired two shots at his car, missing both times².

15. While fleeing, X.G.'s car went off the side of the driveway into a ditch. X.G. then exited his car and ran to the end of the driveway on foot, where he called 911. Soon after X.G. called 911, Defendant also called 911 to report what happened. During Defendant's 911 call, the following exchange occurred:

Dispatcher: Why did you shoot at this person?

Defendant: Because he's telling me...first of all, he's lurking around my yard looking at stuff, my equipment yard. And then he's telling me he's supposed to be meeting a guy here. The guy is Black. And he, he...he says he's meeting someone here and I think he's coming here to steal.

Dispatcher: Okay, so you shot...

Defendant: [talking over dispatcher] I shot at his...I shot...I shot at his car.

16. When police arrived on scene, they spoke to all parties involved. Defendant admitted to shooting at X.G.'s car but would not provide police with the gun she used. Police seized X.G.'s car, which they saw was off the side of the driveway, as evidence and drove him to the Weare Police Department. Along the way, police stopped at the location where X.G. was to pick up the car part, which was in close proximity to Defendant's home, and X.G. completed the purchase of the part.

17. On March 19, 2025, a grand jury indicted Defendant for one count of Reckless Conduct with a Deadly Weapon, one count of Criminal Threatening Against a Person with a Deadly Weapon, and one count of Attempted First Degree Assault with a Deadly Weapon for her conduct in this case.

² Unknown to X.G., Defendant's husband exited the home at this time with a shotgun and fired at his car while he was driving away, which hit the rear right window of X.G.'s car.

COUNT I

Violation of New Hampshire Civil Rights Act (Threatened Physical Force or Violence)

18. The Attorney General incorporates by reference all the previous paragraphs of this complaint as if stated herein in full.

19. Defendant threatened physical force or violence against X.G. when, on October 20, 2024, she pointed her gun at him while he was in his car and told him she would kill him.

20. Race motivated Defendant's conduct. Defendant called X.G. a "Black motherfucker" and continued to threaten to kill him even after he explained the mistake that led him to Defendant's property. Defendant pointed to X.G.'s race when explaining to a 911 dispatcher her decision to shoot at him as he drove away.

21. Defendant's conduct interfered with X.G.'s ability to engage in lawful activities and enjoy his rights in New Hampshire, including his right to be free from threats of deadly violence while attempting to purchase a car part.

22. Defendant's action constituted a violation of the Civil Rights Act, RSA 354-B:1.

COUNT II

Violation of New Hampshire Civil Rights Act (Threatened Physical Force or Violence)

23. The Attorney General incorporates by reference all the previous paragraphs of this complaint as if stated herein in full.

24. Defendant threatened physical force or violence against X.G. when, on October 20, 2024, she fired two shots at X.G.'s car as he was driving off of her property.

25. Race motivated Defendant's conduct. Defendant called X.G. a "Black motherfucker" and continued to threaten to kill him even after he explained the mistake that led

him to Defendant's property. Defendant pointed to X.G.'s race when explaining to a 911 dispatcher her decision to shoot at him as he drove away.

26. Defendant's conduct interfered with X.G.'s ability to engage in lawful activities and enjoy his rights in New Hampshire, including his right to be free from threats of deadly violence while attempting to purchase a car part.

27. Defendant's action constituted a violation of the Civil Rights Act, RSA 354-B:1.

COUNT III

Violation of New Hampshire Civil Rights Act (Threatened Damage to Property)

28. The Attorney General incorporates by reference all the previous paragraphs of this complaint as if stated herein in full.

29. Defendant threatened damage to X.G.'s property when, on October 20, 2024, she fired two shots at X.G.'s car as he was driving off of her property.

30. Race motivated Defendant's conduct. Defendant called X.G. a "Black motherfucker" and continued to threaten to kill him even after he explained the mistake that led him to Defendant's property. Defendant pointed to X.G.'s race when explaining to a 911 dispatcher her decision to shoot at him as he drove away.

31. Defendant's conduct interfered with X.G.'s ability to engage in lawful activities and enjoy his rights in New Hampshire, including his right to be free from threats of deadly violence while attempting to purchase a car part.

32. Defendant's action constituted a violation of the Civil Rights Act, RSA 354-B:1.

COUNT IV

Violation of New Hampshire Civil Rights Act (Attempted Damage to Property)

33. The Attorney General incorporates by reference all the previous paragraphs of this complaint as if stated herein in full.

34. Defendant attempted to damage X.G.'s property when, on October 20, 2024, she fired two shots at X.G.'s car as he was driving off of her property.

35. Race motivated Defendant's conduct. Defendant called X.G. a "Black motherfucker" and continued to threaten to kill him even after he explained the mistake that led him to Defendant's property. Defendant pointed to X.G.'s race when explaining to a 911 dispatcher her decision to shoot at him as he drove away.

36. Defendant's conduct interfered with X.G.'s ability to engage in lawful activities and enjoy his rights in New Hampshire, including his right to be free from threats of deadly violence while attempting to purchase a car part.

37. Defendant's action constituted a violation of the Civil Rights Act, RSA 354-B:1.

REQUEST FOR RELIEF

WHEREFORE, the Attorney General respectfully requests that this Honorable Court:

- A. Prioritize—as required by **RSA 354-B:4, IV**, the processing of this case consistent with Superior Court Rule 48(b)(2) and RSA 354-B:4, IV, which provides that all actions brought under this statute shall have priority in the court scheduling;
- B. Find that Defendant violated the New Hampshire Civil Rights Act, RSA 354-B:1, four times;
- C. Order Defendant to pay a civil penalty of \$5,000 for each Civil Rights Act violation;
- D. Enter a temporary restraining order and a preliminary/permanent injunction to remain in place for three years, which prohibits Defendant from:

1. engaging in or threatening physical force or violence, damage to property, or trespass on property against any person motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability;
2. participating, directly or indirectly, in any unlawful³ activities motivated by race, color, religion, national origin, ancestry, sexual orientation, sex, gender identity, or disability;
3. going within 350 feet of X.G., X.G.'s home, and X.G.'s place of work, except as required to attend court hearings involving Defendant and X.G.;
4. contacting, directly or indirectly, the victim, X.G., and any members of X.G.'s immediate family, except as required to participate in court cases involving Defendant and X.G.; and
5. encouraging or causing any other persons to engage in conduct prohibited in paragraphs D.1-D.4 above, conspiring with any other persons to engage in such conduct, or assisting any person in engaging in such conduct;

E. Order that any violations of the Court's order could result in criminal and/or civil sanctions and additional fines as provided for in RSA chapter 354-B;

F. Grant such other and further relief as it deems just and equitable.

Respectfully submitted,

JOHN M. FORMELLA,
ATTORNEY GENERAL

March 2, 2026

/s/ Peter M. MacKenna
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³ Unlawful in this context means: any act that could subject a person or legal entity to civil or criminal liability.

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/s/ Sean R. Locke

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