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Attorneys for *Amicus Curiae*,

New Jersey State PBA

<p>CHARLES KRATOVIL,</p> <p>Plaintiff,</p> <p>v.</p> <p>CITY OF NEW BRUNSWICK, and ANTHONY A. CAPUTO, in his capacity as Director of Police,</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY</p> <p>DOCKET NO. MID-L-003896-23</p> <p>NOTICE OF MOTION FOR LEAVE TO APPEAR AS AMICUS CURIAE PURSUANT TO R. 1:13-9</p>
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TO: All Counsel of Record via E-Filing

PLEASE TAKE NOTICE that the undersigned, counsel for the New Jersey State Policemen’s Benevolent Association (“State PBA”), hereby moves before the Superior Court of New Jersey, Law Division, for leave to fully participate and argue orally as *amicus curiae* pursuant to R. 1:13-9 in the above-captioned matter.

PLEASE TAKE FURTHER NOTICE that in support of its motion the State PBA will rely upon the attached letter memorandum.

Respectfully submitted,

**ZAZZALI, FAGELLA, NOWAK,
KLEINBAUM & FRIEDMAN**Attorneys for *amicus curiae*,
New Jersey State PBA

By: /s/ Paul L. Kleinbaum
Paul L. Kleinbaum, Esq.

By: /s/ Sheila Murugan
Sheila Murugan, Esq.

Dated: July 21, 2023

ZAZZALI P.C.

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<p>CHARLES KRATOVIL,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>CITY OF NEW BRUNSWICK, and ANTHONY A. CAPUTO, in his capacity as Director of Police,</p> <p style="text-align: center;">Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY</p> <p>DOCKET NO. MID-L-003896-23</p> <p style="text-align: center;">ORDER</p>
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THIS MATTER, having been opened to the Court upon the motion of Zazzali P.C. (Paul L. Kleinbaum, Esq. appearing), attorneys for New Jersey State Policemen’s Benevolent Association (“State PBA”), for an order granting the State PBA’s motion for leave to participate as *amicus curiae* pursuant to R. 1:13-9 in the above-captioned matter and on notice to all counsel of record, and the Court having considered the papers submitted in support of, and in opposition to, the State PBA’s motion; and for other good cause shown:

IT IS on this _____ day of _____, 2023,

ORDERED that the State PBA’s motion for leave to appear as *amicus curiae* is hereby granted and the State PBA shall be permitted to file briefs and argue orally; and it is further

ORDERED that a copy of this Order shall be served upon all parties within seven (7) days of counsel's receipt thereof.

Hon.

ZAZZALI P.C.

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July 21, 2023

VIA E-FILING

Motions Clerk, Law Division
Middlesex County Superior Court
56 Paterson Street
New Brunswick, N.J. 08901

**Re: Charles Kratovil v. City of New Brunswick and
Anthony A. Caputo
Docket No. MID-L-003896-23**

Dear Sir/Madam:

The New Jersey State Policemen’s Benevolent Association (“State PBA”) respectfully moves this Court pursuant to R. 1:13-9 for an Order granting the State PBA status as *amicus curiae* in the above-captioned matter, permitting it to file briefs and argue orally. Please accept this letter memorandum, in lieu of formal brief, in support of its application. It is the State PBA’s position that this Court should deny Plaintiff’s application for temporary restraints because he cannot meet the very heavy burden to justify the extraordinary relief he seeks.

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STATEMENT OF FACTS & PROCEDURAL HISTORY¹

The State PBA is a state-wide organization representing over 33,000 active law enforcement officers in the State of New Jersey and approximately 23,000 retired law enforcement officers. It represents law enforcement officers in the State, County and Municipal levels of government. The State PBA is the parent organization of over 350 affiliated local PBAs and, as such, protects and furthers the legal, economic, and professional interests of all law enforcement personnel represented by those locals.

The State PBA provides legal assistance to local PBAs and to law enforcement officers in many instances and has in the past filed briefs as a friend of the court in various matters and on a variety of issues having an impact on law enforcement and/or law enforcement officers. See, e.g., Paterson PBA Local 1 v. Paterson, 87 N.J. 78 (1981); Entwistle v. Draves, 102 N.J. 559 (1986); Boylan v. State, 116 N.J. 236 (1989); Gable v. Board of Trustees, PFRS, 115 N.J. 212 (1993); Tice v. Cramer, 133 N.J. 347 (1993); Hillsdale PBA 207 v. Hillsdale, 137 N.J. 71 (1994); Wolfersberger v. Pt. Pleasant Beach, 152 N.J. 40 (1997); Brady v. Dept. of Personnel, 149 N.J. 244 (1997); Jersey City v. Jersey City POBA, 155 N.J. 455 (1998); Oches v. Middletown Twp. Police Dept., 155 N.J. 1 (1998); In re Carroll, 170 N.J. 85 (2001); Patterson v. Board of Trustees, SPRS, 194 N.J. 29 (2008); In the Matter of Borough of Tenafly and PBA Local 376, Docket No.: A-5044-12T1, 2015 N.J. Super. Unpub. LEXIS 37 (App. Div. Jan. 6, 2015); Paff v. Burlington County, et al, Dkt. No. BUR-L-36-15 (Law Div. 2016); Timmins v. Boyle, 2021 N.J. Super. Unpub. LEXIS 1056 (App. Div. June 2021) certif. den., 249 N.J. 464 (2022); In the Matter of Death Investigations of Terruso,

¹ Because the Procedural History and Statement of Facts are closely interwoven, they are combined to avoid repetition and for the convenience of the Court.

Ahr, and Dolcemore, Dkt. Nos. SGJ-RTL-4, 5 & 6- 22 (Law Div. 6/13/22) .

As the parent organization for all local PBAs, and as the largest law enforcement personnel organization in this State, the State PBA has an obligation to make known to the Judiciary its position on matters of concern to law enforcement officers that impact their health, safety, professionalism, legal representation, and economic well-being.

The issue before this Court concerns the constitutionality of Daniel's Law and plaintiff's attempt to restrain Defendants from enforcing it. It is undisputed that Daniel's Law was enacted in response to the tragic murder of United States District Court Judge Esther Salas' son and the wounding of her husband by a disgruntled former litigant. It is intended to prevent any further such tragedies by protecting certain personal information of active and retired judges, prosecutors, and law enforcement officers. At least with respect to law enforcement officers, there has been increased activity to disclose, called "doxing," their home addresses and telephone numbers in the aftermath of the murder of George Floyd.² The protections provided by Daniel's Law are an unfortunate necessity.

It is the State PBA's position that this law is constitutional and that Plaintiff cannot meet each of the elements necessary for extraordinary relief he seeks. Particularly under the facts of this case, Daniel's Law does not violate Plaintiff's free speech rights under the New Jersey Constitution and does not operate as a prior restraint. Instead, it does what it is supposed to do- protect those who administer and enforce the criminal justice system in New Jersey against very real threats.

The issues involved in this case are of significant public interest and of particular interest to all active and retired law enforcement officers. This Court's decision will have significant ramifications for the safety of active and retired law enforcement officers and their families. No

² See, e.g., The Associated Press, "Police officers' personal info leaked online." (June 10, 2020); <https://apnews.com/article/23a5e9d316127994ae31ad4813db3f80>.

one wants another tragedy experienced by Judge Salas' family. Daniel's Law was enacted to make sure it cannot happen again. Consequently, this case is of great significance and interest to the State PBA and its members.

The State PBA has always been very active in expressing its views to the Judiciary and to the Legislature on issues of concern to its members. The State PBA believes its perspective is well-suited to assist the Court in resolving the issues involved in this case.

LEGAL ARGUMENT

THIS COURT SHOULD PERMIT THE NEW JERSEY STATE PBA TO PARTICIPATE AS *AMICUS CURIAE* IN THIS MATTER.

The role of *amicus curiae* is to advise the Court concerning matters of fact and law, and of circumstances relating to the matter pending for its determination. Keenan v. Board of Chosen Freeholders, 106 N.J. Super. 312 (App. Div. 1969). In determining whether to admit an *amicus curiae*, the Court should consider the broad implications that any decision it renders may have. Taxpayers Association Weymouth Township v. Weymouth Township, 71 N.J. 249 (1976).

As discussed above, Daniel's Law was enacted in direct response to the murder of Judge Salas's son, Daniel, by a disgruntled former litigant. It is intended to bar the disclosure of certain personal information, including home addresses and unlisted telephone numbers, of active and retired judges, prosecutors, and law enforcement officers.

As the parent organization representing PBA affiliates and law enforcement officers at all levels of government across the State, the State PBA has an interest in participating as *amicus curiae* in this matter.

R.1:13-9, the rule governing this application, provides, in relevant part, as follows:

An application for leave to appear as *amicus curiae* in any court shall be made by motion in the cause stating with specificity the identity

of the applicant, the issue intended to be addressed, the nature of the public interest therein and the nature of the applicant's special interest, involvement or expertise in respect thereof. The court shall grant the motion if it is satisfied under all the circumstances that the motion is timely, the applicant's participation will assist in the resolution of an issue of public importance, and no party to the litigation will be unduly prejudiced thereby. The order granting the motion shall define with specificity the permitted extent of participation by the amicus and shall, where appropriate, fix a briefing schedule.

In considering this motion, the Court should consider whether the motion is timely, whether the State PBA's participation will assist in the resolution of an issue of public importance, and whether any party to the litigation will be unduly prejudiced by the State PBA's participation in this matter. The State PBA submits that these factors weigh heavily in favor of granting the State PBA's motion.

In applying these criteria to the matter at hand, the Court should grant the State PBA's application. First, the Plaintiff's complaint and order to show cause were filed very recently. The court signed the order to show cause on July 18, 2023.

Second, as the largest law enforcement organization in New Jersey, the State PBA is uniquely qualified to assist in the consideration of the important issues of this case, as it has in other cases, and the likely ramifications of its decision for active and retired law enforcement officers. The State PBA is very familiar with the law in this area. It was involved in the legislative efforts in support of law. In addition, it is the tens of thousands of active and retired law enforcement officers who are, and were, employed at all levels of government throughout the State who are represented by the State PBA, as well as other organizations, who will be directly affected by the outcome of this case. The State PBA should be given the opportunity to present to the Court what impact the decision will have on law enforcement officers throughout the State of New Jersey.

Third, no party to this litigation will be prejudiced by this application. As was stated above, the Plaintiff's complaint and OTSC were filed recently and the State PBA has filed its motion to appear as *amicus* within days of the filing. The State PBA's participation will not prejudice any party or unduly delay this case.

CONCLUSION

For the foregoing reasons, the New Jersey State PBA respectfully requests that this Court grant its motion to participate as *amicus curiae* to brief and argue orally in this matter.

Respectfully submitted,

**ZAZZALI, FAGELLA, NOWAK,
KLEINBAUM & FRIEDMAN**
Attorneys for *amicus curiae*
New Jersey State PBA

By: /s/ Paul L. Kleinbaum
Paul L. Kleinbaum, Esq.

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I, SUSAN LOVELAND, of full age, hereby certify that on the 21st day of July, 2023, I electronically filed New Jersey State PBA's Notice of Motion for Leave to Appear as *Amicus Curiae*, Memorandum in Support of Motion, proposed Order and this Certification of Service.

I further certify that I also sent via electronic mail copies of the above documents to:

Alexander Shalom, Esq. ashalom@aclu-nj.org

American Civil Liberties Union

Of New Jersey Foundation

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I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Susan Loveland
Susan Loveland

Dated: July 21, 2023