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August 28, 2023

VIA ECOURTS

Joseph L. Rea, J.S.C.
Superior Court of New Jersey
Middlesex County Courthouse
P.O. Box 964
New Brunswick, New Jersey 08903-0964

Re: Kratovil v. City of New Brunswick, et al.
Docket No. MID-L-3896-23

Dear Judge Rea:

I write to respond to this Court's August 23, 2023 Order as to whether R. 4:28-4(d) allows the Court to grant interlocutory relief in constitutional cases in which the Attorney General has received notice prior to expiration of the sixty-day intervention period.

As the Order notes, the sixty-day period for the Attorney General to intervene has not expired, and the Attorney General has not yet made a final decision regarding whether intervention in this matter will be appropriate. The Attorney General often declines to intervene at the interlocutory posture of an as-applied challenge given the intensely factual nature of such disputes.

The Attorney General recognizes that, pursuant to R. 4:28-4(d), "[p]rior to expiration of the time to intervene, the court may reject the challenge or may grant interlocutory relief, but may not enter a final judgment declaring the enactment invalid." As such, and as the Attorney General has acknowledged in the past, the plain language of the Rule dictates that this Court can deny or grant interlocutory



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relief here if this Court finds it appropriate to do so, regardless of the Attorney General's future decision on intervention. However, the Court may not enter a final judgment that grants relief prior to the Attorney General's decision on intervention.

We hope that this letter answers this Court's question, but we would be happy to provide any additional information requested.

Thank you for the Court's courtesies and consideration.

Respectfully submitted,

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