



New Jersey Judiciary
Superior Court - Appellate Division
Notice of Appeal

TITLE IN FULL (AS CAPTIONED BELOW) CIVIL CHARLES KRATOVIL V. CITY OF NEW BRUNSWICK AND ANTHONY CAPUTO		ATTORNEY / LAW FIRM / PRO SE LITIGANT NAME ALEXANDER R SHALOM, Esq. STREET ADDRESS 570 BROAD ST, 11TH FLOOR P.O. BOX 32159 <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">CITY NEWARK</td> <td style="width: 15%;">STATE NJ</td> <td style="width: 20%;">ZIP 07102</td> <td style="width: 40%;">PHONE NUMBER 973-854-1720</td> </tr> </table> EMAIL ADDRESS ashalom@aclu-nj.org courtfiling@aclu-nj.org				CITY NEWARK	STATE NJ	ZIP 07102	PHONE NUMBER 973-854-1720
CITY NEWARK	STATE NJ	ZIP 07102	PHONE NUMBER 973-854-1720						
ON APPEAL FROM									
TRIAL COURT JUDGE JOSEPH L. REA, JSC	TRIAL COURT OR STATE AGENCY MIDDLESEX	TRIAL COURT OR AGENCY NUMBER MID-L-3896-23							
Notice is hereby given that CHARLES KRATOVIL appeals to the Appellate Division from a <input type="checkbox"/> Judgment or <input checked="" type="checkbox"/> Order entered on 09/21/2023 in the <input checked="" type="checkbox"/> Civil <input type="checkbox"/> Criminal or <input type="checkbox"/> Family Part of the Superior Court <input type="checkbox"/> Tax Court or from a <input type="checkbox"/> State Agency decision entered on _____									
If not appealing the entire judgment, order or agency decision, specify what parts or paragraphs are being appealed.									
For criminal, quasi-criminal and juvenile actions only: Give a concise statement of the offense and the judgment including date entered and any sentence or disposition imposed: This appeal is from a <input type="checkbox"/> conviction <input type="checkbox"/> post judgment motion <input type="checkbox"/> post-conviction relief <input type="checkbox"/> pre-trial detention If post-conviction relief, is it the <input type="checkbox"/> 1st <input type="checkbox"/> 2nd <input type="checkbox"/> other _____ specify									
Is defendant incarcerated? <input type="checkbox"/> Yes <input type="checkbox"/> No Was bail granted or the sentence or disposition stayed? <input type="checkbox"/> Yes <input type="checkbox"/> No If in custody, name the place of confinement: Defendant was represented below by: <input type="checkbox"/> Public Defender <input type="checkbox"/> self <input type="checkbox"/> private counsel _____ specify									

Notice of appeal and attached case information statement have been served where applicable on the following:

	Name	Date of Service
Trial Court Judge	JOSEPH L. REA, JSC	09/21/2023
Trial Court Division Manager	MIDDLESEX	09/21/2023
Tax Court Administrator		
State Agency		
Attorney General or Attorney for other Governmental body pursuant to R. 2:5-1(b)		

Other parties in this action:

Name and Designation	Attorney Name, Address and Telephone No.	Date of Service
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ASSOCIATION OF CHIEFS	VITO ANTHONY GAGLIARDI JR, Esq. PORZIO BROMBERG & NEWMAN PC	09/21/2023

(*) truncated due to space limit. Please find full information in the additional pages of the form.

Revised effective: 09/01/2008, CN 10502 (Notice of Appeal)

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NJ STATE POLICEMEN'S BENEVOLENT ASSOCIATION	PAUL LEWIS KLEINBAUM, Esq. ZAZZALI FAGELLA NOWAK, ET AL 570 BROAD ST STE 1402 NEWARK NJ 07102	09/21/2023

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09/21/2023

Attached transcript request form has been served where applicable on the following:

Name	Date of Service
Transcript Office	
Clerk of the Tax Court	
State Agency	

Exempt from submitting the transcript request form due to the following:

- The appellant previously ordered the transcript. (A copy of the transcript request form must be uploaded)
- Transcript in possession of attorney or pro se litigant (four copies of the transcript must be submitted along with an electronic copy).

List the date(s) of the trial or hearing:

- Motion for abbreviation of transcript filed with the court or agency below. Attach copy.
- Motion for transcripts at public expense filed with the court below. Attach copy.

I certify that the foregoing statements are true to the best of my knowledge, information and belief. I also certify that, unless exempt, the filing fee required by *N.J.S.A. 22A:2* has been paid.

09/21/2023

Date

s/ **ALEXANDER R SHALOM, Esq.**

Signature of Attorney or Pro Se Litigant

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New Jersey Judiciary
Superior Court - Appellate Division
Notice of Appeal

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New Jersey Judiciary
Superior Court - Appellate Division
Civil Case Information Statement

Please type or clearly print all information.

Title in Full CIVIL CHARLES KRATOVIL V. CITY OF NEW BRUNSWICK AND ANTHONY CAPUTO	Trial Court or Agency Docket Number MID-L-3896-23
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• Attach additional sheets as necessary for any information below.

Appellant's Attorney * Email Address: **ashalom@aclu-nj.org**
courtfilng@aclu-nj.org

Plaintiff Defendant Other (Specify)

Name ALEXANDER R SHALOM, Esq.	Client CHARLES KRATOVIL*			
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Plaintiff Defendant Other (Specify)

Name SUSAN K O'CONNOR, Esq.	Client ANTHONY A. CAPUTO*			
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Give Date and Summary of Judgment, Order, or Decision Being Appealed and Attach a Copy:

On September 21, 2023, Judge Rea denied Plaintiff's request for an injunction forbidding enforcement of Daniel's Law on the specific facts of this case, which involves a journalist who learned that a police director lived two hours from the city in which he works. That information was confirmed through OPRA and when Plaintiff sought to publish a story, he was threatened with criminal and civil sanctions under Daniel's Law. The information remains easily assessable on the internet, but Plaintiff is precluded from writing a news story including the address. Judge Rea dismissed Plaintiff's complaint, finding that the home address was not a matter of public concern and that the statute -- despite three alternatives proposed by Plaintiff -- was narrowly tailored to a compelling government interest of the highest order. This appeal follows.

Have all the issues as to all the parties in this action, before the trial court or agency, been disposed? (There may not be any claims against any party in the trial court or agency, either in this or a consolidated action, which have not been disposed. These claims may include counterclaims, cross-claims, third-party claims, and applications for counsel fees.) Yes No

If outstanding claims remain open, has the order been properly certified as final pursuant to R. 4:42-2? Yes No N/A

A) If the order has been properly certified, attach copies of the order and the complaint and any other relevant pleadings to the order being appealed. Attach a brief explanation as to why the order qualified for certification pursuant to R. 4:42-2.

B) If the order has not been certified or has been improperly certified, leave to appeal must be sought. (See R. 2:2-4; 2:5-6.) Please note that an improperly certified order is not binding on the Appellate Division.

(*) truncated due to space limit. Please find full information in the additional pages of the form.

Revised: 04/02/2016, CN 10501 (Appellate Civil CIS)

If claims remain open and/or the order has not been properly certified, you may want to consider filing a motion for leave to appeal or submitting an explanation as to why you believe the matter is final and appealable as of right.

Were any claims dismissed without prejudice?

Yes No

If so, explain and indicate any agreement between the parties concerning future disposition of those claims.

Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (R. 2:5-1(g)) Yes No

Give a Brief Statement of the Facts and Procedural History:

Plaintiff, a journalist, obtained Defendant Caputo's address through an OPRA request for his voting records. He seeks to publish a news article regarding Director Caputo's residency. Defendants sent a cease and desist letter under Daniel's Law. Plaintiff filed an Order to Show Cause on July 12, 2023. The court (Judge Braveman) denied the OTSC without prejudice. Plaintiff filed an Amended Complaint on July 17, 2023. Judge Crisitello signed an OTSC on July 18, 2023, setting oral argument for August 11, 2023 before Judge Rivas. Judge Rivas twice adjourned the OTSC without explanation. On August 23, 2023, Judge Rivas notified the parties for the first time that he had a conflict based on his personal relationship with Judge Salas. The matter was then transferred to Judge Rea. On August 30, 2023, Judge Rea declined to issue temporary relief until he heard whether the Attorney General would intervene, because temporary and final relief were substantially similar. On September 11, 2023, the Attorney General declined to intervene. On September 21, 2023, Judge Rea denied Plaintiff relief and dismissed the complaint.

To the extent possible, list the proposed issues to be raised on the appeal as they will be described in appropriate point headings pursuant to R. 2:6-2(a)(6). (Appellant or cross-appellant only.):

- I. A police director's home address -- more than two miles from where he works -- relates to issues of community concern and is therefore an issue of public concern.
- II. Daniel's Law is not narrowly tailored to a government need of the highest order because alternatives exist that would not trample the right of journalists to report on information that government has disclosed and that remains easily assessable.
- III. Because Daniel's Law is not narrowly tailored on these facts, it is unconstitutional, as applied to a journalist who lawfully obtained a police director's address that is related to a news story of public concern.

If you are appealing from a judgment entered by a trial judge sitting without a jury or from an order of the trial court, complete the following:

1. Did the trial judge issue oral findings or an opinion? If so, on what date? 09/21/2023 Yes No
2. Did the trial judge issue written findings or an opinion? If so, on what date? _____ Yes No
3. Will the trial judge be filing a statement or an opinion pursuant to R. 2:5-1(b)? Yes No Unknown

Caution: Before you indicate that there were neither findings nor an opinion, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

Date of Your Inquiry:

1. Is there any appeal now pending or about to be brought before this court which:

- (A) Arises from substantially the same case or controversy as this appeal? Yes No
- (B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? Yes No

If the answer to the question above is Yes, state:

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Case Title	Trial Court Docket#	Party Name
2. Was there any prior appeal involving this case or controversy?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If the answer to question above is Yes, state:		
Case Name and Type (direct, 1st PCR, other, etc.)	Appellate Division Docket Number	
<p>Civil appeals are screened for submission to the Civil Appeals Settlement Program (CASP) to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.</p> <p>State whether you think this case may benefit from a CASP conference. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Explain your answer: Plaintiff believes he has a constitutional right to publish the story; defendants do not. I do not believe there is a middle-ground position that would satisfy either side.</p>		
Whether or not an opinion is approved for publication in the official court report books, the Judiciary posts all Appellate Division opinions on the Internet.		
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).		
<p>CHARLES KRATOVIL <hr style="width: 100%;"/> Name of Appellant or Respondent</p> <p style="text-align: center;">09/21/2023 <hr style="width: 100%;"/> Date</p> <p style="text-align: center;">021162004 Bar #</p>	<p>ALEXANDER R SHALOM, Esq. <hr style="width: 100%;"/> Name of Counsel of Record (or your name if not represented by counsel)</p> <p style="text-align: center;">s/ ALEXANDER R SHALOM, Esq. <hr style="width: 100%;"/> Signature of Counsel of Record (or your signature if not represented by counsel)</p> <p style="text-align: center;">ashalom@aclu-nj.org; courtfiling@aclu-nj.org Email Address</p>	

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New Jersey Judiciary
Superior Court - Appellate Division
CIVIL Case Information Statement

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Before Appellate Division,
Superior Court of New Jersey
DOCKET NO.

CIVIL

CIVIL
CHARLES KRATOVIL
V.
CITY OF NEW BRUNSWICK AND ANTHONY CAPUTO
PROOF OF SERVICE

I hereby certify that an original of the following documents, **NOTICE OF APPEAL, PROOF OF SERVICE, TRIAL COURT ORDER/JUDGMENT/DECISION (09/21/2023), TRIAL COURT ORDER/JUDGMENT/DECISION (AMICUS) (09/21/2023), TRIAL COURT ORDER/JUDGMENT/DECISION (AMICUS) (09/21/2023), TRIAL COURT ORDER/JUDGMENT/DECISION (AMICUS) (09/21/2023), TRIAL COURT ORDER/JUDGMENT/DECISION (AMICUS) (09/21/2023), TRIAL COURT ORDER/JUDGMENT/DECISION (AMICUS) (09/21/2023), TRIAL COURT ORDER/JUDGMENT/DECISION (AMICUS) (09/21/2023), CASE INFORMATION STATEMENT** were submitted and transmitted to the parties listed below in the following format:

ELECTRONICALLY TO:

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TRIAL COURT JUDGE: JOSEPH L. REA, JSC
TRIAL COURT DIVISION MANAGER: IAN RATZLAFF

CIVIL ATTORNEY GENERAL: MELISSA RAKSA

BY MAIL:

I certify that the forgoing 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.

Attorney for APPELLANT
CHARLES KRATOVIL

Dated: **09/21/2023**

By: **S/ ALEXANDER R SHALOM, Esq.**

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 Attorneys for *Amicus Curiae*, State
 Troopers Fraternal Association of
 New Jersey



<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 Markman & Cannan, LLC (Robert R. Cannan, Esq. appearing), attorneys for the State Troopers Fraternal Association of New Jersey (“STFA”), for an order granting the STFA’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 18TH DAY OF AUGUST 2023, ORDERED AS FOLLOWS:

ORDERED that the STFA’s motion for leave to appear as *amicus curiae* is hereby granted and the STFA 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 counsel upon its upload to eCourts. Pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not electronically served within seven days of the date of this Order.

Opposed
 Unopposed

Having reviewed the above motion, I find it to be unopposed and meritorious on its face. Therefore, pursuant to R. 1:6-2, it is GRANTED substantially for the reasons set forth in the moving papers.



Hon. Alberto Rivas, J.S.C.

ORDERED that a copy of this Order shall be served upon all counsel upon its upload to eCourts. Pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not electronically served within seven days of the date of this Order.

Opposed
 Unopposed

Having reviewed the above motion, I find it to be unopposed and meritorious on its face. Therefore, pursuant to R. 1:6-2, it is GRANTED substantially for the reasons set forth in the moving papers.



Hon. Alberto Rivas, J.S.C.

ZAZZALI P.C.

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 Attorneys for *Amicus Curiae*,
 New Jersey State PBA



<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 11TH DAY OF AUGUST 2023, ORDERED AS FOLLOWS:

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 counsel upon its upload to eCourts. Pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not electronically served within seven days of the date of this Order.

Opposed
 Unopposed

Having reviewed the above motion, I find it to be unopposed and meritorious on its face. Therefore, pursuant to R. 1:6-2, it is GRANTED substantially for the reasons set forth in the moving papers.



Hon. Alberto Rivas, J.S.C.

FILED
August 11, 2023
HON. ALBERTO RIVAS, J.S.C.

CHARLES KRATOVIL

Plaintiff,

v.

CITY OF NEW BRUNSWICK, and
ANTHONY CAPUTO, in his capacity as
Director of Police.

**SUPERIOR COURT
OF NEW JERSEY
LAW DIVISION**

MIDDLESEX COUNTY

Docket No. MID-L-003896-23

ORDER

IT IS ON THIS 11TH DAY OF AUGUST 2023, ORDERED AS FOLLOWS:

ORDERED that the Motion of the New Jersey State Lodge of the Fraternal Order of Police to participate as *Amicus Curiae* in this matter is GRANTED; and it is further

ORDERED that a copy of this Order shall be served upon all counsel upon its upload to eCourts. Pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not electronically served within seven days of the date of this Order.

 Opposed
 X Unopposed

Having reviewed the above motion, I find it to be unopposed and meritorious on its face. Therefore, pursuant to R. 1:6-2, it is GRANTED substantially for the reasons set forth in the moving papers.



Hon. Alberto Rivas, J.S.C.

PORZIO, BROMBERG & NEWMAN, PC

100 Southgate Parkway

Morristown, NJ 07960

973-538-4006

Vito A. Gagliardi, Jr., Esq. (024821989)

David L. Disler, Esq. (068112013)

Attorneys For New Jersey State Association Of Chiefs Of Police

FILED

August 11, 2023

HON. ALBERTO RIVAS, J.S.C.

<p>CHARLES KRATOVIL,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">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 DOCKET NO.: MID-L-3896-23</p> <p style="text-align: center;"><u>CIVIL ACTION</u></p> <p style="text-align: center;">ORDER</p>
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This matter, having been brought before the Court on motion by Porzio, Bromberg & Newman, P.C., attorneys for New Jersey State Association of Chiefs of Police and the Court having reviewed the moving papers submitted and opposition thereto; and the Court having heard oral argument; and for good cause having been shown,

IT IS ON THIS 11TH DAY OF AUGUST 2023, ORDERED AS FOLLOWS:

ORDERED that leave to appear as *amicus curiae* be and hereby is granted in favor of the New Jersey State Association of Chiefs of Police; and it is further

ORDERED that a copy of this Order shall be served upon all counsel upon its upload to eCourts. Pursuant to R. 1:5-1(a), movant shall serve a copy of this Order on all parties not electronically served within seven days of the date of this Order.

Opposed
 Unopposed

Having reviewed the above motion, I find it to be unopposed and meritorious on its face. Therefore, pursuant to R. 1:6-2, it is GRANTED substantially for the reasons set forth in the moving papers.



Hon. Alberto Rivas, J.S.C.

Alexander Shalom (021162004)
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Attorneys for Charles Kratovil

CHARLES KRATOVIL

Plaintiff,

v.

CITY OF NEW BRUNSWICK, and
ANTHONY A. CAPUTO, in his
capacity as Director of Police.

**SUPERIOR COURT OF
NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY**

Docket No.: L-3896-23

~~PROPOSED~~ FINAL ORDER

DENIED

THIS MATTER having been opened to the Court on application of Plaintiff for an Order to Show Cause, seeking relief by way of temporary restraints pursuant to R. 4:52; and the Court having reviewed the documents submitted by counsel; and the Court having heard oral argument on the 21st of ^{September} ~~July~~, 2023; and for good cause being shown;

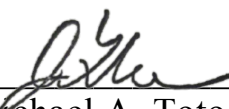
IT IS on this 21st day of September, 2023, ORDERED that

- 1) ~~Defendant City of New Brunswick, and its employees, agents and assigns, including Director Caputo, are permanently enjoined from~~

~~seeking to impose any criminal or civil penalties upon Plaintiff for publication of truthful, lawfully obtained information;~~

- 2) ~~N.J.S.A. 2C:20-31.1 and N.J.S.A. 56:8-166.1 are declared unconstitutional under the New Jersey Constitution, as applied to a journalist seeking to publish information on a newsworthy story;~~
- 3) ~~The Cease and Desist Notice letter received on May 15, 2023, and sent pursuant to Daniel's Law is null and void as applied to Plaintiff;~~
- 4) ~~Plaintiff is entitled to attorneys' fees and costs pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq.; Plaintiff and Defendants shall negotiate fees prior to submitting a fee application.~~

Dated: September 21, 2023



~~Hon. Michael A. Toto, A.J.S.C.~~
HON. JOSEPH L. REA, J.S.C.

Pursuant to R. 1:7-4, for the reasons set forth on the record on Septemebr 21, 2023 at oral argument.

IT IS FURTHER ORDERED, that a copy of this Order shall be deemed served on all counsel of record upon its posting by the Court to the eCourts case jacket for this matter. Pursuant to R. 1:5-1(a), the Movant shall serve a copy of this Order on all parties not served electronically within seven (7) days of this Order.