

NNH -CR23-0250215-T : SUPERIOR COURT  
NNH -CR23-0250216-T :  
NNH -CR23-0250217-T : JUDICIAL DISTRICT OF NEW HAVEN  
STATE OF CONNECTICUT : AT NEW HAVEN  
v. :  
PAUL BOYNE : JANUARY 21, 2026

**APPLICATION FOR LEAVE TO FILE AMICUS BRIEF**

**1. INTRODUCTION**

I, Attorney Mario Cerame, apply for leave to file an amicus curiae brief in this case. This case is developing Connecticut free speech law in a way that affects all of us, not just the defendant. The Court should exercise its discretion and grant such leave.<sup>1</sup>

Amicus briefing would be helpful here on dispositive motions and with an eye towards jury instructions on two issues. First, what do state constitutional protections require, in connection with “remonstrance” under article the first, section fourteen, in this context. Second, what are the implications for void-for-vagueness doctrines under our state jurisprudence, especially the limiting gloss on scienter in a catch-all criminal statute as articulated in *State v. Indrisano*, 228 Conn. 795, 640 A.2d 986 (1994). I have particular expertise that may be helpful to the Court.

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<sup>1</sup>As to **consent**, in or about autumn of 2024, prior counsel for the defendant, Attorney Alice Powers, consented to my filing of an amicus brief in this case. Undersigned since once attempted to broach the subject with Attorney Bussert, but undersigned does not share the same rapport with him, and would not presume such consent is still given.

In or about autumn of 2024, undersigned sought permission from State Attorney Doyle’s office to file an amicus brief, in writing and telephonically, on multiple occasions, but never received a formal response.

In this application, I begin by setting forth the legal standards concerning the court's discretion on this application. I then spell out the interest and expertise of the amicus. Third, I quickly point out why an amicus briefing would be helpful here on those two issues, giving a short explanation of the law, history and context. Finally, I briefly unpack the unusually high public interest at stake.

By way of illustration, I write mindful of Judge Lee P. Rudofsky's standing order on amicus briefs<sup>2</sup>:

When I was practicing law, I often wondered why amicus briefs were generally not filed at the district court level. It occurred to me back then that such briefs could have considerably more impact at the district court level than they have at the circuit court level or even at the Supreme Court. Since taking the bench, my views on the desirability of amicus briefing at the district court level have only grown stronger. While the majority of cases on a district court's docket don't warrant amicus briefing, there are a healthy number of cases each year that do.

By way of example, and not limitation, each year a handful (or two) of cases on my docket present really serious issues of constitutional law or statutory interpretation that are not directly controlled by binding precedent. And I have found that, in these cases, the parties often do not have the necessary time or economic resources to devote to full analyses of the text and history of the provision or provisions at issue. In such cases, my judicial process and my decisions would likely benefit from amicus briefing on the original public meaning of the disputed provision or provisions. I can imagine amici providing, among other things, important historical context, in-depth corpus linguistics analyses, or detailed structural arguments that might not make it into the parties' briefing.

## **2. RELEVANT LEGAL STANDARDS**

Although not provided for in our Practice Book, the process governing a friend of the court brief in Superior Court is well established.

The [a]pppearance of an amicus curiae is generally authorized by the court's grant of an application for the privilege of appearing as amicus curiae and not as of

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<sup>2</sup> Ostensibly ordered in all cases before him now; example available at <https://arkansasadvocate.com/wp-content/uploads/2024/03/ORDER-ON-AMICUS-BRIEFS.pdf>

right. Accordingly, the fact, extent and manner of an amicus curiae's participation is entirely within the court's discretion and an amicus curiae may ordinarily be heard only by leave of the court. . . .

Historically, amicus curiae was defined as one who interposes in a judicial proceeding to assist the court by giving information, or otherwise, or who conduct[s] an investigation or other proceeding on request or appointment therefor by the court. . . . Its purpose was to provide impartial information on matters of law about which there was doubt, **especially in matters of public interest**. . . . The orthodox view of amicus curiae was, and is, that of an impartial friend of the court—not an adversary party in interest in the litigation. . . . The position of classical amicus in litigation was not to provide a highly partisan account of the facts, but rather **to aid the court in resolving doubtful issues of law**.

(Emphasis altered.) *State v. Ross*, 272 Conn. 577, 611–12, 863 A.2d 654 (2005). Failure to obtain leave before filing an amicus brief may result in sanctions. See, e.g., *Thalheim v. Town of Greenwich*, 256 Conn. 628, 644, 775 A.2d 947 (2001).

### 3. INTEREST AND EXPERTISE OF THE AMICUS

I offer relevant experience with First Amendment issues in Connecticut state and federal courts, including criminal and civil matters. A number of my free speech cases have been covered in the press<sup>3</sup>, and the Hartford Courant has quoted me in connection with this case specifically<sup>4</sup>. The matters I describe as follows have required sustained briefing on constitutional text, history, and limiting constructions—work that may assist the Court here.

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<sup>3</sup> E.g., <https://www.courant.com/2023/10/30/a-ct-man-got-a-court-to-silence-his-social-media-star-wife-she-says-it-will-cost-her-millions/>  
<https://www.courant.com/2023/05/04/connecticut-supreme-court-rulings-first-amendment-protections/>

<https://www.courant.com/2021/09/01/judge-orders-blogger-who-frequently-criticizes-hartford-police-department-to-turn-over-laptop-as-part-of-civil-suit/>

<https://www.courant.com/2023/12/03/ct-supreme-court-wont-hear-case-on-intersex-social-media-star-judge-lifts-gag-order-silencing-her/>

<https://www.courant.com/2023/09/13/connecticut-supreme-court-hears-gop-senators-free-speech-challenge-to-campaign-law/>

<sup>4</sup> <https://www.courant.com/2023/10/20/former-ct-man-accused-of-stalking-judges-extradited-from-virginia-faces-trial/>

I regularly take on pro bono or low bono cases to advance, protect, and soundly develop free speech law in our state and elsewhere. I am one of two members of the First Amendment Lawyers Association (FALA) in Connecticut, and the most senior member of the organization in our state: FALA is a national organization of attorneys who practice in free speech law<sup>5</sup>. I maintain the websites [speechdefense.com](https://speechdefense.com) and [freespeechdefenselawyer.com](https://freespeechdefenselawyer.com), publishing as I can about free speech law there. I have written amicus curiae briefs on free speech issues in multiple jurisdictions, for the ACLU-CT<sup>6</sup>, First Amendment Lawyers Association<sup>7</sup>, and other organizations<sup>8</sup>.

My free speech work includes criminal law, but also extends outside of that context to vehicles like anti-SLAPP statutes. I advocate for anti-SLAPP laws in other states, and most recently presented (what I am told was) persuasive testimony in Ohio about a year ago that was important in persuading some members of their legislature to vote in favor of adopting their anti-SLAPP. In our state, in the now seminal trifecta of 2023 Connecticut anti-SLAPP cases before our Supreme Court; *Smith v. Supple*, 346 Conn. 928, 293 A.3d 851 (2023), *Robinson v. V. D.*, 346 Conn. 1002, 1008, 293 A.3d 345 (2023), *Pryor v. Brignole*, 346 Conn. 534, 292 A.3d 701 (2023); I was the lead attorney in *Pryor v. Brignole*. In *Pryor*, the Supreme Court sua sponte took the unusual step of asking us to present argument twice to better clarify the arguments at issue. *Pryor* has since quickly become the seminal anti-

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<https://www.courant.com/2023/08/21/man-accused-of-internet-threats-against-ct-judges-faces-trial-free-speech-showdown-expected/>

<sup>5</sup> See <https://www.firstamendmentlawyers.org/about-us>.

<sup>6</sup> See, e.g., *In re Emma F.*, S.C. 19417, brief of ACLU-CT.

<sup>7</sup> See, e.g., *Taub v. San Francisco*, 15-16415 (Ninth Cir. CoA), brief of FALA.

<sup>8</sup> See, e.g., *TGP Communications v. Sellers*, 22-16826 (Ninth Cir. CoA), brief of We the People Hartford, available at <https://randazza.com/wp-content/uploads/TGP-Amicus-We-the-People.pdf>

SLAPP case on scope of the statute. This work on non-criminal cases develops a more well-rounded understanding of free speech doctrines than the limited doctrines in criminal law.

I have particular compassion for protecting deeply unpopular speech, like the speech that is so prominent in this case. For example, in *Lafferty v. Jones* and the related cases (better known as *The Alex Jones Case*), I represented the only successful codefendant, forcing the plaintiffs to unilaterally withdraw against my client Genesis Communications Network a few weeks before trial, after years of fraught and thorough litigation.

That free speech advocacy and expertise as to deeply unpopular speech is not limited to litigating for clients. For example, in coordination with counsel at NCLA, I am challenging the constitutionality of the recently adopted CTRPC 8.4(7) as an unlawful restriction on attorney speech in *Cerame v. Slack*, 123 F.4th 72 (2d Cir. 2024)<sup>9</sup>. The judges of the Superior Court voted unanimously to adopt the rule, and I am one of two lawyers in the state litigating that this was a mistaken violation of free speech principles.

Another example of protecting deeply unpopular speech, though in the criminal law context, is in *Cerame v. Lamont*, 346 Conn. 422, 291 A.3d 601 (2023) (3:21-cv-1508 (JCH) [certifying question]) in which our Supreme Court narrowed the racial ridicule statute, § 53-37. Our Supreme Court reduced the construction to one so narrow that it has never been used in this way since the statute was adopted more than a century ago. Prior to that litigation, the statute was routinely to illegally criminalize speech that was merely offensive.

As this case involves novel issues of speech in a growing technology, I note that I have repeatedly addressed intersections of speech and novel technology in our state. When ready access to drones was relatively new, I challenged FAA regulations in a pro bono case

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<sup>9</sup> <https://fedsoc.org/events/litigation-update-cerame-v-slack>

that implicated the right to capture certain video with drones<sup>10</sup>. Before recording police was accepted as common, I published a law review article on how the law would work in our state<sup>11</sup>. More recently, in my advocacy for a YouTube preacher, I have the first Connecticut case to hold that for the purposes of free speech law, Jesus Christ is a public figure<sup>12</sup>.

More local to this judicial district, I have the appeal in *State v. Maisano*, N23N-CR23-0248383-S—perhaps better known as the “there will be hell to pay” conviction that was tried before Judge Lawlor just over a year ago. I advised trial counsel throughout to make sure issues were preserved and well briefed. I also recently appeared on a speech-adjacent issue in *State v. Khan*, NNH-CR15-0162194-S, before Judge Vitale<sup>13</sup>.

As Daryl Davis’ said in his AMA “Klan We Talk?”:

When two enemies are talking, they are not fighting, they are talking. They may be yelling and screaming and pounding their fist on the table in disagreement to drive home their point, but at least they are talking. **It is when the talking ceases, that the ground becomes fertile for violence.**<sup>14</sup>

The only way to persuade another of the error in their position is by hearing them out.

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<sup>10</sup> <https://arstechnica.com/tech-policy/2016/06/man-who-built-gun-drone-flamethrower-drone-argues-faa-cant-regulate-him/> (the FAA ultimately dropped the case because of my advocacy).

<sup>11</sup> The Right to Record Police in Connecticut, *Quinnipiac Law Review*, Vol. 30, No. 385, (2012) available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2025466](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2025466).

<sup>12</sup>It may be the first in the nation, but I cannot say for certain. Coverage here: <https://reason.com/volokh/2025/11/13/end-times-for-lawsuit-against-end-times-preacher/>

<sup>13</sup>However unnecessary it may be, beg for pardon from the court as I am neither comfortable nor accomplished at self-advocacy, and I apologize sincerely if I strike either an inappropriate or inadequate tone in doing so here.

<sup>14</sup> (Emphasis added.) Available at [https://www.reddit.com/r/IAMA/comments/70vcr0/im\\_daryl\\_davis\\_a\\_black\\_musician\\_here\\_to\\_discuss/](https://www.reddit.com/r/IAMA/comments/70vcr0/im_daryl_davis_a_black_musician_here_to_discuss/)

Because our Supreme Court recognizes that “[F]irst amendment and other constitutional claims . . . are often analytically complex . . .” *State v. Buhl*, 321 Conn. 688, 726, 138 A.3d 868 (2016), I believe I have some expertise and perspective to offer the court as a friend of the court.

#### **4. BRIEF SUMMARY OF PROPOSED LEGAL BRIEFING**

There are dispositive motions pending and that will be raised during and after trial. The defendant will claim the statute, either facially or as-applied, is unconstitutional. And there will be proposed jury instructions on both sides. The proposed brief will address two issues in conjunction with these critical procedural steps:

1. Article the first, § 14 of our state constitution provides:

The citizens have a right . . . to apply to those invested with the powers of government, for redress of grievances, or other proper purposes, by . . . **remonstrance**.

How, if at all, does the fundamental right to “remonstrance” affect legal analyses?

What is a remonstrance, how is it different from a petition, or the speech rights in § 4 & 5, and what is constitutionally required in this context?<sup>15</sup>

2. In *State v. Indrisano*, 228 Conn. 795, 640 A.2d 986 (1994), our Supreme Court held that portions of § 53a-182, the disorderly conduct statute, were facially vague, and some portions were not facially vague but were vague as-applied, reversing the Appellate Court and remanding the case for a new trial. Our Supreme Court saved the statute from constitutional infirmity by applying a heavy judicial gloss.

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<sup>15</sup>This encompasses a *Geisler* analysis.

What, if anything, does the holding of *Indrisano* require in the context of §§ 53a-181c, 53a-181d, and 53a-181f, with regard to speech rights generally as well as with regard to the right to “remonstrance” specifically?

This analysis is important because:

[O]ur state constitution is an instrument of progress, it is intended to stand for a great length of time and should not be interpreted too narrowly or too literally so that it fails to have contemporary effectiveness for all of our citizens.

(Internal quotation marks omitted.) *State v. Linares*, 232 Conn. 345, 382, 655 A.2d 737

(1995). As state constitutional scholar Martin Margulies explained, the state constitution is a flexible instrument and should not be interpreted rigidly.

[T]he judges must identify the framers' values, and then interpret our constitution in ways that protect those values in the modern world.

Martin B. Margulies, *Sheff, Moore, and Westfarms: A Revised Blueprint*, 17 Quinnipiac Law Review 177, 179–80 (1997).

#### **4.1 Concerning Remonstrance**

##### **4.1.1 What is a remonstrance?**

“Remonstrance” is a term of art with historical significance and context. A remonstrance, like a sonnet, generally has certain conventions of form and context. The defendant’s speech appears to comport with these norms.

The amicus will examine historical remonstrances that informed the values and meaning underlying the term as used in 1818. The amicus will survey the historical backdrop: The Grand Remonstrance of 1641; James Madison’s Memorial and Remonstrance of 1785; the 1768 Petition, Memorial, and Remonstrance in the Virginia House; the 1657 Flushing Remonstrance; and the function of remonstrances in the religious

violence of early modern France when there was no right to petition; all inform the understanding of the word, “remonstrance.” The amicus will also examine the 1806 and 1828 Webster’s Dictionary definitions.

The amicus will examine the conventions of a “remonstrance” as a form of protest—the subject matter being the government, that the remonstrance is an attempt to stop violence, that a historical remonstrance usually invoked violent imagery.

#### **4.1.2 Scope: Remonstrance is Distinct From Freedom of Speech**

Critically, **the right to remonstrance under our constitution is distinct from the freedom of speech.** Because § 14 stands distinct from §§ 4 & 5, the amicus will address how the limitations on § 14 rights are different from general speech rights. Remonstrances as a form frequently employed violent imagery. They talked about violence because they were an attempt to stop that violence. The historical examples of notable remonstrances are often those that failed to stop subsequent violence—the English Civil War, or the American Revolution. Others tried to stop ongoing violence, like against the Quakers or in early modern France. But they all were a kind of sharp criticism and a plea to change something to stop a terrible, violent event.

There is a fair argument that Mr. Boyne’s speech is a modern-day rendition of this historic form. The amicus will explain the relationship between the state’s burden and the particulars of the form of a remonstrance, under a natural application of *Indrisano*.

#### **4.2 *Indrisano* in the Context of These Statutes**

*State v. Indrisano*, 228 Conn. 795, 809, 640 A.2d 986 (1994) scrutinizes language in the disorderly conduct statute that is also in play here. It notes where the statute was vague as-applied, where the statute was facially vague, and applied a heavy judicial gloss to make

applications in connection with the relevant language constitutionally firm. The case gives special attention to “inconvenience, annoyance or alarm,” and construction of similar catch-all statutes has been informed by *Indrisano*. See, e.g., *State v. Reed*, 176 Conn. App. 537, 549, 169 A.3d 326 (2017); *State v. Nowacki*, 155 Conn. App. 758, 781, 111 A.3d 911 (2015).

As to the mens rea, *Indrisano* recognized that federal due process law restricted the language “in order to support a conviction . . . the defendant's predominant intent must be to cause inconvenience, annoyance or alarm, rather than to exercise his constitutional rights.” *State v. Indrisano*, 228 Conn. 795, 809, 640 A.2d 986 (1994). The Court went on, however, to restrict the mens rea even further. The amicus will address how this due-process doctrine applies in the context of this case and the right to “remonstrance,” both in the context of dispositive motions and proposed jury instructions.

As to the prohibited conduct under the disorderly conduct statute, *Indrisano*, at 819, resolved the tension in the statute by applying a restricting gloss based on language not present in the criminal statutes at stake in this case. How the same principle will operate in the present case is an issue of first impression, and the amicus will address how *Indrisano* affects construction of the statutes in the present case.

#### **4.3 Any Other Issues the Court Determines May Benefit from Amicus Support**

The amicus may brief on any free speech issues that the Court determines in its discretion would be aided by amicus supplemental briefing<sup>16</sup>.

### **5. ELEVATED PUBLIC INTEREST**

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<sup>16</sup> See, e.g. Policy concerning amicus briefing, available at <https://jud.ct.gov/HomePDFs/AmicusCuriaePolicy.pdf>.

The case presents three elevated issues of public concern. To begin with, **this is the judicial branch policing speech critical of itself**. As Justice Stewart discussed in *Or of the Press*<sup>17</sup>, speech is a natural check on the operation of government—a kind of fourth branch. In policing restriction on speech that criticize the judicial branch, there is an elevated public interest. There is a tremendous public interest in public confidence in the judicial system and the appearance of fairness. There is a natural fear among laypeople that judges protect colleagues and so on. Because the case has attracted unusual public attention, additional neutral legal context may assist the Court and promote public confidence in the careful application of constitutional standards. Accordingly, the involvement of a non-party whose sole interest is the sound development of free speech law in our state may be useful.

Second, like any high profile free speech case, the case has implications for how people actually speak in daily life. This case will affect not only how the law is actually applied in the future, but how the public will perceive the scope of free speech.

Third, this case implicates speech in the growing forum of online media. I note in particular part of the U.S. Supreme Court’s opinion in *Packingham v. North Carolina*, 582 U.S. 98, 104, 137 S.Ct. 1730 (2017), stressed by Justice Sotomayor in her concurring opinion in *Counterman v. Colorado*, 600 U.S. 66, 87, 143 S. Ct. 2106 (2023). Speech important to the fabric of society happens on social media, and this Court should be cautious about overlooking the growing importance of the forum. The US Supreme Court stressed the increasing role online speech plays in the marketplace of ideas (citations and internal quotation marks omitted):

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<sup>17</sup> Potter Stewart. *Or of the Press*, 26 Hastings L. J. 631 (1975)

While in the past there may have been difficulty in identifying the most important places (in a spatial sense) for the exchange of views, today the answer is clear. It is cyberspace—the vast democratic forums of the Internet in general . . . and social media in particular. . . . In short, social media users employ these websites to engage in a wide array of protected [f]irst [a]mendment activity on topics “as diverse as human thought. . . .

Finally, for how important free speech law is to society, most judges do not interact with it regularly. In his 2015 confirmation hearing, Judge Frazzini was confronted by State Representative Daniel Fox about his opinion in *In re Emma F.* 315 Conn. 414 (2015) that violated the proscription on prior restraint. Judge Frazzini’s response offers some insights that are probably unsurprising, but noteworthy:

Well, I think it -- I think it's unusual for a state court judge to have First Amendment issues before the judge very often. I did have one case ten years earlier, and, of course, every lawyer—all of us who've been to law school know that it's the bread and butter of first year of law school, and the judicial branch provides ongoing training, including a—a—at the annual judge's institute every year a—a seminar updating us on U.S. Supreme Court law. But this was only the—this was the second case I had had that dealt with a direct First Amendment issue.<sup>18</sup>

That is, there’s also a substantial public interest because novel free speech cases arise rarely, and expertise can be helpful.

## 5. CONCLUSION

For the foregoing reasons, the Court should grant the motion.

THE APPLICANT,

/s/ \_\_\_\_\_

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<sup>18</sup> Available at

<https://www.cga.ct.gov/2015/juddata/chr/2015JUD00123-R001030-CHR.htm>

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**CERTIFICATION**

I hereby certify that a copy of the above was mailed or electronically delivered on this 21st day of January, 2026, to all counsel of record and a copy of the foregoing has been mailed, postage prepaid on the above date to the following non-appearing defendant and pro se parties of record and that written consent for electronic delivery was received from all counsel and pro se parties of record who were electronically served including:

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/s/ \_\_\_\_\_  
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