

STATE OF RHODE ISLAND

SUPREME COURT

LUTHER C. PARENTE and ERIC L.
STEWART,

Plaintiffs-Appellees,

v.

NELSON LEFEBVRE, in his official
capacity as Warden of the Department of
Corrections, Anthony P. Travisano Intake
Service Center; MICHELLE GARRIEPY,
in her official capacity as a Registered
Nurse for the Rhode Island Department of
Corrections; JENNIFER MAGEAU, in her
official capacity as a Registered Nurse for
the Rhode Island Department of
Corrections; NANCY RUOTOLO HULL,
in her official capacity as a Registered
Nurse for the Rhode Island Department of
Corrections; RHODE ISLAND
DEPARTMENT OF CORRECTIONS,

Defendants-Appellants.

SU-2024-0387-MP

**ON CERTIFIED QUESTION PURSUANT TO RULE 6 OF THE SUPREME
COURT RULES OF APPELLATE PROCEDURE FROM THE UNITED
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT**

**BRIEF OF AMICI CURIAE THE AMERICAN CIVIL LIBERTIES UNION
OF RHODE ISLAND AND AMERICAN CIVIL LIBERTIES UNION
IN SUPPORT OF PLAINTIFFS-APPELLEES**

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**INTEREST OF THE AMERICAN CIVIL LIBERTIES UNION OF RHODE
ISLAND AND AMERICAN CIVIL LIBERTIES UNION TO APPEAR AS
AMICI CURIAE**

The American Civil Liberties Union of Rhode Island (“ACLU-RI”), with over 5,000 members, is the Rhode Island affiliate of the American Civil Liberties Union (“ACLU”), a nationwide, nonprofit, nonpartisan organization. The ACLU has approximately 1.3 million members and is among the oldest, largest, and most active civil rights organizations in the United States. The ACLU-RI and ACLU are dedicated to vindicating the principles of equality and liberty embodied in the Bill of Rights to the Rhode Island and United States Constitutions. For decades, amici have litigated questions involving civil liberties and civil rights in state and federal courts, including this Court. In furtherance of these goals, amici have participated in numerous cases involving doctrines that can potentially limit access to justice. *See Zab v. R.I. Dep’t of Corr.*, 269 A.3d 741 (R.I. 2022); *Horn v. Southern Union*, 927 A.2d 292 (R.I. 2007); *Rathbun v. Autozone*, 361 F.3d 62 (1st Cir. 2004); *Natalie R. v. State*, 567 P.3d 550 (Utah 2025); *Mich. Immigrant Rts. Ctr. v. Whitmer*, Nos. 167300, 167301 (Mich. filed Oct. 8, 2024); *State v. Fernandez*, No. S071340 (Or. filed Jan. 29, 2025).

All parties have consented in writing to the appearance of amici to file the within brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

Plaintiffs Luther Parente and Eric Stewart filed a lawsuit in federal court alleging that the Rhode Island Department of Corrections (“RIDOC”) and various state officials discriminated against them based on their disabilities, in violation of federal law and the Rhode Island Civil Rights Act (“RICRA”), by deliberately ignoring and exacerbating injuries they sustained before entering RIDOC custody. In response, the state defendants argued that they have sovereign immunity for violating the RICRA and are thus free to discriminate based on disability without being sued for damages.

To resolve the sovereign immunity issue, the U.S. Court of Appeals for the First Circuit certified the following question to this Court:

Whether discrimination claims under the Rhode Island Civil Rights Act of 1990, R.I. Gen. Laws § 42-112-1 to -2, are “actions of tort” under the State Tort Claims Act, R.I. Gen. Laws § 9-31-1(a)?

Parente v. Lefebvre, 122 F.4th 457, 465 (1st Cir. 2024).

The answer is clear: The state defendants do not have sovereign immunity in this case because plaintiffs’ discrimination claims fall squarely within the State Tort Claims Act’s waiver of sovereign immunity for all tort actions.

The State Tort Claims Act (“STCA”), enacted in 1970, broadly waives state sovereign immunity for “all actions of tort.” R.I. Gen. Laws § 9-31-1(a). Specifically, state officials and agencies are “liable in all actions of tort in the same

manner as a private individual or corporation,” but their liability is subject to careful “monetary limitations.” *Id.* That text reflects a clear legislative choice: The General Assembly protected the public by affording a damages remedy to individuals harmed by state officials, while at the same time protecting the State by imposing limits on *recovery*—not by keeping harmed individuals out of court altogether.

Plaintiffs’ disability discrimination claims under the RICRA fall within the STCA’s waiver of immunity for “all actions of tort” because discrimination claims are torts. As this Court recently explained, “tort” is a broad concept; it encompasses any “invasion of a private interest for which the plaintiff seeks compensation for the damage they have personally suffered.” *Preserve at Boulder Hills, LLC v. Kenyon*, 312 A.3d 475, 483 (R.I. 2024). Accordingly, this Court and others have long recognized that discrimination claims—which seek compensation for alleged invasions of private interests based on protected characteristics—are torts. Thus, when the General Assembly enacted discrimination claims under the RICRA, it enacted “actions of tort” for which the STCA waives the State’s immunity.

The RICRA’s text reinforces that conclusion. It explicitly exempts state officials from potential RICRA liability only for certain “remedial programs designed to address past societal discrimination,” thus confirming that, consistent with the STCA, state officials are not otherwise immune from its coverage. R.I. Gen. Laws § 42-112-1(c).

But even if there were some textual ambiguity about whether RICRA discrimination claims are “actions of tort” under the STCA, the broad purposes animating the RICRA would compel the conclusion that they are. Enacted in 1990, the RICRA provides Rhode Islanders with robust civil rights protections exceeding those provided by preexisting federal civil rights laws. Construing the RICRA to confer those protections to Rhode Islanders discriminated against by municipal officials, but not state officials, would undermine the RICRA’s purposes. It would leave individuals discriminated against by state (but not municipal) officials without a remedy, and it would leave state (but not municipal) officials with insufficient incentive to avoid discriminating. Such a gerrymandered anti-discrimination law cannot be what the General Assembly intended. And allowing Rhode Islanders to seek recourse for discrimination by state officials would avoid a potential conflict with Article I, Section 5 of the Rhode Island Constitution, which enshrines a “[r]ight to justice” and “[r]emedies for injuries and wrongs.” R.I. Const. art. I, § 5.

Accordingly, this Court should answer the certified question in the affirmative, by holding that RICRA discrimination claims are “actions of tort” for which the STCA waives sovereign immunity.

ARGUMENT

For at least three reasons, RICRA claims are “actions of tort” under the STCA, for which state officials are “liable . . . in the same manner as a private individual or corporation.” R.I. Gen. Laws § 9-31-1(a). First, the plain meaning of “actions of tort” in the STCA encompasses discrimination claims, including those under the RICRA. Second, the RICRA’s own text indicates that it applies to state officials. Third, the RICRA’s broad remedial purpose weighs in favor of concluding that discrimination claims fall within the STCA’s waiver of immunity, and against a conclusion that state officials can discriminate against Rhode Islanders with impunity.

I. Plaintiffs’ RICRA claims are “actions of tort” under the STCA.

The “ultimate goal” of statutory interpretation “is to give effect to the purpose of the act as intended by the Legislature.” *Epic Enters. LLC v. Bard Grp., LLC*, 186 A.3d 587, 590 (R.I. 2018) (quoting *Webster v. Perrotta*, 774 A.2d 68, 75 (R.I. 2001)). And the best evidence of the General Assembly’s intent is the text it enacted. Thus, “when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Id.* (quoting *Alessi v. Bowen Court Condominium*, 44 A.3d 736, 740 (R.I. 2012)). As relevant here, discrimination claims, like those under the RICRA, have long been considered tort actions. Because the STCA explicitly waives

sovereign immunity for “*all* actions of tort,” its plain meaning waives immunity for plaintiffs’ RICRA claims. R.I. Gen. Laws § 9-31-1(a) (emphasis added).

A. A tort is any civil invasion of a private interest arising independently of contract or property.

The phrase “all actions of tort” in the STCA is very broad. A tort is “[a] civil wrong, other than breach of contract, for which a remedy may be obtained,” or, alternatively, “a breach of a duty that the law imposes on persons who stand in a particular relation to one another.” *Tort*, Black’s Law Dictionary (12th ed. 2024). That basic definition has prevailed since before the STCA’s enactment in 1970. *See Tort*, Black’s Law Dictionary (4th rev. ed. 1968) (defining tort as “[a] private or civil wrong or injury . . . independent of contract,” or, alternatively, “[a] violation of a duty imposed by general law or otherwise upon all persons occupying the relation to each other which is involved in a given transaction”).

This Court’s pronouncements on the word “tort” align with its broad dictionary definition. For example, this Court has held that a civil claim created purely by statute—specifically, the civil Racketeer Influenced and Corrupt Organizations (“RICO”) statute—is a “tort” and therefore subject to the three-year statute of limitations for “claims in tort” set forth in Rhode Island General Laws § 9-1-25(a). *See Preserve at Boulder Hills*, 312 A.3d at 481. The Court noted that a tort involves “an invasion of a private interest for which the plaintiff seeks compensation for the damage they have personally suffered and a judgment to fairly allocate the

loss.” *Id.* at 483 (quoting 74 Am. Jur. 2d *Torts* § 1 (Feb. 2024 update)). The plaintiff’s RICO claim fell within that definition because it was “a *civil* action in order to ‘seek[] compensation for the damage they have personally suffered.’” *Id.* (emphasis in original). It did not matter that the RICO claim was created by statute and was not a common-law tort. What mattered was that it was a civil claim “not created by a contract or a property interest.” *Id.* at 484.

This Court’s holding in *Preserve at Boulder Hills*, which deemed civil RICO claims to be “claims of tort” for purposes of the statute of limitations in § 9-1-25, bears directly on the meaning of “actions of tort” in the STCA. That’s because, in waiving sovereign immunity for “all actions of tort,” the STCA expressly invokes the limitations period in § 9-1-25 for “claims of tort.” *See* R.I. Gen. Laws § 9-31-1(a) (providing that Rhode Island and its subdivisions “shall, subject to the period of limitations set forth in § 9-1-25, hereby be liable in all actions of tort”). And even in the absence of this direct cross-reference, the rules of statutory construction would support treating the word “tort” to mean the same thing in § 9-1-25 and the STCA. *See Purcell v. Johnson*, 297 A.3d 464, 470–71 (R.I. 2023) (“[W]hen two laws are *in pari materia*, the Court will harmonize them whenever possible.”). It follows that this Court’s § 9-1-25 analysis in *Preserve at Boulder Hills*—under which a statutory claim (including one asserted against the State or a government agency) constitutes a tort so long as it creates a private interest not involving contract or property—

applies fully to the STCA.

This Court’s STCA cases confirm that the statutory term “actions of tort” incorporates the broad definition of “tort” set forth in dictionaries and decisions like *Preserve at Boulder Hills*. In *Laird v. Chrysler Corp.*, this Court specified that the STCA waives the State’s immunity as to “actions of tort” in which a plaintiff “show[s] that there was a breach of a duty owed to him or her in an individual capacity and not merely a breach of some obligation owed to the general public.” 460 A.2d 425, 429 (R.I. 1983) (citing *Ryan v. State Dep’t of Transp., R.I.*, 420 A.2d 841, 843 (R.I. 1980)). That case involved a negligence claim against Rhode Island. *Id.* at 426. Because the claim alleged a breach of a duty owed to an individual plaintiff—and because the STCA is “a blanket waiver of sovereign immunity” as to such claims—the State could be sued. *Id.* at 429–30 (underscoring that “the broad language of [the STCA] . . . unambiguously and without restriction holds the state liable” as to all tort actions (internal quotation marks and citation omitted)).

Federal cases likewise indicate that tort claims arising from statute, including federal anti-discrimination statutes, are “actions of tort” for purposes of the STCA. *See, e.g., Della Grotta v. Rhode Island*, 781 F.2d 343, 345–47 (1st Cir. 1986) (holding that the STCA applied to claims brought under 42 U.S.C. § 1983), *abrogated on other grounds by Will v. Michigan Dep’t of State Police*, 491 U.S. 58 (1989); *Tang v. R.I. Dep’t of Elderly Affairs*, 904 F. Supp. 55, 63 (D.R.I. 1995) (same

for claims brought under 42 U.S.C. § 1981).

Despite those precedents, defendants appear to assert that the term “actions of tort” in the STCA must be narrowly read to mean only common-law torts that existed before the STCA’s adoption. *See* Br. of State Defs./Appellants (“State Br.”) at 12–13, 16–17. That argument is untenable for three reasons.

First, defendants’ argument cannot be squared with this Court’s decision in *Preserve at Boulder Hills* recognizing that an action under the state’s civil RICO statute—a statutory claim with no direct common-law analog—qualified as a “tort.”¹ *See* 312 A.3d at 483–84. So the proverbial ship has sailed on any argument that, as appearing in a statute, the term “tort” references only preexisting common-law torts.

Second, defendants’ argument cannot be squared with the STCA’s text. That text does not limit the waiver of immunity to “common-law torts.” *See In re J.T.*, 252 A.3d 1276, 1281 (R.I. 2021) (“[W]e are not privileged to legislate, by inclusion, words which are not found in the statute.” (citation omitted)). It does not even limit the waiver of immunity to “torts.” Instead, it broadly waives immunity for “*all* actions of tort,” and it generally mandates that the state “shall . . . be liable” in those actions “in the same manner as a private individual or corporation.” R.I. Gen. Laws

¹ Like the RICRA, Rhode Island’s civil RICO statute was enacted well after the passage of the STCA. *See* R.I. Gen. Laws §§ 7-15-1–7-15-11. And like the RICRA, the civil RICO statute provides for not only damages and attorneys’ fees, *id.* § 7-15-4(a), 7-15-4(c), but also equitable remedies, such as injunctions, *id.* § 7-15-4(a).

§ 9-31-1(a) (emphasis added). And “all actions of tort” means *all* actions of tort.

Finally, defendants’ argument fails to account for the General Assembly’s reactions to judicial decisions. The General Assembly took no action to limit the STCA following this Court’s 1983 decision in *Laird*, nor following repeated decisions holding that the State had waived its sovereign immunity for various statutory torts. *See, e.g., Della Grotta*, 781 F.2d at 346–47; *Tang*, 904 F. Supp. at 63.² Such “legislative acquiescence in the court’s construction may reasonably be considered to imply legislative approval.” *E-Con-O-Wash Corp. of R.I. v. Sousa*, 164 A.2d 851, 853 (R.I. 1960).

In sum, there is no basis for reading into the statute exactly the sort of exceptions the STCA’s “straightforward, uncomplicated, and unreserved” waiver rejected. *See Marrapese v. Rhode Island*, 500 F. Supp. 1207, 1221–22 (D.R.I. 1980). The STCA holds the State liable for all claims fitting the capacious definition of tort.

B. Discrimination claims are torts.

Discrimination claims meet the *Preserve at Boulder Hills* definition of torts:

² Also illuminating is *Folan v. State/Department of Children, Youth, & Families*, where this Court allowed a RICRA claim to proceed against the State, reversing the superior court’s determination that the plaintiff’s prior recovery under a worker’s compensation statute barred further recovery under the RICRA. 723 A.2d 287, 291–92 (R.I. 1999). While the State did not appear to assert sovereign immunity in *Folan*, the General Assembly’s subsequent amendments to the RICRA did not controvert this Court’s implication that the State could be held liable under that statute.

They seek to vindicate private interests not involving contract or property. *See* 312 A.3d at 483–84. So it is hardly surprising that many courts, including this Court, have long considered discrimination claims to be torts. And it was against this backdrop that the General Assembly adopted the STCA.

Long before the STCA was enacted, this Court stated that a statute allowing plaintiffs to sue public service corporations for “undue and unreasonable discrimination” established “an action of tort.” *Main Realty Co. v. Blackstone Valley Gas & Electric Co.*, 193 A. 879, 881, 889 (R.I. 1937). Courts around the country have reached similar conclusions. In *Curtis v. Loether*, the U.S. Supreme Court recognized that a racial discrimination claim under the federal Fair Housing Act “sounds basically in tort.” 415 U.S. 189, 195 (1974). As the Court explained, an anti-discrimination “statute merely defines a new legal duty, and authorizes the courts to compensate a plaintiff for the injury caused by the defendant’s wrongful breach.” *Id.* In addition, a discrimination action like Curtis’s could “be likened to an action for defamation or intentional infliction of mental distress.” *Id.* at 195 n.10 (citing *Rogers v. Loether*, 467 F.2d 1110, 1117 (7th Cir. 1972)).

While the U.S. Supreme Court decided *Curtis* just after Rhode Island enacted the STCA, it relied on longstanding principles. *Cf. Main Realty Co.*, 193 A. at 889 (recognizing a discrimination claim as “an action of tort” in 1937). A torts textbook from 1969, which the *Curtis* Court quoted, stated that “under the logic of the

common law development of a law of insult and indignity, racial discrimination might be treated as a dignitary tort.” *Curtis*, 415 U.S. at 195 n.10 (quoting Charles O. Gregory & Harry Kalven, *Cases and Materials on Torts* 961 (2d ed. 1969)); *see also, e.g., Pryce v. Swedish-Am. Lines*, 30 F. Supp. 371, 372 (S.D.N.Y. 1939) (stating that a racial discrimination claim “sounds in tort” because it “is in no way dependent upon the terms of the passenger contract”); *Thomas v. Pick Hotels Corp.*, 224 F.2d 664, 665–66 (10th Cir. 1955) (holding that the plaintiff’s racial discrimination claim “clearly sound[ed] in tort” because there was a “common law duty . . . to provide accommodations without discrimination”).

The ensuing years have only confirmed what was true when the STCA was enacted: that discrimination claims are torts. In 1985, the U.S. Supreme Court held that all claims brought under 42 U.S.C. § 1983, which can include claims alleging discrimination in violation of the U.S. Constitution’s equal protection guarantee, should be “characterized” as “tort action[s] for the recovery of damages for personal injuries.” *Wilson v. Garcia*, 471 U.S. 261, 276 (1985); *see also Santiago-Negron v. Castro-Davila*, 865 F.2d 431, 440 (1st Cir. 1989) (“There can be no doubt that § 1983 actions create tort liability”); *Paul v. City of Woonsocket*, 745 A.2d 169, 172 (R.I. 2000) (holding that § 1983 claims are claims for “injuries to the person” (citation omitted)). Two years later, in 1987, the Court extended that holding to discrimination claims under 42 U.S.C. § 1981, the federal statute after which the

General Assembly modeled the RICRA in 1990. *Goodman v. Lukens Steel Co.*, 482 U.S. 656, 661–62 (1987); *see* Argument III, *infra*. The Court reasoned that “racial discrimination . . . is a fundamental injury to the individual rights of a person.” *Id.*; *see also id.* at 670 (Brennan, J., concurring in part and dissenting in part) (noting that the majority “characterizes all § 1981 actions as tort actions”); *Tang*, 904 F. Supp. at 63 (noting that “§ 1981 is, in essence, a tort action”).

C. The STCA waives the State’s sovereign immunity for RICRA claims.

Under these principles, plaintiffs’ RICRA claims are “actions of tort” for which the STCA waives sovereign immunity. The RICRA is “a broad civil rights act.” *Rathbun v. Autozone, Inc.*, 361 F.3d 62, 67 (1st Cir. 2004). It prohibits discrimination based on various protected characteristics, including “disability.” R.I. Gen. Laws § 42-112-1(a); *see DeCamp v. Dollar Tree Stores, Inc.*, 875 A.2d 13, 27 n.14 (R.I. 2005) (noting that the failure to provide reasonable accommodations is a form of disability discrimination). Here, plaintiffs’ RICRA claims allege that defendants owed them a duty to, without discrimination, provide medical services, treat their medical conditions, and follow the course of care plaintiffs’ medical providers recommended.

Those claims meet the definition of tort set forth in *Preserve at Boulder Hills, Laird*, and the other authorities described above, because they assert civil claims based on individual interests not arising from contract or property. They are

individual claims because the RICRA confers upon individual Rhode Islanders, not the public in general, a right against discrimination. *See Laird*, 460 A.2d at 429; *Goodman*, 482 U.S. at 661–62. And those individual claims are civil in nature because, when individuals assert them, their claims are “*civil* action[s] that ‘seek[] compensation for the damage they have personally suffered.’” *Preserve at Boulder Hills*, 312 A.3d at 483. Those individual civil claims are not contract claims. Nor are they property claims. They are, therefore, torts.

Though this Court has never suggested that only claims closely related to common-law torts qualify as torts, plaintiffs’ claims also resemble the common-law tort of medical malpractice, *see Ho-Rath v. Rhode Island Hosp.*, 89 A.3d 806, 812 (R.I. 2014), and can be analogized to dignitary torts like intentional or negligent infliction of emotional distress, *see Francis v. Am. Bankers Life Assur. Co. of Fla.*, 861 A.2d 1040, 1046 (R.I. 2004); *cf. Curtis*, 415 U.S. at 195 n.10.

Because plaintiffs’ claims are torts, they fall within the STCA’s waiver of the State’s sovereign immunity for “*all* actions of tort.” R.I. Gen. Laws § 9-31-1(a) (emphasis added). There is no basis to exclude plaintiffs’ claims from this broad waiver.

Defendants’ arguments that plaintiffs’ RICRA claims do not qualify as torts are unavailing. First, defendants contend that the STCA could not have waived sovereign immunity for RICRA claims because the RICRA protects people’s “rights

to make and enforce contracts” and rights relating to “personal property.” State Br. at 11–13; *see* R.I. Gen. Laws § 42-112-1(a). But the right to be free of discrimination in contracts and property is not a contract or property right. It is a right against *discrimination*. For example, if a person refuses to contract with another person because of their race, the person being discriminated against does not have a contract claim because there is no contract. But they unquestionably have a discrimination claim. That is why, in construing 42 U.S.C. § 1981, the U.S. Supreme Court concluded that the relevant claim does not seek to vindicate contract rights but rather the right to receive compensation for the defendant’s breach of his statutory duty not to discriminate. *See Goodman*, 482 U.S. at 661–62. As this Court has made clear, when determining if a claim is a tort, courts look to “the underlying wrongful act.” *Preserve at Boulder Hills*, 312 A.3d at 483. The underlying wrongful act in a RICRA claim is discrimination, whether or not it arises in the context of a contractual relationship or property transaction.

Defendants also assert that the RICRA does not create a cause of action in tort because it enforces public rights rather than private rights. *See* State Br. at 14–15. That asserted distinction has no basis in tort theory or Rhode Island law. Constitutional and statutory torts, just like common-law torts, offer individual remedies. *See generally* James J. Park, *The Constitutional Tort Action as Individual Remedy*, 38 Harv. C.R.-C.L. L. Rev. 393 (2003). And constitutional and statutory

torts, just like common-law torts, enforce public rights and affect public action. *See, e.g.,* John C. P. Goldberg, *Twentieth-Century Tort Theory*, 91 Geo. L.J. 513, 560–62 (2003); John C. Jeffries, Jr., *Damages for Constitutional Violations: The Relation of Risk to Injury in Constitutional Torts*, 75 Va. L. Rev. 1461, 1462 (1989); Noah Smith-Drelich, *The Constitutional Tort System*, 96 Ind. L.J. 571, 573–74 (2021).

All that matters under Rhode Island law is whether a defendant breached a non-contract and non-property duty owed to an individual rather than the general public. *See Laird*, 460 A.2d at 429; *Preserve*, 312 A.3d at 482–83. That is what plaintiffs have alleged here. Consequently, RICRA discrimination claims are “actions of tort” for which the STCA waives sovereign immunity.

II. The text of the RICRA shows that it protects against discrimination by state officials.

Just as the STCA’s text is clear that its waiver encompasses RICRA claims, the express language of the RICRA establishes that it applies to the State. By specifying narrow situations in which state officials are exempt from RICRA liability for actions that might otherwise violate the statute, the RICRA makes clear that state officials are otherwise very much subject to its provisions.

Section 42-112-1(c) of the RICRA exempts the State from liability for certain remedial programs:

Nothing contained in this chapter shall be construed to affect chapter 14.1 of title 37, chapter 5.1 of title 28, or any other remedial programs designed to address past societal discrimination.

R.I. Gen. Laws § 42-112-1(c). Chapter 5.1 of Title 28 established a “state equal opportunity office” to, among other things, “ensur[e] compliance with the requirements of all federal agencies for equal opportunity.” R.I. Gen. Laws § 28-5.1-2. Its focus is employment and appointments within “all units of Rhode Island state government,” including departments, boards, and agencies. *Id.* § 28-5.1-1(a)(1). Similarly, Chapter 14.1 of Title 37 established a State Office of Minority Business Enterprise to support the “participation of firms owned and controlled by minorities and women” in state-funded projects and “state purchases of goods and services.” *Id.* § 37-14.1-1.

If the General Assembly had not understood the RICRA to apply to the State, the exemption in § 42-112-1(c) for specific state programs would have been unnecessary. *See Ricci v. Rhode Island Com. Corp.*, 276 A.3d 903, 907–08 (R.I. 2022) (applying *expression unius* canon to conclude that where “the General Assembly quite deliberately exempted a very few specific positions from [a statute’s] otherwise broad scope,” other positions are not exempt); *Swain v. Est. of Tyre ex rel. Reilly*, 57 A.3d 283, 288 (R.I. 2012) (“The Legislature is presumed to have intended each word or provision of a statute to express a significant meaning, and the Court will give effect to every word, clause, or sentence, whenever possible.” (cleaned up)). Thus, the RICRA’s own text reinforces the conclusion that RICRA

claims are “actions of tort” as to which the General Assembly has waived the State’s sovereign immunity.

III. Any ambiguity as to whether the State is immune should be resolved in plaintiffs’ favor because the General Assembly intended the RICRA to redress governmental discrimination.

Even if there were some statutory ambiguity as to whether RICRA actions are “actions of tort” within the meaning of the STCA, legislative intent would require resolving that ambiguity in favor of the conclusion that they are. The waiver of sovereign immunity effected by the STCA is unequivocally broad. *See Laird*, 460 A.2d at 430; Argument I, *supra*. To the extent there is any ambiguity, it concerns whether the General Assembly intended to hold the State liable for RICRA claims via the STCA’s waiver.³ The history of the RICRA makes clear that the General Assembly did.

³ The recently proposed legislation cited by the State, *see* State Br. at 21–22, does not reflect any ambiguity about the RICRA’s reach. That legislation does not “amend RICRA” at all. *Id.* at 21. Rather, if enacted, it would create a new statute, entitled the Rhode Island Civil Rights Enforcement Act, providing a general enforcement mechanism to ensure that “the deprivation of *any* rights, privileges or immunities secured by the Constitution and laws of the State of Rhode Island” shall have a corresponding remedy. 2025 R.I. Senate Bill No. 0538 (emphasis added).

The proposed legislation was designed to make explicit a remedy for state constitutional rights and protections which courts have determined are not self-executing. *See, e.g., Doe v. Brown Univ.*, 253 A.3d 389, 400 (R.I. 2021) (Article 1, § 2, anti-discrimination clause); *A.F. Lusi Const., Inc. v. Rhode Island Convention Ctr. Auth.*, 934 A.2d 791, 798 (R.I. 2007) (Article 3, § 7); *Smiler v. Napolitano*, 911 A.2d 1035, 1039 n.5 (R.I. 2006) (Article 1, § 5).

If statutory text is ambiguous, this Court “look[s] to the ‘legislative intent behind the enactment.’” *Sauro v. Lombardi*, 178 A.3d 297, 304 (R.I. 2018) (quoting *Pawtucket Transfer Operations, LLC v. City of Pawtucket*, 944 A.2d 855, 859 (R.I. 2008)). The “facts and circumstances surrounding [a statute’s] enactment” can shed light on the Legislature’s intent. *Laird*, 460 A.2d at 428–30 (determining that the legislative intent behind the STCA was to abrogate sovereign immunity as to “all actions of tort”); see *First Republic Corp. of Am. v. Norberg*, 358 A.2d 38, 41 (1976) (explaining that “[l]egislative history is properly used as an aid to construction” when a statute is “ambiguous”).

The circumstances of the RICRA’s enactment show that it was intended to be a comprehensive anti-discrimination statute. As this Court has explained, the RICRA was “a reaction to the United States Supreme Court decision in *Patterson v. McLean Credit Union*, 491 U.S. 164 (1989),” which “narrowly interpreted 42 U.S.C. § 1981.” *Ward v. City of Pawtucket Police Dep’t*, 639 A.2d 1379, 1381 (R.I. 1994). *Patterson* held that § 1981 prohibited racial discrimination only in the formation of a contract and provided no protection against discrimination occurring during the performance of a contract. See 491 U.S. at 171. In response, the General Assembly moved quickly and decisively. By enacting the RICRA, the General Assembly not only plugged the holes that *Patterson* had created in federal anti-discrimination law, it also substantially expanded state anti-discrimination law beyond the reach and

scope of 42 U.S.C. § 1981. For example, while § 1981 had referenced the “making” of contracts, the RICRA also addresses the “performance, modification and termination of contracts.” R.I. Gen. Laws § 42-112-1(b).⁴ And whereas § 1981 addresses only racial discrimination, the RICRA proscribes discrimination based on “race, color, religion, sex, disability, age, [and] country of ancestral origin.” *Id.* § 42-112-1(a).

In short, the RICRA “plainly reveal[s] the General Assembly’s overarching intent to craft a broad civil rights act that would both complement and supplement federal civil rights protections.” *Rathbun*, 361 F.3d at 67. This Court confirmed as much in *Ward*, observing that the RICRA “provides broad protection against all forms of discrimination in all phases of employment,” among other contexts. 639 A.2d at 1381. Following *Ward*, courts have recognized that the RICRA should be “read . . . as broadly as possible—which means that if individuals discriminate in ways that violate the statute, then they must be liable under it.” *Iacampo v. Hasbro, Inc.*, 929 F. Supp. 562, 573 (D.R.I. 1996); *see also, e.g., Korsak v. Honey Dew Assocs., Inc.*, No. PC 13-0105, 2015 WL 5478208, at *12 (R.I. Super., Sep. 15, 2015) (similar).

⁴ In response to *Patterson*, Congress similarly amended § 1981 to specify that it applies to “the making, performance, modification, and termination of contracts.” 42 U.S.C. § 1981(b) (1991); *see Jones v. R.R. Donnelley & Sons Co.*, 541 U.S. 369, 372–73 (2004).

Shielding state actors from RICRA liability would undermine the statute's broad purpose. If such a state-actor carveout exists, a Rhode Islander who is racially profiled by the state police would not be able to sue under the RICRA, even though they *would* be able to sue if the offending agency were local law enforcement. Likewise, a woman who is paid less for her work under a government contract because of her gender would be barred from seeking redress if the contract were with the state government, even though she could bring a RICRA claim if the contract were with a local government. There is no indication that the General Assembly intended to leave so significant a gap in the RICRA's coverage or permit such inconsistent application of its protections. Notably, when the General Assembly enacted the RICRA to ensure protections beyond § 1981's baseline, it was well established that that baseline included liability for government actors. *See Gen. Bldg. Contractors Ass'n, Inc. v. Pennsylvania*, 458 U.S. 375, 387–88 (1982) (“The prohibitions of § 1981 encompass . . . governmental action.”).

“[T]his Court's role is ‘to determine and effectuate the Legislature's intent’” for the RICRA. *Such v. State*, 950 A.2d 1150, 1155–56 (R.I. 2008) (quoting *Brennan v. Kirby*, 529 A.2d 633, 637 (R.I. 1987)). Construing RICRA claims like plaintiffs' to fall outside the STCA's waiver of sovereign immunity for “all actions of tort” would insulate the State from liability for discriminatory acts and leave victims without recourse. Far from effectuating the General Assembly's intent for the

RICRA to serve as a comprehensive anti-discrimination statute—“a public policy that the Legislature considered to be of major importance,” *Folan v. State/Dep’t of Children, Youth, & Fams.*, 723 A.2d 287, 290–91 (R.I. 1999)—this result would flout it, *see LaPlante v. Honda N. Am., Inc.*, 697 A.2d 625, 628 (R.I. 1997) (“[T]his Court will adopt a [statutory] construction that avoids an absurd or unjust result.”).⁵ Accordingly, this Court should resolve any ambiguity by holding that plaintiffs’ RICRA claims are “actions of tort” within the meaning of the STCA.

The Court should be especially wary of construing the RICRA to provide no remedy for discrimination by state actors because the Rhode Island Constitution provides that “[e]very person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which may be received in one’s person, property, or character.” R.I. Const. art. I, § 5; *see Kennedy v. Cumberland Eng’g Co.*, 471 A.2d 195, 199 (R.I. 1984) (holding that a law violated Article I, § 5 because it “denie[d] . . . claimants of their day in court, notwithstanding the merits of their claims and the direct liability of the potential defendants”). If the General Assembly had intended to immunize state actors who discriminate—despite the STCA’s broad waiver of sovereign immunity for all torts, the RICRA’s broad

⁵ As one Rhode Island court observed in concluding that sovereign immunity does not bar RICRA claims in state court, “the fundamental public policy contemplated by [the RICRA] would be eviscerated” by the application of sovereign immunity. *Evans v. R.I. Dep’t of Bus. Regul.*, No. CIV.A. 01-1122, 2004 WL 2075132, at *3 (R.I. Super. Aug. 21, 2004).

remedial purpose, and the Rhode Island Constitution’s right-to-remedy provision—
it presumably would have said so.

CONCLUSION

For these reasons, this Court should answer the certified question—“whether
discrimination claims under the [RICRA] are ‘actions of tort’ under the [STCA],”
Parente, 122 F.4th at 465—in the affirmative.

Dated: October 22, 2025

Respectfully submitted,

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CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 18(B)

1. This brief contains 5,590 words, excluding the parts exempted from the word count by Rule 18(b).
2. This brief complies with the font, spacing, and type size requirements stated in Rule 18(b).

/s/ Lynette Labinger
Signature of Filing Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on October 22, 2025:

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/s/ Lynette Labinger

STATE OF RHODE ISLAND

SUPREME COURT

LUTHER C. PARENTE and ERIC L.
STEWART,

Plaintiffs–Appellees,

v.

NELSON LEFEBVRE, in his official
capacity as Warden of the Department
of Corrections, et al.,

Defendants–Appellants.

SU-2024-0387-MP

**NOTICE OF WRITTEN CONSENT BY ALL PARTIES TO FILING OF
BRIEF OF AMICI CURIAE UNDER RULE 16(h)**

In accordance with Rule 16(h) of Article I of the Rules of the Rhode Island Supreme Court, the American Civil Liberties Union of Rhode Island and the American Civil Liberties Union hereby file their brief as amici curiae in support of Plaintiffs-Appellees Parente et al.

Under Rule 16(h) such brief may be filed without leave of the Court “if accompanied by written consent of all parties.” Copies of the written consent are attached hereto as Exhibit A.

WHEREFORE, Amici American Civil Liberties Union of Rhode Island and the American Civil Liberties Union submit their brief as amici curiae in support of Plaintiffs-Appellees and pray that it be docketed in the above-captioned matter.

Respectfully submitted,

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/s/ Lynette Labinger

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To: [Lynette Labinger](#)
Cc: [Terry Ding](#); [Matthew Segal](#); [Steven M. Brown - ACLU Of RI \(sbrown@riaclu.org\)](#)
Subject: RE: Parente v. Lefebvre, SU-2024-0387-MP
Date: Wednesday, August 13, 2025 8:54:45 AM
Attachments: [image001.png](#)
[image003.png](#)

Hi Lynette:

The State Defendants-Appellants consent to the ACLU's request to file a joint (single) amicus brief.

James J. Arguin
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Cc: Terry Ding <ttdding@aclu.org>; Matthew Segal <MSegal@aclu.org>; Steven M. Brown - ACLU Of RI (sbrown@riaclu.org) <sbrown@riaclu.org>
Subject: Parente v. Lefebvre, SU-2024-0387-MP

[External email: Use caution with links and attachments]

Hi James:

Hope all is well.

I am writing on behalf of the ACLU of RI and the national ACLU (State Supreme Court Initiative) to seek the State's consent, pursuant to RI Supreme Court Rule 16(h), to file a joint (single) brief as amici curiae before the RI Supreme Court in the above-referenced matter in support of the appellees (Parente, et al.). Additional organizations and/or individuals may be joining the brief as well.

We look forward to hearing from you. Please reach out if you have any questions.

Best,

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STATEMENT OF CONFIDENTIALITY

The information contained in this electronic message and any attachments to this message are intended

EXHIBIT A

From: [Chloe Davis](#)
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Cc: [Jackson Springer](#)
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Yes, you have our consent to file an amicus brief. [REDACTED]
[REDACTED]



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[REDACTED] Chloe, can you confirm that we have your consent to file an amicus brief in support of Appellees?

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Best,



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Attorney Name: _____ R.I. Bar No. _____	



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☐ SUPREME COURT ☐ SUPERIOR COURT ☐ FAMILY COURT ☐ DISTRICT COURT

☐ Providence/Bristol County or Sixth Division ☐ Washington County or Fourth Division
☐ Kent County or Third Division ☐ Newport County or Second Division

Plaintiff	Civil Action File Number
Defendant	

ENTRY OF APPEARANCE – CIVIL CASES

I hereby enter my appearance for the ☐ Plaintiff/Petitioner ☐ Defendant/Respondent

/s/ _____
Attorney Name or Self-represented Litigant Rhode Island Bar Number

Address

Telephone Number Cell Telephone Number

Email Address

Date

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/s/ _____
Name

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Richard A. Sinapi (ras@sinapilaw.com)



State of Rhode Island Judiciary

Miscellaneous Petition for Admission Pro Hac Vice Supreme Court Article II, Rule 9(a)

Case Number
SU-2024-0387-MP

☒ Supreme Court ☐ Superior Court ☐ Family Court ☐ District Court
☐ Workers' Compensation Court ☐ Rhode Island Traffic Tribunal
County - ☐ Providence/Bristol ☐ Washington ☐ Kent ☐ Newport
☐ 6th Division ☐ 4th Division ☐ 3rd Division ☐ 2nd Division

Plaintiff or Petitioner

Luther C. Parente and Eric L. Stewart

v.

Defendant or Respondent

Nelson Lefebvre

Lynette Labinger hereby requests that Terry Ding

Petitioner

be admitted pro hac vice in the above case or agency proceeding as counsel with local associate counsel identified below, on the following grounds (*please check appropriate grounds and provide specifics as noted*):

☒ The case or agency proceeding involves the following complex areas of the law, in which pro hac vice counsel concentrates: (*The Petitioner shall specify the area of law at issue and the basis upon which the Petitioner certifies that the pro hac vice counsel concentrates in this area, including past cases in this or any other jurisdiction. Detailed information about past cases, including docket sheets, must be provided. Attach additional pages if needed.*)

See attached.

☒ Pro hac vice counsel's long-standing representation of the client: (*The Petitioner shall specify all facts to support the long-standing attorney-client relationship at issue, including dates and extent of the representation. Detailed*

information about past cases, including docket sheets, must be provided. Attach additional pages if needed.)

See attached.

☐ The local bar lacks experience in the field involved: *(The Petitioner shall specify all facts to support the claim that the local bar lacks the expertise necessary to competently handle this case. Attach additional pages if needed.)*

☐ The case or agency proceeding involves complex legal questions under the law of a foreign jurisdiction with which pro hac vice counsel is familiar: *(The Petitioner shall specify all facts to support the claim that the case or agency proceeding involves the existence of legal questions involving the law of a foreign jurisdiction with which pro hac vice counsel is familiar and the basis for that familiarity. Detailed information about past cases, including docket sheets, must be provided. Attach additional pages if needed.)*

☐ The case or agency proceeding requires extensive discovery in a foreign jurisdiction convenient to pro hac vice counsel: *(The Petitioner shall specify all facts to support the need for extensive discovery proceedings in a foreign jurisdiction with*

which pro hac vice counsel is familiar. Detailed information about past cases, including docket sheets, must be provided. Attach additional pages if needed.)

☐ This is a criminal case and the pro hac vice counsel is the Defendant's counsel of choice.

☒ Other: *(The Petitioner shall specify all other facts to support a finding of good cause. Attach additional pages if needed.)*

See attached.

I hereby represent that I am a member in good standing of the bar of the State of Rhode Island and that I am actively engaged in the practice of law out of an office located in this state.

/s/ <u>Lynette Labinger</u> Signature	Rhode Island Bar Number 1645
	Date: <u>October 22, 2025</u>
Attorney for: <u>Amici American Civil Liberties Union</u> /s/ <u>Terry Ding</u> Signature Pro Hac Vice Counsel/Applicant	

Certificate of Service

I, Lynette Labinger, hereby certify that a true copy of this Miscellaneous Petition for Admission Pro Hac Vice with accompanying attorney and client certifications were sent ~~postage X prepaid~~ to see attached list, on this 22nd day of October 2025.

/s/ Lynette Labinger

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2025:

- I electronically filed and served this Miscellaneous Petition for Admission Pro Hac Vice with accompanying attorney and client certifications through the electronic filing system on the following:

James J. Arguin (Jarguin@riag.ri.gov)
Mark P. Dolan (mdolan@ricedolan.com)
Mark Dolan Jr. (mdolarjr@ricedolan.com)
Andrea Merolla Simister (alm@gsm-law.com)
Christine A. Stowell (cas@gsm-law.com)
Chloe A. Davis (cad@sinapilaw.com)
Richard A. Sinapi (ras@sinapilaw.com)

- The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Lynette Labinger

Attached Answers to Miscellaneous Petition for Admission of Terry Ding

Question 1:

This case concerns whether Rhode Island has waived its sovereign immunity as to claims brought under the Rhode Island Civil Rights Act (RICRA), a question that implicates state and federal civil rights laws, state constitutional rights, and access-to-justice issues. Mr. Ding's practice at the ACLU's State Supreme Court Initiative focuses on protecting rights under state civil rights laws and constitutions. For example, he has served as counsel in *N.Y. Communities for Change v. Nassau County*, No. 602316/2024 (N.Y. Sup. Ct.), concerning state constitutional and statutory protections for voting rights; *People v. Fenderson*, No. 167391 (Mich. S. Ct.) (amicus), concerning state constitutional protections for criminal defendants; *New York Civil Liberties Union v. N.Y. Office of Court Administration*, APL-2024-143 (N.Y. Ct. App.), concerning access-to-justice and public-records issues under state law; *Fanfair v. Knipel*, No. 2023-05048 (N.Y. App. Div.), concerning state law protections for homeowners in foreclosure proceedings; and *Perkins v. State*, No. DV-25-282 (Mont. Dist. Ct.) and No. DA 25-0397 (Mont. S. Ct.), concerning state constitutional protections for LGBTQ people. He has also served as counsel in numerous federal civil rights cases, including *Salim Adrianza v. Biden*, No. 20-4165 (2d Cir.) (concerning the constitutional and statutory rights of asylum seekers with disabilities); *M.C. v. Jefferson Cnty.*, No. 6:22-CV-190 (N.D.N.Y.) (concerning the constitutional and statutory rights of incarcerated individuals with opioid use disorder); and *Roberson v. Cuomo*, No. 21-877 (2d Cir.) (concerning the due process rights of people on parole).

Question 2:

Mr. Ding seeks to appear as counsel for *amicus curiae* the American Civil Liberties Union, a non-profit, non-partisan organization that is one of the largest and most active civil rights organizations in America. Mr. Ding has been a staff attorney, first at the New York Civil Liberties Union (the ACLU's New York state affiliate), then at the ACLU, since 2020. In those five years, Mr. Ding has filed numerous briefs as counsel and amicus in state and federal courts across the country to protect the principles embodied in state and federal Constitutions and our nation's civil rights laws. A selection of those representations is listed in the response to the previous question.

Other:

The national ACLU regularly litigates cases alongside the ACLU of Rhode Island, a lightly staffed affiliate of the ACLU that employs no in-house attorneys and has only limited legal support. To advance its mission of safeguarding the civil liberties of Rhode Islanders, the ACLU of Rhode Island relies on collaboration with the national ACLU as well as on the longstanding partnership of cooperating attorney Lynette Labinger. Ms. Labinger is a solo practitioner and so the participation of national ACLU attorneys is essential to ensure that the ACLU of Rhode Island can successfully litigate cases to protect Rhode Islanders' civil rights and liberties.



State of Rhode Island Judiciary

Attorney Certification for Admission Pro Hac Vice Supreme Court Article II, Rule 9(a)

Case Number
SU-2024-0387-MP

☒ **Supreme Court** ☐ **Superior Court** ☐ **Family Court** ☐ **District Court**
☐ **Workers' Compensation Court** ☐ **Rhode Island Traffic Tribunal**
County - ☐ Providence/Bristol ☐ Washington ☐ Kent ☐ Newport
☐ 6th Division ☐ 4th Division ☐ 3rd Division ☐ 2nd Division

☒ I certify that I am a member in good standing of the bar of the following state(s) without any restriction on my eligibility to practice, and that I understand my obligation to notify this Court immediately of any change to my status in this respect. (*Attach additional pages if needed.*)

Jurisdiction	Dates of Admission	Bar Number	Current Status
State of New York	8/11/2020	5723291	Active in good standing

☒ I certify that I am not currently disbarred or suspended in any court.

☒ Below is a complete list of all matters in which I have been sanctioned or disciplined. (*Attach additional pages if needed.*)

Jurisdiction/Authority	Caption/Case Number	Nature of Allegations	Action Taken
None.			

☒ The following is a complete and accurate list of *all* proceedings in which I have applied for pro hac vice admission pursuant to Article II, Rule 9(a) of the Supreme Court Rules on the Admission to Practice Law. (*Attach additional pages if*

needed. Attach docket sheets for all cases listed below and copies of all court orders pertaining to your admission pro hac vice.)

Court Filed	Case Name/Number	Date Filed	Admission Granted?
None.			

☒ I have read and certify that the Miscellaneous Petition for Admission Pro Hac Vice filed by local counsel with this certification contains true and accurate information regarding my experience which provides the basis for my admission pro hac vice.

☒ I have read, acknowledge, and agree to observe and to be bound by the local rules and orders of this Court, including the Rules of Professional Conduct of the Rhode Island Supreme Court, as the standard of conduct for all attorneys appearing before the Court.

☒ I acknowledge that if specially admitted to appear in the above-entitled matter that I will be subject to the disciplinary procedures of the Rhode Island Supreme Court. I hereby authorize the disciplinary authorities of the bar of the State(s) listed above to release any information concerning my practice in said State(s) pursuant to the request of the Disciplinary Counsel of the Rhode Island Supreme Court.

☒ For purposes of this case I have associated with local associate counsel identified below, and have read, acknowledge, and will observe the requirements of this Court respecting the participation of local associate counsel, recognizing that failure to do so may result in my being disqualified, either upon the Court's motion or motion of other parties in the case.

/s/ <u>Terry Ding</u> Signature Pro Hac Vice Counsel/Applicant	Date 10/14/2025
Firm Name and Address: American Civil Liberties Union Foundation 125 Broad Street, 17th Floor New York, NY 10004	

Certification of Local Associate Counsel

I certify that I have read and join the foregoing Certification and acknowledge and agree to observe the requirements of this Court as related to the participation and responsibilities of local associate counsel.

/s/ <u>Lynette Labinger</u> Signature	Rhode Island Bar Number 1645
	Date: 10/22/2025



State of Rhode Island Judiciary

Client Certification

Case Number
SU-2024-0387-MP

- ☒ Supreme Court ☐ Superior Court ☐ Family Court ☐ District Court
☐ Workers' Compensation Court ☐ Rhode Island Traffic Tribunal
County - ☐ Providence/Bristol ☐ Washington ☐ Kent ☐ Newport
☐ 6th Division ☐ 4th Division ☐ 3rd Division ☐ 2nd Division

I, Cecillia Wang, certify that:

1. I am ~~the Plaintiff/Defendant or an authorized representative of a corporate or business entity which is the Plaintiff/Defendant in this case;~~ proposed *amici curiae* American Civil Liberties Union;

2. I am aware that Attorney Terry Ding is not a member of the Rhode Island bar, but that Attorney Terry Ding has applied for permission to appear in this case on my behalf;

3. I am also aware that, if Attorney Terry Ding is permitted to appear in this case, I will also be required to engage a co-counsel and pay for the services of a attorney who is a member of the Rhode Island bar;

4. I am also aware that the Rhode Island attorney engaged must be fully prepared to assume complete responsibility for the case at any time, and may be required to conduct the trial, hearing, or appeal in this case on my behalf (or on behalf of the corporate or business entity);

5. Having been advised of the matters set forth above, I support the request of Attorney Terry Ding to be permitted to appear in this case on my behalf (or on behalf of the corporate or business entity), in accordance with the rules of this Court and of the Supreme Court of the State of Rhode Island.

Addison Ball
Witness

10.20.2025
Date

Cecillia D. Wang for
Client Name American Civil Liberties Union

[Signature]
Client Signature



State of Rhode Island Judiciary

Client Certification

Case Number
SU-2024-0387-MP

- ☒ **Supreme Court** ☐ **Superior Court** ☐ **Family Court** ☐ **District Court**
☐ **Workers' Compensation Court** ☐ **Rhode Island Traffic Tribunal**
County - ☐ Providence/Bristol ☐ Washington ☐ Kent ☐ Newport
☐ 6th Division ☐ 4th Division ☐ 3rd Division ☐ 2nd Division

I, STEVEN BROWN, certify that:

1. I am the ~~Plaintiff/Defendant~~ or an authorized representative of a corporate or business entity which is the Plaintiff/Defendant in this case; proposed amicus curiae American Civil Liberties Union of Rhode Island

2. I am aware that Attorney Terry Ding is not a member of the Rhode Island bar, but that Attorney Terry Ding has applied for permission to appear in this case on my behalf;

3. I am also aware that, if Attorney Terry Ding is permitted to appear in this case, I will also be required to engage a co-counsel and pay for the services of a attorney who is a member of the Rhode Island bar;

4. I am also aware that the Rhode Island attorney engaged must be fully prepared to assume complete responsibility for the case at any time, and may be required to conduct the trial, hearing, or appeal in this case on my behalf (or on behalf of the corporate or business entity);

5. Having been advised of the matters set forth above, I support the request of Attorney Terry Ding to be permitted to appear in this case on my behalf (or on behalf of the corporate or business entity), in accordance with the rules of this Court and of the Supreme Court of the State of Rhode Island.


Witness

10/21/2025
Date

American Civil Liberties Union of
Client Name Rhode Island by
Steven Brown, Executive Director
Supreme-8 (revised October 2023)


Client Signature



State of Rhode Island Judiciary

Miscellaneous Petition for Admission Pro Hac Vice Supreme Court Article II, Rule 9(a)

Case Number
SU-2024-0387-MP

- ☐ Supreme Court ☐ Superior Court ☐ Family Court ☐ District Court
☐ Workers' Compensation Court ☐ Rhode Island Traffic Tribunal
County - ☐ Providence/Bristol ☐ Washington ☐ Kent ☐ Newport
☐ 6th Division ☐ 4th Division ☐ 3rd Division ☐ 2nd Division

Plaintiff or Petitioner

Luther C. Parente and Eric L. Stewart

v.

Defendant or Respondent

Nelson Lefebvre

Lynette Labinger hereby requests that Matthew Segal
Petitioner

be admitted pro hac vice in the above case or agency proceeding as counsel with local associate counsel identified below, on the following grounds (*please check appropriate grounds and provide specifics as noted*):

☒ The case or agency proceeding involves the following complex areas of the law, in which pro hac vice counsel concentrates: (*The Petitioner shall specify the area of law at issue and the basis upon which the Petitioner certifies that the pro hac vice counsel concentrates in this area, including past cases in this or any other jurisdiction. Detailed information about past cases, including docket sheets, must be provided. Attach additional pages if needed.*)

See attached.

☒ Pro hac vice counsel's long-standing representation of the client: (*The Petitioner shall specify all facts to support the long-standing attorney-client relationship at issue, including dates and extent of the representation. Detailed*

information about past cases, including docket sheets, must be provided. Attach additional pages if needed.)

See attached.

☐ The local bar lacks experience in the field involved: *(The Petitioner shall specify all facts to support the claim that the local bar lacks the expertise necessary to competently handle this case. Attach additional pages if needed.)*

☐ The case or agency proceeding involves complex legal questions under the law of a foreign jurisdiction with which pro hac vice counsel is familiar: *(The Petitioner shall specify all facts to support the claim that the case or agency proceeding involves the existence of legal questions involving the law of a foreign jurisdiction with which pro hac vice counsel is familiar and the basis for that familiarity. Detailed information about past cases, including docket sheets, must be provided. Attach additional pages if needed.)*

☐ The case or agency proceeding requires extensive discovery in a foreign jurisdiction convenient to pro hac vice counsel: *(The Petitioner shall specify all facts to support the need for extensive discovery proceedings in a foreign jurisdiction with*

which pro hac vice counsel is familiar. Detailed information about past cases, including docket sheets, must be provided. Attach additional pages if needed.)

☐ This is a criminal case and the pro hac vice counsel is the Defendant's counsel of choice.

☒ Other: (The Petitioner shall specify all other facts to support a finding of good cause. Attach additional pages if needed.)

See attached.

I hereby represent that I am a member in good standing of the bar of the State of Rhode Island and that I am actively engaged in the practice of law out of an office located in this state.

/s/ <u>Lynette Labinger</u> Signature	Rhode Island Bar Number 1645
	Date: October 22, 2025
Attorney for: <u>Amici American Civil Liberties Union</u>	
/s/ <u>Matthew Segal</u> Signature Pro Hac Vice Counsel/Applicant	

Certificate of Service

I, Lynette Labinger, hereby certify that a true copy of this Miscellaneous Petition for Admission Pro Hac Vice with accompanying attorney and client certifications were sent ~~postage prepaid~~ to see attached list, on this 22nd day of October 2025.

/s/ Lynette Labinger

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2025:

- I electronically filed and served this Miscellaneous Petition for Admission Pro Hac Vice with accompanying attorney and client certifications through the electronic filing system on the following:

James J. Arguin (Jarguin@riag.ri.gov)
Mark P. Dolan (mdolan@ricedolan.com)
Mark Dolan Jr. (mdolarjr@ricedolan.com)
Andrea Merolla Simister (alm@gsm-law.com)
Christine A. Stowell (cas@gsm-law.com)
Chloe A. Davis (cad@sinapilaw.com)
Richard A. Sinapi (ras@sinapilaw.com)

- The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Lynette Labinger

Attached Answers to Miscellaneous Petition for Admission of Matthew Segal

Question 1:

This case concerns whether Rhode Island has waived its sovereign immunity as to claims brought under the Rhode Island Civil Rights Act (RICRA), a question that implicates state and federal civil rights laws, state constitutional rights, and access-to-justice issues. As the Co-Director of the ACLU's State Supreme Court Initiative, Mr. Segal focuses his practice on protecting individual rights under state constitutions and statutes. He has litigated issues related to those presented in this case, including statutory interpretation and immunity doctrines. *See, e.g., Energy Transfer LP v. Greenpeace Int'l*, 23 N.W.3d 554 (Minn. 2025) (construing scope of reporter's shield law); *Planned Parenthood of the Heartland, Inc. v. Hilgers*, 317 Neb. 217 (Neb. 2024) (case in which parties briefed sovereign immunity at the district court level); *Stamps v. Town of Framingham*, 813 F.3d 27 (1st Cir. 2016) (addressing qualified immunity).

In addition to his litigation experience, Mr. Segal has experience teaching constitutional rights. He is presently Professor of the Practice at Tufts University in Medford, Massachusetts, where he teaches constitutional law. He has previously served as a Visiting Lecturer in Law at Yale Law School in New Haven, Connecticut, and as an Adjunct Instructor at the Northeastern University School of Law in Boston, Massachusetts.

Question 2:

Mr. Segal seeks to appear as counsel for *amicus curiae* the American Civil Liberties Union, a non-profit, non-partisan organization that is one of the largest and most active civil rights organizations in America. Mr. Segal is a Co-Director of the ACLU's State Supreme Court Initiative, which he helped launch in 2023. Since the launch of the SSCI and before that as legal director of the ACLU of Massachusetts, Mr. Segal has filed numerous briefs as counsel and amicus in state courts across the country to protect the principles embodied in state and federal Constitutions and our nation's civil rights laws.

Other:

The national ACLU regularly litigates cases alongside the ACLU of Rhode Island, a lightly staffed affiliate of the ACLU that employs no in-house attorneys and has only limited legal support. To advance its mission of safeguarding the civil liberties of Rhode Islanders, the ACLU of Rhode Island relies on collaboration with the national ACLU as well as on the longstanding partnership of cooperating attorney Lynette Labinger. Ms. Labinger is a solo practitioner and so the participation of national ACLU attorneys is essential to ensure that the ACLU of Rhode Island can successfully litigate cases to protect Rhode Islanders' civil rights and liberties.



State of Rhode Island Judiciary

Attorney Certification for Admission Pro Hac Vice Supreme Court Article II, Rule 9(a)

Case Number
SU-2024-0387-MP

☒ **Supreme Court** ☐ **Superior Court** ☐ **Family Court** ☐ **District Court**
☐ **Workers' Compensation Court** ☐ **Rhode Island Traffic Tribunal**
County - ☐ Providence/Bristol ☐ Washington ☐ Kent ☐ Newport
☐ 6th Division ☐ 4th Division ☐ 3rd Division ☐ 2nd Division

☒ I certify that I am a member in good standing of the bar of the following state(s) without any restriction on my eligibility to practice, and that I understand my obligation to notify this Court immediately of any change to my status in this respect. (*Attach additional pages if needed.*)

Jurisdiction	Dates of Admission	Bar Number	Current Status
State of Massachusetts	01/08/2003	654489	Active: good standing
District of Columbia	10/17/2003	483486	Active: good standing

☒ I certify that I am not currently disbarred or suspended in any court.

☐ Below is a complete list of all matters in which I have been sanctioned or disciplined. (*Attach additional pages if needed.*)

Jurisdiction/Authority	Caption/Case Number	Nature of Allegations	Action Taken

☐ The following is a complete and accurate list of *all* proceedings in which I have applied for pro hac vice admission pursuant to Article II, Rule 9(a) of the Supreme Court Rules on the Admission to Practice Law. (*Attach additional pages if*

needed. Attach docket sheets for all cases listed below and copies of all court orders pertaining to your admission pro hac vice.)

Court Filed	Case Name/Number	Date Filed	Admission Granted?

☒ I have read and certify that the Miscellaneous Petition for Admission Pro Hac Vice filed by local counsel with this certification contains true and accurate information regarding my experience which provides the basis for my admission pro hac vice.

☒ I have read, acknowledge, and agree to observe and to be bound by the local rules and orders of this Court, including the Rules of Professional Conduct of the Rhode Island Supreme Court, as the standard of conduct for all attorneys appearing before the Court.

☒ I acknowledge that if specially admitted to appear in the above-entitled matter that I will be subject to the disciplinary procedures of the Rhode Island Supreme Court. I hereby authorize the disciplinary authorities of the bar of the State(s) listed above to release any information concerning my practice in said State(s) pursuant to the request of the Disciplinary Counsel of the Rhode Island Supreme Court.

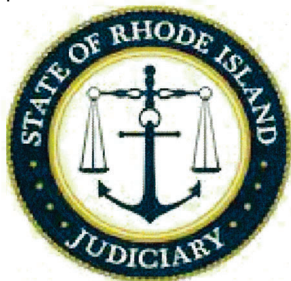
☒ For purposes of this case I have associated with local associate counsel identified below, and have read, acknowledge, and will observe the requirements of this Court respecting the participation of local associate counsel, recognizing that failure to do so may result in my being disqualified, either upon the Court's motion or motion of other parties in the case.

/s/ Matthew Segal _____ Signature Pro Hac Vice Counsel/Applicant	Date 10/20/2025
Firm Name and Address: American Civil Liberties Union Foundation, Inc.: 915 15th Street NW, Washington D.C. 20005	

Certification of Local Associate Counsel

I certify that I have read and join the foregoing Certification and acknowledge and agree to observe the requirements of this Court as related to the participation and responsibilities of local associate counsel.

/s/ Lynette Labinger _____ Signature	Rhode Island Bar Number 1645
	Date: 10/22/2025



State of Rhode Island Judiciary

Client Certification

Case Number
SU-2024-0387-MP

- ☒ Supreme Court ☐ Superior Court ☐ Family Court ☐ District Court
☐ Workers' Compensation Court ☐ Rhode Island Traffic Tribunal
County - ☐ Providence/Bristol ☐ Washington ☐ Kent ☐ Newport
☐ 6th Division ☐ 4th Division ☐ 3rd Division ☐ 2nd Division

I, Cecillia Wang, certify that:

1. I am ~~the Plaintiff/Defendant or an authorized representative of a corporate or business entity which is the Plaintiff/Defendant in this case;~~ proposed *amici curiae* American Civil Liberties Union;

2. I am aware that Attorney Matthew Segal is not a member of the Rhode Island bar, but that Attorney Matthew Segal has applied for permission to appear in this case on my behalf;

3. I am also aware that, if Attorney Matthew Segal is permitted to appear in this case, I will also be required to engage a co-counsel and pay for the services of a attorney who is a member of the Rhode Island bar;

4. I am also aware that the Rhode Island attorney engaged must be fully prepared to assume complete responsibility for the case at any time, and may be required to conduct the trial, hearing, or appeal in this case on my behalf (or on behalf of the corporate or business entity);

5. Having been advised of the matters set forth above, I support the request of Attorney Matthew Segal to be permitted to appear in this case on my behalf (or on behalf of the corporate or business entity), in accordance with the rules of this Court and of the Supreme Court of the State of Rhode Island.

Addison Ball, *Addison Ball*
Witness

Oct. 20, 2025
Date

Cecillia D. Wang for
Client Name *American Civil Liberties Union*

[Signature]
Client Signature



State of Rhode Island Judiciary

Client Certification

Case Number
SU-2024-0387-MP

- ☒ **Supreme Court** ☐ **Superior Court** ☐ **Family Court** ☐ **District Court**
☐ **Workers' Compensation Court** ☐ **Rhode Island Traffic Tribunal**
County - ☐ Providence/Bristol ☐ Washington ☐ Kent ☐ Newport
☐ 6th Division ☐ 4th Division ☐ 3rd Division ☐ 2nd Division

I, STEVEN BROWN, certify that:


1. I am the ~~XXXXXX/XXXXXX/XXXXXX~~ Plaintiff/Defendant of an authorized representative of a corporate or business entity which is the ~~XXXXXX/XXXXXX/XXXXXX~~ Plaintiff/Defendant in this case; proposed amicus curiae American Civil Liberties Union of Rhode Island

2. I am aware that Attorney Matthew Segal is not a member of the Rhode Island bar, but that Attorney Matthew Segal has applied for permission to appear in this case on my behalf;

3. I am also aware that, if Attorney Matthew Segal is permitted to appear in this case, I will also be required to engage a co-counsel and pay for the services of a attorney who is a member of the Rhode Island bar;

4. I am also aware that the Rhode Island attorney engaged must be fully prepared to assume complete responsibility for the case at any time, and may be required to conduct the trial, hearing, or appeal in this case on my behalf (or on behalf of the corporate or business entity);

5. Having been advised of the matters set forth above, I support the request of Attorney Matthew Segal to be permitted to appear in this case on my behalf (or on behalf of the corporate or business entity), in accordance with the rules of this Court and of the Supreme Court of the State of Rhode Island.


Witness

10/21/2025
Date

American Civil Liberties Union of RI by
Steven Brown
Client Name Steven Brown, Exec.Dir.


Client Signature