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Attorneys for Proposed Intervenor
Ronald L. Greenblatt, Esquire

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA and LORRAINE HAW,	:COMMONWEALTH COURT OF PENNSYLVANIA
Petitioners,	
v.	: ORIGINAL JURISDICTION
	No. 578 MD 2019
KATHY BOOCKVAR, THE ACTING SECRETARY OF THE COMMONWEALTH,	
Respondent.	

APPLICATION FOR LEAVE TO
INTERVENE PURSUANT TO PA. R.A.P. 1531

Proposed lntervenor Ronald L. Greenblatt, Esquire, respectfully requests this Court grant him leave to intervene as a Respondent in this case pursuant to Pennsylvania Rules of Appellate Procedure 153l(b). Specifically, Mr. Greenblatt seeks leave to intervene in the Preliminary Injunction Proceedings in this matter, which is currently scheduled for hearing before this Court on October 23, 2019. In further support of his Petition, Mr. Greenblatt states as follows:

1. The instant action was filed by Petitioners seeking to enjoin a ballot question, scheduled to be placed before the voters on the November 5, 2019 general election ballot, that violated Article XI, § 1's constitutional mandate that "[w]hen two or more amendments shall be submitted they shall be voted upon separately." Pa. Const. art. XI, § 1.

2. The ballot question asks voters to accept or reject the proposed constitutional amendment known as Joint Resolution 2019-1, or Marsy's Law. The amendment would create fifteen new constitutional rights for crime victims that must be enforced to the same degree as the constitutional rights of the accused in criminal court proceedings. The amendment would allow victims or prosecutors to seek a court order to enforce these new constitutional rights and would empower the General Assembly to pass laws to define and implement these new rights.

3. Petitioners seek through their request for a preliminary junction that the constitutional amendment not go into effect until the Court determines whether the challenged ballot question complies with Article XI, § 1's separate vote requirement, and is otherwise legally valid.

4. Mr. Greenblatt is a criminal defense attorney, whose representation of his clients will be severely, and negatively, impacted if the requested injunction is not granted. He therefore has a real and direct interest in this controversy, and seeks to intervene on that basis.

5. Mr. Greenblatt is the managing partner of Greenblatt, Pierce, Funt and Flores, LLC, and is one of the most respected and sought-after attorneys in Pennsylvania and New Jersey. Mr. Greenblatt has successfully litigated over 1,000 criminal trials.

6. Since the age of 20, Mr. Greenblatt has sought to protect the rights of men and women accused of criminal wrongdoing. In 1981, he became one of the youngest union shop stewards in U.S. history when he was elected union shop steward for New Jersey Restaurant Local

54 (now Local 33). In this position, he fought grievances brought against his fellow union members and filed grievances on behalf of union members. Upon his graduation from law school, Mr. Greenblatt joined the Defender Association of Philadelphia. There, he handled the defense and trials of hundreds of accused men and women and was one of only two lawyers appointed to the prestigious Special Defense Unit (SDU).

7. Today, after 25 years of practice, Mr. Greenblatt is one of the leaders of the criminal defense bar in both Pennsylvania and New Jersey and he is highly engaged in service to the profession. He is the immediate past chairperson of the Philadelphia Chapter of the Pennsylvania Association of Criminal Defense Lawyers and still serves on its executive committee. He is a founding member and Master of the Philadelphia Inn of Criminal Court, where he is on the executive committee, planning committee and serves as secretary. He is also a member of the executive committee of the Defender Association of Philadelphia Alumni Association and an active member of the Association of Criminal Defense Lawyers of New Jersey, the Philadelphia Bar Association, and the Camden County Bar Association.

8. Mr. Greenblatt is regularly asked to lecture to judges as well as to other criminal defense lawyers, new prosecutors and Rutgers and Temple law students on adult and juvenile criminal law subjects.

9. Mr. Greenblatt is extensively engaged in defending persons accused of crimes. Mr. Greenblatt's representation of such defendants will be severely hampered if the ballot question is not enjoined. In particular, not granting the injunction will, in the event that the proposed amendment is passed and goes into immediate legal effect, create a great deal of uncertainty and confusion during the pendency of the litigation. Without an injunction, even if Petitioners are

ultimately successful regarding the legal invalidity of the proposed amendment, there will be an indeterminate period of time when , for instance,

- no public proceeding can occur until after reasonable notice to all victims (including preliminary arraignment) and allowance for the right "to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon";
- no victim has to respond to any discovery or subpoena from the defense; and
- proceedings, including cross examination, may be curtailed by the victim's right "to be treated with fairness and respect for the victim's safety, dignity and privacy"

10. As a person whose livelihood depends on the representation of criminal defendants, it would be extremely difficult for Mr. Greenblatt to effectively and competently represent clients while it is unclear whether Marsy's Law will be permanent or not. Do you delay a trial, hoping to get back the right to subpoena witnesses and evidence? What do you tell clients who are in jail awaiting a bail reduction motion or any other hearing, about when their case will move forward? Does the government suddenly have a lot more leverage in a plea? These, and many as yet-unknown questions will suddenly become matters of utmost concern and uncertainty in the event that the amendment becomes law, even if only on a temporary basis.

11. The uncertainty would also be a problem for prosecutors, judges, and others involved in the criminal justice system. If Marsy's Law goes into effect, but is subsequently found to be unconstitutional and invalid, this will place into doubt the validity of most, if not all, criminal convictions obtained during the interim period whose rights and criminal process were affected by Marsy's Law requirements. This will open the floodgates to potentially thousands of appeals from convicted defendants. Such appeals would be readily avoided by granting the requested injunction

preventing the amendment from going into effect until its legal validity has been finally determined.

12. Very simply, it would nearly impossible for Mr. Greenblatt, and other similarly-situated criminal defense attorneys, to represent clients during any period of uncertainty about whether Marsy's Law applies and how long it will apply.

13. For these reasons, it would cause Mr. Greenblatt and his clients irreparable harm if the proposed injunction is not granted and Marsy's Law goes into effect.

14. If permitted to intervene, Mr. Greenblatt will file the attached Brief in support of the requested preliminary injunction (Exhibit A hereto), and will also join in Petitioners' Application and supporting Brief. He will also, if permitted, offer his testimony at the scheduled October 23, 2019 hearing on Petitioners' Application, and hereby so requests. Mr. Greenblatt respectfully submits that his evidence and argument regarding the severe harm that will befall him in his professional responsibilities, and his clients and other criminal defendants, as well as the courts and criminal justice system, should the injunction not be granted, will provide valuable and insightful guidance to the Court, based on many years of experience representing defendants

15. Granting this Application would not cause any prejudice to the other parties to the case, or to the orderly administration of justice. Mr. Greenblatt filed this Application on October 18, 2019, a mere eight days after Petitioners filed their Petition for Review addressed to this Court's original jurisdiction, and accompanying Application for Special Relief in the Form of a Preliminary Injunction under Pa. R.A.P. 1532. Moreover, granting this Application will not delay the scheduled hearing.

WHEREFORE, for the foregoing reasons, Proposed lntervenor Ronald L. Greenblatt, Esquire, respectfully requests this Court grant him leave to intervene as a Respondent in this case.

Respectfully submitted,

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Attorneys for Proposed Intervenor
Ronald L. Greenblatt, Esquire

Dated: October 18, 2019

VERIFICATION

I, Ronald L. Greenblatt, Esquire, hereby state that the facts set forth in the accompanying Application and supporting Brief are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter.

I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Ronald L. Greenblatt, Esquire
Proposed Intervenor

Dated: October 18, 2019

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LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA and LORRAINE HAW, Petitioners, v. KATHY BOOCKVAR, THE ACTING SECRETARY OF THE COMMONWEALTH, Respondent.	:COMMONWEALTH COURT OF PENNSYLVANIA : ORIGINAL JURISDICTION No. 578 MD 2019

INTERVENOR RONALD L. GREENBLATT'S BRIEF IN SUPPORT OF APPLICATION FOR SPECIAL RELIEF IN THE FORM OF A PRELIMINARY INJUNCTION UNDER PA. R.A.P. 1532 OF PETITIONERS LEAGUE OF WOMEN VOTERS AND LORRAINE HAW

lntervenor Ronald L. Greenblatt, Esquire, respectfully joins in the Application for Special Relief in the Form of a Preliminary Injunction under Pa. R.A.P. 1532 filed by Petitioners League of Women Voters and Lorraine Haw, and Petitioners' supporting Brief, and submits this additional supporting Brief in favor of the requested injunction.

A. STATEMENT OF THE CASE

The instant original jurisdiction action was filed by Petitioners on October 10, 2019, challenging the constitutionality of a ballot question that is scheduled to be placed before the voters on the November 5, 2019, general election ballot. The ballot question asks voters to accept or reject the proposed constitutional amendment known as Joint Resolution 2019-1, or Marsy's Law. The amendment would create fifteen new constitutional rights for crime victims that must be enforced to the same degree as the constitutional rights of the accused in criminal court proceedings. The amendment would allow victims or prosecutors to seek a court order to enforce these new constitutional rights and would empower the General Assembly to pass laws to define and implement these new rights.

Among other legal defects, Petitioners claim that the ballot question would violate Article XI, § 1's constitutional mandate that "[w]hen two or more amendments shall be submitted they shall be voted upon separately." Pa. Const. art. XI, § 1. Petitioners seek through their request for a preliminary junction that the constitutional amendment not go into effect until the Court determines whether the challenged ballot question complies with Article XI, § 1's separate vote requirement, and is otherwise legally valid.

The Court has scheduled a hearing on the requested preliminary injunction for October 23, 2019.

Mr. Greenblatt, simultaneously with submitting this Brief, has sought leave to intervene in the action and, specifically, in the injunction proceedings. Mr. Greenblatt is a criminal defense attorney, whose representation of his clients will be severely, and negatively, impacted if the requested injunction is not granted. He therefore has a real and direct interest in this controversy, and seeks to intervene on that basis.

B. QUESTION PRESENTED

If the requested injunction is not granted, will the constitutional amendment at issue, and the uncertainty of its legal validity pending a final resolution on the merits, cause irreparable harm to Mr. Greenblatt and his clients by preventing him from effectively representing his clients accused of criminal wrongdoing, and concomitantly cause irreparable harm to other criminal defense attorneys, criminal defendants, Pennsylvania's criminal justice system as a whole, and the courts of this Commonwealth?

(Suggested answer: Yes.)

C. ARGUMENT

THE FAILURE TO GRANT THE PRELIMINARY INJUNCTION WILL CAUSE IRREPARABLE INJURY TO INTERVENOR, HIS CLIENTS, AND OTHERS, AND GREATER INJURY WOULD RESULT FROM REFUSING THE REQUESTED INJUNCTION, WHICH SEEKS MERELY TO PRESERVE THE STATUS QUO, THAN GRANTING IT.

The standards for seeking a preliminary injunction are well-settled. Two of these requirements relate to the harm flowing from a failure to grant the injunction. First, a party seeking a preliminary injunction must show that an injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages. *Summit Towne Centre, Inc. v. Shoe Show of Rocky Mount, Inc.*, 828 A.2d 995, 1001 (Pa. 2003). Second, the party must show that greater injury would result from refusing an injunction than from granting it. *Id.* Both of these requirements are amply met here.

Mr. Greenblatt, respectfully, by virtue of his extensive experience, is well-positioned to present to the Court the reasons why refusal of the injunction would cause irreparable harm to criminal defense attorneys and their clients, as well as the justice system and courts; and how that harm substantially outweighs any conceivable harm from granting the injunction. He will appear

at the hearing scheduled for October 23, 2019, and is prepared to testify consistent with the following, and respectfully requests that he be granted permission to do so.

Mr. Greenblatt is the managing partner of Greenblatt, Pierce, Funt and Flores, LLC, and is one of the most respected and sought-after attorneys in Pennsylvania and New Jersey. Mr. Greenblatt has successfully litigated over 1,000 criminal trials.

Since the age of 20, Mr. Greenblatt has sought to protect the rights of men and women accused of criminal wrongdoing. In 1981, he became one of the youngest union shop stewards in U.S. history when he was elected union shop steward for New Jersey Restaurant Local 54 (now Local 33). In this position, he fought grievances brought against his fellow union members and filed grievances on behalf of union members. Upon his graduation from law school, Mr. Greenblatt joined the Defender Association of Philadelphia. There, he handled the defense and trials of hundreds of accused men and women and was one of only two lawyers appointed to the prestigious Special Defense Unit (SDU).

Today, after 25 years of practice, Mr. Greenblatt is one of the leaders of the criminal defense bar in both Pennsylvania and New Jersey and he is highly engaged in service to the profession. He is the immediate past chairperson of the Philadelphia Chapter of the Pennsylvania Association of Criminal Defense Lawyers and still serves on its executive committee. He is a founding member and Master of the Philadelphia Inn of Criminal Court, where he is on the executive committee, planning committee and serves as secretary. He is also a member of the executive committee of the Defender Association of Philadelphia Alumni Association and an active member of the Association of Criminal Defense Lawyers of New Jersey, the Philadelphia Bar Association, and the Camden County Bar Association.

Mr. Greenblatt is regularly asked to lecture to judges as well as to other criminal defense lawyers, new prosecutors and Rutgers and Temple law students on adult and juvenile criminal law subjects.

Mr. Greenblatt is extensively engaged in defending persons accused of crimes. Mr. Greenblatt's representation of such defendants will be severely hampered if the ballot question is not enjoined. In particular, not granting the injunction will, in the event that the proposed amendment is passed and goes into immediate legal effect, create a great deal of uncertainty and confusion during the pendency of the litigation.

Aspects of the amendment itself will severely limit Mr. Greenblatt's ability to effectively represent his clients. For instance, the amendment would eliminate the ability of Mr. Greenblatt to subpoena witnesses to court to obtain critical documents. As an example, contents of cell phones and text messages are often extremely critical in defending persons accused of sexual offenses. The inability to obtain such evidence would have a devastating effect on Mr. Greenblatt's ability to defend such cases, and would constitute an unconscionable restriction on the right of the accused in such cases to prepare and present a meaningful and effective defense.

The amendment additionally provides that no public proceeding can occur until after reasonable notice to all victims (including preliminary arraignment) and allowance for the right "to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon." This will have the inevitable effect of lengthening criminal proceedings in general, to their clear prejudice, especially as to persons who are in jail awaiting trial. Other jurisdictions that have passed similar laws have experienced such problems. The increased length and complexity of criminal proceedings will also result in increased defense costs to defendants, which will in many instances prevent defendants from hiring

private defense counsel. This will inevitably result in an increased burden being placed on public defender's offices.

The amendment's provisions also require victims to be treated "with fairness and respect for the victim's safety, dignity and privacy." While this sounds well in theory, the wording is extremely vague, and will almost certainly create problems regarding the permissible scope of cross-examination of victims at trial, thereby further hampering the ability of my clients, and criminal defendants in general, to have a full and complete defense.

These are but a few examples of the impairment of rights that will result from the amendment. Equally important for purposes of the requested injunction, if not more so, are the problems that will be caused by the *uncertainty* of the legal validity of the amendment if the injunction is not granted.

As a person whose livelihood depends on the representation of criminal defendants, it would be extremely difficult for Mr. Greenblatt to effectively and competently represent clients while it is unclear whether Marsy's Law will be permanent or not. For instance, he will have to determine, and advise his clients, whether to delay a trial, with the hope that the right to subpoena victims to be able to obtain critical evidence is restored. He will have to determine how best to advise clients who are in jail awaiting a bail reduction motion or any other hearing about when their case will move forward. Extremely critically, due to the constraints to mounting an effective defense contained in the amendment, the government may suddenly have much greater leverage in a plea negotiation, and Mr. Greenblatt will have to advise clients whether to accept a plea under such circumstances, or proceed to trial with the hope that, if a conviction is obtained, it will be reversed on appeal due to the constitutional defects in Marsy's Law. These, and many as yet-

unknown issues will suddenly become matters of utmost concern and uncertainty in the event that the amendment becomes law, even if only on a temporary basis.

The uncertainty would also be a severe problem for prosecutors, judges, and others involved in the criminal justice system. If Marsy's Law goes into effect, but is subsequently found to be unconstitutional and invalid, this will place into doubt the validity of most, if not all, criminal convictions obtained during the interim period whose rights and criminal process (including pretrial motions) were affected by Marsy's Law requirements. This will open the floodgates to potentially thousands of appeals from convicted defendants, causing chaos in the criminal justice system on a statewide basis. Such a result would be readily avoided by granting the requested injunction preventing the amendment from going into effect until its legal validity has been finally determined.

Very simply, it would nearly impossible for Mr. Greenblatt, and other similarly-situated criminal defense attorneys, to represent clients during any period of uncertainty about whether Marsy's Law applies and how long it will apply. For these reasons, it would cause Mr. Greenblatt, and his clients, irreparable harm if the proposed injunction is not granted and Marsy's Law goes into effect.

Moreover, refusing the injunction would cause far more harm to Intervenor, Petitioners, and others than any conceivable harm granting it would cause to Respondents or other persons. It must be remembered that Marsy's Law would create *new* rights for victims that presently do not exist, and have never existed, and granting the injunction will therefore not eliminate or lessen *any* existing rights of victims, while allowing it to go into effect will instantly eliminate *existing, longstanding* rights of criminal defendants. Preventing Marsy's Law going into effect will merely keep the status quo as it has existed for many years while the ultimate constitutionality of the

amendment is determined. A short delay while this important issue is thoroughly considered and decided by the Courts of this Commonwealth could not cause any conceivable harm to Respondent or others, and the potential harm of granting the injunction therefore far outweighs the clear and lasting harm that would be caused by its refusal.

D. CONCLUSION

For the foregoing reasons, lntervenor Ronald L. Greenblatt, Esquire, respectfully requests this Court grant the requested preliminary injunction.

Respectfully submitted,

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Attorneys for Proposed Intervenor
Ronald L. Greenblatt, Esquire

Dated: October 18, 2019

PUBLIC ACCESS POLICY CERTIFICATE OF COMPLIANCE

It is hereby certified by the undersigned that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

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Dated: October 18, 2019

CERTIFICATE OF SERVICE

I, Michael E. Gehring, Esq., hereby certify that on this date, I caused a true and correct copy of the foregoing Application to Intervene to be served upon the following and in the manner indicated below:

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