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Carmen Ann Loniewski and Christopher Trahan,
Plaintiffs,

v.

State of New Jersey, New Jersey State Parole Board, Gurbir S. Grewal, individually and in his official capacity, Matthew J. Platkin, individually and in his official capacity, Samuel J. Plumeri, Jr., individually and in his official capacity, Robert M. Goodale, individually and in his official capacity, Robert H. Balicki, individually and in his official capacity, Kerri Cody, individually and in her official capacity, Allen DeVento, individually and in his official capacity, Thomas Haaf, individually and in his official capacity, James B. Jefferson, individually and in his official capacity, Charlie Jones, individually and in his official capacity, Julio Marengo, individually and in his official capacity, Robert Riccardella, individually and in his official capacity, Ronald L. Slaughter, individually and in his official capacity, Trudy M. Steinhardt, individually and in her official capacity, Clarence K. Taylor, individually and in his official capacity, John Paitakes, individually and in his official capacity, Kenneth L. Saunders, individually and in his official capacity, Steven T. Yglesias, individually and in his official capacity, Steven Tallard, individually and in his official capacity, Senior Parole Officer Alicia Grippaldi, individually and in her official capacity, Lieutenant Raquel Ortiz, individually and in her official capacity, John and Jane Does (1-10), individually and in their official capacities,
Defendants.

Superior Court of New Jersey
Law Division – Mercer County
Civil Part

Docket No.: _____

CIVIL ACTION
COMPLAINT

Plaintiffs Carmen Ann Loniewski and Christopher Trahan, by their undersigned counsel, brings this civil action for declaratory judgment, as well as compensatory, consequential and punitive damages, against defendants in their official and individual capacities. Plaintiffs allege the Defendants violated the Plaintiffs' clearly established constitutional rights and inflicted economic harm upon the Plaintiffs by their grossly negligent acts of commission and omission, by their deliberate indifference to Plaintiffs' constitutional rights or the economic harm inflicted, by their false arrest and imprisonment of Ms. Loniewski. The acts of commission and omission alleged to have been committed by the Defendants additionally include Defendants' failure to adequately and properly train and supervise associate members of the New Jersey State Parole Board, as well as parole officers, supervisors, and hearing officers employed by the New Jersey State Parole Board, as to Plaintiffs' clearly established First Amendment Rights pursuant to the United States Constitution, resulting in the deprivation thereof Ms. Loniewski's constitutional rights, and the subsequent unlawful confinement of Ms. Loniewski for exercising those protected rights. Additionally, Defendants' failure to properly train and supervise associate members, parole officers, supervisors, and hearing officers with regard to those rights, was the proximate cause of the deprivation of Plaintiffs' rights, and of the economic damage inflicted on the plaintiffs, by virtue of unconstitutionally depriving Plaintiff Carmen Loniewski of her freedom for 365 days. Plaintiffs seek relief pursuant to the New Jersey Civil Rights Act (N.J.S.A. 10:6-1 to -2) and the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 to 12-1).

Plaintiffs allege the following upon information and belief by way of Complaint against the above-named defendant.

I. PARTIES

1. Plaintiff Carmen Ann Loniewski (hereinafter Ms. Loniewski), [REDACTED] resides at [REDACTED] New Jersey 08030, situated in Camden County. Pursuant to N.J.S.A. 2C:43-6.4(a), Ms. Loniewski is subject to Parole Supervision for Life, and is under the supervision of the New Jersey State Parole Board and subject to the conditions of parole imposed by that body and enforced by the Division of Parole.

2. Plaintiff Christopher Trahan, hereinafter Mr. Trahan [REDACTED] resides at [REDACTED] [REDACTED] New Jersey 08030, situated in Camden County, and is the spouse of Ms. Loniewski, with whom Ms. Loniewski resides.

3. Defendant State of New Jersey is vicariously liable for the acts of commission and omission of Defendants Grewal, Platkin, Plumeri, Goodale, Balicki, Cody, DelVento, Haaf, Jefferson, Jones, Marengo, Riccardella, Slaughter, Steinhardt, Taylor, Paitakes, Saunders, Yglesias, Tallard, Grippaldi, and Ortiz, and is hereby sued pursuant to the New Jersey Tort Claims Act under the doctrine of respondeat superior, for compensatory and consequential damages.

4. The New Jersey State Parole Board (hereinafter "NJSPB"), an entity of the State of New Jersey, is vicariously liable for the acts of commission and omission of Defendants Grewal, Platkin, Plumeri, Goodale, Balicki, Cody, DelVento, Haaf, Jefferson, Jones, Marengo, Riccardella, Slaughter, Steinhardt, Taylor, Paitakes, Saunders, Yglesias, Tallard, Grippaldi, and Ortiz, and is hereby sued pursuant to the New Jersey Tort Claims Act under the doctrine of respondeat superior, for compensatory and consequential damages.

5. Defendant Gurbir Grewal, was, at all times relevant to this Complaint, Attorney General for the State of New Jersey, responsible for interpreting law for State agencies and entities and for advising State agencies and entities as to the obligations and limitations under the law, as well as for the training of law enforcement officers of the State of New Jersey including associate members of the NJSPB, parole officers, supervisors, hearing officers, employed by the NJSPB. General Grewal is sued in his official capacity for declaratory judgment pursuant to the Tort Claims Act (N.J.S.A. 59:1-1 to 12-1: hereinafter "TCA"), and the New Jersey Civil Rights Act (N.J.S.A. 10:6-1 to -2: hereinafter NJCRA), and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

6. Defendant Matthew J. Platkin, is the Acting Attorney General for the State of New Jersey, responsible for interpreting law for State agencies and entities and for advising State agencies and entities as to the obligations and limitations under the law, as well as for the training

of law enforcement officers of the State of New Jersey including associate members of the NJSPB, parole officers, supervisors, hearing officers, employed by the NJSPB. Defendant Grewal is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

7. Defendant Samuel J. Plumeri, Jr., is, at all times relevant to this complaint, the Chairman of the NJSPB and is responsible for the training and supervision of associate members of the NJSPB and parole officers, supervisors, and hearing officers of the NJSPB. Defendant Plumeri is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

8. Defendant Robert H. Balicki, was, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Balicki is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

9. Defendant Kerri Cody, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Cody is sued in her official capacity for declaratory judgment pursuant to the TCA, FCRA, and NJCRA, and is sued in her individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

10. Defendant Allen DeVento, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant DeVento is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

11. Defendant Thomas Haaf, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Haaf is sued in his official capacity for declaratory judgment

pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

12. Defendant James B. Jefferson, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Jefferson is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

13. Defendant Charlie Jones, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Jones is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

14. Defendant Julio Marengo, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Marengo is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

15. Defendant Robert Riccardella, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Riccardella is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

16. Defendant Ronald L. Slaughter, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Slaughter is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

17. Defendant Trudy M Steinhardt, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Steinhardt is sued in her official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in her individual capacity for

compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

18. Defendant Clarence K. Taylor, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Taylor is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

19. Defendant John Paitakes, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Paitakes is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

20. Defendant Kenneth L. Saunders, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Saunders is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

21. Defendant Steven T. Yglesias, is, at all times relevant to this complaint, an associate member of the NJSPB. Defendant Yglesias is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

22. Defendant Steven Tallard, is, at all times relevant to this complaint, the Executive Director of the NJSPB and is responsible for the training and supervision of parole officers, supervisors, and hearing officers of the NJSPB. Defendant Tallard is sued in his official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in his individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

23. Defendant Alicia Grippaldi is a Senior Parole Officer who, at all times relevant to this complaint, was employed by the NJSPB and was responsible for supervising Plaintiff Carmen

Loniewski, and ultimately arresting and detaining her for alleged violations of unconstitutional conditions of parole supervision. Defendant Grippaldi is sued in her official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in her individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

24. Defendant Raquel Ortiz is a Lieutenant and District Supervisor who, at all times relevant to this complaint, was employed by the NJSPB and was responsible for supervising Senior Parole Officer Alicia Grippaldi, and was further responsible for signing the parole warrant authorizing the arrest and detention of Plaintiff Carmen Loniewski for alleged violations of unconstitutional conditions of parole supervision. Defendant Ortiz is sued in her official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in her individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

25. Defendants John and Jane Doe(s) (1-10) are appointed officers or employees of the Office of the Attorney General, the Department of Law and Public Safety, the Division of Law, or the NJSPB and are or were, at all times relevant to this complaint, responsible for the training and/or supervision of associate members of the NJSPB, parole officers, supervisors, and hearing officers employed by the NJSPB. Defendants John and Jane Doe(s) (1-10) are sued in their official capacity for declaratory judgment pursuant to the TCA and NJCRA, and is sued in her individual capacity for compensatory and consequent damages under the TCA and NJCRA, and for punitive damages under the NJCRA.

26. The State of New Jersey may be served at Office of the Attorney General, Richard J. Hughes Justice Complex, 25 Market St., Trenton, New Jersey, 08611.

27. The New Jersey State Parole Board may be served at 171 Jersey Street, Building #2, P.O. Box 862, Trenton, Mercer County, New Jersey, 08625

28. Defendant Grewal is located at the [REDACTED]

29. Defendant Platkin is located at the Office of the Attorney General, Richard J. Hughes Justice Complex, 25 Market St., Trenton, New Jersey, 08611.

30. Defendants Plumeri, Jr., Goodale, Balicki, Cody, DeIVento, Haaf, Jefferson, Jones, Marengo, Riccardella, Slaughter, Steinhardt, Taylor, Paitakes, Saunders, Yglesias, Grippaldi, and Ortiz are located at: 171 Jersey Street, Building #2, P.O. Box 862, Trenton, Mercer County, New Jersey, 08625.

31. Defendant Tallard is located at [REDACTED]

32. The locations of John and Jane Doe(s) (1-10) are unknown at this time.

33. For the sake of brevity, Defendants Goodale, Balicki, Cody, DeIVento, Haaf, Jefferson, Jones, Marengo, Riccardella, Slaughter, Steinhardt, Taylor, Paitakes, Saunders, Yglesias, and Defendant Plumeri when acting as a member of the Full Adult Panel, shall be referenced herein as “Defendant Board Members”, and which reference shall be as if each Defendant was identified by name.

34. Defendants Grewal, Platkin, Plumeri, Goodale, Balicki, Cody, DeIVento, Haaf, Jefferson, Jones, Marengo, Riccardella, Slaughter, Steinhardt, Taylor, Paitakes, Saunders, Yglesias, Tallard, Grippaldi, and Ortiz are being sued in their individual capacities as employees of the State of New Jersey acting under the color of state law.

II. JURISDICTION

35. This is a civil action authorized by N.J.S.A. 10:6-2 and N.J.S.A. 59:1 to -12, for declaratory judgment in their official capacity, as well as award compensatory, consequential, and punitive damages, as permitted by law, against Defendants in their individual capacities, to address the deprivation, under color of state law, of rights, privileges and immunities secured by the Constitution of the State of New Jersey.

36. This Court has jurisdiction pursuant to N.J.S.A. 10:6-2, N.J.S.A. 59:9-1, and directly under the Constitution of the State of New Jersey.

37. Declaratory relief is authorized pursuant to N.J.S.A. 2A:16-52 and 16-53.

38. Monetary damages are authorized by N.J.S.A. 10:6-2 and N.J.S.A. 59-3.

39. Recovery for Plaintiffs' attorney fees is authorized by N.J.S.A. 10:6-2, 59:9-5 and 4:42-8.

40. Venue is proper in this county pursuant to Rule 4:3-2 because the events giving rise to this action occurred within this county and defendants hold a statewide office.

III. GENERAL FACTS

A. IMPOSITION OF UNCONSTITUTIONAL CONDITIONS OF SUPERVISION ON PLAINTIFF CARMEN LONIEWSKI

41. On August 19, 2005, Ms. Loniewski was convicted of one count of violating N.J.S.A. 2C:24-4(a), which conviction triggered the imposition of Parole Supervision for Life (PSL: N.J.S.A. 2C:43-6.4). In addition to the imposition of PSL, the trial court sentenced Ms. Loniewski to a five-year term of incarceration (suspended), and assessed fees in the amount of \$1,550.

42. Ms. Loniewski's conviction offense did not involve the use of social media or the Internet to gain access to her victim or to groom her victim; nor did her offense involve the use of pornography.

43. Pursuant to N.J.S.A. 30:4-123.51b(c), "all persons sentenced to a term of parole supervision for life ... shall, during the term of parole supervision, remain in the legal custody of the Commissioner of Corrections, be supervised by the Division of Parole of the State Parole Board, and be subject to the provisions and conditions set by the appropriate board panel" See also N.J.A.C. 10A:71-6.12(c)-(d).

44. Pursuant to N.J.S.A. 30:4-123.48(d), "The board shall promulgate reasonable rules and regulations, consistent with this act, as may be necessary for the proper discharge of its responsibilities. ... In determination of its rules and regulations concerning policy and administration, the board shall consult the Governor and the Commissioner of Corrections."

45. Pursuant to N.J.S.A. 30:4-123.47(d), in addition to assigning associate board members to panels, “[t]he chairman of the board shall be a member of each panel [on adult sentences].”

46. On November 29, 2007, the New Jersey State Parole Board (hereinafter “NJSPB”) voted unanimously to impose a general condition of supervision on individuals subject to PSL, barring them from using or accessing social media or social networking sites on the Internet (hereinafter “social media ban”).

47. On January 23, 2008, the NJSPB imposed on Ms. Loniewski a parole condition banning her from accessing a social media service or chat room (the “social media ban”), which condition read as follows:

I shall refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room (including but not limited to MySpace, Facebook, Match.com, Yahoo 360) in my own name or any other name for any reason unless expressly authorized by the District Parole Supervisor.

48. On or about June 16, 2008, the State Parole Board adopted amendments to N.J.S.A. 2C:71-6.12(d) (R. 2008, d. 168, eff. Jun. 16, 2008) codifying the *social media ban*, and creating a new general condition of supervision applicable to all supervisees subject to PSL, which stated:

25. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the District Parole Supervisor.

i. "Chat room," as used in this paragraph, means any Internet website through which users have the ability to communicate via messaging and which allows messages to be visible to all users or to a designated segment of users.

ii. "Internet website or application," as used in (d)23iv below, means an Internet website or application that allows users, through the creation of Internet web pages or profiles or other similar means, to provide personal information to the public or other users of the Internet website or application, and facilitates online social interactions by offering a mechanism for communication with other users of the Internet website or application. An Internet application shall include any program utilized in conjunction with a mobile or electronic device that permits access to a social networking service.

iii. "Peer-to-peer network," as used in (d)23iv below, means a connection of computer systems whereby files are shared directly between the systems on a network without the need of a central server.

iv. "Social networking service," as used in this paragraph, includes any Internet website or application, chat room, or peer-to-peer network, that:

(1) Contains profile pages of the members of the social networking service that include the names or nicknames of such members, photographs placed on the profile pages by such members, or any other personal or personally identifying information about such members and links to other profile pages on social networking service of friends or associates of such members that can be accessed by other members of or visitors to the social networking service;

(2) Provides members of or visitors to such social networking service the ability to leave messages or comments on the profile page that are visible to all or some visitors to the profile page;

(3) Provides members of or visitors to the social networking service the ability to engage in direct or real time communication with other users, such as a chat room or instant messenger; or

(4) Provides a form of electronic mail for members or visitors to the social networking service. For the purpose of this definition, social networking service does not include the use of e-mail exclusively for person to person communication.

N.J.A.C. 10A:71-6.12(d)(25) (repealed 53 N.J.R. 1383(b), R. 2021 d.090, eff. Aug. 16, 2021)

49. On May 13, 2009, the NJSPB imposed an additional special condition of parole, prohibiting Ms. Loniewski from viewing sexually-oriented material (hereinafter "sexually-oriented material ban").

50. The special condition described the prohibited material in extremely broad terms that encompass items that are neither obscene nor pornographic, and which are thus protected under the First Amendment of the United States Constitution and the New Jersey Constitution, art. I, ¶

6. The *sexually-oriented material ban* provided as follows:

I am to refrain from viewing or possessing a picture, photograph, negative, film, movie, videotape, DVD, CD, DC-ROM, streaming video, computer generated or virtual image or **other representation, publication**, sound recording or live performance that is predominately orientated to descriptions of sexual activity.

For the purpose of this special condition, sexual activity means **actual** or **simulated** ultimate sexual acts including sexual intercourse, oral sex, masturbation or bestiality.

For the purpose of this special condition, a picture, photograph, negative, film, movie, videotape, DVD, CD, DC-ROM, streaming video, computer generated or virtual image or other representation, publication, sound recording or live performance shall not be

considered predominately orientated to the description or depiction of sexual activity unless the medium features or contains such descriptions or depictions on a routine or regular basis or promotes itself based upon such description or depictions. [Emphasis added]

51. The rationale provided for imposing this condition was the finding by a parole officer, during a routine search of Ms. Loniewski's residence (which she shares with Mr. Trahan), of what the parole officer considered "excessive amounts" of adult pornographic material, as well as nude photographs of Ms. Loniewski. Based on those conclusions, the parole officer determined that Ms. Loniewski was "exhibiting inappropriate sexual behavior."

52. There is no evidence in the records of Ms. Loniewski's supervision that a professional with expertise in human sexuality and sexual offending was consulted by parole before the imposition of this condition, to determine whether Ms. Loniewski's behavior was, indeed, "inappropriate."

53. There was never an allegation that Ms. Loniewski had ever possessed or viewed items depicting the sexual exploitation of children or that adult pornography or sexually-oriented materials were used by Ms. Loniewski in the commission of her crime.

B. BLANKET RESTRICTIONS ON FIRST AMENDMENT RIGHTS OF INDIVIDUALS WITH SEX OFFENSE CONVICTIONS ARE UNCONSTITUTIONAL

54. On June 19, 2017, the United States Supreme Court issued its decision in Packingham v. North Carolina, 137 S.Ct. 1730 (2017) striking down as unconstitutional a North Carolina law that banned individuals with sex offense convictions from accessing social media. The Supreme Court held the ban, which was similar to the *social media ban* condition imposed on Ms. Loniewski and other PSL supervisees, was overbroad and encompassed constitutionally protected speech, and thus violative of the First Amendment.

55. The North Carolina law challenged in Packingham applied equally to individuals with sex offense convictions who remained under some form of state supervision (e.g., probation or parole) as well as to those individuals no longer under any state supervision. In finding the law facially unconstitutional, the United States Supreme Court did not find it unconstitutional only as

applied to individuals no longer under state supervision, but found it facially unconstitutional, which included both individuals under supervision and those not under supervision.

56. On October 10, 2018, the Third Circuit Court of Appeals issued its decision in United States v. Holena, 906 F.3d 288 (2018), extending the holding in Packingham to individuals under supervision pursuant to a sex offense conviction, and further extending the holding in Packingham to find that imposition of a total Internet ban was also overbroad, violated the First Amendment, and was thus also unconstitutional.

57. On January 24, 2019, the New Jersey Appellate Division decided K.G. v. New Jersey State Parole Board, 458 N.J. Super. 1 (App. Div., 2019) and relied on the rationale of Packingham and Holena to conclude that the automatic imposition of the *social media ban* on all sex offenders under supervision was unconstitutional.

58. As of June 19, 2017, the date of the decision of the United States Supreme Court in Packingham, the right of individuals with sex offense convictions to access and utilize social media was a clearly established right under the First Amendment, subject to restriction only where such restrictions were narrowly tailored to serve a substantial government interest.

59. Nearly fifty years ago, in Miller v. California, 413 U.S. 15 (1973), the United States Supreme Court substantially limited the ability of the government to censor sexually explicit material without violating the First Amendment, and set forth a standard against which such censoring must be measured.

60. In Miller, the United States Supreme Court concluded that only “obscene” material lacked First Amendment protection, and held that for material to be deemed “obscene,” the material had to satisfy three criteria:

- (a) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest, . . . (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

413 U.S. at 24 (internal quotation marks and citations omitted).

61. In 2001, citing Miller, the Third Circuit Court of Appeals held in United States v. Loy, 237 F.3d 251 (2001), that imposition of a condition of supervised release prohibiting Loy from possessing pornography of any type (including adult pornography) was unconstitutional. The Third Circuit found that the ban on possessing “pornography” was unconstitutionally vague and exceeded the scope of material classified as obscene by Miller. It further held that the condition was not narrowly tailored to serve a compelling state interest.

62. Citing Miller and other precedents dating back to 2009, the Appellate Division in K.G., also held that the NJSPB’s *sexually-oriented materials ban* “implicates First Amendment rights.” 458 N.J. Super. at 40, observing that such a ban would include ““non-pornographic materials [that] receive[s] full protection under the First Amendment”” quoting United States v. Gnrke, 775 F.3d 1155, 1165 (9th Cir. 2015).

63. United States Supreme Court precedent, as reflected in numerous Circuit Court of Appeals decisions over the last five decades, clearly established that imposition of blanket social media bans on individuals with sex offense convictions is overbroad, not narrowly tailored to achieve a compelling state interest, and therefore, violates the First Amendment to the United States Constitution.

64. Thus, ever since 1973, the year of the decision of the United States Supreme Court in Miller, the right of individuals with sex offense convictions to possess and view non-obscene, sexually-oriented material was a clearly established right under the First Amendment, subject to restriction only where such restrictions were narrowly tailored to serve a substantial or compelling government interest.

65. Those precedents also clearly established that such bans are facially unconstitutional and may not form the basis for imposing disciplinary or punitive sanctions on an individual under State supervision.

C. DEFENDANTS WERE ON NOTICE THAT THE *SOCIAL MEDIA BAN* AND *SEXUALLY-ORIENTED MATERIAL BAN* VIOLATED MS. LONIEWSKI'S FIRST AMENDMENT RIGHTS AND WERE THUS UNCONSTITUTIONAL, PRIOR TO ARRESTING HER FOR VIOLATING THOSE UNCONSTITUTIONAL BANS AND DURING PAROLE REVOCATION PROCEEDINGS

66. On February 9, 2018, nine months after the United States Supreme Court handed down its decision in Packingham, and twenty-five years after the decision in Miller, Ms. Loniewski was taken into custody on a parole warrant, sworn out by Defendant Grippaldi and authorized by Defendant Ortiz, alleging Ms. Loniewski had violated the *social media ban*, a general condition of PSL, and the *sexually-oriented material ban*, a special condition of PSL.

67. On or about May 17, 2018, counsel for Ms. Loniewski put the Defendants on notice, by way of a letter brief, that the *social media ban* and the *sexually-oriented material ban* that Ms. Loniewski was alleged to have violated were unconstitutional under Packingham and Miller, and that a finding of guilt on the alleged violations — and any decision to revoke parole — would be similarly unconstitutional.

68. At Ms. Loniewski's parole revocation hearing on May 30, 2018, counsel again put the Defendants on notice on the record, as to the unconstitutionality of these two bans.

69. On June 5, 2018, the hearing officer issued his summary and recommendation regarding the parole revocation hearing on May 30, 2018, in which he recommended Ms. Loniewski's PSL status be revoked and that she be incarcerated for a period of 12 months.

70. On June 15, 2018, counsel for Ms. Loniewski submitted a letter brief to the Adult Panel of the NJSPB, and again placed the Defendants on notice as to the controlling precedents of Packingham and Miller, and the fact that these two conditions were unconstitutional.

71. Notwithstanding being on notice as to the precedential, binding decisions of the U.S. Supreme Court in Miller and Packingham, the two member Adult Panel of the NJSPB, consisting of Defendants Kerri Cody and Robert Riccardella, found that Ms. Loniewski had violated the *social media ban* and *sexually-oriented material ban*, and ordered that her PSL status be revoked and that she serve twelve months in State Prison.

72. Counsel for Ms. Loniewski filed an appeal of the Adult Panel's decision to the Full Panel of the NJSPB on or about July 5, 2018.

73. On October 10, 2018, the Third Circuit Court of Appeals issued its holding in Holena, which re-affirmed that Packingham also applied to individuals with sex offense convictions who are under some form of supervision.

74. On or about October 16, 2018, counsel for Ms. Loniewski provided the Adult Panel with a copy of the Holena decision, along with a short summary of its main holdings; to wit, that *social media bans* are unconstitutional even when applied to those who remain under state supervision.

75. On October 31, 2018, the Full Panel of the NJSPB, i.e., Defendant Board Members, issued its decision, denying Ms. Loniewski's appeal even while wholly ignoring the Packingham, Holena, and Miller decisions. The decision by Defendant Board Members ignored central holdings of Packingham and Miller in deciding to revoke Ms. Loniewski's parole.

76. On January 7, 2019, Ms. Loniewski, through counsel, submitted her Notice of Appeal to the New Jersey Appellate Division. Shortly after, on January 24, 2019, the decision in K.G. was issued.

77. On February 9, 2019, Ms. Loniewski's one year period of confinement expired, and she was released and allowed to return to live with her husband.

78. While the matter remained pending before the Appellate Division, the Office of the Attorney General, counsel for the NJSPB, filed a motion with the Appellate Division on November 8, 2018, seeking a remand to the NJSPB so Defendant Board Members could "reconsider if there is clear-and-convincing evidence that C.L. committed serious violations of the two special conditions to which she is subect [sic]."

79. Counsel for the NJSPB further advised that the remand would allow Ms. Loniewski to "challenge the imposition of the special conditions of her probation through the proper

administrative channels, if she so chooses,” in response to which, “the Board will reconsider the imposition of the special conditions in accordance with N.J.A.C. 10A:71-6.6.”

80. The request for a remand made no mention of the controlling precedents of Packingham, Miller, and the then recently decided case of K.G.

81. Counsel for Ms. Loniewski thus repeatedly placed the Defendants on notice as to the unconstitutionality of the *social media ban* and the *sexually-oriented materials ban*, yet the Defendants remained deliberately indifferent to the clear, controlling legal precedents that, as state agencies and entities, and as state officers and employers, they were bound to adhere to.

82. Additionally, throughout the parole revocation proceedings, beginning on February 9, 2018 and until her release on February 9, 2019, counsel for Ms. Loniewski repeatedly requested that the charges be dismissed, that Ms. Loniewski released, and the unconstitutional conditions vacated.

83. The Defendants repeatedly refused to do either, resulting in the continued false arrest and imprisonment of Ms. Loniewski.

84. The Court granted the NJSPB’s motion seeking a remand, and on February 6, 2020, an Adult Panel of the NJSBP, consisting of Defendants Kerri Cody and Robert Riccardella, vacated the determination to revoke Ms. Loniewski’s parole. It did not vacate the finding that she had violated the conditions of her parole or find that the imposition of those conditions was unconstitutional.

85. On April 6, 2020, Ms. Loniewski appealed the February 6, 2020 decision of the Adult Panel to the Full Panel of the NJSPB, requesting that the NJSPB vacate its prior finding that she had violated her parole conditions, and find that imposition of those conditions was unconstitutional in the first instance.

86. On June 1, 2020, the same two member Adult Panel “reconsidered” Ms. Loniewski’s case and found that “clear and convincing evidence does not exist that you violated the following

conditions of your supervision...” thereafter citing the *social media ban* and the *sexually-oriented material bans*.

87. Consequently, the Adult Panel held: “The Board Panel did not sustain any violation(s) and decided that revocation is not desirable.”

88. However, in dismissing the two charges related to these conditions, Defendant Board Members did not find that either condition had violated Ms. Loniewski’s constitutional rights, and took no action to vacate those conditions, which continued to be imposed on her until her termination from Parole Supervision for Life on May 7, 2021.

89. Thus, as of June 1, 2020, and until her termination from Parole Supervision for Life on May 7, 2021, the *social media ban* and the *sexually-oriented material ban* remained in force against Ms. Loniewski’s as continuing and ongoing violations of her constitutional rights under art. 1, para. 1, 5 and 6 of the State Constitution.

D. DEPRIVATIONS OF CONSTITUTIONAL RIGHTS AND HARMS SUFFERED BY PLAINTIFFS

1. Actions of the Defendants in Arresting, Detaining, and Imprisoning Plaintiff Carmen Loniewski for Exercising Her Clearly Established First Amendment Rights Violated Ms. Loniewski’s Substantive Due Process Rights Under Art. I, Para. 1, 5, 6, and 7 of the New Jersey Constitution

90. Ms. Loniewski retained the right to access social media and to view or possess sexually-oriented material under the First Amendment to the United States Constitution and art. I, para. 1 and 6 of the State Constitution, subject to any restrictions on those rights that are narrowly tailored to achieve a compelling state interest or purpose.

91. The *social media ban* and the *sexually-oriented material ban* were not narrowly tailored to achieve a compelling state interest or purpose, and were unconstitutionally imposed and enforced Ms. Loniewski, contrary to clearly established United States Supreme Court precedent.

92. Consequently, throughout the period during which these two conditions were imposed, up to the point at which her PSL was terminated, Defendants have deprived Ms.

Loniewski of a fundamental constitutional right protected by the First Amendment of the United States Constitution and art. 1, para. 1 and 6 of the State Constitution.

93. Additionally, Defendants have deprived Ms. Loniewski of her liberty, in violation of the art. I., para. 1 and 5 of the State Constitution, for lawfully exercising her rights as guaranteed by the First Amendment to the United States Constitution and art. I, para. 6 of the State Constitution.

2. Actions of the Defendants in Arresting, Detaining, and Imprisoning Plaintiff Carmen Loniewski for Exercising Her Clearly Established Rights under the First Amendment to the United States Constitution, and Art. I, Para. 1, 5, 6, and 7 of the State Constitution, Constituted False Arrest and Imprisonment

94. The precedents of the United States Supreme Court clearly established that, at least since 1973, Ms. Loniewski enjoyed a constitutionally protected right to view and possess non-obscene, sexually-oriented material.

95. Controlling precedents of the United States Supreme Court also clearly established, at least as of June 18, 2017, that Ms. Loniewski enjoyed a constitutionally protected right to access and use social media.

96. The determination by Senior Parole Officer Alicia Grippaldi, Ms. Loniewski's parole officer, and Lieutenant Raquel Ortiz, district supervisor, to arrest Ms. Loniewski and charge her with violating the *social media ban* and the *sexually-oriented material ban*, violated Ms. Loniewski's clearly established constitutional rights pursuant to the First Amendment of the United States Constitution.

97. The United States Supreme Court decisions in Packingham and Miller predated Ms. Loniewski's arrest, and clearly established that the *social media ban* and *sexually-oriented materials ban*, imposed on Ms. Loniewski were unconstitutional and unenforceable.

98. Nevertheless, Defendants Grippaldi and Ortiz, arrested and detained Ms. Loniewski absent probable cause that a crime, or violation of a constitutionally imposed PSL condition had occurred.

99. Additionally, given the preexisting, controlling precedents of Packingham and Miller, no reasonably competent parole officer or district supervisor could have believed that probable cause existed that a crime or violation of a constitutionally imposed PSL condition had been committed, in support of Ms. Loniewski's arrest and detention.

100. Defendant Board Members were similarly on notice as to the controlling precedents clearly establishing that the *social media ban* and *sexually-oriented materials ban* imposed on Ms. Loniewski were unconstitutional and unenforceable. Nevertheless, Defendant Board Members voted to affirm her convictions for violating these unconstitutional conditions, and affirmed the decision to incarcerate her for 365 days.

101. The acts of commission and omission of Defendants Grippaldi, Ortiz, and/or Defendant Board Members, were the proximate cause of Ms. Loniewski's false arrest and imprisonment, and of the harms and economic damages she thereafter suffered.

3. To the Extent Defendants Grippaldi and Ortiz, and Defendant Board Members Lacked the Knowledge that the *Social Media Ban* and *Sexually-Oriented Material Ban* Were Unconstitutional, Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) Were Grossly Negligent for Failing to Properly Train Defendants Grippaldi and Ortiz, and Defendant Board Members

102. As the chief law enforcement officer of the State of New Jersey, Defendants Grewal and Platkin, were and are responsible for ensuring that the Chairman and associate members of the State Parole Board are properly and sufficiently trained, and properly advised, as to the constitutional rights retained by individuals subject to PSL, so as to ensure the NJSPB adopts regulations and procedures that do not violate the constitutional rights of such individuals.

103. As the chief law enforcement officer of the State of New Jersey, Defendants Grewal and Platkin, are responsible for ensuring that law enforcement officers, which designation includes "parole officers" and "supervisors," as well as hearing officers and associate members of the NJSPB, are properly and sufficiently trained as to the constitutional rights retained by individuals subject to PSL.

104. Defendants Chairman Samuel Plumeri and Executive Director Steven Tallard, are responsible for the training and supervision of Parole Officers, supervisors, and hearing officers, and for ensuring they are properly and sufficiently trained as to the constitutional rights retained by individuals subject to PSL.

105. Pursuant to the rules and regulations, as well as the policies and procedures of the New Jersey State Parole Board, Defendants John and Jane Doe(s), are responsible for the training and supervision of associate members of the Parole Board, parole officers, supervisors, and/or hearing officers, and for ensuring that said individuals are properly and sufficiently trained as to the constitutional rights retained by individuals subject to PSL.

106. In the event that Defendants Grippaldi and Ortiz, and Defendant Board Members assert, as a defense, lack of knowledge of the decisions in Packingham and Miller then, Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), failed to provide adequate training to Defendants Grippaldi and Ortiz, and Defendant Board Members, or to parole officers, supervisors, and hearing officers, with regard to the unconstitutionality of enforcing the *social media ban* and *sexually-oriented material ban* against her, or the unconstitutionality of arresting, charging, and imprisoning her for violating either ban.

107. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) knew, or should have known, that the *social media ban* and *sexually-oriented material ban* violated Ms. Loniewski's clearly established constitutional rights pursuant to the First Amendment of the Constitution of the United States, and were thus unenforceable.

108. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) knew, or should have known, that Parole officers and district supervisors, like Defendants Grippaldi and Ortiz, are obligated to enforce general and special conditions of parole imposed on PSL supervisees like Ms. Loniewski.

109. Similarly, Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) knew, or should have known, that hearing officers and associate members of the NJSPB are

obligated to enforce those same conditions and — upon a determination that a PSL supervisee seriously and persistently violated said conditions and that revocation of parole was desirable to advance the supervisee's rehabilitation — order the revocation of parole and return of the supervisee to custody for a minimum of 365 days.

110. Thus, it was foreseeable to Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), that Ms. Loniewski's parole officer and district supervisor would detain, arrest, and charge Ms. Loniewski with violating the general and special conditions of PSL, once the parole officer and district supervisor observed that Ms. Loniewski had used social media and possessed sexually-oriented material.

111. Moreover, it was foreseeable to Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) that the hearing officer conducting Ms. Loniewski's parole revocation hearing would find her guilty of violating those conditions of PSL and recommend revocation of parole and 365 days incarceration.

112. Finally, it was foreseeable to Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) that the associate members of the NJSPB reviewing the recommendations of the hearing officer, and the record of the revocation hearing, would find her guilty of violating those conditions of PSL and order the revocation of her parole and order her incarceration for 365 days.

113. Thus, the failure of Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), to properly train and supervise associate members of the State Parole Board, parole officers, supervisors and hearing officers with regard to the First Amendment rights of PSL supervisees as set forth in Packingham, Holena, Miller, and Loy, constituted gross negligence, and proximately caused the harms and economic damages detailed herein.

4. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) Were Deliberately Indifferent to the Constitutional Rights of the Plaintiffs As Evidenced by Their Failure to Properly and Adequately Train Defendants Grippaldi and Ortiz, Defendant Board Members, as well as Parole Officers, Supervisors, and Hearing Officers, with Regard to Plaintiffs' Clearly Established Constitutional Rights.

114. Plaintiffs re-allege all of the facts and allegations contained in ¶102 to ¶113 as if set forth at length herein at.

115. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), and Defendant Board Members, knew or should have known, at the time of Ms. Loniewski's arrest and detention on February 9, 2018, that Ms. Loniewski's right to access social media and sexually-oriented material was a clearly established right under the First Amendment to the United States Constitution, based on the controlling, published precedent of Packingham and Miller.

116. After Ms. Loniewski's arrest and detention on February 9, 2018, Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), and Defendant Board Members were placed on notice by counsel for Ms. Loniewski, that the *social media ban* and *sexually-oriented materials ban* were unconstitutional under controlling United States Supreme Court precedent.

117. By failing to train Defendant Board Members, parole officers, supervisors and hearing officers as to the controlling precedents of Packingham and Miller, and the constitutional rights of Ms. Loniewski and PSL supervisees under the First Amendment, Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), evidenced deliberate indifference to the rights of Ms. Loniewski and other PSL supervisees.

118. Additionally, having been put on notice as to the constitutionally protected rights of Ms. Loniewski, Defendant Board Members' decision to find Ms. Loniewski guilty of violating unconstitutional conditions of parole, and the decision to revoke her parole and imprison her for 365 days, was an act of wanton and willful disregard for her constitutionally protected rights and liberties.

5. Harms and Economic Damages Suffered by Plaintiffs Carmen Loniewski and Christopher Loniewski.

119. Ms. Loniewski was subjected to 365 days of confinement in a State Prison during which time she was wrongfully deprived of her liberty.

120. Mr. Trahan and Ms. Loniewski were deprived of each other's consortium during the 365 day period of her confinement.

121. Ms. Loniewski suffered economic harm in the form of loss of income and benefits for the length of her incarceration.

122. Ms. and Mr. Trahan suffered economic harm in the form of expenses they incurred as a proximate result of Ms. Loniewski's detention.

123. Ms. Loniewski was denied her substantive rights under the art. I, para. 1, 5, 6 and 7 of the State Constitution, during the period of her incarceration.

124. The economic damages and substantive due process deprivations to which Ms. Loniewski and Mr. Trahan were subject were proximately caused by the acts of commission and omission by the Defendants as alleged herein.

IV. CAUSES OF ACTION

COUNT ONE

SUBSTANTIVE DUE PROCESS (Violation Of Plaintiff's Rights Under Art. I, para. 1 and 6 of the State Constitution — New Jersey Civil Rights Act, New Jersey Tort Claims Act)

125. Plaintiffs re-allege all of the facts and allegations contained in ¶1 to ¶124 as if set forth at length herein.

126. Under the precedents of Packingham, Holena, Miller, and Loy, the right to access social media and to view or access sexually-oriented material under the First Amendment to the United States Constitution is clearly established, and may only be curtailed if narrowly tailored to serve a substantial state interest.

127. The *social media ban* and *sexually-oriented material ban*, as imposed on Plaintiff Carmen Loniewski, was not narrowly tailored to serve a substantial state interest, and thus infringed on Ms. Loniewski's constitutional rights.

128. The imposition of the *social media ban* and the *sexually-oriented materials ban* on Ms. Loniewski, violated art. I, para. 1 and 6 of the State Constitution, and deprived Ms. Loniewski of her rights under the State Constitutions.

129. The arrest, detention, revocation of Ms. Loniewski's PSL status by Defendants Grippaldi and Ortiz and by Defendant Board Members, as well as the resulting subsequent incarceration for 365 days in State Prison, for exercising her rights protected by the First Amendment of the United States Constitution and art. I, para. 1 and 6, violated her Substantive Due Process rights under and art. I, para. 1, 5 and 7 of the State Constitution.

130. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) have an obligation under state law, common law, and the Constitutions of the United States and the State of New Jersey, to properly train state agents authorized to promulgate rules and regulations governing the supervision of individuals subject to PSL, to enforce those rules and regulations, and to adjudicate alleged violations of those rules and regulations, with regard to the constitutionally protected rights of individuals subject to PSL.

131. By their acts of commission and omission, Defendants Grippaldi and Ortiz and by Defendant Board Members violated Ms. Loniewski's constitutionally protected right and proximately and directly caused the deprivations and harms inflicted on the Plaintiffs alleged herein.

132. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), in their oversight and supervisory capacities over Defendants Grippaldi and Ortiz and Defendant Board Members, and under the doctrine of respondeat superior, are vicariously liable for the violation of Ms. Loniewski's constitutional rights and for the deprivations and harms inflicted on the Plaintiffs alleged herein

133. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) failed to adequately and properly train the chairman and associate members of the State Parole Board, parole officers, supervisors, and hearing officers, and thus directly caused the violation of Ms. Loniewski's constitutional rights, and proximately caused the deprivations and harms inflicted on the Plaintiffs alleged herein.

134. The acts of commission and omission, by which Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) failed to adequately and properly train the chairman and associate members of the State Parole Board, parole officers, supervisors, and hearing officers, directly caused the violation of Ms. Loniewski's rights, and directly caused the deprivations and harms inflicted on the Plaintiffs alleged herein.

135. Having been placed on notice as to the controlling precedents of Packingham, Holena, Miller, and Loy, the Defendants were deliberately indifferent to the rights of Ms. Loniewski under the First Amendment to the United States Constitution and under art. I, para. 1 and 6 of the State Constitution, and by their acts of commission and omission, violated Ms. Loniewski's constitutional rights as alleged herein, which acts proximately caused the deprivations, harms, and economic damages alleged herein.

136. Plaintiffs seek declaratory judgment against the Defendants pursuant to the NJCRA and TCA and as authorized by the Court Rules, holding that the *social media ban* and the *sexually-oriented materials ban* violated Ms. Loniewski's rights under art. I, para. 1, 5, and 6 of the State Constitution.

137. Pursuant to the NJCRA and TCA, Plaintiffs seek compensatory and consequential damages from Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), as well as Defendant Board Members, in their individual capacities, for the economic harms suffered by Plaintiffs.

138. Pursuant to the Tort Claims Act, Plaintiffs seek compensatory and consequential damages from Defendants State of New Jersey and the NJSPB, for the economic harms suffered

by Plaintiffs based on their vicarious liability for the acts of commission and omission of Defendants Board Members, Grewal, Platkin, Plumeri, Tallard, Grippaldi, Ortiz, and John and Jane Doe(s) (1-10), and under the doctrine of respondeat superior.

139. Pursuant to the Civil Rights Act, Plaintiffs seek punitive damages from Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) in their individual capacity, for the acts of commission and omission committed with deliberate indifference, and which acts proximately caused the economic damages and harms suffered by Plaintiffs.

COUNT TWO

GROSS NEGLIGENCE

(Failure To Train —

New Jersey Civil Rights Act, New Jersey Tort Claims Act)

140. Plaintiffs re-allege all of the facts and allegations contained in ¶1 to ¶139 as if set forth at length herein.

141. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) have a duty under State law, common law, and the Constitution of the State of New Jersey, to properly and adequately train associate members of the NJSPB, parole officers, supervisors, and hearing officers as to the clearly established constitutional rights of Ms. Loniewski, and other PSL Supervisees.

142. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) were on notice that the *social media ban* and the *sexually-oriented material ban* imposed on Ms. Loniewski, and which bans formed the basis of her arrest, detention and incarceration for 365 days, violated Ms. Loniewski's rights under the First Amendment to the United States Constitution and under art. I, para. 1 and 6 of the State Constitution.

143. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) knew, or should have known, that associate members of the NJSPB, parole officers, supervisors, and hearing officers, including Defendants Grippaldi and Ortiz, would enforce any general or specific

condition of PSL imposed on Ms. Loniewski and, upon finding that she had accessed social media and/or viewed or possessed sexually-oriented material, would arrest and detain her, and ultimately find her in violation of her PSL conditions, revoke her parole, and incarcerate her for 365 days.

144. The risk of harm from this lack of training materialized with the arrest, detention, and conviction of Ms. Loniewski, and the revocation of her parole for exercising her clearly established rights under the First Amendment to the United States Constitution and under art. I, para. 1 and 6 of the State Constitution.

145. The lack of training of associate members of the NJSPB, parole officers, supervisors, and hearing officers by the Defendants, was the proximate cause of the harm inflicted on the Plaintiffs.

146. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) were grossly negligent in their failure to properly and adequately train the associate members of the NJSPB, parole officers, supervisors, and hearing officers, with regard to the rights retained by Ms. Loniewski, and other PSL supervisees, under First Amendment to the United States Constitution and under art. I, para. 1 and 6 of the State Constitution, in particular, the right to access social media and to possess and view sexually-oriented material.

147. As a result of their gross negligence, Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) were directly responsible for the deprivations suffered by Ms. Loniewski, and proximately caused the harm and economic damages suffered by the Plaintiffs.

148. Pursuant to the Tort Claims Act and the Civil Rights Act, Plaintiffs seek compensatory and consequential damages from Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) in their individual capacities, for the economic harms suffered by Plaintiffs.

149. Pursuant to the Tort Claims Act, Plaintiffs seek compensatory and consequential damages from Defendants State of New Jersey and the NJSPB, for the economic harms suffered by Plaintiffs based on their vicarious liability for the acts of commission and omission of

Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), and under the doctrine of respondeat superior.

COUNT THREE

DELIBERATE INDIFFERENCE (Failure To Train/Violation of Substantive Rights — New Jersey Civil Rights Act)

150. Plaintiffs re-allege all of the facts and allegations contained in ¶1 to ¶149 as if set forth at length herein.

151. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) knew or should have known, that associate members of the NJSPB, parole officers, supervisors, and hearing officers, would seek to enforce the *social media* ban and the *sexually-oriented material ban* imposed on Ms. Loniewski, and revoke her PSL status for any violation of those bans if not trained as to the unconstitutionality of such bans, or the unconstitutionality of imposing any sanction for a violation of the bans.

152. Absent such training, Defendants Grippaldi, Ortiz, and Board Members did arrest, detain and incarcerate Ms. Loniewski for exercising her First Amendment Rights.

153. Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10), and Defendant Board Members, having been put on notice that the *social media ban* and the *sexually-oriented material ban* were unconstitutional, willfully and wantonly disregarded Ms. Loniewski's constitutional rights and, with deliberate indifference to those rights, revoked her parole and incarcerated her for 365 days for exercising those constitutionally protected rights.

154. Pursuant to the NJCRA, Plaintiffs seek punitive damages from Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s) (1-10) as well as Defendant Board Members, and Defendants Grippaldi and Ortiz, in their individual capacities, for the acts of commission and omission committed with deliberate indifference, and which acts proximately caused the economic damages and harms suffered by Plaintiffs.

COUNT FOUR

FALSE ARREST/FALSE IMPRISONMENT (New Jersey Civil Rights Act, New Jersey Tort Claims Act)

155. Plaintiffs re-allege all of the facts and allegations contained in ¶1 to ¶154 as if set forth at length herein.

156. Based on the precedents in Packingham and Miller, Defendants Grippaldi, Ortiz and Defendant Board Members knew that the First Amendment to the United States Constitution and art. I, para. 1 and 6 of the State Constitution protected Ms. Loniewski's right to access social media and to possess and view sexually-oriented material.

157. Consequently, Defendants Grippaldi, Ortiz and Defendant Board Members, lacked probable cause to arrest, detain, or incarcerate Ms. Loniewski as she had committed no crime and had violated no constitutionally imposed condition of supervision.

158. No reasonably competent parole officer, supervisor, or associate member of a parole board, could have believed that probable cause existed that Ms. Loniewski's use of social media or her viewing or possession of sexually-oriented material, violated a constitutionally imposed condition of supervision.

159. The acts of commission and omission of Defendants Grippaldi, Ortiz and Defendant Board Members, constitute false arrest and false imprisonment, and were the proximate cause of Ms. Loniewski's unlawful arrest, detention, and incarceration, in violation of her rights under art. I, para. 1, 5, 6 and 7 of the State Constitution.

160. Thus, the acts of commission and omission of Defendants Grippaldi, Ortiz and Defendant Board Members, were the proximate cause of the deprivations, harms and economic damages suffered by the Plaintiffs.

161. Pursuant to the NJCRA, and the TCA, Plaintiffs seek compensatory and consequential damages from Defendants Grippaldi, Ortiz, and Defendant Board Members in their individual capacities, for the harms and economic damages suffered by Plaintiffs.

162. Pursuant to the Tort Claims Act, Plaintiffs seek compensatory and consequential damages from Defendants State of New Jersey and the NJSPB, as well as from Defendants Grewal, Platkin, Plumeri, Tallard, and John and Jane Doe(s)(1-10), in their individual and official capacities, for the harms and economic damages suffered by Plaintiffs based on their vicarious liability for the acts of commission and omission of Defendants Grippaldi, Ortiz, and Defendant Board members, and under the doctrine of respondeat superior.

V. STATEMENT OF CLAIMS APPLICABLE TO ALL COUNTS

163. The Plaintiffs have no plain, adequate or complete remedy at law to immediately address the wrongs described herein. Plaintiffs have been, irreparably harmed and injured by the actions of the Defendant and are thus entitled to compensatory, consequential, and punitive damages.

VI. PRAYER FOR RELIEF

164. Wherefore Plaintiffs request that this Court, as authorized by R. 4:67, and pursuant to its own equitable powers, grant the following relief, either individually and alternatively, or in the aggregate:

165. Declare the *social media ban* imposed on Ms. Loniewski unconstitutional, in violation of art. I, para. 1 and 6 of the State Constitution.

166. Declare the *sexually-oriented material ban* imposed on Ms. Loniewski unconstitutional, in violation of art. I, para. 1 and 6 of the State Constitution;

167. Award the Plaintiffs compensatory, consequential and punitive damages as set forth above;

168. Award Plaintiffs the cost of bringing this action, and reasonable attorney fees pursuant to State law; and

169. Provide such other additional relief as the Court may deem just and proper.

VII. CERTIFICATION REQUIRED BY R. 5:4-2

170. Plaintiff represents to this Court that this Complaint is not being presented for any improper purposes, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

171. The claims and legal contentions are warranted by existing law or non-frivolous argument for the extension, modification, or reversal of existing law, or the establishment of new law; and

172. The allegations and factual contentions contained in this Complaint have evidentiary support.

Date: May 27, 2022

/s/ James H. Maynard, Esq.

James H. Maynard, Esq.

Representing Plaintiffs Carmen Loniewski and

Christophër Trahan

**CERTIFICATION OF PLAINTIFFS
IN SUPPORT OF VERIFIED COMPLAINT**

I, Carmen Loniewski, being of full age, hereby certify as follows:

1. I, Carmen Loniewski, am one of the Plaintiffs in the above captioned matter.
2. I have reviewed the complaint in this matter.
3. Regarding the allegations in the Complaint of which I have personal knowledge, I know or believe them to be true.
4. Regarding the allegations in the Complaint, of which I do not have personal knowledge, I believe them to be true based on specified information, documents, or both.

I, Carmen Loniewski, hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

May 27, 2022

Carmen Loniewski
Carmen Loniewski

I, Christopher Trahan, being of full age, hereby certify as follows:

1. I, Christopher Trahan, am one of the Plaintiffs in the above captioned matter.
2. I have reviewed the complaint in this matter.
3. Regarding the allegations in the Complaint of which I have personal knowledge, I know or believe them to be true.
4. Regarding the allegations in the Complaint, of which I do not have personal knowledge, I believe them to be true based on specified information, documents, or both.

I, Christopher Trahan, hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

May 27, 2022

Chris Trahan
Christopher Trahan