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NEW JERSEY CRIME VICTIMS' LAW CENTER

STATE OF NEW JERSEY,

Plaintiff

v.

CHARLES CULLEN,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-CRIMINAL PART
SOMERSET COUNTY

CRIMINAL ACTION

**NOTICE OF MOTION
FOR LEAVE TO APPEAR
AS AMICUS CURIAE AND
TO COMPEL DEFENDANT TO
BE PRESENT AT THE
SENTENCING PROCEEDINGS
WHEN THE VICTIMS DELIVER
THEIR IN PERSON
VICTIM IMPACT STATEMENTS**

TO:

Honorable Paul W. Armstrong, A.J.S.C.
Superior Court of New Jersey
Law Division – Somerset County,
20 N. Bridge Street
P.O. Box 3000
Somerville, N.J. 08876-1262
(Original + 1 copy)

Criminal Division Manager

Superior Court of New Jersey
Law Division – Somerset County,
20 N. Bridge Street
P.O. Box 3000
Somerville, N.J. 08876-1262
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Richard D. Pompelio, Esq.
Chairman
New Jersey Victims of Crime Compensation Board
50 Park Place
Newark, NJ 07102

PLEASE TAKE NOTICE that the undersigned attorney for the New Jersey Crime Victims' Law Center, hereby moves before the Superior Court of New Jersey, Law Division, Criminal Part at a date and time to be fixed by the court for an Order as follows:

1. Granting movant leave to appear as *amicus curiae* in the within matter pursuant to the provisions of R. 1:13-9.
2. Compelling defendant to be present at the sentencing proceedings when the victims deliver their victim impact statements to the court.

The New Jersey Crime Victims' Law Center respectfully requests permission to file briefs and argue *amicus curiae* in this matter.

In accordance with the requirements of R. 1:13-9, movant states:

- a. The New Jersey Crime Victims' Law Center is a nonprofit corporation of the State of New Jersey established and dedicated to providing *pro bono* legal assistance to victims

- of crime and to protecting and advocating the rights of victims of crime in the criminal justice system in the State of New Jersey.
- b. Defendant Charles Cullen has entered pleas of guilty to thirteen acts of murder and two acts of attempted murder. The sentencing date has not as yet been scheduled.
 - c. Defendant has indicated through his attorney that he does not intend to attend the sentencing proceedings.
 - d. At the sentencing proceedings the victims and victim survivors will deliver to the court their in person victim impact statements pursuant to rights under N.J.S.A. 52:4B-36(n). It is essential to the victims that at such time, the defendant be present so that he may see them and hear their words.
 - e. Pursuant to the authority of Article 1, paragraph 22 of the New Jersey Constitution (the Crime Victim's Rights Amendment), (Adopted December 5, 1991); N.J.S.A. 52:4B-34, *et seq.*, (the New Jersey Crime Victim's Bill of Rights) and N.J.S.A. 52:4B-1, *et seq.*, (the Criminal Injuries Compensation Act of 1971), the victim survivors who will present victim impact statements are all deemed to be direct victims of the crime of murder and are entitled to the full protection of and rights and remedies afforded by the statutes and Constitution of the State of New Jersey.
 - f. The New Jersey Crime Victims' Law Center (NJC VLC) has formally been in existence since April 1992, and it has represented on a *pro bono* basis numerous victims of violent crime in many courts in the State of New Jersey. Throughout the past thirteen years, the NJC VLC has appeared as *amicus curiae* in matters before the New Jersey Supreme Court, the Superior Court Appellate Division and the Superior Court Law Division on

issues directly affecting the rights of crime victims. For example, the NJCVLC has appeared as *amicus curiae* in the landmark victims' rights case State v. Muhammad, 145 N.J. 23 (1996).

- g. In the many cases the New Jersey Crime Victims' Law Center has sought leave of court to appear as *amicus curiae*, it has never been denied the right to appear.
- h. The issue intended to be addressed by this application is the recognition of the constitutional and statutory rights of the victims to be treated with dignity, fairness, compassion and respect and to be permitted to give an effective and meaningful victim impact statement to the court.
- i. The nature of the public interest herein involves the respect of the rights of the crime victim in the criminal justice system.
- j. The nature of the applicant's special interest is to protect, advance and advocate the rights of crime victims in matters such as this which will have a substantial impact on all victims of crime throughout the State of New Jersey and in the United States.

In support of this Notice of Motion, the undersigned shall rely on the attached brief, affidavits and all papers filed on behalf Victims of Crime Compensation Board.

CLIFFORD J. WEININGER, ESQ.
Attorney for *Amicus Curiae*
NEW JERSEY CRIME VICTIMS'
LAW CENTER

By _____
CLIFFORD J. WEININGER, ESQ.

Dated: December 21, 2004

CERTIFICATION OF SERVICE

I hereby certify that the original and copies as above noted of the Notice of Motion with all attachments, were hand delivered or sent out for overnight mail delivery on this date to those individuals above set forth.

CLIFFORD J. WEININGER, ESQ.

Dated: December 21, 2004