

**IN THE SUPREME COURT
OF THE STATE OF KANSAS**

Kristen Butler, et al.,)	
)	
Plaintiff-Appellant,)	
)	
v.)	
)	Case No. 124205
Shawnee Mission School District Board of Education,)	Application to File an <i>Amicus</i> Brief
)	
Defendant-Appellee.)	
)	
Attorney General Derek Schmidt,)	
)	
Intervenor-Appellant)	

APPLICATION TO FILE AN *AMICUS* BRIEF

Pursuant to Kansas Supreme Court Rule 6.06, Governor Laura Kelly, in her official capacity, respectfully files this application for leave to file an *amicus* brief in this appeal of District Court Judge David W. Hauber’s Judgment and Final Order After Intervention in Johnson County District Court case No. 21-CV-2385.

1. Laura Kelly is the Governor of Kansas. Governor Kelly’s interest in this case stems from her role as the chief executive of the state and her duty to respond to emergencies that threaten the health and safety of Kansans. The Kansas Constitution vests the Governor with “supreme executive power,” Art. 1, § 3, and the Kansas Emergency Management Act declares that “[t]he governor shall be responsible for meeting the dangers to the state and people presented by disasters.” K.S.A. 48-924(a). Many of the provisions in Senate Bill 40 affect how Governor Kelly exercises her power

to respond to emergencies when they arise. Accordingly, Governor Kelly has a strong interest in the status and application of the emergency management laws at issue in this case.

2. As will be set forth fully in Governor Kelly's proposed *amicus* brief, Governor Kelly has valuable perspective about SB 40.

3. Governor Kelly's proposed *amicus* brief will address constitutional aspects of SB 40, including the application of separation of powers doctrine, and whether the contested provisions of SB 40 are severable.

4. Governor Kelly respectfully asks the Court to grant the instant motion and enter an order permitting Governor Kelly to file an *amicus* brief as a separate, signed document no later than Friday, September 24, 2021.

5. Although this matter has not yet been assigned to a docket, it is on an expedited briefing schedule and September 24 is no later than 30 days before the first day of next month's oral argument docket week, October 25-29, 2021. *See* Sup. Ct. R. 6.06(b)(1) ("A brief of an *amicus curiae* must be: (1) filed no later than 30 days before oral argument[.]"). Additionally, the Court's September 13, 2021 order granting two other *amicus* requests set the deadline for responding to those *amicus* briefs as October 7, 2021. Granting Governor Kelly's instant application will not affect the expedited briefing schedule and will not delay these proceedings.

6. Governor Kelly has served a true and accurate copy of this application to all parties and to *amici curiae*.

WHEREFORE, Governor Laura Kelly respectfully request this Court's order granting this application, permitting her to file an *amicus* brief no later than Friday, September 24, 2021.

Dated: September 15, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was filed electronically on this 15th day of September 2021, which sent notification to all counsel of record. Additionally, a courtesy copy by personal service was sent via email to the following counsel of record:

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