

COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT

HAMPSHIRE COUNTY

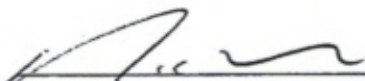
No. SJC-12610

COMMONWEALTH

v.

ZACHARIAH LAROSE

**BRIEF OF THE NATIONAL COLLEGE FOR DUI DEFENSE AS AMICI  
CURIAE IN SUPPORT OF DEFENDANT - ZACHARIAH LAROSE**

  
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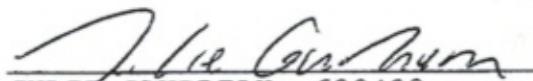
  
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**STATEMENT OF THE ISSUE**

This brief is submitted pursuant to this court's request for amicus briefs on October 9, 2018.

1. Whether a motorist is subject to seizure by the police for a marked "lanes" violation pursuant to G. L. c. 89, § 4A, when the tires on one side of the vehicle cross a "fog line", rather than a lane dividing traffic, one time, for two to three seconds, and without imposing a danger to the driver or anyone else.

**INTEREST OF THE AMICUS CURIAE**

Amicus curiae the National College for DUI Defense, Inc. (NCDD) is a nonprofit professional organization of lawyers, with over 1,000 members, focusing on issues related to the defense of persons charged with driving under the influence. Through its extensive educational programs, its website, and its email list, NCDD trains lawyers to more effectively represent persons accused of drunk driving.

Counsel for amicus states that no counsel for a party authored this brief in whole or in part and no person, other than amicus, its members, or its counsel made a monetary contribution to the preparation of this brief.

STATEMENT OF THE CASE

On June 20, 2016, the Defendant was charged in the Eastern Hampshire District Court with operating a motor vehicle under the influence of intoxicating liquor ("OUI"), in violation of G.L. c. 90, § 24(1)(a)(1), and a marked lanes violation, pursuant to G.L. c. 89, § 4A.<sup>1</sup> C.App.2. On November 18, 2016, the Defendant filed a motion to suppress and supporting affidavit, in which he challenged the warrantless seizure of his vehicle while he was driving in the town of Belchertown. C.App.6. On December 2, 2016, an evidentiary hearing was held before the Honorable Thomas H. Estes. C.App.4. At the hearing, the Commonwealth offered the testimony of Belchertown police officer Michael Jablonski, as well as a video recording of the vehicle stop taken from the officer's dashboard camera. Tr: 1-11. The Defendant presented the testimony of Robert Lamoureux, the Defendant's father, as well as a photograph of the license plate area of the Defendant's vehicle. Tr: 11-14. On January 25, 2017,

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<sup>1</sup> References to the record are abbreviated as listed below and followed by page: Add. is the addendum to this amicus brief; Tr: is the transcript attached to the Commonwealth's brief from the December 2, 2016 motion to suppress hearing; C.App: Is the Record Appendix attached to the Commonwealth's SJC brief; D. Add: is the addendum attached to the defendant Larose's SJC brief.

