

IN THE SUPREME COURT OF FLORIDA

FREDERIC GUTTENBERG, etc., et
al.,

Petitioners,

Case No. SC19-487

v.

THE SCHOOL BOARD OF
BROWARD COUNTY,

Respondent.

MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF
IN SUPPORT OF PETITIONERS

The Florida Justice Association moves, under Florida Rule of Appellate Procedure 9.370, for leave to appear as amicus curiae and file a brief in support of Petitioners.

I. Movant's interest.

The FJA is a large voluntary statewide association of more than 3,000 attorneys concentrating on litigation in all areas of the law. The members of the FJA are pledged to the preservation of the American legal system, the protection of individual rights and liberties, the evolution of the common law, and the right of access to courts. The FJA has been involved as amicus curiae in hundreds of cases the Florida appellate courts, including this Court.

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The lawyer members of the FJA care deeply about the integrity of the legal system and, toward this end, have established an amicus curiae committee. The committee considered an issue presented in this case to be of importance.

II. Particular issue to be addressed.

The issue before the Court is whether the immediate injury-producing acts in this case—the shootings of each victim—are the “accident or occurrence” for the purpose of applying the sovereign-immunity caps under Florida Statutes subsection 786.28(5).

In the related *Barnett* case, the Fourth District said no. It supported its interpretation by pointing to the effect it assumed a different interpretation would have on the public fisc. *Dep’t of Fin. Servs. v. Barnett*, 262 So. 3d 750, 754-55 (Fla. 4th DCA 2018).

The FJA would address that assumption by discussing the fact that many government entities, specifically school boards in Florida, deliberately choose to self-insure; and also the growing availability of “active shooter” insurance.

III. How the movant can assist the court.

The FJA believes that its input will be of assistance to the Court in resolving the issue raised because it raises difficult questions of Florida law and policy. *See, e.g., Ciba-Geigy Ltd. v. Fish Peddler Inc.*, 683 So. 2d 522 (Fla. 4th DCA 1999) (briefs from

amicus curiae are generally for the purpose of assisting the court in cases which are of general public interest, or aiding in the presentation of difficult issues).

IV. Positions of the parties.

Counsel for the FJA has contacted counsel for Respondent, Debbie Klauber, who states Respondent has no objection to this motion.

WHEREFORE, the FJA respectfully requests leave to file an Amicus Curiae Brief in support of Petitioners in this case.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true copy of the foregoing has been furnished to
all counsel on the attached service list by e-mail on June 3, 2019.

BURLINGTON & ROCKENBACH, P.A.
Courthouse Commons/Suite 350
444 West Railroad Avenue
West Palm Beach, FL 33401
(561) 721-0400
Attorneys for Amicus Curiae FJA
pmb@FLAppellateLaw.com
ajr@FLAppellateLaw.com
kbt@FLAppellateLaw.com

By: s/ Philip M. Burlington
PHILIP M. BURLINGTON
Florida Bar No. 285862

By: s/ Adam Richardson
ADAM RICHARDSON
Florida Bar No. 94882

/kbt

SERVICE LIST

Guttenberg v. School Board of Broward County
Case No. SC19-487

Stephen F. Rosenthal, Esq.

srosenthal@podhurst.com

Alissa Del Riego, Esq.

adelriego@podhurst.com

Dayron Silverio, Esq.

dsilverio@podhurst.com

PODHURST ORSECK, P.A.

One S.E. 3rd Avenue

Suite 2300

Miami, FL 33131

*Counsel for Frederic Guttenberg as
Personal Representative of the Estate of
Jaime T. Guttenberg, deceased*

David W. Brill, Esq.

david@brillrinaldi.com

yamile@brillrinaldi.com

Joseph J. Rinaldi, Jr., Esq.

Florida Bar No. 581941

joe@brillrinaldi.com

yamile@brillrinaldi.com

Chelsea R. Ewart, Esq.

chelsea@brillrinaldi.com

yamile@brillrinaldi.com

BRILL & RINALDI, THE LAW FIRM

17150 Royal Palm Boulevard, Suite 2

Weston, FL 33326

*Counsel for Andrew Pollack, as Co-
Personal Representative of the Estate of
Meadow Pollack, deceased*

Joel S. Perwin, Esq.

jperwin@perwinlaw.com

sbigelow@perwinlaw.com

JOEL S. PERWIN, P.A.

Alfred I. Dupont Building, Suite 1422

169 E. Flagler Street

Miami, FL 33131

*Counsel for Frederic Guttenberg as
Personal Representative of the Estate of
Jaime T. Guttenberg, deceased*

Tracy Considine, Esq.

tconsidine@tcjaxlaw.com

jcolucci@tcjaxlaw.com

TRACY CONSIDINE, P.A.

1 Sleiman Parkway, Suite 210

Jacksonville, FL 32216

*Counsel for Shara Kaplan, as Co-
Personal Representative of the Estate of
Meadow Pollack*

Curtis B. Miner, Esq.

curt@colson.com

Julie Braman Kane, Esq.

julie@colson.com

Patrick Montoya, Esq.

patrick@colson.com

COLSON HICKS EIDSON, P.A.

255 Alhambra Circle, Penthouse

Coral Gables, FL 33134

*Counsel for Max Schachter, as Personal
Representative of the Estate of Alex
Schachter and Benjamin E. Wikander*

Michael A. Haggard, Esq.
MAH@haggardlawfirm.com
Christopher Marlowe, Esq.
CLM@haggardlawfirm.com
Todd J. Michaels, Esq.
TJM@haggardlawfirm.com
HAGGARD LAW FIRM, P.A.
330 Alhambra Circle, First Floor
Coral Gables, FL 33134
Counsel for Manuel Oliver and Patricia Padauy, as Co-Personal Representatives of the Estate of Joaquin Oliver, deceased, Stacy Lippel, Linda Beigel, as Personal Representative of the Estate of Scott Beigel, deceased

Daman Brody, Esq.
daman@bomlegal.com
THE BRODY LAW FIRM, LLC.
1688 Meridian Ave, Suite 700
Miami Beach, FL 33139
Counsel for Martin Duque and Daisy Anguiano, as parents of the Martin Duque, deceased

Patrick W. Lawlor, Esq.
pat@pwlawlor.com
tammy@pwlawlor.com
LAWLOR & ASSOCIATES
One Royal Palm Place
1877 S. Federal Highway, Suite 302
Boca Raton, FL
Counsel for Martin Duque and Daisy Anguiano, as parents of Martin Duque, deceased

Robert M. Stein, Esq.
rstein@rvmrlaw.com
Jeffrey A. Tew, Esq.
jtew@rvmrlaw.com
RENNERT VOGEL MANDLER
& RODRIGUEZ, P.A.
100 S.E. Second Street, Suite 2900
Miami, FL 33131
Counsel for Philip and April Schentrup, as Co-Representatives for the Estate of Carmen Schentrup, deceased

Stuart Z. Grossman, Esq.
szg@grossmanroth.com
Alex Arteaga-Gomez, Esq.
aag@grossmanroth.com
William P. Mulligan, Esq.
wpm@grossmanroth.com
GROSSMAN ROTH YAFFA COHEN
2525 Ponce de Leon Blvd., Suite 1150
Coral Gables, FL 33134
Counsel for Ashley Maria Baez, a minor by and through her parents and natural guardians, Katherine Baez and Juan David Baez; Isabel Chequer, a minor, by and through her parents and natural guardians, Gabriela Chequer and Amin Chequer; Anthony and Jennifer Montalto, as Co-Personal Representatives of the Estate of Gina Rose Montalto, deceased; and Kong Feng Wang a/k/a Jacky Wang and Hui Ying Zhang a/k/a Linda Wang, as Co-Personal Representatives of the Estate of Peter Wang, deceased

Eugene K. Pettis, Esq.
epettis@hpslegal.com
Debra Potter Klauber
dklauber@hpslegal.com
HALICZER, PETTIS & SCWHAMM,
P.A.
1 Financial Plz Fl 7
Fort Lauderdale, FL 33394
*Co-Counsel for Broward County School
Board*

John Elliot Leighton, Esq.
john@leightonlaw.com
max@leightonlaw.com
LEIGHTON LAW, P.A.
1401 Brickell Avenue, Ste. 900
Miami, FL 33131
*Counsel for Lisa and Richard Olson, as
parents of William Olson, a minor*

Bob L. Harris, Esq.
bharris@lawfla.com
ahopkins@lawfla.com
statecourtpleadings@lawfla.com
James J. Dean, Esq.
jdean@lawfla.com
Cameron H. Carstens, Esq.
cearstens@lawfla.com
MESSER CAPARELLO, P.A.
P.O. Box 15579
Tallahassee, FL 32317
*Counsel for Amicus Curiae Washington
County School Board et al.*

Barbara J. Myrick, Esq.
Barbara.myrick@browardschools.com
Office of the Broward County School
Board
600 S.E. 3rd Avenue #11FL
Fort Lauderdale, FL 33301
*Counsel for Broward County School
Board*

Robert W. Kelley, Esq.
rwk@kulaw.com
Kimberly L. Ward, Esq.
klw@kulaw.com
KELLEY / UUSTAL, PLC
500 N. Federal Highway
Suite 200
Fort Lauderdale, FL 33301
*Counsel for Ilan Alhadeff and Lori
Alhadeff as Co-Personal
Representatives of the Estate of Alyssa
Alhadeff deceased; Samantha Fuentes,
a minor, by and through her parents
and guardians James Grady and
Sovereign Grady; Samantha Mayor, a
minor, by and through her parents and
guardians Jess Mayor and Ellyn Mayor;
Kyle Laman, a minor, by and through
Her parents and guardians Franz
Laman and Marie Laman*