IN THE SUPREME COURT OF FLORIDA

CASE NO. SC04-2349

JULIO ARAVENA, Husband and Personal Representative of the Estate of GREGORIA VEGA, Deceased,

Petitioner,

v.

MIAMI-DADE COUNTY,

Respondent.

AMICUS CURIAE BRIEF of The School Board of Miami-Dade County, Florida

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STATEMENT OF INTEREST

The School Board of Miami-Dade County, Florida ("School Board") files this brief on behalf of the Respondent, Miami-Dade County. The School Board is the largest public employer in the state of Florida, employing approximately 45,000 employees. Pursuant to Section 768.28, Florida Statutes, Miami-Dade County and the School Board are responsible for the negligent acts of their employees. The impact of broadening the "unrelated works" exception to co-employee immunity, as urged by the Petitioner in this case, would be especially harmful because it would significantly increase the number of cases that would be removed from the predictable and efficient workers' compensation system and place them in the unpredictable and costly arena of common law tort litigation.

For this important public policy reason, this Court, as it did in Taylor v. School Board of Brevard County, 888 So. 2d 1 (Fla. 2004) should continue to narrowly construe the "unrelated works" exception and affirm the holding below.

SUMMARY OF ARGUMENT

The workers' compensation system protects both employees and employers from the unpredictability and expense of tort litigation. In its seventy years of existence in Florida, this system has maintained a productive labor force while keeping costs for employers reasonable. Through this system, millions of public dollars have been saved. It is clearly the public policy of this state that work related injuries be addressed through workers' compensation and not through tort litigation.

In Section 768.28, Florida Statutes, responsible for the negligent acts of their employees.

This Court, as it did in

IT IS THE PUBLIC POLICY OF THE STATE OF FLORIDA TO ADDRESS WORKPLACE INJURIES THROUGH WORKERS' COMPENSATION AND BROADENING THE EXCEPTION TO CO-EMPLOYEE IMMUNITY WOULD BE ESPECIALLY HARMFUL TO LARGE PUBLIC EMPLOYERS.

The Florida Legislature has adopted a comprehensive scheme for workers' compensation that generally provides workers' benefits without proof of fault and employers' immunity from tort actions based upon the same work place incident.

See Section 440.015, Fla. Stat. (2004) The Legislature has also expressly declared the legislative intent behind the Workers Compensation Law:

> It is the intent of the Legislature that the Workers' Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker's return to gainful employment at a reasonable cost to the employer. It is the specific intent of the Legislature that workers' compensation cases shall be decided on their merits. The workers' compensation system in Florida is based on a mutual renunciation of common-law rights and defenses of employers and employees alike.

Section Taylor v. School Board of Brevard County, 888 So. 2d 1 (Fla. 2004), this Court described the basic purpose behind workers' compensation law as twofold: (1) to see that workers in fact were rewarded for their industry by not being deprived of reasonably adequate and certain payment for workplace accidents; and (2) to replace an unwieldy tort system that made it virtually impossible for businesses to predict or insure for the cost of industrial accidents. Fla. Stat. § 440.11(1) (2004)440.11(1) represents an exception to the broad exclusive remedy provisions of the Florida's Workers' Compensation Law, we conclude that under the ordinary rules of statutory construction we must interpret it narrowly." Taylor, that

> In the ordinary case, when we are faced with a situation where an employee is injured on the job there exists a natural inference that the injury is covered by the Legislature's workers' compensation

> scheme. That is the fundamental purpose of the law, to provide benefits for work place injuries in place of common law remedies. Correspondingly, we conclude that the exception to this scheme for unrelated works should be applied only when it can clearly be demonstrated that a fellow employee whose actions caused the injury was engaged in works unrelated to the duties of the injured employee.

Taylor held that a school bus mechanic's responsibilities and that of a school bus attendant were not unrelated since these employees shared the common goal of providing safe transportation to the students. In so holding, the Court said "A contrary holding giving wide breadth to the rare exceptions to workers' compensation immunity would merely erode the purpose and function of the Workers' Compensation Law as established by the Legislature." The Court agreed with a recent Fourth District Court of Appeal decision in Fitzgerald v. South Broward Hospital District, 840 So. 2d 460, 463 (Fla. 4th DCA 2003), that the unrelated works exception should be narrowly construed because "an expansive construction would obliterate the legislative intent that the system operate at 'a reasonable cost' to the employer" and that to decide otherwise would "erode the immunity provided under the workers' compensation law...leading to a profusion of suits and a proliferation of costs." Taylor to this case . Miami-Dade County v. Aravena, 886 So. 2d 303, 304 (Fla. 3d DCA (2004). The Third District Court of Appeal held that the unrelated works exception barred the plaintiff's wrongful

death lawsuit because it could not "be clearly demonstrated that the work of the County's traffic signal repair personnel, whose job was to regulate vehicular and pedestrian traffic, was unrelated to the work of the school crossing guard, whose job also was to regulate vehicular and pedestrian traffic at the same intersection." Taylor, should continue to narrowly construe the unrelated works exception.

CONCLUSION

The Florida Legislature intended for most workplace injuries to be addressed through the workers' compensation system and this Court has determined that the unrelated works exception should be narrowly construed. The Third District Court correctly held that the exception was inapplicable, and its decision should be affirmed.

Respectfully submitted,

//s// Melinda L. McNichols
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail this ___ day of May, 2005 to Martin Leach, Feiler, Leach & McCarron, P.L., 901 Ponce de Leon Boulevard, Penthouse Suite, Coral Gables, Florida 33134; and Margaret E. Sojourner, Langston, Hess, Bolton, Znosko & Shepard, 111 South Maitland Avenue, Maitland, Florida 32751 and Jeffrey Ehrlich, Assistant Miami-Dade County Attorney, 111 N.W. First Street, Suite 2800, Miami, Florida 33128.

//s// Melinda L. McNichols
Melinda L. McNichols, Esquire

CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies that this Brief has been generated in Times New Roman 14-point font and complies with the font requirements of Rule 9.210 of the Florida Rules of Appellate Procedure.

//s// Melinda L. McNichols
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