

IN THE SUPREME COURT OF FLORIDA

CASE NUMBER: SC18-67

CITIZENS FOR STRONG SCHOOLS, Lower Tribunal Cases:1D16-2862;
INC.,et al., 372009CA00453

Petitioners,

Vs.

FLORIDA STATE BOARD OF EDUCATION, et al.,

Respondents,

_____ /

MOTION FOR LEAVE TO FILE *AMICUS* BRIEF ON BEHALF OF UNITED CEREBRAL PALSY ASSOCIATION OF MIAMI, INC. AND UNITED CEREBRAL PALSY OF BROWARD, PALM BEACH, AND MID-COASTS COUNTIES, INC.

The United Cerebral Palsy Association of Miami, Inc., d/b/a United Community Options of Miami (“UCPM”) and United Cerebral Palsy of Broward, Palm Beach, and Mid-Coast Counts, Inc. d/b/a United Community Options of Broward, Palm Beach and Mid-Coast Counties (“UCPB”) (UCPM and UCPB jointly referred to as “UCP”), pursuant to Fla. R. App. P. 9.370(a), move for leave to file an *amicus curiae* brief in support of Defendants-Respondents and Intervenor-Respondents in this appeal. The Plaintiffs do not oppose UCP filing a brief as friends of the Court. The Defendants and Intervenor agree to UCP filing a brief as friends of the Court.

RECEIVED, 07/24/2018 05:03:25 PM, Clerk, Supreme Court

1. UCP Has An Interest In This Appeal.

UCP operates non-profit corporations in Miami-Dade, Broward, and Palm Beach Counties, Florida, providing education to students through state and locally sponsored programs. The brief will discuss the individual school recipients of these programs operated by UCP, including: United Cerebral Palsy Transitional Learning Academy (Miami), Diamond Minds Transformational Learning Academy, Diamond Minds, Diamond Minds Excel, UCP Early Beginnings, and United Cerebral Palsy Transitional Learning Academy (Lake Worth).

Through these schools and programs, UCP serves students with disabilities in public and private school programs, as well as provides after school and summer school programs for public school children. UCP's interest in this case is to provide the Court with information on its student recipients of the McKay Scholarship Program and explain how those students will be affected by the Court striking down the McKay Scholarship Program. UCP will also demonstrate it runs other programs that work with and support the public-school system.

A ruling in this case that the McKay Scholarship Program is unconstitutional will have a direct effect on UCP's school programs which the movant members of the amici organizations provide. Without the McKay Scholarship Program, these educational opportunities would not be available and many of these programs and schools would cease to exist.

2. The Issues To Be Addressed In UCP's Amicus Brief.

The issues that UCP wishes to address are: (a) the programs and types of students that UCP serves, and the students who are eligible for the McKay Scholarship Program; and (b) that the McKay Scholarship Program is not unconstitutional, as these issues were briefed prior to the *Bush v. Holmes* decision, wherein this Court specifically found that other programs were unaffected. *Bush v. Holmes*, 919 So.2d 392, 411-13 (Fla. 2006). Briefs from *amicus curiae* are generally for the purpose of helping the Court in cases which are of general public interest. Issues relating to the education of Florida's children, and the potential loss of a scholarship program that assists students and families on a daily basis, make this case one of great public interest. This Court finding that the McKay Scholarship Program is unconstitutional, which was implemented in 1999, will have a negative life changing effect on the McKay Scholarship Program recipients that UCP serves.

3. UCP Can Assist The Court.

UCP is in a unique position to provide insight in this case as it serves both private and public-school children through its programs. Moreover, providing an understanding of how the McKay Scholarship Program is applied in actual practice is important to this appeal, as it will assist the Court in understanding how the program is utilized and who will be affected by the decision.

4. **All Parties Have Consented or Are Not Opposing the Amicus.**

The Plaintiffs advised UCP's counsel that they do not oppose the filing of an *amicus* brief. The Defendants and Intervenors consent to the filing of an *amicus* by UCP.

Date: July 24, 2018

Respectfully submitted,
/s/ Joseph S. Van de Bogart,
Joseph S. Van de Bogart
Florida Bar No. 0084764
joseph@vandebogartlaw.com
Van de Bogart Law, P.A.
2850 N. Andrews Ave.
Fort Lauderdale, FL 33311

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief was prepared in Times New Roman 14-point font, in compliance with Rule 9.210(a)(2) of the Florida Rules of Appellate Procedure.

/s/ Joseph S. Van de Bogart,
Joseph S. Van de Bogart

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2018, a true and correct copy of the foregoing document was sent via email pursuant to Fla. R. Jud. Admin. 2.516 to all counsel of record on the attached Service List.

/s/ Joseph S. Van de Bogart,
Joseph S. Van de Bogart

SERVICE LIST

Jodi Siegel
Kirsten Clanton
Southern Legal Counsel, Inc.
1229 NW 12th Avenue
Gainesville, FL 32601
Jodi.siegel@southernlegal.org
Kirsten.clanton@southernlegal.org

Attorneys for Plaintiffs/Appellants

Timothy D. Keller
398 S. Mill Avenue, Suite 301
Tempe, AZ 85281
tkeller@ij.org

Attorney for Institute for Justice

Angelica M. Firoentino
Michael Santos
Baker Donelson Bearman Caldwell &
Berkowitz, PC
200 South Orange Avenue
Suite 2900
Orlando, FL 32801
afiroentino@bakerdonelson.com
msantos@bankerdonelson.com

Attorneys for Appellants

Ari S. Bargil
Institute for Justice
999 Brickell Avenue, Suite 720
Miami, FL 33131
abargil@ij.org

Attorney for Institute for Justice

Richard Komer
901 N. Glebe Road, Suite 900
Arlington, VA 22203
rkomer@ij.org

Attorney for Institute for Justice

Timothy McLendon
3324 W University Avenue, Box 215
Gainesville, FL 32607
mclendon@law.ufl.edu

Deborah Cupples
2841 SW 13th Street, G-327
Gainesville, FL 32608
dcupples@cox.net

Eric J. Lindstrom
Egan, Lev & Siwica, P.A.
P.O. Box 5276
Gainesville, FL 32627-5276
elindstrom@eganlev.com

Neil Chonin
2436 NW 27th Place
Gainesville, FL 32601
neil@millerworks.net

Attorneys for Plaintiffs/Appellants

Jonathan A. Glogau
Office of the Attorney General
400 S. Monroe Street, PL-01
Tallahassee, FL 32399-0400
Jon.glogau@myfloridalegal.com
Joann.mrazek@myfloridalegal.com

Christie Letarte
Dawn Roberts
The Florida Senate
302 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100
letarte.christie@flsenate.gov
christie.letarte@yahoo.com
roberts.dawn@flsenate.gov
dkroberts.seminole@gmail.com

Rocco Testani
Stacey McGavin Mohr
Lee A. Peifer
Sutherland, Asbill & Brennan, LLP
999 Peachtree Street NE, Suite 2300
Atlanta, GA 30309-4416
Rocco.Testani@sutherland.com
Phyllis.White@sutherland.com
Janice.English@sutherland.com
Stacey.Mohr@sutherland.com
Lee.Peifer@sutherland.com
Cynthia.Garrett@sutherland.com

Judy Bone
Mari Presley
Matthew Mears
Florida Dept. of Education
1244 Turlington Building
325 W. Gaines Street
Tallahassee, FL 32399
judy.bone@fldoe.org
mari.presley@fldoe.org
matthew.mears@fldoe.org
cara.martin@fldoe.org

Adam S. Tanenbaum
Matt Carson
Florida House of Representatives
418 The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300
adam.tanenbaum@myfloridahouse.gov
debi.robbs@myfloridahouse.gov
matt.carson@myfloridahouse.gov

Counsel for Florida State Board of Education; Joe Negron, in his official capacity as the President of the Florida Senate; Richard Corcoran, in his official capacity as the Speaker of the Florida House of Representatives; Pam Stewart, in her official capacity as the Florida Commissioner of Education