

IN THE SUPREME COURT OF FLORIDA

BRENT A. DODGEN,

Petitioner,

Case No. SC19-1118

L.T. Case No. 4D19-1010

v.

KAITLYN P. GRIJALVA,

Respondent.

**CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA
AND FLORIDA JUSTICE REFORM INSTITUTE’S MOTION FOR LEAVE
TO APPEAR AS AMICI CURIAE IN SUPPORT OF PETITIONER**

Pursuant to Florida Rule of Appellate Procedure 9.370, the Chamber of Commerce of the United States of America (the “Chamber”) and the Florida Justice Reform Institute (the “Institute”) move for leave to appear as amici curiae in support of the Petitioner in this case. As grounds for this motion, the Chamber and the Institute state:

1. **Interest of Amici Curiae:** The Chamber is the world’s largest business federation. It represents 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the

RECEIVED, 10/30/2019 10:35:29 AM, Clerk, Supreme Court

Chamber regularly files amicus briefs in cases that raise issues of concern to the nation's business community.

2. The Institute is Florida's leading organization of concerned citizens, business owners, business leaders, doctors, and lawyers who seek the adoption of fair legal practices to promote predictability and personal responsibility in the civil justice system. Since its founding, the Institute has advocated practices that build faith in Florida's court system. It represents a broad range of participants in the business community who share a substantial interest in a balanced litigation environment that treats plaintiffs and defendants evenhandedly.

3. **Issue Amicus Curiae Will Address & How Amicus Curiae Can Assist the Court:** Many of the Chamber's and the Institute's members are frequently named defendants in personal injury lawsuits brought by injured plaintiffs. With increasing frequency, the claims against them for medical damages are grossly and unreasonably inflated. In large part, these inflated damages are the result of preexisting referral relationships between personal injury law firms and certain treating physicians and clinics.

4. In *Worley v. Central Florida Young Men's Christian Association*, 228 So. 3d 18 (Fla. 2017), this Court ruled that such referral relationships are protected by attorney-client privilege and are therefore not discoverable. Many district courts have noted that *Worley* has resulted in the disparate treatment of plaintiffs and

defendants in the context of physician referral relationships. Here, Petitioner seeks to end this disparity by extending *Worley* to apply to discovery served upon a defendant seeking information concerning the financial relationship between the defendant's insurer and a compulsory medical examiner.

5. If granted leave, the Chamber and the Institute will explain the effect the disparate treatment described above has on defendants in personal injury lawsuits and why all referral relationships to specific health care providers must be treated the same.¹

6. **Certificate of Consultation.** The undersigned have consulted with counsel for Petitioner and are authorized to represent that Petitioner does not oppose the Chamber's and Institute's appearance as amici curiae in this case. The undersigned contacted counsel for Respondent but did not receive a response.

WHEREFORE, the Chamber and the Institute respectfully request this Court grant this motion for leave to appear as amici curiae in this proceeding.

[SIGNATURE BLOCK ON NEXT PAGE]

¹ Earlier this year, the Chamber and the Institute were granted leave to appear in *Younkin v. Blackwelder*, SC19-385, to address this same topic.

Respectfully submitted,

/s/ Amber Stoner Nunnally

Jason Gonzalez

Florida Bar No. 146854

Amber Stoner Nunnally

Florida Bar No. 109281

SHUTTS & BOWEN LLP

215 S. Monroe Street, Suite 804

Tallahassee, Florida 32301

(850) 241-1717

jasongonzalez@shutts.com

anunnally@shutts.com

and

William W. Large

Florida Bar No. 981273

**FLORIDA JUSTICE REFORM
INSTITUTE**

210 S. Monroe Street

Tallahassee, Florida 32301

(850) 222-0170

william@fljustice.org

*Attorneys for Amici Curiae Chamber of
Commerce of the United States of America
and Florida Justice Reform Institute*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of October, 2019, a true and correct copy of the foregoing was furnished by e-mail to all parties listed below.

Kansas R. Gooden
Boyd & Jenerette, P.A.
201 N. Hogan Street, Suite 400
Jacksonville, Florida 32202
kgooden@boydjen.com

Counsel for Petitioner

Douglas Eaton
Eaton & Wolk, P.L.
2665 S. Bayshore Drive, Suite 609
Miami, Florida 33133
deaton@eatonwolk.com

Counsel for Respondent

/s/ Amber Stoner Nunnally
Attorney