

**IN THE FLORIDA SUPREME COURT**

BRENT A. DODGEN,

CASE NO: SC19-1118

Petitioner,

vs.

KAITLYN P. GRIJALVA,

Respondent.

**JOHN SHIM, M.D.'s AND MICHAEL FOLEY, M.D.'s  
MOTION FOR LEAVE TO APPEAR AS AMICUS CURIAE**

Pursuant to Florida Rule of Appellate Procedure 9.370, JOHN SHIM, M.D. (hereinafter "Dr. Shim") and MICHAEL FOLEY, M.D. (hereinafter "Dr. Foley"), hereby move this Honorable Court for leave to file an Amicus Brief in support of the Petitioner, BRENT A. DODGEN (hereinafter "DODGEN"), and in support state as follows:

1. Dr. Shim is a board-certified orthopedic surgeon specializing in surgery of the spine. Dr. Shim has a private clinical practice and provides expert testimony in litigation, including the performance of compulsory medical examinations of injured parties who are involved in litigation.

2. Dr. Foley is a board-certified radiologist and at the present time, only provides expert testimony, testifying approximately 55% of the time on behalf of Defendants and 45% of the time on behalf of Plaintiffs.

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3. Drs. Foley and Shim, as non-party expert witnesses retained for purposes of litigation, share an interest in this matter because this Court's answer to the certified question of great public importance potentially affects not only their fundamental constitutional privacy rights granted to them in Art I sec 23 of the Florida constitution, but the privacy rights of all experts testifying in litigation matters. Drs. Foley and Shim intend to demonstrate to this Court the concerns of all non-party experts regarding the intrusive, over-reaching and harassing discovery that parties to litigation are requiring them to respond to.

4. On behalf of all non-party experts, they have an interest in maintaining the integrity of the court system, conserving scarce judicial resources, and protecting the privacy rights of non-parties who become involved in the litigation process.

5. Drs. Foley and Shim would like to address the aforementioned issues, should the Court allow the undersigned to file an amicus brief on behalf of Drs. Foley and Shim.

6. Drs. Foley and Shim hereby give notice of their intent to appear as amicus curiae in support of the position of Petitioner DODGEN.

7. Drs. Foley and Shim hereby respectfully request that they be permitted to file an amicus brief in support of the position of the Petitioner.

8. Patrick A. Brennan, Esquire of HD Law Partners, P.A. and John Hamilton, Esquire of the Law Office of John Hamilton of Tampa, P.A. will be preparing the amicus brief on behalf of Drs. Foley and Shim.

9. On November 14, 2019, the undersigned counsel contacted counsel for the Respondent, Doug Eaton, Esquire, who advised he objects to the undersigned's appearance in this case.

**WHEREFORE**, JOHN SHIM, M.D. and MICHAEL FOLEY, M.D., respectfully request that this Court enter an Order permitting them to appear as amicus curiae and to file an amicus brief in this matter.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic service on this 27th day of November, 2019.



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