

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC19-385

STEVEN YOUNKIN,

Petitioner,

vs.

NATHAN BLACKWELDER,

Respondent.

**PETITIONER STEVEN YOUNKIN'S RESPONSE IN OPPOSITION TO
KAITLYN GRIJALVA'S MOTION FOR LEAVE TO APPEAR AS
AMICUS CURIAE**

Petitioner STEVEN YOUNKIN, by and through his undersigned counsel, files this response in opposition to Kaitlyn Grijalva's Motion for Leave to Appear as Amicus, and in support states as follows:

1. This Court should deny Kaitlyn Grijalva's Motion for Leave to Appear as Amicus Curiae.
2. In her motion, Ms. Grijalva states that she is involved in another appeal before this Court that is stayed pending resolution of this case. See Case No. SC19-1118. She wants to address how her case is different. She wants to explain why her case "was improvidently granted and why this Court should decline to extend the certified question to include the issue in her appeal."

RECEIVED, 09/10/2019 01:15:01 PM, Clerk, Supreme Court

3. This is inappropriate for an amicus brief.

4. If Ms. Grijalva truly believed her case should not have been marked as a tag case, she should have acted *in her own case*. However, she has failed to do so. There has been no docket activity after entry of the order marking this as a tag case. See Case No. SC19-1118 (order entered July 9, 2019).

5. Moreover, Ms. Grijalva's request is contrary to this Court's internal operating procedures for tag cases. After disposition of the lead case (i.e. Younkin), the clerk will lift the stay and issue a show cause order as to why the case should not be controlled by the lead case decision. Despite her argument otherwise, Ms. Grijalva will have an opportunity to be heard at that time. See The Supreme Court of Florida Manual of Internal Operating Procedures, II(C)(3).

6. Now, in an amicus brief, Ms. Grijalva is attempting to address jurisdiction and the ultimate merits of her claim in this unrelated case.¹ The record from Fourth District has not been transmitted to this Court, yet Ms. Grijalva wants to address the specific facts of her case.

7. "Although 'by the nature of things an amicus is not normally impartial,' amicus briefs should not argue the facts in issue." Ciba-Geigy Ltd. v. Fish Peddler,

¹ While the undersigned does represent both parties, the Petitioners are not related and it is two separate cases arising in two separate district courts of appeal.

683 So. 2d 522 (Fla. 4th DCA 1996) (citing Strasser v. Doorley, 432 F.2d 567 (1st Ca. 1970)).

8. Ms. Grijalva is inappropriately injecting issues not presented by, or even available to, the parties in this case. See Turner v. Tokai Fin. Servs., Inc., 767 So. 2d 494, 496 n.1 (Fla. 2d DCA 2000); Acton v. Ft. Lauderdale Hosp., 418 So. 2d 1099, 1101 (Fla. 1st DCA 1982); Keating v. State, 157 So. 2d 567, 569 (Fla. 1st DCA 1963).

9. In any event, “[a]n amicus curiae, although having a general interest in a proceeding, is not bound by the decision of the court. An amicus curiae serves as friend of the court to offer its views on a particular issue pending, but is not directly affected by the outcome of a proceeding.” Premier Indus. v. Mead, 595 So. 2d 122, 125 (Fla. 1st DCA 1992).

10. There are other policy reasons as to why Ms. Grijalva should not be allowed to appear.

11. There are numerous cases either stayed or pending in this Court, district courts, and circuit courts where this issue is being litigated and appealed. See, e.g., Dhanraj v. Garcia, SC19-610; Salber v. Frye, SC19-982; Rosenthal v. Badillo, SC19-1241; Levitan v. Razuri, SC19-1279; Tortorella-Andrews v. Delvecchio, 2D19-844; Peterson v. Wishahi, 2D19-3339; Villalobos v. Martinez, 3D19-155; Angeles-Delgado v. Benitez, 3D19-1022; Bichachi v. Hernandez, 3D19-1250;

Barnes v. Sanabria, 5D19-2356; Jean-Baptiste v. Spivak, 2017-018438CA (Fla. 11th Cir.). This is a small sampling of what is in the Florida court system on this issue. If every single one of those individual plaintiffs appeared as an amicus, this Court could receive amicus briefs numbering in the hundreds, and possibly over a thousand, given the wide-spread nature of the discovery at issue.

12. Lastly, the Florida Justice Association has been granted leave by this Court to appear as an amicus. The undersigned did not object to their request. Its motion was filed as unopposed. The Florida Justice Association is a statewide group of plaintiffs' attorneys who will more than adequately address the arguments and concerns of Ms. Grijalva, and all similarly situated plaintiffs.

13. Accordingly, this Court should deny Ms. Grijalva's request to appear as the items she wants to address are not appropriate for an amicus brief.

WHEREFORE, Petitioner STEVEN YOUNKIN respectfully requests this Court to deny Kaitlyn Grijalva's Motion for Leave to Appear as Amicus.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a copy of the foregoing was served via EPORTAL to: **George H. Anderson, III Esq.**, Dutch.Anderson@newlinlaw.com; Anderson.pleadings@newlinlaw.com; Dan Newlin & Partners, 7335 W Sand Lake Road, Orlando, FL 32819; **Mark A. Nation, Esq.**, and **Paul W. Pritchard, Esq.**, bhirt@nationlaw.com, mnation@nationalw.com, ppritchard@nationlaw.com, The Nation Law Firm, 570 Crown Oak Centre Drive, Longwood, FL 32750; **Amanda E. Wright, Esq.**, OrlandoLegal@Allstate.com, Law Offices of Robert J. Smith, 390 North Orange Avenue, Suite 895, Orlando, FL 32801-1635; **Jason Gonzalez, Esq.**, **Amber Stoner Nunnally, Esq.**, Shutts & Bowen, LLP, 215 S. Monroe St. Suite 804, Tallahassee, FL 32301, jasongonzalez@shutts.com, anunnally@shutts.com; **William W. Large, Esq.**, Florida Justice Reform Institute, 201 S. Monroe St., Tallahassee, FL 32301, william@fljustice.org; **Bryan S. Gowdy, Esq.**, 865 May Street, Jacksonville, FL 32204, bgowdy@appellate-firm.com, filings@appellate-fim.com; **Elaine D. Walter**, Boyd Richards Parker Colonnelli, 100 S.E. 2nd Street, Suite 2600, Miami, FL 33131, ewalter@boydlawgroup.com, **Andrew S. Bolin, Esq.**, **Chizom Okebugwu, Esq.**, Bolin Law Group, 1905 E. 7th Avenue, Tampa, FL 33605, asb@bolin-law.com, cjo@bolin-law.com; **Douglas Eaton, Esq.**, Eaton & Wolk, P.L., 2665 So. Bayshore Drive, Suite 609, Miami, FL 33133, deaton@eatonwolk.com, cgarcia@eatonwolk.com; this 10th day of September,

2019.

BOYD & JENERETTE, P.A.
Attorneys for Petitioner
201 North Hogan Street, Suite 400
Jacksonville, Florida 32202
Tel: (904)353-6241
Fax: (904)493-5658

/s/ Kansas R. Gooden

KANSAS R. GOODEN

Florida Bar No. 58707

kgooden@boydjen.com

GENEVA R. FOUNTAIN

Florida Bar No. 117723

gfountain@boydjen.com