

IN THE SUPREME COURT OF FLORIDA

FREDERIC GUTTENBERG, ETC.,  
ET AL.

Appellant(s),

CASE NO.: SC19-487

Lower Tribunal No(s):

4D19-229

062018CA9397AXXXCE

v.

THE SCHOOL BOARD OF  
BROWARD COUNTY,

Appellee.

**UNOPPOSED MOTION FOR LEAVE TO FILE *AMICUS* BRIEF  
IN SUPPORT OF THE SCHOOL BOARD OF BROWARD COUNTY**

The Washington County School Board (in its capacity as District of record for the Panhandle Area Educational Consortium), the Calhoun County School Board, the Franklin County School Board, the Gadsden County School Board, the Gulf County School Board, the Holmes County School Board, the Jackson County School Board, the Jefferson County School Board, the Liberty County School Board, the Madison County School Board, the Taylor County School Board, the Wakulla County School Board, the Walton County School Board, the Washington County School Board (on its own behalf) and the Florida A&M University Developmental Research School (FAMU DRS), pursuant to Rule 9.370(a), Florida Rules of Appellate Procedure, move this Court for leave to file, as *amici curiae*, a

RECEIVED, 04/26/2019 03:53:38 PM, Clerk, Supreme Court

brief in support of Appellee School Board of Broward County. In further support of this Motion, *Amici* state:

1. *Amici* are the Washington County School Board (in its capacity as District of record for the Panhandle Area Educational Consortium- “PAEC”) and its member School Districts, which are located in rural areas of the panhandle of Florida. PAEC is a non-profit regional educational consortium service organization whose creation is authorized by section 1001.451, Florida Statutes. Educational consortia are established to provide joint programs and services to small school districts (i.e., districts with 20,000 or fewer students) which, because of their small size, might not be able to obtain the services otherwise. *See* §1001.451, Florida Statutes; Fla. Admin. Code R. 6A-1.099(b).

2. *Amici* believe they can assist this Court in its determination of how to apply the aggregate cap in the sovereign immunity statute, section 768.28(5), Florida Statutes, to the tragic mass shooting that occurred at the Marjory Stoneman Douglas High School.

3. *Amici* will provide an alternative perspective to that of the other parties in this case. *Amici* are small rural school districts with very limited resources. Thus, the manner in which the Court construes the language of section 768.28(5), Florida Statutes, will have an even greater impact on *Amici*, and other small school districts in the State, than it will on larger school districts like

Broward County. A decision which would make each injury to a student or staff a separate incident or occurrence could bankrupt a small school district, or make it uninsurable, especially if each such incident resulted in a claims bill.

4. *Amici*, if permitted to file a brief as *amici curiae*, would address whether the claims of the multiple Plaintiffs in this case arise out of the same incident or occurrence, within the meaning of section 768.28(5), Florida Statutes, and will address the broader implications of this issue on its small rural member districts.

5. Counsel for *Amici* has conferred with counsel for Appellants and Appellee, and is authorized to represent that counsel for the parties have no objection to the leave sought in the instant Motion.

WHEREFORE, for the foregoing reasons, *Amici* respectfully request that this Court grant their Motion for Leave to file a Brief as *amici curiae* in support of Appellee School Board of Broward County.

Respectfully submitted,

/s/Bob L. Harris

**BOB L. HARRIS, ESQ.**

Florida Bar No: 460109

**JAMES J. DEAN, ESQ.**

Florida Bar No.: 0832121

**CAMERON H. CARSTENS, ESQ.**

Florida Bar No: 112864

**MESSER CAPARELLO, P.A.**

Post Office Box 15579

Tallahassee, FL 32317

Telephone: (850) 222-0720

Facsimile: (850) 558-0662

Primary E-Mail: [bharris@lawfla.com](mailto:bharris@lawfla.com)

[jdean@lawfla.com](mailto:jdean@lawfla.com)

[ccarstens@lawfla.com](mailto:ccarstens@lawfla.com)

Secondary E-Mail: [ahopkins@lawfla.com](mailto:ahopkins@lawfla.com)

[statecourtpleadings@lawfla.com](mailto:statecourtpleadings@lawfla.com)

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26th day of April, 2019, the foregoing document was electronically filed with the Florida E-File Portal and furnished by email to the following counsel of record in this case:

<i>Counsel for Daniela Menescal:</i>  LAWLOR & ASSOCIATES Patrick W. Lawlor, Esq. One Royal Palm Place, 1877 S. Federal Highway, Suite 302, Boca Raton, Florida 33432 <a href="mailto:pat@pwlawlor.com">pat@pwlawlor.com</a> <a href="mailto:tammy@pwlawlor.com">tammy@pwlawlor.com</a>	<i>Counsel for Frederic Guttenberg as Personal Representative of the Estate of Jaime T. Guttenberg, deceased:</i>  PODHURST ORSECK, P.A. One S.E. 3rd Avenue, Suite 2300 Miami, Florida 33131 Steven C. Marks <a href="mailto:smarks@podhurst.com">smarks@podhurst.com</a> Dayron Silverio <a href="mailto:dsilverio@podhurst.com">dsilverio@podhurst.com</a> Kristina M. Infante <a href="mailto:kinfante@podhurst.com">kinfante@podhurst.com</a> Stephen F. Rosenthal <a href="mailto:srosenthal@podhurst.com">srosenthal@podhurst.com</a>
<i>Counsel for Martin Duque and Daisy Anguiano, as parents of the Martin Duque, deceased:</i>  THE BRODY LAW FIRM, LLC. Daman Brody, Esq., 1688 Meridian Ave, Suite 700 Miami Beach, Florida 33139	<i>Counsel for Manuel Oliver and Patricia Padauy, as Co-Personal Representatives of the Estate of Joaquin Oliver, deceased, Stacy Lippel, Linda Beigel, as Personal Representative of the Estate of Scott Beigel deceased:</i> HAGGARD LAW FIRM, P.A. 330 Alhambra Circle, First Floor

<p><a href="mailto:daman@bomlegal.com">daman@bomlegal.com</a></p>	<p>Coral Gables, Florida 33134  Michael A. Haggard, Esq.  <a href="mailto:MAH@haggardlawfirm.com">MAH@haggardlawfirm.com</a>  Christopher Marlowe, Esq.  <a href="mailto:CLM@haggardlawfirm.com">CLM@haggardlawfirm.com</a>  Todd J. Michaels, Esq.  <a href="mailto:TJM@haggardlawfirm.com">TJM@haggardlawfirm.com</a></p>
<p><i>Counsel for Ashley Maria Baez, a minor by and through her parents and natural guardians, Katherine Baez and Juan David Baez; Isabel Chequer, a minor, by and through her parents and natural guardians, Gabriela Chequer and Amin Chequer; Anthony and Jentúfer Montalto, as Proposed Co-Personal Representatives of the Estate of Gina Rose Montalto, deceased; and Kong Feng Wang a/k/a Jacky Wang and Hui Ying Zhang a/k/a Linda Wang, as Co-Personal Representatives of the Estate of Peter Wang, deceased:</i></p> <p>GROSSMAN ROTH YAFFA  2525 Ponce de Leon Blvd., Suite 1150  Coral Gables, Florida 33134  Stuart Z. Grossman  <a href="mailto:szg@grossmanroth.com">szg@grossmanroth.com</a>  Alex Arteaga-Gomez  <a href="mailto:aag@grossmanroth.com">aag@grossmanroth.com</a>  William P. Mulligan  <a href="mailto:wpm@grossmanroth.com">wpm@grossmanroth.com</a></p>	<p><i>Counsel for Andrew Pollack, as Co-Personal Representative of the Estate of Meadow Pollack, deceased:</i></p> <p>BRILL &amp; RINALDI, THE LAW FIRM  17150 Royal Palm Boulevard, Suite 2  Weston, Florida 33326  David W. Brill, Esq.  <a href="mailto:david@brillrinaldi.com">david@brillrinaldi.com</a>  <a href="mailto:yamile@brillrinaldi.com">yamile@brillrinaldi.com</a>  Joseph J. Rinaldi, Jr., Esq.  <a href="mailto:joe@brillrinaldi.com">joe@brillrinaldi.com</a>  <a href="mailto:yamile@brillrinaldi.com">yamile@brillrinaldi.com</a>  Chelsea R. Ewart, Esq.  <a href="mailto:chelsea@brillrinaldi.com">chelsea@brillrinaldi.com</a>  <a href="mailto:yamile@brillrinaldi.com">yamile@brillrinaldi.com</a></p> <p>JOEL S. PERWIN, P.A.  Alfred I. Dupont Building, Suite 1422  169 E. Flagler Street  Miami, Florida 33131  Joel S. Perwin, Esq.  <a href="mailto:jperwin@perwinlaw.com">jperwin@perwinlaw.com</a>  <a href="mailto:sbigelow@perwinlaw.com">sbigelow@perwinlaw.com</a></p>
<p><i>Counsel for Shara Kaplan, as Co-Personal Representative of the Estate of Meadow Pollack, deceased:</i></p> <p>TRACY CONSIDINE, P.A.  1 Sleiman Parkway, Suite 210  Jacksonville, Florida 32216</p>	<p><i>Counsel for Max Schachter, as Personal Representative of the Estate of Alex Schachter and Benjamin E. Wikander:</i></p> <p>COLSON HICKS EIDSON, P.A.  255 Alhambra Circle, Penthouse  Coral Gables, Florida 33134</p>

<p>Tracy Considine, Esq.  <a href="mailto:tconsidine@tcjaxlaw.com">tconsidine@tcjaxlaw.com</a>  <a href="mailto:jcolucci@tcjaxlaw.com">jcolucci@tcjaxlaw.com</a></p>	<p>Curtis B. Miner  <a href="mailto:curt@colson.com">curt@colson.com</a>  Julie Braman Kane  <a href="mailto:julie@colson.com">julie@colson.com</a>  Patrick Montoya  <a href="mailto:patrick@colson.com">patrick@colson.com</a></p>
<p><i>Counsel for Philip and April Schentrup, as Representatives for the Estate of Cannen Schentrup, deceased:</i></p> <p>RENNERT VOGEL MANDLER &amp; RODRIGUEZ, P.A.  100 S.E. Second Street, Suite 2900  Miami, Florida 33131  Robert M. Stein, Esq.  <a href="mailto:rstein@rvmlaw.com">rstein@rvmlaw.com</a>  Jeffrey A. Tew, Esq.  <a href="mailto:jtew@rvmlaw.com">jtew@rvmlaw.com</a></p>	<p><i>Co-Counsel for the Broward County School Board:</i></p> <p>HALICZER, PETTIS &amp; SCHWAMM, P.A.  Eugene K. Pettis, Esq.  Debra Potter Klauber, Esq.  1 Financial Plz Fl 7  Fort Lauderdale, Florida 33394  <a href="mailto:epettis@hpslegal.com">epettis@hpslegal.com</a>  <a href="mailto:dklauber@hpslegal.com">dklauber@hpslegal.com</a></p>
<p><i>Counsel for the Broward County School Board:</i></p> <p>Barbara J. Myrick  Office of Broward County School Board  600 SE 3<sup>rd</sup>. Ave. #11FL  Ft. Lauderdale, Florida 33301-3125  <a href="mailto:barbara.myrick@browardschools.com">barbara.myrick@browardschools.com</a></p>	<p><i>Counsel for Lisa and Richard Olson, As parents of William Olson, a minor:</i></p> <p>LEIGHTON LAW, P.A.  John Elliott Leighton  1401 Brickell Avenue, Suite 900  Miami, Florida 33131  <a href="mailto:john@leightonlaw.com">john@leightonlaw.com</a>  <a href="mailto:max@leightonlaw.com">max@leightonlaw.com</a></p>
<p><i>Counsel for Ilan Alhadeff and Lori Alhadeff as Co-Personal Representatives of the Estate of Alyssa Alhadeff, deceased; Samantha Fuentes, a minor, by and through her parents and guardians James Grady and Sovereign Grady; Samantha mayor, a minor, by and through her parents and guardians Jess Mayor and Ellyn Mayor;</i></p>	

*Kyle Laman, a minor, by and through  
her parents and guardians Franz Laman  
and Marie Laman:*

Kelley / UUSTAL PLC  
Robert W. Kelley, Esq.  
Kimberly L. Ward, Esq.  
500 North Federal Highway  
Suite 200  
Fort Lauderdale, Florida 33301  
[rwk@kulaw.com](mailto:rwk@kulaw.com)  
[klw@kulaw.com](mailto:klw@kulaw.com)

/s/Bob L. Harris

**BOB L. HARRIS, ESQ.**