

IN THE SUPREME COURT OF FLORIDA

FREDERIC GUTTENBERG, etc., et
al.,

Petitioners,

Case No. SC19-487

v.

THE SCHOOL BOARD OF
BROWARD COUNTY,

Respondent.

MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF
IN SUPPORT OF PETITIONERS

The Florida Justice Association moves, under Florida Rule of Appellate Procedure 9.370, for leave to appear as amicus curiae and file a brief in support of Petitioners.

I. Movant's interest.

The FJA is a large voluntary statewide association of more than 3,000 attorneys concentrating on litigation in all areas of the law. The members of the FJA are pledged to the preservation of the American legal system, the protection of individual rights and liberties, the evolution of the common law, and the right of access to courts. The FJA has been involved as amicus curiae in hundreds of cases the Florida appellate courts, including this Court.

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The lawyer members of the FJA care deeply about the integrity of the legal system and, toward this end, have established an amicus curiae committee. The committee considered an issue presented in this case to be of importance.

II. Particular issue to be addressed.

The issue before the Court is whether the immediate injury-producing acts in this case—the shootings of each victim—are the “accident or occurrence” for the purpose of applying the sovereign-immunity caps under Florida Statutes subsection 786.28(5).

In the related *Barnett* case, the Fourth District said no. It supported its interpretation by pointing to the effect it assumed a different interpretation would have on the public fisc. *Dep’t of Fin. Servs. v. Barnett*, 262 So. 3d 750, 754-55 (Fla. 4th DCA 2018).

The FJA would address that assumption by discussing the fact that many government entities, specifically school boards in Florida, deliberately choose to self-insure; and also the growing availability of “active shooter” insurance.

III. How the movant can assist the court.

The FJA believes that its input will be of assistance to the Court in resolving the issue raised because it raises difficult questions of Florida law and policy. *See, e.g., Ciba-Geigy Ltd. v. Fish Peddler Inc.*, 683 So. 2d 522 (Fla. 4th DCA 1999) (briefs from

amicus curiae are generally for the purpose of assisting the court in cases which are of general public interest, or aiding in the presentation of difficult issues).

IV. Positions of the parties.

Counsel for the FJA has contacted counsel for Respondent, Debbie Klauber, who states Respondent has no objection to this motion.

WHEREFORE, the FJA respectfully requests leave to file an Amicus Curiae Brief in support of Petitioners in this case.

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true copy of the foregoing has been furnished to
all counsel on the attached service list by e-mail on June 3, 2019.

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