

No. SC04-925  
Lower Tribunal No. 2D04-2045

IN THE SUPREME COURT OF FLORIDA

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**JEB BUSH, Governor of the State of Florida,**

*Appellant,*

vs.

**MICHAEL SCHIAVO, as guardian of the person of  
THERESA MARIE SCHIAVO,**

*Appellee.*

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**MOTION TO FILE AMICUS CURIAE BRIEF  
WITH THE CONSENT OF THE PARTIES**

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**55 BIOETHICISTS**  
**[LISTED ON INSIDE FRONT COVER]**  
**AND AUTONOMY, INC.**

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COME NOW THE UNDERSIGNED 55 BIOETHICISTS and AUTONOMY, INC., who respectfully move to file the accompanying amicus curiae brief in support of MICHAEL SCHIAVO as guardian of the person of THERESA MARIE SCHIAVO, and state:

## **THE AMICI CURIAE**

The 55 individual amici curiae are bioethicists working in medicine, nursing, and academia.

George J. Annas, J.D., M.P.H., is Professor and Chair of the Department of Health Law, Bioethics & Human Rights at Boston University School of Public Health.

Charles H. Baron is Professor of Law at Boston College Law School.

Carol Bayley is Vice President for Ethics and Justice Education at Catholic Healthcare West, which owns and operates 41 not-for-profit hospitals throughout the western United States.

Nancy Berlinger, Ph.D., M.Div., is Deputy Director and Associate for Religious Studies at The Hastings Center.

Margaret P. Battin, Ph.D., is Distinguished Professor of Philosophy and Adjunct Professor of Internal Medicine, Division of Medical Ethics, at the University of Utah.

Hugo Bedau is Austin Fletcher Professor of Philosophy Emeritus at Tufts University.

Martin Benjamin is Professor of Philosophy at Michigan State University.

Howard Brody, M.D., Ph.D., is a physician on the faculty of the Michigan State University Center for Ethics and Humanities in the Life Sciences.

Robert V. Brody, M.D., is chair of the ethics committee and chief of the Pain Consultation Clinic at San Francisco General Hospital, and a Professor at the University of California, San Francisco.

Jeffrey Burack, M.D., M.P.P. & B.Phil., is Professor of Bioethics and Medical Humanities at the University of California, Berkeley, and Professor of Medicine at the University of California, San Francisco

Norman L. Cantor is Professor of Law and Justice Nathan Jacobs Scholar at Rutgers Law School in Newark, New Jersey.

R. Alta Charo is Professor of Law and Bioethics at the University of Wisconsin Law and Medical Schools.

Gerald Dworkin, Ph.D., is Professor of Philosophy at the University of California, Davis.

Sheila R. Enders, M.S.W., is Assistant Clinical Professor at the U.C. Davis Medical Center and has worked with the West Coast Center for Palliative Education and Research.

N. Marlene Fleming, Esq., is Vice-President for Human Resources and Compliance Officer for Friends Hospital in Philadelphia.

Joel Frader, M.D., is Professor of Pediatrics and Professor of Medical Humanities and Bioethics at the Feinberg School of Medicine, Northwestern University.

Leslie Pickering Francis, Ph.D., is Professor of Philosophy and Alfred C. Emery Professor of Law at the University of Utah.

Karen Gervais, Ph.D., is Director of the Minnesota Center for Health Care Ethics.

Michael A. Grodin, M.D., is Professor of Health Law, Bioethics, Human Rights and Psychiatry, Boston University Schools of Public Health and Medicine.

Gerard F. Heeley is Director of Ethics for a national health care system.

Milton D. Heifetz, M.D., is Clinical Professor of Neurosurgery at University of Southern California and Visiting Lecturer at Boston College Law School.

Steve Heilig is Editor of the Cambridge Quarterly of Healthcare Ethics.

Tom Hooyman is a moral theologian who is President of The Hooyman Group, Inc., a consulting firm specializing in business ethics, organizational culture and leadership development.

Jeffrey Kahn, Ph.D., MPH, is Maas Family Chair in Bioethics and Director of the Center for Bioethics at the University of Minnesota.

Bernard Lo, M.D., is Professor of Medicine and Director of the Program in Medical Ethics at the University of California, San Francisco.

Greg Loeben, Ph.D., is Associate Professor and Bioethics Program Coordinator at Midwestern University in Glendale, Arizona.

Erich H. Loewy, Ph.D., is Professor and Endowed Alumni Association Chair of Bioethics at the University of California, Davis.

Roberta Springer Loewy, Ph.D., is Associate Clinical Professor of Health Care Ethics at the University of California, Davis.

Edward Lowenstein, M.D., is Henry Isaiah Dorr Professor of Anaesthesia and Professor of Medical Ethics, Harvard Medical School.

David J. Mayo, Ph.D., is Professor in the Department of Philosophy, University of Minnesota, and is Faculty Associate at the Center for Bioethics.

Glenn McGee, Ph.D., is Professor in the Departments of Medical Ethics, Philosophy, and Epidemiology & Biostatistics and Center for Bioethics at the University of Pennsylvania School of Medicine, and is Editor-In-Chief of the American Journal of Bioethics.

Charles McKhann, M.D., is Professor of Surgery at Yale University School of Medicine.

Alan Meisel is Professor of Law & Bioethics at the University of Pittsburgh School of Law and School of Medicine, and Director of the University of Pittsburgh Center for Bioethics & Health Law.

Steven Miles, M.D., is Professor of Medicine and Geriatrics at the Center for Bioethics, University of Minnesota.

James Mittelberger, M.D., is Associate Clinical Professor of Medicine at the University of California, San Francisco, and is Chief of the Division of Geriatrics at the Alameda County Medical Center.

Jonathan D. Moreno, Ph.D., is Kornfeld Professor and Director of the Center for Biomedical Ethics at the University of Virginia.

Hilde L. Nelson, Ph.D., is Professor of Philosophy at Michigan State University.

Lawrence J. Nelson, Ph.D., J.D., is Associate Professor of Philosophy at Santa Clara University.

Father John J. Paris, S.J., Ph.D., Ph.L., is Walsh Professor of Bioethics at Boston College.

Terry M. Perlin, Ph.D., is Professor of Interdisciplinary Studies and Research Fellow at Scripps Gerontology Center, Miami University, Ohio.

Constance E. Putnam, Ph.D., is an independent scholar in Concord, Massachusetts, specializing in medical ethics and medical history.

Timothy E. Quill, M.D., is Professor of Medicine, Psychiatry and Medical Humanities, and Director of Palliative Care Programs, at the University of Rochester School of Medicine.

Ben A. Rich, J.D., Ph.D., is Associate Professor of Bioethics at the U.C. Davis Medical Center.

Lainie Friedman Ross, M.D., Ph.D., is Associate Professor, Department of Pediatrics, and Assistant Director, MacLean Center for Clinical Medical Ethics, University of Chicago.

Susan B. Rubin, Ph.D., is a philosopher, bioethicist, and co-founder of The Ethics Practice, an ethics consultation firm in Berkeley, California.

Lawrence Schneiderman, M.D., is a physician with the University of California at San Diego School of Medicine.

Thomas A. Shannon is Professor of Religion and Social Ethics in the Department of Humanities and Arts at Worcester Polytechnic Institute in Massachusetts.

Dominic A. Sisti, M.Be., is a Researcher with the Center for Bioethics at the University of Pennsylvania and Holy Redeemer Health System.

Howard Slyter, M.D., is chair of the Bioethics Committee at Kaiser Hospital in Sacramento, California.

Bonnie Steinbock, Ph.D., is Professor of Philosophy at the University of Albany/SUNY and a fellow of the Hastings Center.

Gregg VandeKieft, M.D., M.A., is Medical Director for Hospice and Palliative Care and co-chair of the ethics committee at Providence Sound Home Care and Hospice, a member of the Catholic Hospital Association.

James J. Walter, Ph.D., holds the Austin & Ann O'Malley Chair in Bioethics and is Director of the Bioethics Institute at Loyola Marymount University in Los Angeles.

Neil Wenger, M.D., is Professor of Medicine and chair of the Bioethics Committee at University of California, Los Angeles.

Michael A. White, J.D., is a Past President of the Beverly Hills Bar Association and former co-chair of the Los Angeles County Bar Association Bioethics Committee.

Laurie Zoloth, Ph.D., is Professor of Medical Humanities and Bioethics and of Religion, and Director of Bioethics, Center for Genetic Medicine, at Northwestern University, Feinberg School of Medicine.

The institutional amicus curiae, Autonomy, Inc., is a disability rights organization whose mission is to represent the interests of people with disabilities who wish to be able to exercise choices concerning all aspects of their lives, including choices at the end of life.

## **THE INTEREST OF THE AMICI CURIAE AND HOW THEY CAN ASSIST THE COURT**

This case implicates the philosophy of bioethics – the study of moral and ethical issues in medical practice and research.

The 55 individual amici curiae are among the nation’s leading bioethicists. They include hospital ethics program directors, ethics committee members, medical ethics advisors and consultants, bioethics scholars and researchers, medical and law school professors, practicing physicians, and moral theologians of the Catholic, Protestant and Jewish faiths. They are interested in this case because this Court’s decision will affect their health care and bioethical practices and teachings in hospitals and schools throughout the United States.

The members of the institutional amicus curiae, the disability rights organization Autonomy, Inc., believe that end-of-life choices are a private matter to be determined by the individual and that people with disabilities should maintain decision-making autonomy throughout their lives. Autonomy, Inc. is interested in this case because this Court’s decision will affect the rights of disabled persons and their proxies to refuse unwanted medical treatment.

The amici curiae believe they can assist this Court by explaining the bioethical principles underlying the right of personal autonomy as guaranteed by the Florida Constitution and embraced by the Florida Legislature – including the bioethical

principles governing surrogate exercise of an incompetent patient's right to refuse medical treatment – and by explaining how Ch. 2003-418 violates those bioethical principles.

**ALL PARTIES HAVE CONSENTED  
TO THE FILING OF THIS AMICUS CURIAE BRIEF**

In a telephone conversation on July 23, 2004, counsel for the amici curiae obtained the consent of petitioners' counsel Kenneth L. Connor to the filing of this brief. In an email exchange on July 23, 2004, counsel for the amici curiae obtained the consent of respondent's counsel Randall C. Marshall to the filing of this brief.

For the foregoing reasons, the amici curiae respectfully request that the court accept the accompanying brief for filing in this case.

Dated: July 27, 2004

Respectfully submitted,

**HORVITZ & LEVY LLP**  
DAVID S. ETTINGER  
JON B. EISENBERG

By \_\_\_\_\_  
Jon B. Eisenberg

Attorneys for Amici Curiae  
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