

No. 12-14009

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

DR. BERND WOLLSCHLAEGER, *et al.*

Plaintiffs-Appellees,

v.

GOVERNOR STATE OF FLORIDA, *et al.*

Defendants-Appellants.

Appeal from the United States District Court for the Southern District of Florida
Case No.1 :11-cv-22026-MGC (Honorable Marcia G. Cooke)

**MOTION FOR LEAVE TO FILE *EN BANC* BRIEF OF AMICUS
CURIAE UNIFIED SPORTSMEN OF FLORIDA, INC.
SUPPORTING APPELLANTS AND REVERSAL**

Pursuant to 11th Cir. R. 35-9, amicus curiae Unified Sportsmen of Florida, Inc., respectfully seeks leave to file the accompanying *en banc* brief in support of Appellants in this matter. In support of this request and in demonstration of good cause, amicus states as follows:

1. *The Movant's Interest.* Unified Sportsmen of Florida, Inc. (“USF”) is a non-profit membership organization incorporated under the laws of Florida with its

principal place of business in Tallahassee, Florida. USF has thousands of members throughout Florida who were deeply concerned about the politicization of medical care and with the privacy of their medical records, and who thus strongly supported the Firearm Owners' Privacy Act. USF Executive Director Marion Hammer, who is credited with heading the creation of the Eddie Eagle GunSafe® Program,¹ testified in support of the enactment before the Senate Health Regulation Committee, the Senate Judiciary Committee, and the House Health and Human Services Committee.²

The purpose of USF is to promote and support the legitimate ownership and use of firearms, hunting, and related sports; the conservation of our natural resources; and the firearms rights of all law-abiding citizens in Florida as guaranteed in the United States and Florida Constitutions. USF has previously sought to protect such rights in litigation both as a party and as an amicus curiae.

¹The program “teaches children that if they find a gun in an unsupervised situation, they should: STOP! Don't Touch. Leave the Area. Tell an Adult. . . . Since [1988], it has reached more than 21 million children in all 50 states, Canada and Puerto Rico.”
<http://www.homesafetyacademy.com/eddie-eagle-is-at-homesafety-academy/>.

²Ms. Hammer also actively supported the bills in the public forum. *E.g.*, Hammer, “Let doctors treat illness, not guns,” Tallahassee.com, Jan. 20, 2011. Reprinted in
<http://www.tallahassee-gunforum.com/forum/showthread.php?23578-Marion-Hammer>.

The parties have consented to the filing of this brief.

2. *The Desirability of this Amicus Brief and the Relevance of the Matters Asserted to the Disposition of the Case.* This brief seeks to bring to the Court’s attention aspects of the issues that have been raised by the parties, but which should be expanded upon in more detail. First, in regulating the medical profession, the State has a strong interest in ensuring the existence of the informed consent of the patient for medical treatment, which also concerns whether a physician’s advice is actually “medical” advice. Political agendas claiming only a positive outcome with no negative result should not be touted as medical advice, which the Act here justifiably regulates in part under the informed-consent doctrine.

Secondly, it has been argued that the privacy rights of firearm owners are inconsequential in the context of generating “medical” records because the laws of the State of Florida and the United States require that persons who purchase and carry firearms must identify themselves for background checks and the like, and hence have little privacy rights. To the contrary, both State and federal laws strictly protect the privacy interests of firearm owners, even requiring in some cases the destruction of the records on such persons.

Third, the admonition that a physician “should refrain from unnecessarily

harassing a patient about firearm ownership during an examination” sets an extraordinarily easy standard for compliance compared to other statutes concerning harassment. This provision is not vague in any manner.

The accompanying brief of amicus curiae includes a Certificate of Interested Persons and Corporate Disclosure Statement.

Dated March 24, 2016

Respectfully submitted,

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on this 24th day of March, 2016, I caused this Motion for Leave to File *En Banc* Brief of Amicus Curiae Unified Sportsmen of Florida, Inc., Supporting Appellants and Reversal to be filed and notice of such filing was delivered electronically to the following registered CM/ECF users:

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