

COURT OF APPEALS OF WISCONSIN
DISTRICT IV

WISCONSIN MEDICAL SOCIETY, INC.
and DAVID M. HOFFMAN, M.D.,

Plaintiffs-Appellants,

Appeal No. 2009AP000728

v.

MICHAEL L. MORGAN,

Defendant-Respondent.

APPEAL FROM THE DECEMBER 19, 2008 DECISION AND ORDER FROM
THE CIRCUIT COURT FOR DANE COUNTY
THE HONORABLE MICHAEL N. NOWAKOWSKI PRESIDING

**NOTICE OF MOTION AND MOTION FOR PERMISSION TO FILE
AMICUS CURIAE BRIEF OF
THE WISCONSIN ACADEMY OF FAMILY PHYSICIANS, THE
AMERICAN ACADEMY OF FAMILY PHYSICIANS, THE WISCONSIN
CHAPTER OF THE AMERICAN COLLEGE OF PHYSICIANS, THE
MILWAUKEE DISTRICT ASSOCIATION OF OSTEOPATHIC
PHYSICIANS AND SURGEONS, AND THE AMERICAN MEDICAL
ASSOCIATION**

The Wisconsin Academy of Family Physicians, the American Academy of Family Physicians, the Wisconsin Chapter of the American College of Physicians, the Milwaukee District Association of Osteopathic Physicians and Surgeons and the American Medical Association (collectively, the "Physician Amici") by their undersigned counsel, respectfully request permission pursuant to Wis. Stat. §§ 809.19(7)(a) and (c) to file an *amicus curiae* brief urging reversal of the judgment of the Circuit Court for Dane County, the Honorable Michael N.

Nowakowski presiding. The grounds for this motion and the interests of the Physician Amici are as follows:

1. The motion is timely under Wis. Stat. § 809.19(7)(c) as it is filed within fourteen (14) days after Respondent's brief was filed. The Physician Amici's participation is offered to assist the Court in its careful consideration of this case.

2. The Wisconsin Academy of Family Physicians is an association of family doctors. It is the Wisconsin chapter of the American Academy of Family Physicians. It was established in 1948 to promote and maintain high professional and ethical standards in the practice of Family Medicine, to encourage young people to prepare for active careers in Family Medicine and to help provide continuing education to family physicians. Currently, the Wisconsin Academy represents 2,600 members.

3. The American Academy of Family Physicians is the national association of family doctors. It is one of the largest national medical organizations, with more than 93,000 members in 50 states, D.C., Puerto Rico, the Virgin Islands, and Guam. One of its stated purposes is to preserve and promote quality cost-effective health care.

4. The Wisconsin Chapter of the American College of Physicians is the Wisconsin chapter of a national organization of internists—physicians who specialize in the prevention, detection and treatment of illnesses in adults. The nationwide membership of the American College of Physicians includes 126,000 internists, internal medicine subspecialists, and medical students, residents, and

fellows. The Wisconsin Chapter represents 2,209 members around the state. Its mission is to enhance the quality and effectiveness of health care by fostering excellence and professionalism in the practice of medicine.

5. The Milwaukee District Association of Osteopathic Physicians and Surgeons represents 255 members. Its purpose is to promote the advancement of osteopathic medicine through professional education, member services, advocacy and public awareness to ensure the availability of quality osteopathic healthcare to the people of Wisconsin.

6. The American Medical Association is a national advocate for physicians, patients, and the medical profession. Its purposes are to promote the art and science of medicine and the betterment of public health. The American Medical Association's membership consists of approximately 240,000 physicians and medical students. Its members practice in every state, including Wisconsin, and in every medical specialty.

7. The above-described non-profit organizations represent physicians, surgeons, and nearly every first-line medical provider, all of whom contribute to the Injured Patients and Families Compensation Fund (the "Fund"), per Wis. Stat. § 665.27.

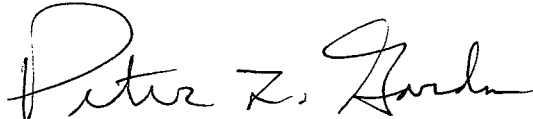
8. The Physician Amici have a direct interest in the issues raised by the Dane County Circuit Court's decision and will be impacted by the outcome of this appeal. The Physician Amici have an interest in ensuring the viability of the Fund and in the precedent that could be established in this case. If the Dane County Circuit Court's decision stands, the Physician Amici believe that it will negatively

impact physician recruitment to Wisconsin. Additionally, the Physician Amici could be subject to increased assessments that they will have to pay in to the Fund. The Physician Amici's participation as *amici curiae* will amplify and elucidate the issues before the Court.

WHEREFORE, the Physician Amici respectfully request that the Court permit the filing of an *amicus curiae* brief urging reversal of the judgment of the Circuit Court for Dane County, the Honorable Michael N. Nowakowski presiding, and that the Court permit the Physician Amici to further participate in these proceedings as the Court deems appropriate.

Dated this 26th day of June, 2009.

Attorneys for The Wisconsin Academy of Family Physicians, the American Academy of Family Physicians, the Wisconsin Chapter of the American College of Physicians, the Milwaukee District Association of Osteopathic Physicians and Surgeons, and the American Medical Association



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