IN THE SUPREME COURT OF FLORIDA

Case No. SC04-310

Upon Request From the Attorney General
For An Advisory Opinion As To The
Validity Of An Initiative Petition

ADVISORY OPINION TO THE ATTORNEY GENERAL

RE: THE MEDICAL LIABILITY CLAIMANT'S COMPENSATION AMENDMENT

ANSWER BRIEF OF THE SPONSOR, CITIZENS FOR A FAIR SHARE, INC.

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Title, Ballot Summary, and Text

The ballot title for the proposed amendment is "THE MEDICAL LIABILITY CLAIMANT'S COMPENSATION AMENDMENT." The ballot summary states as follows:

> Proposes to amend the State Constitution to provide that an injured claimant who enters into a contingency fee agreement with an attorney in a claim for medical liability is entitled to no less than 70% of the first $250,000.00 in all damages received by the claimant, and 90% of damages in excess of $250,000.00, exclusive of reasonable and customary costs and regardless of the number of defendants. This amendment is intended to be self-executing.

The text of the proposed amendment provides as follows:

> Section 1.
>
> Article 1, Section 26 is created to read "Claimant's right to fair compensation."
>
> In any medical liability claim involving a contingency fee, the claimant is entitled to receive no less than 70% of the first $250,000.00 in all damages received by the claimant, exclusive of reasonable and customary costs, whether received by judgment, settlement, or otherwise, and regardless of the number of defendants. The claimant is entitled to 90% of all damages in excess of $250,000.00, exclusive of reasonable and customary costs and regardless of the number of defendants. This provision is self-executing and does not require implementing legislation.
>
> Section 2.
>
> This Amendment shall take effect on the day following approval by the voters.

Briefs opposing the amendment were filed by the Trial Lawyers Section of the Florida Bar and by Floridians For Patient Protection, a political committee currently sponsoring several other proposed amendments (together, "Opponents").

SUMMARY OF THE ARGUMENT

The amendment at issue, consisting of only one substantive paragraph, is uncomplicated and straightforward. Its language is clear and its one and only purpose is evident: to ensure that medical liability claimants with a contingent attorneys'-fee contract receive at least 70% of the first $250,000.00 in damages and 90% of all damages in excess of $250,000.00.

The Opponents have not suggested that the amendment pertains to any other subject. Yet, they have asserted a barrage of objections to both the amendment and its ballot summary, citing virtually every principle of law appearing in opinions involving citizens' initiatives and seeking to apply them to defeat this amendment. While none of their arguments merits striking this amendment from the ballot, the Opponents have failed to recognize that only two controlling issues are before the Court in this proceeding.

The initial issue is whether the amendment contains a single subject. The single-subject rule exists for two reasons. The primary reason is to prevent "logrolling," in which an amendment contains two unrelated subjects, putting voters in the position of having to support a provision they might not like, in order to secure approval of a provision that they do like. The second reason is to prevent a single amendment from *substantially* altering or performing the functions of more than one branch of government. The law is clear that this requirement is not violated merely because an amendment will require more than one branch of government to take action, or perhaps to change the way it does something, in order to comply with the amendment. The test

for violation of this requirement is a stringent one, and requires a showing that the amendment rises to the level of usurping a government function of more than one branch of government. By failing to recognize the true nature of this restriction, the Opponents present a number of arguments that are irrelevant. They proffer various illustrations of how this amendment may do something that one of the branches of governmental might otherwise do, but they fail to show how the function of any of the branches is *substantially* affected, or that such a substantial impact falls on more than one branch of government.

The amendment affects only the judicial branch, and does not substantially alter or perform the functions of any branch of government. It affects the judicial branch only slightly, because the Rules Regulating the Florida Bar already allow certain percentages for contingent attorneys' fees in medical liability cases. As is always the case with pre-existing laws and rules in the face of a governing constitutional amendment, the Rules would have to be revised to comply with the amendment. The amendment does not disturb the decision-making function of the judiciary. The amendment would not affect the legislative branch, because it would be precluded from regulating contingent fees by reason of the separation of powers doctrine. The amendment leaves the function of the Executive Branch totally undisturbed. Thus, the amendment does not violate the single-subject rule by substantially altering or performing the functions of any branch of government.

The Opponents argue that the amendment has substantial and undisclosed impacts on several provisions of the Florida Constitution, but these arguments amount to no more than advocacy for the Opponents' position on the merits of the

amendment, or premature claims that the amendment might not withstand a constitutional challenge after its passage. These arguments misapprehend the pertinent legal test, which is not whether subsequent application of the amendment may raise interpretive issues, but rather whether the proposed amendment in fact has the effect of amending more provisions of the Florida Constitution than are disclosed. The Opponents' collateral arguments are not relevant in this proceeding.

The Opponents assert that the amendment would impair the freedom of contract between counsel and client that is protected under Article I, section 10 of the Florida Constitution. However, the contract clause prohibits only laws that impair existing contracts rather than ones that might be entered in the future, and the amendment before the Court gives no indication that it would apply to contracts already in existence. The Opponents also make an attenuated assertion that the amendment substantially impacts the access to courts provision in Article I, section 21 of the Florida Constitution, on the premise that the amendment makes it more difficult for medical liability claimants to obtain competent counsel. Even if this argument were properly before the Court, the Court should reject it because the Opponents present no empirical data to demonstrate that medical liability claimants could not obtain competent counsel among the some 50,000 members of The Florida Bar to handle medical liability cases, which even under the reduced fee percentages, provide the opportunity for substantial compensation.

The Opponents also level a scatter-shot attack against the ballot summary, despite the fact that section 101.161, Florida Statutes (2003), requires only that the summary explain the chief purpose of the amendment. They criticize the summary as

being misleading for not always using the exact language of the amendment, but they fail to show how it is misleading. They also postulate collateral scenarios that they complain are not disclosed in the summary, even though the law does not require the summary to explain every detail, ramification, or effect of a proposed amendment.

The Opponents also quote from press releases of the Florida Medical Association, which they have included in their Appendix to support their argument that the summary misstates the purpose of the amendment. Yet, as this Court knows, this material contained in the Opponent's Appendix is legally irrelevant in this proceeding, and has nothing to do with whether the ballot summary properly explains the chief purpose of the amendment. The Court has always said in these proceedings that it considers the ballot title and summary, together, and nothing more.

Finally, the Opponents suggest that the summary contains legal language that the voter may not understand. These assertions impose a draftsmanship test that the Court has always refused to employ, underestimate the intelligence of the voter, and overlook the fact that the summary fairly restates the text of the amendment. The summary fairly discloses the chief purpose of the amendment, allowing the voter to make an informed choice, and giving any voter who wishes to learn more every opportunity to do so. As the Court has said before, the fact that some voters may not avail themselves of the opportunity to learn more before voting is irrelevant.

The Opponents have not asserted any fatal flaw in this proposed amendment, which complies with all governing legal requirements. Accordingly, the Court should approve it for placement on the ballot.

ARGUMENT

I. THE AMENDMENT SATISFIES THE SINGLE-SUBJECT REQUIREMENT.

A. The Amendment Does Not Substantially Perform or Alter the Functions of Multiple Branches of Government.

Both Opponents contend that the amendment violates the single-subject requirement because it substantially affects multiple functions of government. At the outset, however, it must be remembered that even an initiative that affects multiple branches of government will not fail. *See Advisory Op. to Att'y Gen. re Limited Casinos*, 644 So. 2d 71, 74 (Fla. 1994) ("It is difficult to conceive of a constitutional amendment which would not affect other aspects of government to some extent."). Instead, the test is two-fold and requires a showing of *both* a high degree and a broad scope of impact on government; i.e., it must (a) *substantially* alter or perform the functions of (b) *multiple* branches of government before it is rendered invalid. *Advisory Op. to Att'y Gen. re Amendment to Bar Gov't from Treating People Differently Based on Race in Public Educ.*, 778 So. 2d 888, 892 (Fla. 2000) (quoting *Advisory Op. to Att'y Gen. re Fish and Wildlife Conservation Comm'n*, 705 So. 2d 1351, 1353-54 (Fla. 1998)). This principle only comes into play to protect against multiple precipitous and cataclysmic changes in the Constitution. *Advisory Op. to the Att'y Gen. re Fla. Transp. Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System*, 769 So. 2d 367, 369 (Fla. 2000).

The Opponents first postulate that the amendment would impose a burden on the Judicial Branch to interpret how the amendment will be applied in the event it

passed. They suggest that words such as “receive,” “claimant,” and “reasonable and customary costs” are so vague that the courts will be overwhelmed with litigation over these provisions. Aside from the fact that these are not unusual words, the Opponents fail to cite a single authority for the proposition that if the courts may be called upon to interpret a constitutional amendment, this has the effect of substantially altering or performing the function of the Judicial Branch. Interpreting the constitutional language in order to resolve particular disputes is what courts do all the time. The function of the courts is unchanged.

The Opponents contend that the amendment performs a judicial branch function because it provides that it is self-executing. Of course, when there is a doubt as to whether an amendment is self-executing, the courts are called upon to decide the question. *See, e.g., Advisory Op. to the Governor – 1996 Amendment 5 (Everglades)*, 706 So. 2d 278, 279-80 (Fla. 1997) (Governor requested Court’s opinion on whether “polluter pays” amendment was self-executing). Here, however, because the amendment says that it is self-executing, there is nothing for the courts to decide. This proposal does not perform any judicial function by adjudicating specific facts. *See Advisory Op. to Att’y Gen. re Protect People from the Health Hazards of Second-Hand Smoke,* 814 So. 2d 415 (Fla. 2002). The Court has approved other citizens' initiatives that provided they were self-executing, and thus this amendment cannot be objectionable for doing the same. *E.g.*, *Advisory Op. to Att'y Gen. – Limited Marine Net Fishing*, 620 So. 2d 997, 998 (Fla. 1993) ("it is the intent of this section that implementing legislation is not required … "); *Advisory Op. to Att'y Gen. re Limiting Cruel and Inhumane Confinement of Pigs During Pregnancy*, 815 So.

2d 597, 598 (Fla. 2002) ("It is the intent of this section that implementing legislation is not required for enforcing any violations hereof.").

The Opponents also argue that the amendment affects the judiciary's responsibility for regulation of the Bar and for the enactment of procedural law. They point out that with respect to medical malpractice cases the amendment would change the permissible contingent fee percentages authorized by Rule, 4-1.5, Rules Regulating the Florida Bar. While the amendment would change the percentage in this particular, it does not thereby substantially alter or perform the function of the judiciary. As is always the case when the Florida Constitution is amended, the pre-existing law inconsistent with the amendment simply must yield to the new enactment. *See Advisory Op. to Att'y Gen., Limitation of Non-Economic Damages in Civil Actions*, 520 So. 2d 284, 287 (Fla. 1988) (current statute and jury instruction would have to be changed if voters approved amendment, but that is no flaw in the amendment or summary).

Recognizing that they must demonstrate the amendment substantially alters or performs the functions of more than one branch of government, the Opponents then turn to the Legislative and Executive Branches. However, with respect to the Legislature, they only argue that the amendment performs the legislative function of enacting substantive law. This is what constitutional amendments do. In fact, the main reason for a citizen's initiative is to permit the people to enact a controlling law that the Legislature has failed or refused to pass. Other amendments that established substantive law with effects far more dramatic than this have not been deemed to substantially perform or alter the function of multiple aspects of government. *E.g., High Speed Monorail,* 769 So. 2d 367; *Advisory Op. to Att'y Gen. re Amendment*

to Reduce Class Size, 816 So. 2d 580 (Fla. 2002). To suggest that this amendment substantially alters or performs a legislative function would be true of any constitutional amendment.

The Opponents' argument that the amendment could have an effect on Medicaid and other liens has nothing to do with whether it substantially performs an Executive function. Any question over the priority of claims will be resolved by the courts just as any other dispute.

The Trial Lawyers Section's reliance on *Evans v. Firestone*, 457 So. 2d 1351 (Fla. 1984), is misplaced. The magnitude of the effect this amendment would have on any branch of government pales in comparison to that of the amendment that was stricken in *Evans* (limiting non-economic damages to $100,000 and establishing procedure for summary judgment).

The Opponents cannot successfully contend that the amendment substantially alters or performs the functions of multiple branches of government.

B. The Proposed Amendment Does Not Substantially Affect Multiple Levels Of Government

Floridians for Patient Protection devotes a separate subheading to the argument that the proposed amendment would substantially affect multiple levels of government. Yet, they fail to explain how this is so. They only say that the amendment would have an effect on Florida's Medicaid Third-Party Liability law and "substantially affect individuals who contract as counsel and client, local governments which negotiate settlement agreements, and state and federal tax liens." Such a generalized contention requires no response.

C. The Amendment Does Not Have Substantial and Undisclosed Impact on Other Provisions of the Florida Constitution.

The Opponents argue that the proposed amendment has substantial and undisclosed impact on other constitutional provisions. Their arguments, however, are not that the proposed amendment *modifies* other constitutional provisions without identifying them, which is the only pertinent test. *E.g., Advisory Opinion to the Attorney General re Local Trustees*, 819 So. 2d 725, 731 (Fla. 2002). Rather, they argue that in application, the amendment might infringe citizens' rights under other constitutional provisions, or that the effects of the proposed amendment are, in the Opponents' view, undesirable. The sponsor disagrees; but in any event, these issues are not justiciable in this proceeding. *See, e.g., Limited Political Terms*, 592 So. 2d at 227 (opponents' constitutional challenges such as First Amendment and Supremacy Clause violations are legal issues that "are not justiciable in the instant proceeding," and neither the merits nor the wisdom is before the Court); *Advisory Op. to Atty. Gen. re Stop Early Release of Prisoners*, 661 So. 2d 1204, 1206 & n.2 (Fla. 1995) (reiterating, and citing previous cases for, the proposition that claims of unconstitutionality are not properly raised in these advisory opinion proceedings). The Court should reject all of these arguments.

The Opponents argue that the amendment conflicts with the prohibition against laws impairing contracts as set forth in Article I, section 10. The Opponents misapprehend the thrust of Article I, section 10. This section, along with its comparable provision in the federal Constitution, protects against the impairment of existing contracts. As explained in *Manning v. Travelers Insurance Company*, 250 So. 2d 872, 874 (Fla. 1971):

> In order for a statute to offend the constitutional prohibition against enactment of laws impairing the obligation of contracts, the statute must have the effect of rewriting antecedent contracts, that is, of changing the substantive rights of the parties to existing contracts.

The amendment at issue in this case does not purport to relate to existing contingency fee agreements, but only those that would be entered into after the amendment passes. Many laws properly regulate different types of contracts, such as laws that limit "noncompete" agreements and others that prohibit entering into contracts deemed to be against public policy. The impact of this amendment on future contracts is not impermissible.

The Opponents next argue that the amendment conflicts with Article I, section 21, which guarantees access to courts. The Opponents admit that most access to courts cases involve legislative actions that destroy an existing common law right of action or remedy. This amendment, in contrast, places no limitations on the legal rights of medical liability claimants in court. To the contrary, this amendment will benefit medical liability claimants by ensuring that they will receive a larger portion of any recovery. The Opponents argue, without offering any empirical support for the argument, that the amendment will make it more difficult for injured claimants to obtain competent lawyers to bring medical malpractice actions. Perhaps the Opponents could suggest this in their advertising to scare the voters into defeating the amendment at the polls, but such an attenuated argument cannot be the basis for attacking the amendment on legal grounds.

The Trial Lawyers Section argues that the amendment substantially impacts the right to equal protection of the laws as provided in Article I, section 2. Once again, they contend that plaintiffs would be financially limited in their ability to hire counsel

in medical liability cases as compared to defendants in such cases. However, only those who are similarly situated are entitled to equal protection. *Lisboa v. Dade County Property Appraiser*, 705 So. 2d 704 (Fla. 3d DCA 1998) ("A preliminary step in an equal protection analysis is the determination that others, similarly situated, were subject to disparate treatment"), *rev. dism.*, 737 So. 2d 1078 (Fla. 1999). This initiative applies to all medical liability claimants with contingent fee contracts. Defendants are not even in the same class. In any event, the issues before the Court in this proceeding are limited to single subject and ballot summary. Constitutional issues such as equal protection challenges can always be addressed in subsequent litigation if necessary after the amendment passes.

Floridians for Patient Protection also argues that the amendment affects Article V, section 1 of the Florida Constitution, which vests the judicial power in the courts; and Article II, section 3 of the Florida Constitution pertaining to separation of powers. However, Floridians fails to explain how the mere reduction of the permissible contingent fee percentage in medical liability cases substantially impacts these provisions.

Finally, Floridians for Patient Protection hypothesizes a scenario under which the amendment might impact Article X, section 4(a) of the Florida Constitution, by creating a new exemption from forced sale or seizure. Floridians admits, however, that this would depend on how the amendment was interpreted. In any event, Floridians fails to demonstrate how this would impact Article X, section 4(a), which only deals with the homestead exemption.

The Opponents are grasping at straws. An initiative will not be removed because

there is a "possibility that an amendment might interact with other parts of the constitution." *Advisory Op. to Att'y Gen. re Term Limits Pledge*, 718 So. 2d 798, 802 (Fla. 1998).

D. The Amendment Has a "Logical Oneness of Purpose."

The Opponents contend that the amendment lacks a "logical and natural oneness of purpose" as defined by case law. Yet, the amendment's only purpose is to ensure that medical liability claimants with contingency fee contracts will be entitled to receive no less that the specified percentages of their damages, exclusive of reasonable and customary costs. Opponents do not even suggest that the amendment has any other purpose.

II. THE BALLOT SUMMARY FAIRLY DISCLOSES THE CHIEF PURPOSE OF THE AMENDMENT.

Section 101.161(1), Florida Statutes (2003), requires only that the ballot summary contain an explanatory statement of not more than 75 words, which explains the chief purpose of the amendment. The summary need not explain every detail, ramification, or effect of the amendment. *Grose v. Firestone*, 422 So. 2d 303, 305 (Fla. 1982). All that is required is that the voter be given fair notice of the content of the proposed amendment. *Term Limits Pledge*, 718 So. 2d at 803. The Court consistently has rejected attempts to second-guess the draftsmanship of a ballot summary. *E.g., Weber v. Smathers,* 338 So. 2d 819, 822 & n.4 (Fla. 1976) ("Neither the wisdom of the provision nor the quality of its draftsmanship is a matter for our review."). The Court adheres only to the statutory requirement that the summary must disclose the chief purpose of the amendment. § 101.161, Fla. Stat. (2003). Applying these rules to the proposed amendment makes it clear that the amendment passes

muster and should be approved.

A. No Alleged Discrepancies In Wording Render The Summary Clearly And Conclusively Defective.

The Court has established in previous initiative cases that the ballot summary need not parrot the exact language of the amendment, and differences in wording are not per se grounds to strike an amendment from the ballot. *See, e.g., Advisory Op. to Att'y Gen. English – The Official Language of Fla.*, 520 So. 2d 11, 13 (Fla. 1988) (differences in wording between ballot summary and amendment text acceptable *even if* "meanings are not precisely the same"). The question is still whether the ballot summary fairly advises the voter of the chief purpose of the amendment and is not misleading. *Id.* For example, the ballot summary in *Local Trustees* was attacked for using language different from that contained in the proposed amendment. 819 So. 2d at 732. The Court rejected this argument, holding that the mere use of differing terminology would not invalidate a summary so long as it could not reasonably mislead the voters, who are presumed to have common sense and knowledge. *Id.*

The Opponents variously contend that the ballot summary either overstates or understates the scope of the amendment or otherwise uses misleading terminology. For example, Floridians for Patient Protection refers to the Attorney General's request for an advisory opinion, which suggests that the amendment will reduce the fees attorneys will receive under contingent fee contracts and points out that the amendment itself does not include the word attorney.[1] However, they fail to point out what other

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[1] The suggestion that the amendment and summary have nothing to do with an attorney's contingent fee contract is diametrically opposed to the earlier argument that the amendment will reduce the percentages for contingent fee contracts authorized by the Rules Regulating The Florida Bar.

kind of contingent fee contract there could be or how this makes the ballot summary misleading. The amendment cannot reasonably be interpreted as applying to anything other than attorneys' contingency fees, and thus the ballot summary and the amendment are saying the same thing. The ballot summary clearly informs the voter that attorneys'-fee contracts are at issue, using the phrase "contingency fee agreement with an attorney." The voter is told exactly what is at issue, and is not misled.

The Opponents point out that the amendment refers to the "claimant" whereas in one instance the ballot summary refers to an "injured claimant," in addition to referring to a "claimant." They suggest that the ballot language could be read to mean that the amendment does not apply to recoveries in wrongful death actions because the summary refers to an "injured claimant." This is a semantic argument that could not possibly confuse the voter. Obviously, someone is injured in every medical liability case. Death is certainly an injury. In deciding whether to vote for this amendment, it will be obvious to the voter that the claimant with a contingent attorneys'-fee contract in a medical liability case will be entitled to receive the specified percentage of the damages regardless of whether a death is involved. The voter is not misled, and the ballot summary is not defective for using slightly different terminology than the amendment itself.

In a generic sense, every claimant in a medical liability action is an injured claimant, having suffered legal injury and seeking recompense therefor. If a claimant has not suffered a legally cognizable injury, he or she will not have standing to bring a claim and the amendment will never come into play. What matters for present purposes is that the ballot summary's one reference to an "injured" claimant does not

change the meaning of the amendment, but rather accurately presents it to the voter. From the standpoint of the voter, it makes no difference.

In the language-discrepancy cases on which the Opponents rely, the Court found a *legal distinction* between language used in the respective summaries and in the amendments themselves. For example, in the casino case, the discrepancies were in terms of art specifically defined by statute, and thus the use of different terms invoked different statutory definitions. *Advisory Op. to Att'y Gen. re Casino Authorization, Taxation, and Regulation,* 656 So. 2d 466, 469 (Fla. 1995) (statutory definitions of "hotel" and "transient lodging establishment" and "public lodging establishments" were different, and thus terms could not be used interchangeably). That is not the case here. The minor variations in language as between the amendment text and the ballot summary do not misrepresent the amendment to the voters.

B. The Amendment Does Not Purport To Affect Liability To Third Parties.

A ballot summary is required only to present the chief purpose, or substance, of the amendment. It need not explain every detail or ramification of the proposed amendment. *Prohibiting Public Funding,* 693 So. 2d at 975. Floridians for Patient Protection nevertheless introduces a convoluted discussion of how the presence of Medicare or Medicaid liens might mean that the claimant would not ultimately recover the promised percentage of the damages set forth in the amendment. Floridians fails, however, to demonstrate how the amendment either expressly or impliedly promises freedom from all claims of government or third parties – because the amendment does no such thing. The amendment does not purport to guarantee any claimant freedom from independent legal liens, liabilities, or claims of government. Any liability to third parties would continue to exist.

This amendment affects only the division of a monetary award as between claimant and attorney, and has nothing to do with liens imposed by third parties or whether or not the claimants have obligations to third parties after the attorney's fees have been deducted from their recovery. The courts can resolve any dispute over the priority of liens in a given case. The voters cannot possibly be misled into believing that this amendment involves anything else but attorneys' contingency fee contracts in medical liability cases.

C. The Summary Does Not Omit Any Detail Necessary To Disclosing The Chief Purpose Of The Amendment.

Both Opponents present a litany of details and questions of subsequent application that they allege should have been addressed in the ballot summary. These

are typical arguments for opponents to make, but they misapprehend the governing legal test. The question is not whether more could be disclosed and explained (without exceeding the stringent 75-word limit); the question is whether what *is* presented is enough to inform the voter accurately of the chief purpose of the amendment. *Limited Political Terms*, 592 So. 2d at 228.

Floridians for Patient Protection complains that the summary says nothing about whether the damages are received by judgment, settlement, or otherwise. The amendment plainly applies no matter how the damages are received, and the ballot summary is not to the contrary. While these words from the amendment might have been added in a longer summary, the voter would certainly understand that the percentages apply to damages how ever they were recovered.

The Trial Lawyers Section rhetorically asks such questions as: What is a medical liability claim, what does "reasonable and necessary costs mean," and what is meant by "entitled to receive"? Yet, these words were taken directly from the amendment. The Court has never faulted a ballot summary for using the very same language that the amendment uses (although the summary is not required to do so). The Trial Lawyers apparently intend to suggest that voters cannot possibly understand what these phrases mean. These arguments would have the Court test a ballot summary under the presumption of an illiterate electorate, but that is not the test. As the Court has said on more than one occasion, "the voter must be presumed to have a certain amount of common sense and knowledge." *Advisory Op. to Att'y Gen. re Tax Limitation*, 673 So. 2d 864, 868 (Fla. 1996); *see also Second-Hand Smoke*, 814 So. 2d at 419. Neither the amendment nor the summary is complicated. Both use

common words that have commonly understood meanings. By reading the summary, the average voter can surely comprehend the chief purpose of the amendment.

Finally, Floridians for Patient Protection suggests that the ballot summary is misleading because it does not disclose a litany of possible effects or collateral consequences. For this proposition, they cite *Askew v. Firestone*, 421 So. 2d 151 (Fla. 1982), in which the summary appeared to suggest that the amendment was actually placing restrictions on lobbying by former legislators and elected officers when the amendment actually eliminated the prohibition of such lobbying for a period of two years. The ballot summary in this case is not like that in *Askew.* It misleads no one. It simply describes what the amendment says. By reading the summary, the voter will be fully informed of the chief purpose of the amendment, and can cast his or her vote accordingly. That is all the law requires, and the summary complies with the law.

CONCLUSION

The Medical Liability Claimant's Compensation Amendment satisfies the governing legal requirements for the title, ballot summary, and text of a citizens' initiative. The Court should approve the amendment for placement on the ballot.

Respectfully submitted this 20th day of April, 2004.

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I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by United States mail, this 20th day of April, 2004, to the following:

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CERTIFICATE OF FONT

I HEREBY CERTIFY that this brief was prepared using Times New Roman 14 point type, a font that is proportionately spaced.

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