IN THE SUPREME COURT OF FLORIDA
Case No. SC06-2183

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: FUNDING OF EMBRYONIC
STEM CELL RESEARCH

INITIAL BRIEF OF INTERESTED PARTY

CITIZENS FOR SCIENCE AND ETHICS, INC.

IN OPPOSITION TO THE INITIATIVE

MAJOR B. HARDING
Fla. Bar No. 0033657
STEPHEN C. EMMANUEL
Fla. Bar No. 0379646
Ausley & McMullen
Post Office Box 391
Tallahassee, Florida 32302
850-224-9115 (Telephone)
850-222-7560 (Facsimile)

Counsel to Interested Party Citizens for Science and Ethics, Inc./Opponents

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

OTHER AUTHORITIES

STATEMENT OF INTEREST

Interested Party Citizens for Science and Ethics, Inc. ("CSE" or "Opponents") is a Florida nonprofit (501(c)(4)) corporation with its principal place of business in Boca Raton. CSE's members seek to support civic betterments and social improvements in the State of Florida, particularly in the area of state-funded research ethics. Specifically, CSE seeks to protect Floridians from the additional tax burden of state-imposed funding for embryonic stem cell research, while allowing fruitful stem cell research to continue unencumbered.

To that end, CSE has sponsored a constitutional ballot initiative that seeks to ensure that no revenues of the state shall be spent on experimentation that involves the destruction of a live human embryo, which flies in direct opposition to the proposed initiative. CSE's proposed initiative is entitled "Prohibiting state spending for experimentation that involves the destruction of a live human embryo." On November 30, 2006, the Attorney General petitioned this Court for an advisory opinion on CSE's proposal, and that case is pending as Case No. SC06-2286.

STATEMENT OF THE CASE AND FACTS

In accordance with Article IV, Section 10 of the Florida Constitution and Section 16.061 of the Florida Statutes, the Attorney General petitioned this Court for an advisory opinion as to the validity of a proposed amendment to the Florida Constitution which seeks to appropriate $20 million annually for ten fiscal years for grants by the Department of Health to Florida nonprofit institutions to conduct human embryonic stem cell research. The questions proposed to the Court are whether the initiative complies with the mandates of Article XI, Section 3 of the

Florida Constitution and whether the proposed title and summary of the amendment comply with Section 101.161 of Florida Statutes.

The full text of the proposed amendment states:

> Article X of the Florida Constitution is hereby amended by inserting at the end thereof the following section:
>
> Funding of embryonic stem cell research.
>
> (a) There is hereby appropriated from the General Revenue Fund to the Department of Health the sum of $20 million in each of the ten fiscal years beginning with the year in which this amendment is adopted. With such funds the Department of Health shall make grants for embryonic stem cell research using, or using the derivatives of, human embryos that, before or after formation, have been donated to medicine under donor instructions forbidding intrauterine embryo transfer.
>
> (b) For this purpose, an embryo is "donated to medicine" if and only, under conditions that satisfy applicable requirements for informed consent and do not involve financial inducement to any donor, the persons from whose cells the embryo originates give the embryo to another under written instructions that the recipient shall use the embryo in biomedical research or therapy. "Financial inducement" includes any valuable consideration but excludes (1) reimbursement for reasonable costs incurred in connection with a donation, and (2) reasonable compensation to a donor from whom an oocyte is recovered, and to the donor of any other cell recovered by an invasive procedure, for the preparation for and time, burden, and risk of such recovery.
>
> (c) The funds appropriated hereby shall be granted to nonprofit academic and other research institutions situated within the state. Grantees shall be chosen on the basis of a recommended ordering of applications by

> scientific merit as reckoned in a peer review process by disinterested experts in the relevant fields.
>
> (d) This provision shall be self-executing and effective immediately upon adoption. This appropriation shall be nonlapsing such that any portion of a yearly appropriation not distributed shall accumulate for distribution in subsequent years. The Department of Health is authorized to promulgate administrative rules for the implementation hereof.

The ballot title for the proposed amendment is "Funding of Embryonic Stem Cell Research." The ballot summary for the proposed amendment states:

> This amendment appropriates $20 million annually for ten fiscal years for grants by the Department of Health to Florida nonprofit institutions to conduct embryonic stem cell research using, or using derivatives of, human embryos that, before or after formation, have been donated to medicine under donor instructions forbidding intrauterine embryo transfer. An embryo is "donated to medicine" only if given without receipt of consideration other than cost reimbursement and compensation for recovery of donated cells.

Pursuant to this Court's order of December 12, 2006, Citizens for Science and Ethics, Inc. submits this brief in opposition to the above proposed amendment.

SUMMARY OF THE ARGUMENT

Although the Supreme Court does not decide the merits of a constitutional amendment initiative, it does review a proposed initiative to determine whether it complies with the requirements for placement on the ballot. The Court's inquiry is limited to two legal issues: whether the petition satisfies the single-subject requirement of Article XI, Section 3, Florida Constitution, and whether the ballot title and summary are printed in clear and unambiguous language pursuant to

Section 101.161, Florida Statutes. If a proposal is defective when measured against these constitutional and statutory requirements, then the Supreme Court should not permit its appearance on the ballot. *Pope v. Gray*, 104 So. 2d 841 (Fla. 1958).

The "Funding of Embryonic Stem Cell Research" initiative (hereinafter "Funding Initiative") is clearly and conclusively defective for several reasons. First, it violates the single-subject rule of the Florida Constitution by combining the issues of funding requirements, donor compensation, and therapeutic cloning. It asks voters to decide multiple issues. This "logrolling" encourages voters to approve the entire initiative even if they disagree with one or more of its provisions, based on their support of other issues rolled into the proposal or, alternatively, to vote against the initiative even if there are some provisions with which they agree.

In addition, the ballot title and summary of the Funding Initiative do not provide fair notice of the content of the amendment. Rather, voters would only see a title and summary which is vague and misleading as to the purpose and actual effects of the amendment. Specifically, the summary does not indicate that the amendment directly delegates rule-making authority to the Department of Health rather than leaving that task to the Legislature. Voters should be able to tell, from the limited information they receive at voting time, exactly which governmental body will be giving effect to any amendment they approve. Moreover, the summary phrase "without receipt of consideration other than cost reimbursement and compensation for recovery of donated cells" is ambiguous and misleading.

This statement misleads voters by implying that consideration will be more limited than the language of the amendment actually provides.

For the reasons set forth herein, CSE requests that this Court rule that the Funding Initiative does not meet the requirements for a valid initiative.

ARGUMENT

I. THE PROPOSED AMENDMENT VIOLATES THE SINGLE-SUBJECT REQUIREMENT OF ARTICLE XI, SECTION 3, FLORIDA CONSTITUTION.

The initiative at issue violates the first requirement of validity, the "single subject rule," which provides that any amendment by initiative, except for one limitation not applicable in this instance, "shall embrace but one subject and matter directly connected therewith." *Article XI, § 3, Florida Constitution*. This Court has articulated a "oneness of purpose" standard under this requirement, and has further clarified that standard by dividing its analysis of proposed initiatives into two parts. *See Fine v. Firestone*, 448 So. 2d 984 (Fla. 1984). Under the first part, the Court examines whether a proposed initiative presents multiple issues to voters in a single proposal, a practice known as "logrolling." The second prong of the single subject rule requires that the Court analyze whether the proposed amendment would substantially alter or perform the functions of multiple branches of government.

A. The Combination of Funding Requirements and Donor Compensation and Therapeutic Cloning Issues Constitutes Logrolling.

The proposed amendment violates the first prong of the analysis, prohibiting "logrolling," because it combines funding, embryo or cell donor compensation, and

cloning issues in one proposal. Logrolling is "a practice wherein several separate issues are rolled into a single initiative in order to aggregate votes or secure approval of an otherwise unpopular issue." *In re Advisory Op. to Att'y Gen.—Save Our Everglades*, 636 So. 2d 1336, 1339 (Fla. 1994). The problem with logrolling in a citizen initiative is that "[i]t does not give the people an opportunity to express the[ir] approval or disapproval severally as to each major change." *Id.* (citations omitted).

The instant amendment would require voters to decide several important issues: whether they want the state to fund human embryonic stem cell research at all; whether they want the state to appropriate the specific total sum of $200 million for this research; and whether they want potential donors to be compensated in some way. In addition, the initiative apparently allows "therapeutic cloning" and the creation of embryos specifically for research, both funded by taxpayers.

Although the compensation provision in the amendment is unclear, it seems to provide for some compensation to some donors, in an unspecified amount. Some voters may support state funding of stem cell research, but not wish to encourage the creation of embryos just for research purposes by compensating donors. They may prefer, instead, that embryos be used for research only if donated by individuals who had them created for private purposes, such as in vitro fertilization, and no longer wish to use them for their original purpose.

This initiative, however, allows for the "donation" of human embryos "before or after formation." An embryo begins forming right after fertilization. Therefore, an embryo that is donated "before…formation" means that the embryo

was conceived for the sole purpose of experimentation. Moreover, based on the allowance of compensation and reimbursement of "reasonable costs," state funds could be used essentially to buy human cells, including embryos, for research purposes.

On the other hand, some voters may desire collaboration between recipients of state funding and privately funded researchers, but if the latter use embryos obtained other than as required by the amendment, such collaboration could not occur. For instance, if a privately funded researcher obtains embryos or embryonic stem cells donated without instructions forbidding intrauterine embryo transfer, or obtained by providing "valuable consideration," that researcher could not collaborate or work with recipients of state funding under this proposed amendment. Because the initiative combines the compensation issues with the issue of whether to fund stem cell research in the first place, it violates the prohibition on "logrolling."

Another aspect of logrolling in the proposal is the combination of the above issues with the issue of therapeutic cloning. "Therapeutic cloning" creates embryonic stem cells genetically matched to a patient, and involves the fusion of a cell from the patient with an egg cell.[1] The initiative would allow for state funding of this procedure, though it does not mention it specifically. As discussed above, it

[1] According to the Genetics Policy Institute (www.genpol.org): "Therapeutic cloning, also called somatic cell nuclear transfer or simply nuclear transfer, is a technique for creating embryonic stem cells that are genetically matched to a patient. The technique entails fusing a cell taken from the patient with an egg cell. Within 5-7 days, pluripotent stem cells will arise." http://edr.state.fl.us/conferences/constitutionalimpact/2008%20Ballot/Embryonic%20Stem%20Cell%20Research/Genetics%20Policy%20Institute.pdf

allows for the "donation" of embryos before formation. It also defines "donated to medicine" as requiring "written instructions that the recipient shall use the embryo in biomedical research or *therapy*." (Emphasis added).

Therefore, part of the $20 million per year could be used to "compensate" egg donors and the donors of "any other cell recovered by an invasive procedure," i.e., skin cells. The two cells could then be fused, creating an embryo through "therapeutic cloning." Although the initiative does effectively forbid intrauterine embryo transfer of embryos obtained using these state funds, thereby preventing the birth of any clones, many voters hold strong beliefs on the issue of cloning and should not be asked to decide this issue at the same time as they are asked to decide whether to fund stem cell research that does not involve cloning and whether to use taxpayer funds to compensate donors.

Because the proposed amendment presents numerous, complex issues for a single vote, it violates the single subject rule and should not be placed on the ballot.

B. The Amendment Substantially Alters and Performs the Functions of the Legislative and Executive Branches of Government.

The proposed initiative also violates the second prong of the single-subject rule, which disallows any initiative that "substantially alters or performs the functions of multiple branches" of government. *See, e.g., Advisory Op. to Att'y Gen. re Fish & Wildlife Conservation Commission*, 705 So. 2d 1351, 1354 (Fla. 1998) (citation omitted).

In particular, the specific funding requirement of $20 million per fiscal year alters the function of multiple branches of government by impinging on both the

legislative appropriations function and the executive veto power. While the issue of whether a specific funding requirement violates the single subject rule seems to be one of first impression, this Court has made statements in dicta of several cases indicating that funding provisions may violate the single subject rule if they are "impermissibly rigid and restrictive to the legislative and executive branches." *Advisory Op. to the Att'y Gen. re Protect People, Especially Youth, from Addiction, Disease, and Other Health Hazards of Using Tobacco*, 926 So.2d 1186, 1193 (Fla. 2006) (hereinafter *Protect Youth*). The initiative here at issue does substantially restrict governmental functions and discretion, especially when measured against preceding cases.

One preceding case, in which the Court struck an initiative from the ballot, involved a proposal which mandated that at least forty percent of the legislature's appropriations every year be appropriated to fund public education, not including lottery proceeds or federal funds. *Advisory Op. to the Att'y Gen. re Requirement for Adequate Public Education Funding*, 703 So. 2d 446 (Fla. 1997) (hereinafter *Public Education Funding*). The Court held that this proposal "addresse[d] more than one subject in that it affect[ed] separate, distinct functions of the existing government structure of Florida." *Id.* at 448. Specifically, the Court held that the amendment "would substantially alter the legislature's present discretion in making value choices as to appropriations among the various vital functions of State government." *Id.* at 449. Moreover, the percentage limit "would substantially alter the operation of the various requirements for finance and taxation in Article VII in respect to bonded indebtedness and State mandates to local governments, thereby affecting the functioning of all State agencies, local governments, and special

districts." *Id.* The Court found that the amendment would also limit the line-item veto power of the Governor with respect to appropriations, "because the Governor would be unable to veto any specific appropriation within the forty-percent educational appropriation if the veto would reduce the education appropriation to less than the required forty percent." *Id.* Finally, the Court also decided that the amendment would "affect the function of the Governor and Cabinet…as to reducing the State budget…in the event of a revenue shortfall." *Id.* at 449-450. In *Public Education Funding*, the impact of the education funding amendment was so far-reaching and substantial that the Court struck it from the ballot for violation of the single-subject requirement.

The present Funding Initiative is markedly different from prior initiatives that required state funding but were approved. One initiative provided for the development of a high speed transportation system, and the other required that a portion of money going to the state from the Tobacco Settlement be used to fund a "comprehensive statewide tobacco education and prevention program." *Advisory Op. to the Att'y Gen. re Fla. Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System*, 769 So. 2d 367 (Fla. 2000) (hereinafter *High Speed Monorail*); and *Protect Youth*, 926 So. 2d 1186, respectively. The *High Speed Monorail* amendment directed the "Legislature, the Cabinet and the Governor" to "proceed with the development of [the] system…including…the financing of design and construction…as provided by specific appropriation and by law." 769 So. 2d at 368. However, the Court distinguished the *High Speed Monorail* amendment from the *Public Education*

Funding initiative, and approved it for placement on the ballot, reasoning as follows:

> [The proposed amendment] does *not* require the Legislature to spend a specific percentage of the budget *or even a specific amount*….Additionally, assuming the amendment would place some restrictions or limits on the veto power regarding the budget…we do not find this to be the type of "precipitous" or "cataclysmic" change prohibited by the single subject restriction. Such a restriction, unlike the adequate public funding amendment, would not in any event "substantially alter" the Governor's powers or "perform multiple functions of government." Indeed, *it appears the branches of government are left with wide discretion* in determining the details and funding of the project.

769 So. 2d at 371 (emphasis added). The key distinction between that case and the present one lies in the discretion of the government branches in how exactly to respond to a broad mandate. The *High Speed Monorail* amendment left the government with wide discretion. The Funding Initiative, on the other hand, like the *Public Education Funding* proposal, tightly restricts the government's discretion. The Legislature is obligated to fund a specific amount, and since the amendment directly instructs the Department of Health to enact rules, it appears that the Legislature does not even have discretion to guide the Department's rulemaking.

In the next and more recent case, *Protect Youth*, the proposed amendment required the Legislature to "use some Tobacco Settlement money annually for a comprehensive statewide tobacco education and prevention program…Annual funding is 15% of 2005 Tobacco Settlement payments to Florida, adjusted annually for inflation." 926 So. 2d at 1190. This formula resulted in a specific dollar amount per year for appropriations to the program. Again, the Court

approved the proposal and distinguished this case from *Public Education Funding*. It found that:

> [T]he funding provision here is not impermissibly rigid and restrictive to the legislative and executive branches....It does not require that the Legislature appropriate a specified percentage of its budget to fund the program. *More importantly, the proposal designates these funds for a use mandated by the [Tobacco] settlement agreement itself.*

Protect Youth, 926 So. 2d at 1193 (emphasis added). The *Protect Youth* amendment differs from the Funding Initiative in that the former merely creates a mechanism giving effect to an already enumerated and funded purpose. The Funding Initiative, however, creates a purpose, a funding source, and a mechanism all at once.

In *Public Education Funding*, the proposal attempted to create a new goal and then to preempt the legislative and executive functions of allocating and approving state revenue appropriations. Although the Court in *High Speed Monorail* held that an amendment may mandate the expenditure of state funds without improperly usurping the Governor's veto power, the amendment in that case did not place a threshold or minimum amount restriction on that expenditure, unlike the provision in the *Public Education Funding* case. In *Protect Youth*, the Court made the distinction that the preexisting Tobacco Settlement agreement mandated a specific use of funds, and that use was reflected in the amendment, so the amendment was creating a mechanism rather than creating an entirely new use and purpose for state funds.

The current Funding Initiative resembles the *Public Education Funding* situation more closely than the *High Speed Monorail* or *Protect Youth* initiatives, and therefore should be disapproved for placement on the ballot. First, the proposal creates a specific appropriation of $20 million annually from the general revenues of the state to the Department of Health. It then directs the use of those funds, including an outline of the method for selecting grantees. Furthermore, it instructs the Department of Health to promulgate administrative rules to implement the amendment.

The specific funding amount creates the first problem. In *High Speed Monorail*, the Court noted that the proposal at issue did "not require the Legislature to spend a specific percentage of the budget or even a specific amount." 769 So. 2d at 370-371. The Court thus implies that requiring the legislature to spend a specific amount could invalidate an initiative. While the Court later approved what amounted to a specific appropriation in *Protect Youth*, it emphasized that a preexisting agreement providing funds outside the general revenues and requiring specific use of those funds distinguished the case. The specific appropriation in the present initiative performs the function of the legislature by requiring the allocation of a fixed amount for a specific purpose, as well as directing an administrative agency to promulgate rules. It also changes the executive's veto power, as in *Public Education Funding*, because the executive may not veto any amounts that would reduce the appropriation below $20 million.

The second problem is that the amendment does not leave the branches of government "wide discretion in determining the details and funding of the project." *High Speed Monorail,* 769 So. 2d at 371. The Funding Initiative restricts research

to embryos "donated to medicine," defines the latter phrase, though ambiguously, and stipulates the category of eligible recipients as well as the method of selecting the grantees. Neither the legislature, which usually has the power to review and revise department planning documents (Article III, section 19(h), Florida Constitution), nor the executive branch, of which the Department of Health is an agency, would retain much discretion as to the details of state-funded embryonic stem cell research. The funding and implementation requirements, therefore, restrict governmental discretion in multiple branches, violate the single-subject rule, and provide another reason why the Court should disapprove the proposal.

II. THE BALLOT TITLE AND SUMMARY DO NOT PROVIDE FAIR NOTICE TO VOTERS OF THE AMENDMENT'S CONTENT AND ARE AMBIGUOUS AND MISLEADING.

The proposed initiative's title and summary, read as a whole, must also satisfy Section 101.161(1), Florida Statutes (2006), which provides:

> [T]he substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

The purpose of this provision is "to provide fair notice of the content of the proposed amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot." *See Advisory Op. to Att'y Gen. re Fee on Everglades Sugar Production,* 681 So. 2d 1124, 1127 (Fla. 1996).

When analyzing whether an initiative satisfies this statutory requirement, the Court has broken its inquiry into two parts: first, whether "the ballot title and

summary…fairly inform the voter of the chief purpose of the amendment;" and second, "whether the language of the title and summary, as written, misleads the public." *See Advisory Op. to the Att'y Gen. re: Additional Homestead Tax Exemption*, 880 So. 2d 646, 651 (Fla. 2004).

The title and summary of the present stem cell research initiative, read as a whole, violate the requirements of Section 101.161(1). Again, the purpose of this provision is "to provide fair notice of the content of the proposed amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot." *Fee on Everglades Sugar Production*, 681 So. 2d at 1127.

A. The Title and Summary Do Not Provide Fair Notice of the Content of the Proposed Amendment.

Voters must have notice of a proposed amendment's contents through the title and summary because the actual amendment text does not appear on the ballot. *Additional Homestead Tax Exemption*, 880 So.2d at 653. "Therefore, an accurate, objective, and neutral summary of the proposed amendment is the *sine qua non* of the citizen-driven process of amending our constitution." *Id.* at 653-654. Voters rely on the title and summary "to cast an intelligent and informed ballot." *Fee on Everglades Sugar Production*, 681 So. 2d at 1127. In the present case, the title focuses on the funding aspect of the amendment, while the summary references the definition of "donated to medicine" as one of the restraints on use of the funding. However, the summary fails to provide notice of several important aspects of the amendment.

In reference to the donation restriction, the summary does not provide fair notice of what exactly constitutes "compensation" and who gets it. The amendment

itself is not entirely clear, but the summary falls short of indicating this critical piece of information. Moreover, the summary does not indicate that it directly delegates rule-making authority to the Department of Health rather than leaving that task to the Legislature. It also fails to give voters notice that its delegation of decision-making authority with respect to distributing the funds is unclear in the amendment. Voters should be able to tell, from the limited information they receive at voting time, who exactly will be giving effect to any amendment they approve. Citizens may well have a different reaction if the legislature, over which they have some influence, is to implement an initiative and control the distribution of funds, as opposed to an administrative agency, over which they have very little influence.

Because the summary and title fail to give voters fair notice in these areas, the initiative does not allow those voters to cast an intelligent and informed ballot, and is therefore invalid.

B. The Initiative Violates the Second Prong of the 101.161(1) Test Because the Title and Summary Are Ambiguous and Misleading.

The initiative also suffers from other defects. Specifically, the summary phrase "without receipt of consideration other than cost reimbursement and compensation for recovery of donated cells" is ambiguous and misleading. It informs voters that donors may receive something, but exactly what and how much is unclear. The amendment text provides for "reasonable compensation to a donor...for the preparation for and time, burden, and risk of such recovery." This Court has recognized that the amendment itself is allowed to have some ambiguity. *See, e.g., Advisory Op. to Att'y Gen. re The Medical Liability Claimant's*

Compensation Amendment, 880 So. 2d 675, 683 (Fla. 2004); *Advisory Op. to Att'y Gen. re Physician Shall Charge the Same Fee for the Same Health Care Service to Every Patient*, 880 So. 2d 659, 665-666 (Fla. 2004). In this case, however, the summary itself is misleading because it first states that donors will not receive consideration, then that they may receive compensation, prompting the question of what other kind of consideration is prohibited, since there are no guidelines for "reasonable compensation." If this provision is attempting to address the concern that state funds not encourage the donation of cells for money, it misleads voters by implying that consideration will be more limited than the amendment actually provides.

In addition, while the summary provides for "compensation for recovery of donated cells," the amendment itself allows "compensation to a donor from whom an oocyte is recovered, and to the donor of any other cell recovered by an invasive procedure, for the preparation for and time, burden, and risk of such recovery." The first provision implies giving a donor some predetermined amount for the value of the cell(s). However, the amendment's provision, in allowing for compensation for the risk of recovery, raises the issue of liability to donors. "Invasive procedures" necessarily carry some risk. The amendment text indicates that state funds may be used to compensate donors who suffer injury or death during the cell recovery process. While that arrangement may be necessary and fair for donors, the ballot summary must indicate this possibility to voters, in fairness to them.

The ballot summary and title, as explained above, do not provide fair notice of the content of the amendment, and are vague and misleading to voters.

CONCLUSION

Because the Funding Initiative engages in logrolling and would substantially alter and perform the functions of the legislative and executive branches of government, it violates the single-subject rule. In addition, the ballot title and summary fail to provide fair notice of the amendment's contents to voters, and are ambiguous and misleading. It therefore meets the "clearly and conclusively defective" standard. For the above reasons, Citizens for Science and Ethics, Inc. respectfully requests that the Court rule that the Funding Initiative does not meet the necessary requirements for a constitutional initiative.

RESPECTFULLY SUBMITTED,

MAJOR B. HARDING
Fla. Bar No. 0033657
STEVEN C. EMMANUEL
Fla. Bar No. 0379646
Ausley & McMullen
Post Office Box 391
Tallahassee, Florida 32302
850-224-9115 (Telephone)
850-222-7560 (Facsimile)

Counsel to Interested Party Citizens
for Science and Ethics, Inc./
Opponents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this ____ day of January, 2007, to:

Stephen H. Grimes
Holland & Knight LLP
P. O. Drawer 810
Tallahassee, FL 32302

Henry B. Handler
Weiss, Handler, Angelos & Cornwell
One Boca Place, Suite 218A
2255 Glades Road
Boca Raton, FL 33431-7392

Bill McCollum
Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-0150

CERTIFICATE OF TYPEFACE COMPLIANCE

I HEREBY CERTIFY that the type style utilized in this Brief is 14-point Times New Roman, proportionately spaced, in accordance with Rule 9.210(a)(2), Florida Rules of Civil Procedure.

_____
Attorney

h:\data\rev\cse\funding initiative\oppn brief final.doc