

In the SUPREME COURT  
STATE OF FLORIDA

Emma Murray

Petitioner,

VS.

Mariner Health/ACE USA

Respondents.

CASE #: SC07-244  
LT CASE #: 1D06-475

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**BRIEF OF AMICUS CURIAE  
THE WORKERS' COMPENSATION SECTION OF THE FLORIDA BAR**

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## **INTRODUCTION**

This brief is filed on behalf of The Workers' Compensation Section of The Florida Bar, amicus curiae.

The Workers' Compensation Section of the Florida Bar is an entity that has as its dues paying members, Florida Bar members who practice in the area of workers' compensation. The section consists of lawyers who represent injured workers, who represent insurance carriers, who represent third party administrators and who represent self insured and uninsured employers in workers' compensation proceedings before the Judges of Compensation Claims and in the Appellate courts. The Executive Council of the section is currently made up of thirty lawyers, equally divided between claimant and employer/carrier/servicing agent representation. It was the executive council that voted to authorize that this brief be filed.

## **SUMMARY OF THE ARGUMENT**

The Workers' Compensation Section of the Florida Bar files this brief in order to make known to the court that the Section as a whole has taken legislative positions, recognized by the Board of Governors of The Florida Bar, that directly bear upon the issues raised in this appeal. The section will request the court to

render a decision that is consistent with the positions that the section has taken in the past and will continue to advocate into the future.

## **ARGUMENT**

### **THE MANDATORY FEE SCHEDULE LANGUAGE FOUND IN §440.34(1) F.S. (2003) UNCONSTITUTIONALLY RESTRICTS ACCESS TO THE COURTS AND UNCONSTITUTIONALLY RESTRICTS THE PAYMENT OF ATTORNEY FEES**

The Workers' Compensation Section of the Florida Bar (the Section) respectfully requests that the court issue an opinion which strikes any statute or portion of a statute that restricts the payment of attorney's fees-either to the attorney for the injured worker or to the attorney for the employer/carrier/self insured.

The Section also respectfully requests the court to issue an opinion that has the effect of promoting access to the courts and the ability of employer/carrier, self-insured's and employees to obtain legal representation in the handling of workers' compensation claims.

## **CONCLUSION**

Your neutral amicus requests the court to restore balance and fairness to the workers' compensation program. The court should require that all parties have equivalent access to court and equal ability to retain counsel without the attorney fee limitation now placed upon only one party to the adjudication process.

**CERTIFICATION OF TYPE SIZE AND STYLE**

**I HEREBY FURTHER CERTIFY** that this brief was typed with 14 point font Times New Roman on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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