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Advisory Opinion to the Attorney General Re: The Medical Liability Claimant's Compensation

PLEASE RISE.

GOOD MORNING AGAIN. WE WILL RESUME THE COURT'S DOCKET. NEXT CASE ON THE COURT'S DOCKET IS ADVISORY OPINION TO THE ATTORNEY GENERAL REFERENCE THE MEDICAL LIABILITY CLAIMANT'S COMPENSATION AMENDMENT.

MAY IT PLEASE THE COURT, LOUIS HUBENER WITH THE OFFICE OF THE ATTORNEY GENERAL. THIS MATTER IS BEFORE THE COURT ON THE ATTORNEY GENERAL'S REQUEST FOR AN ADVISORY OPINION. ARGUING WITH THE PROPONENTS WILL BE STEPHEN GRIMES AND FOR THE OPPONENTS WILL BE ARTHUR JACOBS AND JON MILLS.

THANK YOU VERY MUCH. MR. GRIMES?

MAY IT PLEASE THE COURT, MY NAME IS STEPHEN GRIMES. I REPRESENT THE SPONSOR OF THE MEDICAL LIABILITY CLAIMANTS COMPENSATION AMENDMENT. THIS IS A STRAIGHTFORWARD AMENDMENT. THE OPPONENTS DO NOT ARGUE THAT LAW IS ANY LOG ROLLING HERE. THEY ARGUE REALLY OTHER COLLATERAL ISSUES. THEY DO ARGUE THAT AMENDMENT SUBSTANTIALLY AFFECTS THE FUNCTIONS OF MORE THAN ONE BRANCH OF GOVERNMENT. THE KEY WORD WHICH IS OBVIOUSLY A PART OF THIS COURT'S CASE LAW. THE KEY WORDS HERE ARE SUBSTANTIALLY AND MULTIPLE BRANCHES. ADMITTEDLY THERE IS AN EFFECT ON THE JUDICIAL BRANCH IN THE SENSE THAT THE COURT HAS A RULE SPECIFYING THE MAXIMUM ATTORNEY'S FEES IN CONTINGENT FEE CASES. AND IF THIS AMENDMENT PASSED, IT WOULD MODIFY IT IN THE ONE EXTENT AS RELATES TO MEDICAL LIABILITY CASES. SO THERE IS AN EFFECT ON THE JUDICIAL BRANCH OF THE GOVERNMENT. I SUBMIT IN THIS ONE, ONE PARTICULAR, THAT WOULD NOT BE PROPERLY CHARACTERIZED AS A SUBSTANTIAL EFFECT. THEY ALSO ARGUE THAT IT WOULD AFFECT OTHER BRANCHES. WE DISPUTE THAT. SEEMS TO ME THAT THE LEGISLATURE WOULD BE -- WOULD NOT BE GETTING INVOLVED IN THAT, TRYING TO LEGISLATE IN THAT AREA BECAUSE OF THE SEPARATION OF POWERS ARGUMENT. BECAUSE ADMITTEDLY THE SORT OF THING THE COURT WOULD NORMALLY CONTROL AND HAVE SOUGHT TO CONTROL IN THEIR RULE.

COULD YOU ADDRESS THE ISSUE WHICH SEEMS TO BE ONE OF THE, SAME THEME FROM YESTERDAY, WHICH IS THAT IN READING BOTH THE AMENDMENT AS WELL AS THE SUMMARY, ALTHOUGH THERE SEEMS TO BE A VERY STRAIGHT FORWARD PURPOSE TO LIMIT CONTINGENT FEES. THE ISSUE ABOUT HOW THIS WHOLE THING WOULD WORK IN THE REAL WORLD IF IT PASSED IS SUBJECT TO A LOT OF DISPUTE AS TO WHAT HAPPENS IF THERE ARE MEDICAL LIENS, DOES THIS ESTABLISH SOME ABSOLUTE RIGHTS THE PLAINTIFF GETS 70%, EVEN IF THERE WERE MEDICAL LIENS. WHAT IS YOUR -- TODAY, WHAT IS YOUR POSITION ABOUT ANY OF THESE POSSIBLE AMBIGUITIES IN BOTH THE -- SEEMS LIKE THE SUMMARY TRACKS THE BALLOT. AS TO THE LACK OF DEFINITION IN THE AMENDMENT AND IT IS SUPPOSED TO BE SELF-EXECUTING. ARE WE JUST SETTING THIS UP AGAIN FOR LOTS OF LITIGATION OVER THE MEANING OF THE CONSTITUTIONAL AMENDMENT IF IT PASSES?

WELL, WE WOULD SUBMIT THAT, IN PRACTICE, ALL THIS WE ARE TALKING ABOUT OF COURSE CONTINGENCY FEE AGREEMENTS AND SETTING THE AMOUNT THAT THE CLAIMANT WOULD RECEIVE UNDER A CONTINGENCY FEE AGREEMENT. WE SUBMIT THAT THE DISCUSSION THAT THE OPPONENTS TALK ABOUT, MEDICAL CLAIMS AND MEDICAID LIENS, THAT SORT OF THING, WOULD BE NO DIFFERENT THAN IT IS UNDER NOW BECAUSE NOW, IF YOU GOT A CONTINGENCY FEE AGREEMENT, WHICH WOULD BE SAY 33 AND THIRD PERCENT OR WHATEVER, YOU ALSO HAVE

CLAIMS, MAY HAVE MEDICAID CLAIMS, SUBROGATIONS, THIS KIND OF THING THAT COMES INTO THE PICTURE. THE COURTS RESOLVE THOSE. THEY REALLY -- THIS ONLY RELATES TO ATTORNEYS FEE CONTINGENT FEES.

TO GET 70% OF THE FIRST \$250,000 IF THERE WAS A LARGE LIEN, THE ATTORNEY FEE THEN WOULD EVEN BE LESS THAN 30%. AND AGAIN, I DON'T KNOW IF THAT'S THE CASE OR NOT. BUT THE QUESTION IS, HOW DO WE DEAL WITH THE ISSUE OF -- AMBIGUITIES THAT MAY BE IN THE AMENDMENT BECAUSE OF LACK OF DEFINITION? YOU HAD MENTIONED YESTERDAY THE PROPERTY RIGHTS CASE. WHAT DO YOU DO WITH TERMS THAT MAY NOT BE COMPLETELY CLEAR EITHER IN THE AMENDMENT OR IN THE SUMMARY?

WELL, I WOULD SUBMIT THAT THE SUMMARY -- I UNDERSTAND YOUR QUESTION. OF COURSE I DON'T NECESSARILY AGREE THAT THEY'RE AMBIGUOUS. BUT, I DON'T THINK -- I GUESS WHAT I WAS TRYING TO SAY, I DON'T THINK IT IS ANY DIFFERENT THAN IT IS RIGHT NOW. IF YOU HAD AN ATTORNEYS FEE OF 33 AND A THIRD PERCENT, AS BETWEEN THE ATTORNEY AND THE CLIENT, THE ATTORNEY'S ENTITLED TO ONE-THIRD OF THE RECOVERY. NOW I DON'T THINK THAT'S NECESSARILY CUT DOWN BECAUSE THERE IS A MEDICAID LIEN OR SOMETHING LIKE THAT. THAT'S A COLLATERAL ISSUE THAT THE COURTS WOULD DECIDE. ALL THIS DOES IS CHANGE THE AMOUNT. IT IS JUST AS IF THIS COURT WERE TO PASS A RULE AND SAY EXCEPT IN MALPRACTICE CASES, IT IS ONLY 10 PERCENT. IN OTHER WORDS, I DON'T SEE HOW IT WOULD CHANGE ANYTHING UNDER THE EXISTING PRACTICE. AND IF THERE IS A DISPUTE, ANYTHING ELSE OVER WHO GETS THE MONEY, THE COURTS RESOLVE THAT IN AN INDIVIDUAL CASE AS IT COMES UP.

WOULD YOU RETURN TO THE FIRST ISSUE THAT YOU MENTIONED THERE, AND THAT IS, IF I UNDERSTAND IT CORRECTLY, YOU WOULD CONCEDE THAT THE LEGISLATURE WOULD NOT HAVE THE AUTHORITY TO INTERVENE IN THIS WAY, THAT IS, THAT THE LEGISLATURE UNDER A SEPARATION OF POWERS ANALYSIS WOULD NOT BE ABLE TO DO WHAT THIS CONSTITUTIONAL AMENDMENT DOES BY LEGISLATION?

I WOULD THINK THAT'S CORRECT.

HOW DOES THAT SQUARE THEN WITH THIS NOT BEING A SUBSTANTIAL EFFECT ON THE POWER OF THE THIRD BRANCH OF GOVERNMENT?

WHICH BRANCH?

THIS BRANCH. THE JUDICIAL BRANCH. THAT IS IN ALERTING THE PUBLIC THAT THIS IS HAVING AN IMPACT ON THIS -- THE JUDICIAL --

WELL, IT HAS AN IMPACT. MY POSITION WOULD BE THAT IN THIS ONE ALTERATION OF A PERCENTAGE IN A FRACTION OF THE LAWSUITS THAT ARE TAKEN ON CONTINGENT FEES, IT IS NOT A SUBSTANTIAL ITEM. IT IS NOT A SUBSTANTIAL EFFECT.

WHY ISN'T IT SUBSTANTIAL IF RIGHT NOW, YOU'RE SAYING THAT THE COURT HAS THE EXCLUSIVE AUTHORITY TO REGULATE FEES? WHY DOESN'T THAT MAKE IT, THE FACT THAT ONLY THIS BRANCH OF GOVERNMENT CAN REGULATE FEES THEN, WHY ISN'T THAT PER SE SUBSTANTIAL?

I SUBMIT THAT IT IS NOT SUBSTANTIAL BECAUSE YOU HAVE RELATED TO ALL OF THE DUTIES OF THE COURT. I MEAN THAT IS MY ARGUMENT, IT WOULD AFFECT SUBSTANTIALLY THAT VERY SMALL PORTION. I'M SAYING IT IS NOT A MAJOR ITEM ON THE COURT'S AGENDA. BUT OF COURSE I WOULD POINT OUT THAT IT CAN AFFECT ONE, SUBSTANTIALLY AFFECT ONE BRANCH OF GOVERNMENT, STILL NOT VIOLATE THE MANDATE. WOULD ALSO HAVE TO SUBSTANTIALLY AFFECT ANOTHER ONE, EVEN IF FOR SAKE OF ARGUMENT IT SUBSTANTIALLY AFFECTED THE JUDICIAL.

ARE YOU SAYING THAT THE LEGISLATURE DOESN'T HAVE THE POWER TO LIMIT THE AMOUNT OF ATTORNEY'S FEES IN VARIOUS AREAS? I MEAN IT LIMITS THE AMOUNTS OF ATTORNEY'S FEES THAT ARE RECOVERED IN SOVEREIGN IMMUNITY. IT LIMITS THE AMOUNT OF ATTORNEY'S FEES THAT ARE RECOVERED IN, STATES THAT ATTORNEY'S FEES CAN BE RECOVERED IN CERTAIN INSTANCES LIKE UNDER FLORIDA STATUTE 768.79 ON THE OFFERS OF JUDGMENT. THE LEGISLATURE LEGISLATES AT LAST COUNT, 70 DIFFERENT STATUTES ON ATTORNEY'S FEES.

OF COURSE I THINK THAT THE REGULATION OF THE PERCENTAGES, IT SEEMS TO ME WOULD BE AFFECTED BY SEPARATION OF POWER. BUT, IF IN FACT THAT'S SO, OF COURSE, THAT WOULD NEGATE THE BASIS OF THE SUBSTANTIAL IMPACT ON THE JUDICIAL BRANCH.

REGULATION IN MOST OF THOSE INSTANCES, HOWEVER, IS NOT BETWEEN THE ACTUAL CLIENT AND THE LAWYER, IS IT?

NO, I THINK THAT'S TRUE.

WHETHER A THIRD PARTY MAY BE RESPONSIBLE FOR -- IN OTHER WORDS, GRANTING THE RIGHT TO FEES FROM SOMEBODY ELSE AS OPPOSED TO SAYING HOW MUCH TWO PARTIES CAN AGREE OR NEGOTIATE OR CONTRACT FOR. IS THAT NOT CORRECT?

YES. I THINK THAT'S TRUE. I WOULD HAVE TO AGREE WITH THAT.

THE AMENDMENT SAYS THAT IN ANY MEDICAL LIABILITY CLAIM. SO IS IT CLEAR FROM THIS AMENDMENT AND FROM THE SUMMARY THAT WE'RE TALKING ABOUT MEDICAL MALPRACTICE, PERSONAL INJURY, WORKERS' COMPENSATION, PRODUCTS LIABILITY -- I MEAN ALL OF THESE COVERED IN THIS TERM HERE?

I THINK EVERYBODY IN THIS COURTROOM KNOWS IT IS MEDICAL MALPRACTICE WE ARE TALKING ABOUT, JUDGE QUINCE. IT IS NOT A SLIP AND FALL CASE WHERE YOU GET HURT AND A DOCTOR TESTIFIES. THAT IS NOT A MEDICAL LIABILITY CASE.

MR. GRIMES, WOULD YOU ADDRESS HOW YOUR VIEWS OF THE PROVISIONS REQUIRE THAT THE SUMMARY, NOT BEING MISLEADING AND NOT BE AMBIGUOUS, DO YOU VIEW THAT THE SUMMARY -- YOU INTERPRET WHETHER THERE IS OR IS NOT AN AMBIGUITY OR A PROBLEM WITH CLARITY IN TERMS OF THE AMENDMENT OR IN TERMS OF POSSIBLE DISPUTES THAT MAY ARISE IN THE FUTURE WITH REGARD TO THE LANGUAGE THAT'S INVOLVED? HOW DO YOU VIEW THAT? DO YOU UNDERSTAND MY QUESTION?

WELL, I THINK THIS KIND OF GOES BACK TO WHAT WE WERE TALKING ABOUT YESTERDAY, I BELIEVE. ORDINARILY -- YOU LOOK AT THE SUMMARY TO MAKE SURE THAT IT FAIRLY IN A REASONABLE WAY SETS FORTH WHAT THE AMENDMENT SAYS. NOW, IF THE AMENDMENT ITSELF IS SO AMBIGUOUS AND THE SUMMARY JUST TRACKS THAT AMBIGUITY, YOU HAVE HELD IN THE CASE WE CITED BEFORE, CITIZENS PROPERTY RIGHT CASE, YOU HAVE HELD THAT IT IS SO AMBIGUOUS THAT'S CARRIED FORWARD INTO THE SUMMARY, THAT THAT TOO WOULD STRIKE IT DOWN. HAVE TO BE PRETTY CLEARLY AWFULLY AMBIGUOUS. BUT YOU HAVE HELD THAT IN THAT ONE CASE.

AS WE WERE TALKING YESTERDAY, THERE WAS A PROBLEM WITH REGARD TO NO MENTION IN SUMMARIES OF MEDICARE, MEDICAID BEING IMPACTED BY SOME OF THESE THINGS. THIS ONE DOESN'T REALLY REFLECT IN ITS SUMMARY THAT CITIZENS OF FLORIDA MAY NOT BE ABLE TO OBTAIN COUNSEL AND HAVE ACCESS TO COURT BECAUSE YOU'RE GOING TO LIMIT IT IN SUCH A FASHION THAT NO ONE WILL BECOME INVOLVED IN THESE KINDS OF CASES, WHICH IS REALLY THE UNDERLYING PURPOSE HERE, IT SEEMS.

I SUBMIT THAT'S AN ARGUMENT THAT COULD BE MADE. BUT ON A FACIAL ASSERTION OF THAT, I

DON'T THINK IT WOULD BE SUCH THAT WOULD BE COGNIZABLE IN THIS CASE.

THE THING THAT IS MISSING BESIDES THIS TERM OF MEDICAL LIABILITY WHEN WE ARE TALKING ABOUT MEDICAL MALPRACTICE, IS THE FACT THAT RIGHT NOW THE CITIZENS OF THE STATE HAVE THE RIGHT TO ENTER INTO CONTINGENCY FEES SUBJECT TO THOSE LIMITS. AND THIS WOULD CHANGE THE LIMITS. DO YOU THINK THAT THAT'S SOMETHING THAT SHOULD BE IN A SUMMARY TO GIVE THE CITIZENS A FAIR VIEW OF WHAT ACTUALLY THE CURRENT STATUS OF THE LAW IS?

SEEMS TO ME THE AVERAGE VOTER KNOWS THAT THEY ARE ENTITLED TO CONTRACT WITH A LAWYER ON A CONTINGENCY FEE BASIS. MAY NOT KNOW THE PERCENTAGES WITHOUT LOOKING IT UP OR SOMETHING. BUT I THINK EVERYBODY WOULD UNDERSTAND THAT. WHAT YOU'D HAVE TO SAY IS UNDER PRESENT LAW, THE ATTORNEY, THE CLIENT HAS THE RIGHT TO ENTER INTO CONTINGENCY FEE CONTRACT.

BUT ISN'T THIS TAKING AWAY A RIGHT THAT THOSE CITIZENS HAVE NOW? IS IT TELLING THEM THAT NOW THEIR RIGHT TO FREELY CONTRACT ON THAT WILL BE TAKEN AWAY?

WELL, EXCEPT THAT IT BENEFITS THE CLAIMANT. THE THEORY IS THAT THE CLAIMANT GETS MORE OF THE RECOVERY.

ISN'T THAT UNDER ONE INTERPRETATION OF IT, THAT IT BENEFITS THE CLAIMANT? THAT IS, THAT THE, OBVIOUSLY THE AVAILABILITY OF LAWYERS AND ACCESS TO THE COURTS, THAT ONE INTERPRETATION ARGUED THE OTHER WAY IS THAT IT DOESN'T BENEFIT CLAIMANTS AT ALL BECAUSE NOW THEY MAY NOT BE ABLE TO FIND COUNSEL TO REPRESENT THEM IN THESE CASES BECAUSE OF THIS COMPENSATION LIMITATION. IS THAT NOT AN ALTERNATIVE ARGUMENT?

I THINK IT IS AN ARGUMENT THAT YOU COULD PRESENT TO THE VOTERS IF IT GETS ON THE BALLOT.

BUT YOU THINK THE AVERAGE CITIZEN WOULD KNOW THAT THEY HAVE THIS RIGHT NOW AND THAT THEY'RE LOSING THAT RIGHT?

I THINK THE AVERAGE CITIZEN WOULD UNDERSTAND THAT THE, THEY HAVE -- THEY CAN ENTER INTO A CONTINGENT FEE CONTRACT. BUT IF THEY DO, IT'S NOW, WOULD NOW BE THE 10 PERCENT.

THEY CAN FREELY CONTRACT TO PAY YOU WHATEVER THEY WANT TO PAY YOU IN THE CASE AND THEY'RE LOSING THAT RIGHT. YOU FEEL THAT'S IMPLICIT?

I DO, YES, SIR. I THINK I'D BETTER RESERVE MY TIME HERE.

THANK YOU VERY MUCH.

GOOD MORNING. GOOD MORNING, CHIEF JUSTICE. I'M BUD JACOBS ON BEHALF OF THE TRIAL LAWYERS SECTION OF THE FLORIDA BAR COMPOSED OF BOTH PLAINTIFF AND DEFENSE LAWYERS IN CIVIL CASES. WE ARE CONCERNED ABOUT THIS AND MR. GRIMES TALKS ABOUT THE FOLKS IN THIS ROOM UNDERSTAND WHAT THIS SAYS. BUT I ASSURE YOU THAT THE PEOPLE THAT ARE OUTSIDE THIS ROOM WHO I'M SPEAKING ON BEHALF OF I BELIEVE DID, WILL NOT UNDERSTAND THIS WHEN THEY SEE IT.

DO YOU UNDERSTAND THAT THIS IS LIMITED TO MEDICAL MALPRACTICE CASES? IS THAT WHAT THIS REALLY SAYS?

THAT'S WHAT MR. GRIMES SAYS IT SAYS. WHEN YOU LOOK AT IT, IT DOESN'T SAY THAT. WHAT DOES IT REALLY SAY? IT TALKS -- IT IS ALMOST SEDUCTIVE IN WHAT IT SAYS. WE ARE ON BEHALF OF CLAIMANTS, WE WANT TO MAKE SURE CLAIMANTS GET THIS AMOUNT OF MONEY AND THAT

AMOUNT OF MONEY.

THIS GOES BACK TO -- YOU WEREN'T PARTICIPATING IN THE ARGUMENTS YESTERDAY. BUT THE AMENDMENT USES THE TERM MEDICAL LIABILITY CLAIM AND THE SUMMARY USES IT. IF THAT TERM IS AMBIGUOUS, IS THAT SOMETHING THEN THAT CAUSES THE AMENDMENT -- THE BALLOT SUMMARY TO BE DEFECTIVE? IN OTHER WORDS, CAN THE BALLOT SUMMARY EXPLAIN MORE THAN THE AMENDMENT ITSELF ACTUALLY EXPLAINS OR DEFINES?

I THINK -- WHAT IS PLACED IN LAW IS PLACED IN LAW. AND THAT'S NOT THE SUMMARY. THE SUMMARY --

BUT IT ACCURATELY, MEDICAL LIABILITY IS THE TERM USED IN BOTH. SO HOW DOES THE SUMMARY NOT ACCURATELY REFLECT WHAT'S IN THE AMENDMENT?

WELL, WHAT IT SAYS, IT SAYS, CONTINGENCY AGREEMENT WITH AN ATTORNEY. THE AMENDMENT DOESN'T MENTION ATTORNEY. IT JUST SAYS CONTINGENCY FEES. YOU CAN HAVE CONTINGENCY FEES IN CLAIMS, BILLS AGAINST A HOSPITAL. YOU HIRE NON-LAWYER LOBBYISTS.

WE HAVE GONE RIGHT INTO OUR QUESTIONS OF YOU AND REALLY WHAT WE'RE HOPING THAT YOU WOULD DO IS, WHAT DEFECTS DO YOU CLAIM EXIST HERE WITH REFERENCE TO THESE TWO ISSUES THAT WE HAVE TO CONSIDER? WHETHER IT IS A SINGLE SUBJECT AND WHETHER OR NOT THE SUMMARY IS SUFFICIENT.

LET ME FIRST SAY AS FAR AS THE SINGLE SUBJECT IS CONCERNED, CERTAINLY YOU CAN CHANGE THE CONSTITUTION BY CHANGING THE CONSTITUTION. BUT YOU HAVE TO TELL THE FOLKS THAT ARE THE VOTERS, SAM AND SARAH VOTER, WHAT ARE YOU DOING TO THE CONSTITUTION? AND WHAT ARE WE DOING TO YOUR RIGHTS AS REFLECTED AND GUARANTEED BY THE CONSTITUTION? CERTAINLY EQUAL PROTECTION UNDER LAWS, UNDER ARTICLE I, SECTION TWO IS AFFECTED BY THIS AMENDMENT. THERE IS NO LIMITATIONS ON THE DOCTORS FEES, JUST LIMITATIONS ON THOSE FOLKS BRINGING COMPLAINTS. 6% OF THE DOCTORS COMMIT OVER 50% OF THE MALPRACTICE CASES IN FLORIDA, SO WE ARE TALKING ABOUT A SMALL AMOUNT OF DOCTORS. BUT STILL YOU'RE RESTRICTING THE RIGHTS OF THE CLAIMANTS OR THE PERSON WHO ARE THE VICTIMS OF MALPRACTICE, YOU'RE RESTRICTING THEIR RIGHTS TO PAY LAWYERS.

IS OUR PURPOSE HERE THOUGH TO DETERMINE THE CONSTITUTIONALITY UNDER THE U.S. CONSTITUTION OF THE AMENDMENT OR CAN THAT WAIT UNTIL THE CASE THAT PRESENTS THAT ISSUE AND COMES UP TO US AFTER THE AMENDMENT HAS BEEN IMPLEMENTED?

UNDER THE SINGLE SUBJECT ASPECT THOUGH IN REVIEW, YOU HAVE TO, I BELIEVE, MAKE SURE THE VOTER IS APPRIZED OF WHAT'S GOING ON IN THE AMENDMENT OF THE CONSTITUTION. IT RADICALLY AFFECTS ARTICLE I, SECTION TWO, ALSO AFFECTS ARTICLE I, SECTION TEN, PROHIBITION AGAINST LAWS AND COMPARED CONTRACTS. I KNOW IN THE REPLY BRIEF THE PROPONENTS SAY WELL, WE ARE TALKING ABOUT EXISTING CONTRACTS, NOT FUTURE CONTRACTS. WHAT ABOUT THE CONTRACTS THAT EXIST TODAY BETWEEN THE LAWYER AND HIS CLIENT IN AN ONGOING MEDICAL MALPRACTICE CASE? THAT WOULD BE AFFECTED CERTAINLY.

WELL, WE DON'T KNOW THAT IT WOULD BE AFFECTED. THAT IS WHAT JUSTICE CANTERO IS SAYING, THE ISSUE IS NOT TO AFFECT ANY EXISTING CONTRACT. SO IF THE INTENT IS NOT TO HAVE AN EFFECT ON THOSE PROVISIONS, THEN IT IS AN ISSUE THAT THEN COMES UP IN A CASE OR CONTROVERSY. BUT WE HAVE BEEN TALKING ABOUT THE RIGHT TO CONTRACT. BUT RIGHT NOW, THE RIGHT TO CONTRACT UNDER A CONTINGENT FEE IS LIMITED BY THE FLORIDA BAR AND THE RULES OF THIS COURT. THEY CAN'T FREELY -- CLAIMANT CAN'T ENTER INTO A CONTINGENT FEE FOR WHATEVER, 50%. THEY'RE ALREADY LIMITED.

AND THAT'S TRUE. AND THEN THE, ON PAGE FIVE OF THE INITIAL BRIEF OF THE PROPONENTS IN

THIS CAUSE, THEY SAY THAT THE EFFECT OF THIS AMENDMENT IS TO PREVENT THE DELUSION OF THE CLAIMANT'S RECOVERY OF EXCESSIVE CHARGES MADE BY LAWYERS IN MEDICAL MALPRACTICE CASES. YOU HAVE ALREADY SAID THAT.

AND THAT WOULD BE A TYPE OF FLYING UNDER FALSE COLORS IF THAT APPEARED IN THE SUMMARY. BUT NOW APPEARING IN THE BRIEF DOESN'T REALLY, AMOUNTS TO NO MORE THAN ARGUMENT. IT CERTAINLY DOESN'T TALK ABOUT EXCESSIVE FEES IN THE SUMMARY.

WELL, THE FOLKS THAT AREN'T HERE TODAY ARE GOING TO SEE THIS ON THE BALLOT AND THEY'RE GOING TO SAY, SAY WELL GOSH, THIS IS WONDERFUL. IT IS ALMOST SEDUCTIVE, SAYS WE ARE GOING TO GUARANTEE PEOPLE TO HAVE THESE KINDS OF PERCENTAGES AND RECOVERY. DOESN'T TALK ABOUT WHETHER THEY CAN PAY THEIR LAWYER, HIRE THEIR LAWYER OR HOW MUCH THEY GET PAID.

THE MARSHAL HAS PUT OFF THE LIGHT.

THE LIGHT HAS COME ON. THANK YOU VERY MUCH. APPRECIATE YOUR CONSIDERATION.

GOOD MORNING.

GOOD MORNING.

SEEMS LIKE THIS IS THE TIT FOR TAT AS FAR AS DE --

IF YOU COULD GIVE YOUR NAME.

MY NAME IS JON MILLS, I REPRESENT FLORIDIANS FOR PATIENT PROTECTION.

I AM HAVING TROUBLE DISTINGUISHING THE ARGUMENT TODAY FROM THE ARGUMENT YESTERDAY AS FAR AS THIS SEEMS LIKE FOUR AMENDMENTS THAT ARE GOING TO PERHAPS CAUSE A GREAT DEAL OF LITIGATION IF THEY ARE PASSED. BUT GIVE ME YOUR STRONGEST ARGUMENT ABOUT WHY THERE IS A SINGLE SUBJECT VIOLATION HERE.

GLAD YOU ASKED THAT QUESTION. THERE REALLY ARE A NUMBER OF REASONS TO REMOVE THIS FROM THE BALLOT. BUT THERE ARE TWO THAT ARE SIGNIFICANT AND POINTED. ONE, A SINGLE SUBJECT WHICH I'LL DISCUSS, AND ONE IS THE FACT THAT THE BALLOT AND TITLE ARE SUBSTANTIALLY MISLEADING. AND DIRECTLY SO. THE SINGLE SUBJECT RULE, I DON'T THINK THERE IS ANY DISPUTE THAT THIS AMENDMENT SUPERCEDES AND AFFECTS TOTALLY FOR THE FUTURE THE AREA OF MEDICAL MALPRACTICE AND PERHAPS OTHER THINGS AS JUSTICE QUINCE REFERRED TO. IT ALSO HAS EFFECTS IN AREAS SUCH AS POTENTIALLY COMPARATIVE LIABILITY, JOINT AND SEVERAL LIABILITY. THERE IS SOME BROAD POTENTIAL IMPACTS. THE MOST IMPORTANT IMPACT IS I THINK THE IMPACT ON THE COURT, THE MOST DANGEROUS PRECEDENT YOU COULD SET, NOT ONLY THE EFFECT ON ATTORNEY'S FEES, BUT TO APPROVE AN AMENDMENT WHICH HAS DECLARED ITSELF SELF-EXECUTING. ARTICLE V, SECTION ONE SAYS, THE COURTS OPERATE AS A JUDICIARY. THE FOLKS THAT DRAFTED THIS AMENDMENT, DON ROBES AND DECLARED THIS AMENDMENT SELF-EXECUTING. COULD YOU DO THAT IF IT WAS? MIGHT BE HARMLESS. BUT THE VAGUENESS AND THE POSSIBILITY, NOT ONLY THE POSSIBILITY OF CERTAINTY BUT INTERPRETATION.

GOING BACK TO THE DIRECT QUESTIONS THAT WE WERE WRESTLING WITH YESTERDAY AND THAT IS UNDER THE STATUTE AS TO THE SUMMARY. AS I UNDERSTOOD THE ARGUMENT THAT MR. MCLENDON WAS MAKING YESTERDAY WAS THAT THE SUMMARY WAS TO BE UNAMBIGUOUS AS REFLECTIVE OF WHAT WAS ACTUALLY IN THE AMENDMENT. IT IS VERY IMPORTANT, YOUR HONOR, THAT THE 70% GUARANTEE FOR RECOVERY CAN DELIVER. AND THAT'S ALL. THEY HAVE ADMITTED AND I THINK IT IS IMPORTANT. AND THIS IS POST ANSWER BRIEF --

BUT ISN'T THERE A PART IN THAT SUMMARY THAT TALKS ABOUT EXCLUSIONS -- EXCLUSIVE OF COSTS AND THOSE KINDS OF THINGS? SO DOESN'T THAT PUT THE VOTER ON NOTICE THAT WHILE YOU START WITH THAT 70%, THERE ARE OTHER THINGS THAT COME INTO PLAY HERE?

EXCLUSIVE OF COSTS WITHOUT DEFINING IT. AND TRADITIONALLY MEDICARE LIENS, MEDICAID LIENS HAVE NOT BEEN CONSIDERED COSTS OF LITIGATING. THAT WOULDN'T BE HARD FOR SOME LAWYERS AND LAW STUDENTS TO UNDERSTAND. BUT, CERTAINLY THE VOTER, HOW DOES THE VOTER KNOW THAT MEDICAID AND MEDICARE LIENS ARE GOING TO TAKE A SIGNIFICANT PORTION OUT OF THIS? IF I READ THIS AS A VOTER, I THINK I'M GOING TO GET 70 PERCENT OF \$250,000. AND THAT'S NOT GOING TO HAPPEN. AND THEY HAVE ADMITTED FREELY --

SO YOUR ARGUMENT IS THAT IT IS MISLEADING BECAUSE OF HOW IT'S GOING TO EFFECT THE REAL WORLD IF IT IS APPLIED, NOT THAT IT IS MISLEADING IN THAT IT DOESN'T FAIRLY REPRESENT WHAT THE AMENDMENT SAYS?

IT WOULD MISLEAD THE VOTERS AS TO THE EFFECT OF THE AMENDMENT. AND THAT'S THE TEST. LET ME CITE TO YOU THE FIRST, PRISONER'S CASE.

AND THAT IS THE TEST WE SHOULD APPLY TO THE THREE AMENDMENTS YESTERDAY?

OF COURSE.

DOES IT SAY EFFECT OR DOES IT SAY PURPOSE?

PURPOSE. I'M SORRY.

THE WORD, IS IT ADVISE OF THE PURPOSE OR ADVISE OF THE EFFECT? THOSE ARE NOT SYNONYMOUS.

THEY'RE NOT SYNONYMOUS, BUT LET ME RETURN TO CASE OF STOP EARLY RELEASE OF PRISONERS. THE FIRST CASE, THE PURPOSE OF THAT CASE WAS TO ASSURE THE PRISONERS WOULD STAY IN JAIL FOR 85% OF THE TIME. THAT IS WHAT IT REPRESENTED, THAT IS WHAT IT SAID. BUT THEY DIDN'T EXPLAIN OR ALLOW THE VOTERS TO UNDERSTAND THAT THAT WOULDN'T HAPPEN. BECAUSE OF CLEMENCY. THE VOTERS ARE NOT GOING TO UNDERSTAND THAT THEY'RE NOT GOING TO GET 70% OF \$250,000. I JUST DON'T THINK THAT'S ARGUABLE.

IT STOPPED THE PRISONER CASE. WAS THAT THE PROBLEM WITH THE BALLOT OR WITH THE ACTUAL AMENDMENT?

IT WAS A PROBLEM WITH THE SUMMARY.

WAS A PROBLEM WITH THE SUMMARY.

AND INCIDENTALLY, THEY WENT BACK AND THEY CORRECTED IT. AND IT WAS IN FACT OPERATIVE. I WANT TO RETURN AGAIN BRIEFLY TO THE SINGLE SUBJECT TEST. I THINK THE IMPORTANCE OF THE SELF-EXECUTING PROVISION, IF YOU ALLOW SOMETHING ON THE BALLOT THAT SOMEONE HAS DETERMINED TO BE SELF-EXECUTING BY THEIR DRAFTING, AND IN FACT IS NOT, EVERY DRAFTER IN THE FUTURE WILL DO THAT. THE EXAMPLE I GIVE YOU IS POLLUTER PAY BY THE EVERGLADES. THE POLLUTER PAY AMENDMENT WAS DRAFTED. PEOPLE THOUGHT THEY MAY HAVE MADE IT SELF-EXECUTING. THIS COURT DETERMINED IT WASN'T. OF COURSE THIS COURT WAS RIGHT. BUT WHAT IF THOSE DRAFTERS HAD SAID IN THE TEXT IT WAS SELF-EXECUTING? THEY WOULD HAVE PERFORMED A JUDICIAL FUNCTION. AND IF YOU HADN'T AT THAT TIME REMOVED IT FROM THE BALLOT, YOU COULD NEVER HAVE SUBSEQUENTLY SAID IT WAS NOT SELF-EXECUTING. THAT IS PERFORMING YOUR JUDICIAL FUNCTION.

WHY IS -- WHY CANNOT THIS BE SELF-EXECUTING?

BECAUSE OF THE NUMBER OF VAGUE TERMS WHICH YOU HAVE ALREADY DISCUSSED.

ARE YOU SUGGESTING IT WOULD BE THE LEGISLATURE THAT WOULD DEFINE THOSE TERMS?

WELL, THE TEST FOR SELF-EXECUTING IS IF IT PORTRAYS AN ADEQUATE RULE TO BE IMPLEMENTED. IF YOU COULD IMPLEMENT IT WITHOUT SUBSTANTIAL INTERPRETATION. WHICH AS APPLIED TO POLLUTER PAY. THIS IS NOT LIKE YOU HAVE HAD TWO OTHER AMENDMENTS PRESENTED TO YOU, NO NEED FOR OTHER LEGISLATION. THAT IS INHUMANE TREATMENT OF PIGS AND NET BAN. THOSE WERE VERY DETAILED PROHIBITIONS. THIS IS TELLING ALL LAWYERS, ALL JUDGES IN THIS STATE TO GO IMPLEMENT THIS. GO FIGURE OUT WHAT THE --

WOULDN'T ALL IT ENTAIL RIGHT NOW YOU LOOK AT THE RULES REGULATING THE PROFESSIONAL CONDUCT AS THE SUBSTITUTE FOR MEDICAL MALPRACTICE CLAIMS, 30% FOR THE FIRST 250 AND 10% AFTER THAT?

I THINK JUSTICE QUINCE IS RIGHT. I DON'T KNOW WHAT MEDICAL LIABILITY MEANS. IT COULD MEAN --

YOU JUST HAD A STIPULATION THAT IT MEANS MEDICAL MALPRACTICE.

I DON'T THINK WHAT WE STIPULATE AND WHAT IT SAYS ARE GOING TO AFFECT HUNDREDS OF CIRCUIT JUDGES. AND I DON'T THINK IT IS GOING TO AFFECT PEOPLE WHO WOULD FILE A LAWSUIT.

ARE YOU SAYING THIS COURT WOULD BE, BECAUSE IT IS SELF-EXECUTING, WOULD NOT BE ABLE TO AMEND THE RULES OF PROFESSIONAL CONDUCT?

YOU COULD AMEND THE RULES OF PROFESSIONAL CONDUCT. BUT YOU COULDN'T DO IT CONTRARY TO WHAT THIS CONSTITUTIONAL REVISION SAYS.

WHAT I AM HAVING, I WOULD HAVE TROUBLE WITH, WITH LOOKING AT THE FACT THAT THERE IS SOME PROBLEM WITH SAYING IT IS SELF-EXECUTING IS THAT THE PEOPLE OF THIS STATE HAVE A RIGHT TO PUT IN THEIR CONSTITUTION THAT SOMETHING'S SELF-EXECUTING, DO THEY NOT?

THEY ABSOLUTELY DO. BUT THE QUESTION IS WHEN YOU HAVE PREVIOUSLY CONSIDERED ACTIONS BY DRAFTERS THAT ARE REACHING CONCLUSIONS, SAY EVERGLADES ONE THAT REACHED THE CONCLUSION THAT SOMEBODY WAS LIABLE. I MEAN YOU ARE REACHING A CONCLUSION, IT IS PERFORMING THE FUNCTION. IT IS NOT THAT THEY CAN'T DO IT. THAT IF YOU HAVE THE IMPACT ON THE LEGISLATURE, WHICH IS CLEARLY AFFECTING THIS AREA, CLEARLY AFFECTING OTHER AREAS OF STATUTORY AUTHORITY. CLEARLY AFFECTING THE COURT'S SUPERVISION OF FEE. AND PERFORMING THE FUNCTION.

LET ME ASK YOU THIS, CAN THE LEGISLATURE LIMIT THE, OR CAN THE PEOPLE OF THIS STATE THROUGH THEIR CONSTITUTION LIMIT THE AMOUNT OF ATTORNEY'S FEES CHARGED BY A LAWYER UNDER A SPECIFIC TYPE OF CASE? CAN THEY DO -- CAN THEY HAVE THE POWER TO DO THAT?

AS YOU HAVE MENTIONED IN CERTAIN CASES, THEY CAN. BUT I THINK IT WAS PROPERLY POINTED OUT BY THE CHIEF JUSTICE, THIS IS REGULATION OF CONTINGENCY FEES.

DO THEY HAVE THE POWER? DO THE PEOPLE HAVE THE POWER TO PUT IN THE CONSTITUTION?

YES. IF THE PEOPLE DID A SINGLE SUBJECT AND SAID NOT THIS, WHICH SAYS 70% GUARANTEE OF

RECOVERY, BUT FOCUSED ONLY ON ATTORNEY'S FEES, I THINK MAYBE YOU COULD DO THAT. MIGHT BE PERFORMING A SINGLE JUDICIAL FUNCTION.

DO THE PEOPLE HAVE THE SAME POWER TO REGULATE THE AMOUNT OF ATTORNEY'S FEES BY PUTTING A LIMITATION IN A CONSTITUTION THAT THEY DO IN LIMITING DOCTORS' CHARGES BY PUTTING THAT IN THE CONSTITUTION? IS THIS THE SAME POWER?

I WOULD SAY SO.

THE MISLEADING PART IS THAT, YOU'RE SAYING THAT THE SUMMARY SPECIFICALLY APPEARS TO GUARANTEE THE 70%, EVEN IF THERE WERE MEDICAL LIENS, WHICH IS NOT POSSIBLE TO ACTUALLY DO, SINCE THERE ARE MEDICAL LIENS, THOSE HAVE TO BE PAID. BUT IN TERMS OF THE -- AND THE AMENDMENT SAYS THE SAME THING, MR. GRIMES SAYS WAS CLEAR THAT IT IS REALLY REFERRING TO THE FIRST, YOU KNOW, THAT ISN'T REALLY CHANGING WHAT THE CONTINGENCY AGREEMENT IS. SEEMS AGAIN REMINISCENT OF SOME OF THE ARGUMENTS WE HAD YESTERDAY WHERE THERE WAS ISSUES ABOUT MEANINGS OF TERMS THAT WERE USED BOTH IN THE AMENDMENT AS WELL AS IN THE SUMMARY. SO THAT'S WHY I GO BACK AGAIN TO, THAT THERE ARE ONLY -- THEY'RE ONLY MISLED AS TO THE EFFECT IF THE EFFECT IS INTERPRETED ONE WAY VERSUS ANOTHER WAY DOWN THE ROAD.

WELL, YOUR HONOR, IF THE AMENDMENT CAN'T ACHIEVE THE EFFECT ADVERTISED, CANNOT, IT IS MISLEADING.

I'M MISSING THAT BECAUSE THE 70% DOES NOT SAY THEY ARE, THEY'RE GOING TO PUT 70% IN THEIR POCKET AND TAKE IT HOME AND PUT IN IT THE BANK. BUT THE 70% FOR THEIR BENEFIT COULD ENCOMPASS THOSE MEDICAL LIENS, HOSPITAL LIENS, GOVERNMENT LIENS COULD BE PAID FROM THAT JUST AS THEY ARE NOW.

SAYS 70% EXCLUSIVE OF COSTS. AGAIN, WE HAVE TO VIEW THIS AS VOTERS.

YOU'RE SAYING IT CAN'T HAPPEN, AND I AM SAYING IT ABSOLUTELY CAN. I DON'T UNDERSTAND THE STATEMENT. BECAUSE THE 70% IF IT IS INTERPRETED THAT THAT AMOUNT IS TO BE USED FOR THE BENEFIT OF THE CLAIMANT TO PAY FOR MEDICAL EXPENSES, LIENS, WHATEVER, JUST AS IT IS TODAY, THAT IT IS REALLY JUST, YOU SAY THAT CAN'T HAPPEN. THAT CERTAINLY COULD BE.

THE PLAIN LANGUAGE I BELIEVE TO A CLAIMANT, TO A CITIZEN OF THE WORD RECEIVED IS THAT THEY ARE TO RECEIVE IT. I MEAN THIS IS A CONSTITUTIONAL AMENDMENT THAT IS SO BRIEF, DOES NOT REFER TO STATUTES, DOES NOT AS YOU HAVE SEEN IN OTHER CASES RECENTLY AND IN THE RECENT PAST, DEFINED ITS TERMS IN ITS TEXT. OR REFERED TO STATUTORY DEFINITIONS. THIS IS A PROBLEM.

ISN'T IT ALWAYS A PROBLEM WITH THE ENGLISH LANGUAGE? IT IS THE BEAUTY AND THE BEAST. HAS THE BEAUTY OF MANY MEANINGS AND DEPENDING UPON WHAT WORDS. EVERY TIME WE LOOK AT A CONSTITUTIONAL PROPOSAL, THEY HAVE WORDS, YOU OR I HAVE ONE MEANING AND THE DICTIONARY HAS MULTIPLE MEANINGS OR POSSIBLE MEANINGS. I AM NOT SURE, WE WOULD NEVER HAVE PRIVACY TYPE AMENDMENT, WE COULD NEVER HAVE AN EQUAL PROTECTION, WE COULD NEVER HAVE DUE PROCESS BECAUSE THOSE COULD HAVE SO MANY INTERPRETATIONS. THIS IS WHAT I'M TROUBLED WITH THIS KIND OF ARGUMENT.

WELL, THE ONLY INTERPRETATION THAT I SEE THAT A VOTER OF NORMAL INTELLIGENCE SEEING 70% RECEIVED WOULD BE THAT THEY WOULD PUT 70% OF THE RECOVERY IN THEIR POCKET. YOU'RE A JUDGE. THEY'RE LAWYERS. THERE ARE LAW PROFESSORS WHO MAY UNDERSTAND THIS EASILY. BUT IT IS OUR DUTY TO NOT LET SOMETHING ON THE BALLOT THAT WOULD MISLEAD. WHY WOULD SOMEONE VOTE FOR THIS? IT IS THE SAME AS I REFERED --

PEOPLE THAT READ OUR REGULATIONS OF LAWYERS FEES THE SAME WAY. THAT IS, IF THEY READ THAT AND SAYS THAT LAWYERS FEES CANNOT EXCEED 40% OR WHATEVER, OBVIOUSLY THE INFERENCE FROM THAT IS THAT YES, THE LAWYER GETS 40% BUT THAT THE CLAIMANT GETS 60%. THE REALITY IS OF COURSE WITH LIENS AND ALL OF THAT KIND OF THING, DON'T KNOW WHAT'S GOING TO HAPPEN AFTER IT'S HASHED OUT. BUT ISN'T THAT JUST A PROBLEM THAT YOU CAN'T COVER EVERY DETAIL OR EVERY ANTICIPATED SITUATION, EITHER IN A REGULATION BY THIS COURT OR IN A PROVISION IN THE CONSTITUTION?

I WOULD SAY YOU CAN'T COVER IT IN REGULATION BY THIS COURT. BUT YOU HAVE A STATUTORY AND CONSTITUTIONAL DUTY TO THE ELECTORATE TO DO IT, INITIATIVES. FOR THE VERY REASON INITIATIVES ARE DRAFTED IN A CONTEXT THAT DOESN'T ALLOW INPUT, THAT DOESN'T ALLOW VAST PUBLIC UNDERSTANDING. THIS IS NOT UNCLEAR. I MEAN THE IMPACT HERE IS IT WILL NOT RECEIVE 70%. THE VOTERS THAT THINK THEY ARE TO RECEIVE 70% WILL NOT. I WOULD SUGGEST, YOUR HONOR, THAT FOR BOTH THE REASONS THAT THIS VIOLATES THE SINGLE SUBJECT RULE, FAILS TO REFER TO MULTIPLE SECTION, INCLUDING CONTRACT, ACCESS TO COURTS, ARTICLE FIVE AND THAT IS MISLEADING DIRECTLY IN TERMS OF TITLE AND SUMMARY, IT MUST BE STRUCK FROM THE BALLOT.

THANK YOU VERY MUCH.

MR. MARSHAL, HOW MUCH TIME LEFT? OKAY, ABOUT FIVE MINUTES.

MAY IT PLEASE THE COURT, THE DISCUSSION ABOUT SELF-EXECUTING, WITH THE NET BAN AMENDMENT SAID IT WAS SELF-EXECUTING. IF THERE WAS SOME DOUBT, THAT'S WHEN IT GETS INTO THE COURT FUNCTION. WHETHER OR NOT SOMETHING IS SELF-EXECUTING. BUT THAT -- THIS SPEAKS FOR ITSELF. I THINK SPONSOR DID A FAVOR BY SPELLING THAT OUT. IF IT REQUIRED LEGISLATIVE IMPLEMENTATION ON THE OTHER HAND, I THINK THEY WOULD HAVE HAD TO SAY THAT TOO. YOU KNOW, I SUBMIT THAT THIS -- I DON'T SEE HOW THE VOTER COULD BE CONFUSED ABOUT THIS. I GUESS THIS IS KIND OF FLIP SIDE OF THE ARGUMENT YESTERDAY. BUT --

I GUESS I WAS LOOKING AT THE RULES OF PROFESSIONAL CONDUCT. AND THE WAY THEY'RE EXPRESSED IS IN TERMS OF WHAT THE LIMIT ON WHAT THE ATTORNEY RECEIVES. SO IT IS 40% OR 30%, DOESN'T ACTUALLY SPEAK IN TERMS OF WHAT THE PLAINTIFF GETS. SO THAT'S WHERE THE, THIS FOCUSES ON THE RIGHTS OF WHAT THE CLAIMANT IS GOING TO GET, WHICH COULD IMPLY A NET AMOUNT. YOU'RE SAYING THAT IS NOT THE INTENT. AND AGAIN, I GUESS A SORT OF FRIENDLY QUESTION, SEEMS TO ME THAT IF THERE IS AN AMBIGUITY, IT IS IN THE ACTUAL AMENDMENT AS WELL AS IN THE SUMMARY.

I THINK THAT'S -- THAT WOULD PROBABLY BE TRUE. I DON'T SEE HOW THE VOTER COULD BE MISLED FAIRLY. THE RESPONSIBILITY OF THE SUMMARY IS TO PUT THE CHIEF PURPOSE OF THE AMENDMENT. I SUBMIT THE CHIEF PURPOSE IS SPELLED OUT AND YOU CAN ALWAYS ATTACK THIS SORT OF THING.

EXCEPT THE TITLE IS, WHILE THIS SAYS THE CLAIMANT'S RIGHT TO FAIR COMPENSATION, WHICH I GUESS COULD BE SPLITTING HAIRS AS TO WHETHER THAT COMPENSATION MEANS MONEY IN THEIR POCKET OR MONEY GOING TO HEALTH CARE PROVIDER. BUT IT SEEMS -- DOESN'T REALLY SAY LIMITATION ON ATTORNEYS RIGHTS TO RECOVER A FEE, WHICH, IT IS REALLY WHERE THE FOCUS IS.

WELL, YOU KNOW, I GUESS ON FINAL ANALYSIS, IT SEEMS TO ME THAT -- I SUBMIT THE VOTER COULD NOT BE REASONABLY CONFUSED BY WHAT THIS IS ABOUT.

THE COURT WOULD HAVE, IF THIS PASSES, COULD EASILY STILL BE PLACED INTO THE RULES OF PROFESSIONAL CONDUCT APPROPRIATELY, THAT THERE SHOULD BE RULES THAT WOULD FOLLOW

THIS, OR DOES THAT MEAN THIS SELF-EXECUTING, THE COURT WOULD NOT HAVE THE AUTHORITY TO CLARIFY THIS INTENT THROUGH RULES?

NO. SELF-EXECUTING MEANS YOU DON'T NEED LEGISLATION.

SO IT IS NOT A LIMITATION ON THE RIGHTS?

NO.

WOULDN'T IT MEAN THOUGH IN THIS INSTANCE, THAT IS NOT SO LIMITED AS TO MEAN YOU DON'T NEED LEGISLATION. COURT RULES ARE IN EFFECT LEGISLATION, ARE THEY NOT, IN TERMS OF THE SUBJECT MATTERS THAT THEY COVER? YOU HAVE AGREED THAT UP TO THIS POINT THAT THE ONLY BRANCH OF GOVERNMENT THAT CAN LEGISLATE ON THE ISSUES OF CONTINGENCY FEES IS THIS BRANCH. IF THIS IS SELF-EXECUTING, THE COURT CLEARLY COULD NOT DO ANYTHING IN VARIANCE.

SURE. THERE IS NO QUESTION COULDN'T DO ANYTHING IN VARIANCE. MAYBE I MISUNDERSTOOD THE QUESTION. YOU COULDN'T DO ANYTHING IN VARIANCE IF IT PASSED, YES, THAT'S TRUE. IF THE COURT HAS NO FURTHER QUESTIONS.

THANK YOU ALL VERY MUCH.