

>> ALL RISE.
>> HEAR YE, HEAR YE, HEAR YE,
THE SUPREME COURT OF FLORIDA IS
NOW IN SESSION.
ALL WHO HAVE CAUSE TO PLEA, DRAW
NEAR.
GIVE ATTENTION, YOU SHALL BE
HEARD.
GOD SAVE THESE UNITED STATES,
THE GREAT STATE OF FLORIDA AND
THIS HONORABLE COURT.
>> LADIES AND GENTLEMEN, THE
SUPREME COURT OF FLORIDA.
PLEASE BE SEATED.
>> GOOD MORNING.
WELCOME TO THE FLORIDA SUPREME
COURT.
THE FIRST CASE ON THE DOCKET
THIS MORNING IS THE AMENDMENTS
TO THE RULES REGULATING THE
FLORIDA BAR RELATING TO LAWYER
REFERRAL SERVICES, OKAY?
COUNSEL, WHENEVER YOU'RE READY.
>> YES.
MAY IT PLEASE THE COURT, GOOD
MORNING.
MY NAME IS CARL SCHWAIT, AND
TOGETHER WITH JOHN STEWART TO MY
LEFT, WE REPRESENT THE FLORIDA
BAR.
I'M HERE BECAUSE I AM THE
CHAIRMAN OF THE BOARD REVIEW
COMMITTEE ON PROFESSIONAL ETHICS
IN ADVERTISING, AND JOHN
STEWART'S HERE BECAUSE HE'S THE
LONGTIME CHAIR OF THE TECHNOLOGY
COMMITTEE.
NOW, WHY DO I TELL YOU THIS?
SINCE WE'VE BEEN TOGETHER THE
LAST YEAR AND THE REJECTION OF
OUR RULES IN SEPTEMBER OF 2015,
A DETERMINATION WAS MADE THAT
FOR PURPOSES OF REVAMPING THE
RULES, IT WAS NECESSARY TO MERGE
BOTH THE BRC AND TECHNOLOGY
BECAUSE OF THINGS THAT HAD
OCCURRED SINCE 2010 WHEN I
PERSONALLY-- ALONG WITH THE
BAR-- BEGAN THIS PROCESS.
AND MORE IMPORTANTLY, SINCE

WHAT'S HAPPENED IN THE LAST YEAR.

IN THE LAST SEVEN YEARS, WE'VE SEEN THE FOLLOWING: ONE, MORE LAWYERS, NOW MORE THAN 103,000 LAWYERS IN FLORIDA ALL TRYING TO PROCURE CLIENTS, TWO, AN ACCESS TO JUSTICE PROBLEM THAT HAVE NOW BEEN RECOGNIZED WHERE WE UNDERSTAND THAT THERE ARE PERSONS IN FLORIDA WHO NEED LAWYERS AND AT THE SAME TIME WITHOUT A LAWYER DO NOT HAVE THE ABILITY TO PARTICIPATE IN OUR JUSTICE SYSTEM.

BUT MORE IMPORTANTLY--

>> EXCUSE ME--

>> TOGETHER WITH THOSE--

>> EXCUSE ME, SO DO YOU, ARE YOU PROPOSING THAT THESE RULES ARE GOING TO HELP WITH THE ACCESS OF JUSTICE ISSUE?

>> ABSOLUTELY.

>> AND SO HOW IS THAT?

I MEAN, EXPLAIN TO ME HOW THAT HAPPENS, BECAUSE I FRANKLY DON'T SEE IT.

>> WELL, HERE'S HOW THE FLORIDA BAR SEES IT, JUSTICE.

IT'S SORT OF A PUZZLE.

AT THE SAME TIME THAT LAWYERS NEED MORE WORK AND NEED TO PROCURE CLIENTS, THERE'S AN ACCESS TO JUSTICE PROBLEM WHERE THE CLIENTS CANNOT SEEM TO GET LAWYERS.

AND WE NEED TO BE ABLE TO MESH THE TWO, AND THE WAY TO DO IT IS THROUGH MATCHING SERVICES.

>> BUT HERE'S THE PROBLEM, AND BECAUSE THIS IS A SHORT ORAL ARGUMENT, AND THIS IS A BIG ISSUE.

WE SENT THIS BACK BECAUSE THE COURT WAS VERY CLEAR, READ IT AGAIN, THAT WE WANTED, WE DID NOT WANT THESE REFERRAL SERVICES OWNED BY NON-LAWYERS THAT WERE REFERRING PEOPLE TO LAWYERS AND DOCTORS, OKAY?

YOU COME BACK WITH A WHOLE
REVAMPING WITHOUT REALLY EVEN
BEGINNING, AS WE READ
EVERYTHING, TO EXPLAIN WHAT A
MATCHING SERVICE IS, WHAT THIS
ISSUE IS WITH THE NATIONAL, YOU
KNOW, NATIONALLY.

AND WE'VE GOT AVO WHO WE KNOW IS
A HUGE, DOMINANT FORCE IN THE
MARKETPLACE.

AND SO HOW DO YOU EXPECT US
AFTER SORT OF IGNORING WHAT IS
SAID IN THE OPINION TO NOW GO
AND LOOK AT A WHOLE NEW
REGULATORY SCHEME WHICH IS, YOU
KNOW, MAYBE A GOOD IDEA, MAYBE
NECESSARY?

BUT WHY SHOULDN'T WE DO THAT IN
TWO DIFFERENT STEPS?

IN OTHER WORDS, DO WHAT WE ASKED
YOU TO DO WITH REFERRAL
SERVICES, AND THEN WE LOOK
SEPARATELY AT THE WHOLE ISSUE OF
HOW DO YOU OR SHOULD YOU
REGULATE THESE MATCHING SERVICES
WHERE THERE REALLY HASN'T BEEN
ANY COMPLAINT OF WHATEVER THAT
IS, OF ABUSE?

>> WELL, IT GIVES ME NO GLEE TO
STAND HERE AND TELL YOU THAT THE
FLORIDA BAR VIOLATED YOUR
DIRECTION, AND IN FACT,
PERSONALLY I'M EVEN UNHAPPY THAT
I'M THE PERSON WHO HAS TO
EXPLAIN THIS TO YOU.

BUT THAT--

>> WE'RE NOT SHOOTING THE
MESSENGER.

>> WELL, I APPRECIATE THAT.
BUT HERE'S WHAT THE ISSUE--

>> NOT SO FAST.

[LAUGHTER]

>> WELL, OKAY, I'M NOT.

>> WAIT UNTIL YOU HEAR MY
ANSWER, I AGREE WITH THAT ONE.

>> THE CHIEF HAS THE
PREROGATIVE.

>> NOTWITHSTANDING THAT YOU AS
THE SUPREME COURT IS ACTUALLY
THE STATE ACTOR WHICH MEANS THAT

YOU APPROVE AND REGULATE-- AND OVERSEE OUR REGULATION AND IMPLEMENTATION OF THE RULES. IT REALLY IS THE FEDERAL COURT THAT ULTIMATELY MAKES THE DETERMINATION WHEN WE'RE SUED. AND THE WAY YOU LOOK AT IT IS THAT YOU WANT TO PROTECT THE PUBLIC, BUT THE FEDERAL BASIS AND MANDATE IS TO HAVE FREE SPEECH AND FREEDOM OF COMMERCE. SO WHEN WE LOOKED AT YOUR RULE, YOUR DIRECTION AND WE TOOK IT VERY SERIOUSLY, WE BELIEVED THAT WE COULD NOT SUSTAIN THAT BY SUBSTANTIVE AND ANECDOTAL INFORMATION IN FRONT OF A FEDERAL COURT.

>> WHAT CASE, MR. SCHWAIT, SAYS THAT WE CANNOT?

>> WELL, YOUR HONOR-- JUSTICE, YOU CAN MAKE THE DIRECTIVE--

>> WHAT CASE SAYS THAT WHAT WE'VE ASKED YOU TO DO IS IN VIOLATION OF SOME LAW OR CONSTITUTIONAL PROVISION?

>> I DON'T HAVE--

>> WHAT CASE IS THAT?

>> WELL, I DON'T HAVE A CASE--

>> WELL, YOU'RE TELLING US WHAT THE LAW IS, AND SO I'M NOT-- I DON'T WANT TO SHOOT THE MESSENGER EITHER.

YOU'VE BEEN A VERY DEDICATED PUBLIC SERVANT.

>> I APPRECIATE THAT.

>> YOU'VE WORKED WITH THIS COURT, AND WE KNOW WHERE YOUR HEART IS AND THAT YOU REALLY WANT TO DO THE RIGHT THING. SO PLEASE DON'T TAKE IN THE WRONG WAY.

BUT YOU STAND THERE AND SAY TO US THAT THIS IS IN VIOLATION OF LAW.

WHERE'S THE CASE?

>> WELL, MAY I GIVE YOU THE REASONS--

>> I'D LIKE TO SEE THE CASE--

>> I DON'T HAVE A CASE.

>> OKAY, WELL, I THINK THAT'S A FAULTY BASIS TO PROCEED ON. THERE MAY BE SOME THINGS THAT YOU AND CANNOT DO. WE UNDERSTAND THOSE. BUT I DO NOT BELIEVE-- AND I THINK IT'S AN AFFRONT TO THIS COURT, TO SAY TO IT THAT YOU'RE ASKING THE BAR TO DO SOMETHING THAT'S ILLEGAL. AND I THINK THAT THERE'S A GREAT MANY LAWYERS IN FLORIDA, YOU SAY THE BAR. WELL, THE BAR MAY HAVE 103,000 PEOPLE, BUT THE BAR'S ACTUALLY OPERATED BY, WHAT, 1 OR 2,000 PEOPLE?

>> PERHAPS IT WOULD HAVE BEEN BEST STATED THE FOLLOWING WAY: IN REVIEWING YOUR DIRECT ORDER AND THEN SPENDING THE YEAR DISCUSSING THIS, WE BELIEVE THAT THE FLORIDA BAR THAT A FEDERAL COURT WOULD NOT SUSTAIN US.

>> BUT THAT'S NOT, THAT MAY BE A REASON TO SAY WE WANT TO MODIFY THE REFERRAL RULE TO ALLOW THIS SITUATION, ALL RIGHT? ASSUMING THAT WAS THE REASON. BUT THAT'S NOT WHAT WE GOT BACK. WHAT WE GOT BACK IS, LISTEN, WE DON'T NEED TO REALLY, REALLY REGULATE THESE REFERRAL SERVICES THE WAY THEY'VE BEEN REGULATED. WE NEED TO BRING IN THE REST OF THE NATION ON THIS TECHNOLOGY, AND THAT'S WHAT I'M SAYING. I FEEL LIKE YOU'VE MIXED TWO DIFFERENT THINGS. WE CAME ALONG BECAUSE THERE WAS A PARTICULAR PROBLEM. AND IN ALL DUE RESPECT TO 1-800-PAIN OR, YOU KNOW, THESE TYPES OF SERVICES, THE IDEA THAT CONSUMERS WERE MISLED BY BEING GIVEN A LAWYER AND A DOCTOR OR A CHIROPRACTOR AND THIS AND THEY DIDN'T KNOW-- AND THAT WAS THE EVIL, THE PROBLEM THAT WE WERE TRYING TO ADDRESS.

IS SO NOW WE HAVE A WHOLE DIFFERENT ISSUE WHERE YOU'RE SAYING, WELL, NOW WE'VE REALLY GOT TO LOOK AT THE WHOLE-- EVERY SINGLE WAY, AND YOU'RE TELLING JUSTICE QUINCE WE'RE REALLY DOING THIS NOT JUST TO PROTECT THE PUBLIC, BUT EVEN MORE SO BECAUSE WE WANT TO PROVIDE ACCESS THE JUSTICE. AND THERE'S JUST, THERE'S NOTHING IN THE INFORMATION WE'VE BEEN PROVIDED THAT REALLY EXPLAINS THAT IN THE KIND OF DEPTH THAT WE WOULD WANT WITH. >> PERHAPS I CAN MAKE AN ATTEMPT AT BEING MORE IN DEPTH, IF I COULD.

TIMES HAVE CHANGED, AND WE'RE NOT JUST TALKING ABOUT LAWYER REFERRAL SERVICES WHEN WE TALK ABOUT PERSONAL INJURY.

IN THIS NEW AGE, ESPECIALLY WITHIN THE LAST YEAR IF NOT THE LAST TWO OR THREE YEARS, THE PROLIFERATION OF COMPANIES COMING TO THE STATE OF FLORIDA AND THE NUMBER OF MECHANISMS FOR MATCHING HAS INCREASED EXPONENTIALLY.

AND WHAT WE'RE FINDING THAT NOW LAWYERS, RURAL LAWYERS, SMALL TOWN LAWYERS, SINGLE PRACTITIONERS, 65% OF OUR LAWYERS IN A LAW FIRM FIVE AND LESS, THAT THOSE PEOPLE AS WELL AS THE CONSUMER ARE GOING TO THE INTERNET AS OPPOSED TO LISTENING AND GETTING THEIR LAWYERS I THROUGH THE TELEVISION OR THE RADIO.

FOR THAT REASON, WE BELIEVE THAT OUR RULES ARE EVEN MORE STRICT, FOR THIS REASON.

WE MAKE NO EXCEPTIONS. WE'VE SOLVED THE DEFINITIONAL PROBLEM THAT WE HAD LAST YEAR. WHAT WE'RE DOING TODAY IS SAYING YOU CAN CALL YOURSELF ANYTHING YOU WANT.

YOU WANT TO CALL YOURSELF A DIRECTORY, YOU WANT TO CALL YOURSELF A LAWYER REFERRAL SERVICE, WHAT THE FLORIDA BAR WANTS TO DO IS WE WANT TO SAY YOU'RE A QUALIFYING PROVIDER. AND IF YOU MATCH AND FOR PROFIT YOU MATCH LAWYERS WITH A CONSUMER OR A CLIENT, THEN YOU ARE NOW REGULATED.

THAT'S WHY WE'RE TOUGHER NOW, BECAUSE TIMES HAVE ACTUALLY CHANGED WHERE WE DO HAVE THESE COMPANIES COMING EVERYWHERE AND TRYING TO MATCH CLIENTS--

>>'S THE-- SEE, HERE'S, YOU KNOW, WHEN WE DO, LIKE WE HAVE CASES TODAY, RIGHT?

WE'VE GOT A BRIEF, WE'VE GOT TESTIMONY.

IT'S, TO ME, WHAT WE WERE PROVIDED IS ANECDOTAL INFORMATION.

WHEN YOU'RE SAYING IS A HUGE ISSUE.

AND, YOU KNOW, I WENT THROUGH EVERY SINGLE THING THAT WAS PROVIDED.

WHERE IS THAT REALLY SUBSTANTIVE REPORT ABOUT THE STATE OF THE BAR AND THESE SERVICES AND WHAT IT IS THAT IS THE HUGE ISSUE THAT WASN'T THERE TWO YEARS AGO. AND THAT'S WHAT MY PROBLEM IS, FOR ME.

>> THE ISSUE IS THAT NO LONGER ARE THE PEOPLE, LAWYERS WHO ARE INVOLVED IN LAWYER REFERRAL SERVICES, SAY--

>> NO, I'M ASKING WHERE IS IT AND WHAT'S BEEN PROVIDED TO US THAT THAT IS A WAY WE CAN MAKE A DECISION THAT'S, TO ME, A DRAMATIC CHANGE FROM WHAT'S EXISTED.

DO WE HAVE IT OR SHOULD WE--

>> YOU ONLY HAVE IT IN OUR PETITION WHICH I WAS HOPING WAS COMPREHENSIVE, AND ALONG WITH MY EXPLANATION TODAY AS WELL AS IF

I COULD YOUR OWN EXPERIENCE IN SEEING WHAT IS OCCURRING THAT PERSONAL INJURY WITH THE DOCTORS AND THE REFERRALS ARE A VERY MINOR PART OF WHAT'S OCCURRING. IT WAS MAJOR WHEN WE FIRST STARTED THIS PROCESS IN 2010, BUT TODAY THE LAWYER THAT I REPRESENT, LET'S SAY ON THE BOARD OF GOVERNORS FROM BRONSON, FLORIDA, NOW HAS THE OPPORTUNITY TO GET A LAWYER IN BRONSON. BECAUSE THE LAWYER IS NOW USING AN ONLINE SERVICE--

>> BUT I THINK THE PROBLEM, THE PROBLEM AS I SEE IT ALSO IS THAT I DON'T BELIEVE THERE'S ENOUGH INFORMATION IN THAT PETITION THAT EXPLAINS TO ME WHAT THESE MATCHING SERVICES DO, WHAT IS THE EVIL THAT YOU'RE ATTEMPTING TO CORRECT THROUGH THIS RULE WITH THESE MATCHING SERVICES? I JUST DON'T SEE THAT.

AND WITHOUT THAT, WE'RE JUST JUMPING INTO THIS FRAY THAT YOU THINK IS OUT THERE WITHOUT ANY REAL INFORMATION TO DIRECT US.
>> WELL, WE KNOW THAT WE WANT TO REGULATE MATCHING SERVICES, WHATEVER WE MIGHT CALL THEM, AND WE KNOW THAT--

>> BUT WHY?

>>-- WE WANT TO REGULATE ALL.

>> BUT WHY?

WHAT ARE THEY DOING THAT IS THE PROBLEM?

>> I CAN ANSWER THAT PROBLEM, HOPEFULLY COMPREHENSIVELY, WHICH IS THE FOLLOWING: WE HAVE AN ONGOING FIGHT UNLESS THIS, THESE RULES ARE ACCEPTED WITH COMPANIES COMING AND SAYING WE'RE NOT A LAWYER REFERRAL SERVICE.

AND IF THEY'RE NOT A LAWYER REFERRAL SERVICE, THEN WE CANNOT TELL OUR ATTORNEYS THAT THEY CAN'T WORK WITH THEM.

IF THEY'RE NOT LAWYER REFERRAL

SERVICES, THEY DON'T HAVE TO FOLLOW OUR RULES OF ADVERTISING. THEY DON'T HAVE TO GET THEIR ADVERTISING OKAYED BY US. THEY DON'T HAVE TO SUBMIT A YEARLY DOCUMENT AS TO WHO'S WORKING WITH THEM. THEY CAN GO OUT AND IF THEY WANT, CAN EVEN ADVERTISE MISLEADING, INHERENTLY MISLEADING--

>> AND DO WE HAVE, DO WE HAVE OR DOES THE BAR HAVE INFORMATION, COMPLAINTS FROM CONSUMERS ABOUT THESE KINDS OF SERVICES?

>> I WOULD SAY THAT THE COMPLAINTS THAT WE HAVE ABOUT THE SERVICES HAVE BEEN MINIMAL. AND THAT'S WHY WHEN WE COME TO THE ISSUE OF CROSS-REFERRALS, AGAIN, WE HAVE TO GO TO THE LEAST RESTRICTIVE METHODOLOGY. BUT WE KNOW FROM OUR OWN UNDERSTANDING, IN FACT, YOU MIGHT EVEN HEAR FROM ONE OF THE SPEAKERS TODAY THAT, IN FACT, THEY DON'T WANT TO BE, THEY DON'T WANT TO BE REGULATED BY THE FLORIDA BAR AND THE LAWYERS WHEN WORK WITH THEM.

>> DOESN'T THE PROPOSED RULES ALSO ADDRESS THE CONCERN ABOUT WHETHER ANY OF THESE SERVICES ALSO ARE ACTUALLY PRACTICING LAW IN SOME WAY OR SHARING IN THE FEES OF LEGAL SERVICES?

>> WELL, JUSTICE POLSTON, THIS IS IMPORTANT. OUR RULES THAT WE HAVE TODAY NEVER GET AWAY FROM OUR CORE VALUES OF OUR PROFESSION. OUR RULES STATE THERE IS ALREADY NO FEE-SPLITTING. NO FEE-SPLITTING. AND IF WE CAN'T REGULATE THE COMPANIES THAT ARE COMING BEFORE US, COULD THEY NOT HAVE FEE-SPLITTING IF LAWYERS ALLOW THAT? THE ONLY WAY TO ENFORCE IT IS TO

INSURE THAT EVERY COMPANY,
INDIVIDUAL IS REGULATED BY THE
FLORIDA BAR.

THE OTHER THING IS THAT WITHIN
THE RULES THEMSELVES WE STATE
THAT NO PERSON AND NO ENTITY CAN
PUT ANY PRESSURE, CAN PUT ANY
ECONOMIC PRESSURE, CAN PUT ANY
DIRECTION, THAT IT ALL INFRINGES
UPON THE INDEPENDENT THOUGHT
PROCESS OF THE LAWYER AND HOW HE
DEALS WITH HIS CLIENTS.

SO OUR RULES ARE MORE STRICT AND
MORE STRUCTURED TODAY THAN THEY
WERE SO THAT IT DOESN'T MATTER
WHAT WE'RE CALLING THEM.

THEY'RE ALL UNDER THE AUSPICES
OF THE FLORIDA BAR.

>> YOU'RE DOWN TO ONE MINUTE FOR
REBUTTAL.

YOU CAN KEEP GOING IF YOU WANT
TO, BUT WE'VE GOT A LONG DAY.

>> WELL, I HAD A LOT TO SAY, BUT
I'LL SAVE ONE MINUTE FOR
REBUTTAL.

>> THANK YOU.

ONE MINUTE.

>> GOOD MORNING.

I'M CHARLES MOREHEAD, AND I'M
THE PRESIDENT OF THE BAR
ASSOCIATION CURRENTLY.

THANK YOU VERY MUCH FOR ALLOWING
US TO APPEAR BEFORE YOU.

THE BROWARD COUNTY BAR WOULD
LIKE THE COURT TO ENFORCE ITS
ORDER OF SEPTEMBER 24, 2015.

WE THINK THAT THIS ORDER WAS
REASONABLE, IT WAS BASED ON THE
RECORD AT THE TIME AND THE CASE
THAT WAS PENDING BEFORE YOU AND
HAS BEEN IGNORED.

WHAT WE SEE IN THE SPECIAL
COMMITTEE'S REPORT WHICH IS IN
YOUR OTHER CASE-- NOT THIS
CASE.

IT WAS FILE INSIDE THE 14-2126
CASE.

THAT 28-PAGE REPORT DOCUMENTS
THE PROBLEMS THAT WE HAVE HAD
WITH LAWYER REFERRAL SERVICES,

WITH DOCTORS AND LAWYERS AND
CO-MINGLING, BOTH OF THEM.
WHEN MR. IS SCHWAIT AND MR. JAY
CAN HEN WHO HAD THE SUBCOMMITTEE
OF THE COMMITTEE FOR FOR-PROFIT
LAWYER REFERRAL SERVICES IN
THEIR WORK IN THAT 18 MONTHS,
WHAT THEY FOUND WAS THERE WERE
PEOPLE WHO WERE GOING TO A
DOCTOR AND BEING SHUFFLED INTO A
SIDE ROOM AND BEING ASKED TO
SIGN UP WITH A LAWYER FIRST.
AND IF YOU DIDN'T HAVE PIP, YOU
WERE OUT.
WE'RE SEEING THIS ALL THE TIME.
I DON'T SEE WHAT HAS CHANGED IN
THAT YEAR.

>> BUT NOW LET ME-- IT SEEMS
THE ME THAT THE BAR IS SAYING
THAT SINCE THAT REPORT FROM THAT
SPECIAL COMMITTEE, THAT THE
LANDSCAPE HAS SORT OF CHANGED,
THAT TECHNOLOGY AND THE ADVENT
OF ALL OF THESE MATCHING
SERVICES HAS REALLY CHANGED THE
LANDSCAPE.

AND SO THAT THEY NEED THESE
KINDS OF RULES TO BRING EVERYONE
INTO THE FOLD AND BE REGULATED
BY THE BAR.

>> WELL, I MEAN, AS JUSTICE
PARIENTE POINTED OUT, I DON'T
SEE THAT DATA.

AND AS A PRACTITIONER FOR 31
YEARS, I HAVEN'T SEEN IT HAPPEN
ON THE INTERNET IN THE LAST
THREE OR FOUR YEARS.

I THINK THE ACCESS IS GREATER
THAN EVER.

I THINK THAT THE ABUSES CONTINUE
AND CERTAINLY IN BROWARD--

>> YOU MEAN ABUSES BY THE
REFERRAL SERVICES.

>> YES, MA'AM.

>> HOW DO THEY OPERATE?
BECAUSE BROWARD, IF THERE'S
GOING TO BE AN EPICENTER, IT'S
PROBABLY GOING TO BE IN SOUTH
FLORIDA.

>> YES, YOUR HONOR.

>> HOW DO THEY OPERATE?

>> THE-- IT DEPENDS WHO YOU ASK.

WHAT REALLY HAPPENS IS ALMOST IMMEDIATELY AFTER AN ACCIDENT SOMEONE IS CONTACTED BY A PHYSICIAN OFFICE IN THEORY, OR THEY CALL 411-PAIN OR WHATEVER THE REFERRAL SERVICE IS.

THEY MAKE AN APPOINTMENT.

WHEN THEY SHOW UP, THERE'S A PARALEGAL USUALLY IN A SIDE OFFICE.

THEY'RE USHERED IN TO SEE, AND THEY ARE FORCED TO SIGN-- NOT FORCED, BUT PRESSURED TO SIGN UP WITH THIS LAWYER, AND THEN THEY GO GET THEIR TREATMENT.

AMAZINGLY, WHEN THE PIP IS BURNED UP, THERE'S MEDICAL IMPROVEMENT, AND THINGS MOVE FORWARD.

WE THINK THAT THIS IS BEING ADDRESSED CURRENTLY IN THE LEGISLATURE WITH THE PIP STATUTE BEING BANDIED ABOUT, BUT FROM THE STANDPOINT OF ENFORCEMENT, OF NOT SOLICITING CLIENTS IN DOCTORS' OFFICES, WE HAVE NOT SEEN THAT ENFORCEMENT.

>> SO WE'VE GOT THE PERSONAL INJURY ISSUE, SO FROM YOUR EXPERIENCE-- ARE YOU A PERSONAL INJURY LAWYER?

>> YES, MA'AM.

>> DO PERSONAL INJURY CLIENTS GO ON THE INTERNET AND GO AND GET THEIR ATTORNEYS MORE OFTEN THAN NOT THROUGH A MATCHING SERVICE?

>> I DON'T KNOW IF THAT'S TRUE. WHAT THEY DO IS THEY USE THEIR PHONE TODAY, AND THEY DO A SEARCH, AND THEY-- DEPENDING ON WHERE YOU ARE IN BROWARD COUNTY WILL REALLY DICTATE WHO POPS UP. TODAY YOU CAN PURCHASE 7,000 IMPRESSIONS A MONTH JUST FOR THE CELL TOWER AT BROWARD GENERAL MEDICAL CENTER.

SO IF ANYONE OPENS THEIR

BROWSER, MY AD CAN POP UP THERE EVERY SINGLE TIME AS THEY LEAVE THE HOSPITAL.

>> THAT'S A WHOLE OTHER--

>> IT IS.

>>-- ISSUE.

>> BUT MOST PEOPLE WHEN THEY DO A SEARCH, WHOEVER IS THE BEST AT SEARCH ENGINE OPTIMIZATION, THAT'S WHO POPS UP ON THEIR PHONE--

>> SO WE HAVE A WHOLE, I MEAN, WE'VE GOT SO MANY-- THE LEGAL LANDSCAPE HAS CHANGED, ADVERTISING, YOU KNOW?

BUT THE BAR'S SAYING WE WANT TO, WE WANT TO SOLVE THIS PROBLEM BECAUSE IT'S BROADER THAN JUST THESE REFERRAL SERVICES.

SO WHAT'S YOUR ANSWER TO THAT?

>> MAYBE SO, BUT THAT'S A TWO-PART ANALYSIS.

WE HAVE THESE LAWYER REFERRAL SERVICES WHO ARE TRYING TO REFER TO DOCTORS AND LAWYERS, AND THEN WE HAVE MATCHING SERVICES WHO HAVE BEEN AROUND A LONG, LONG TIME THAT HAVE A TOTALLY DIFFERENT MISSION.

>> IS THERE A DIFFERENCE BETWEEN THE MATCHING SERVICE WHERE A LAWYER PAYS-- THEY WERE SAYING LIKE YOU PAY THE \$7,000 A MONTH, AND THEN THEY'RE THE ONLY LAWYER IN THE AREA THAT THE REFERRAL, THE MATCHING SERVICE SENDS TO VERSUS-- AND I DON'T, YOU KNOW, WE HAVE AVO COMING UP, BUT SOMETHING WHERE YOU CAN HAVE A WHOLE HOST OF LAWYERS AND YOU ACTUALLY SEE EVERY LAWYER IN THE AREA AND YOU CAN PICK YOUR LAWYER?

>> IT CAN BE, BUT WHAT WE SEE-- AND I ENCOURAGE EACH OF YOU TO LOG ON TO AVO, PRETEND TO BE A CONSUMER AND THEN PRETEND TO BE A LAWYER WHO WANTS TO WORK FOR AVO, BECAUSE I'VE DONE IT. YOU LOOK AT THE AGREEMENT AND

WHATEVER AVO PROMISES, THE HIGHEST QUALITY LAWYERS, AND YET ALL YOU HAVE TO BE TO GET ON AVO IS A LAWYER, PERIOD.

THERE'S NO ATTEMPT MADE TO DISCERN BETWEEN ONE LAWYER OR ANOTHER.

>> SO THAT WOULD BE A REASON TO REGULATE THAT.

>> OH, I AGREE WITH THAT.

WHAT WE NEED IS, FIRST, YOUR ORDER FROM 2015 SHOULD BE ENFORCED, WE SHOULD HAVE THESE REFERRAL SERVICES THAT ARE, OBVIOUSLY, BREACHING THE LAW FROM TIME TO TIME BROUGHT IN HAND, AND THEN WE NEED TO ADDRESS THE OTHER ISSUES.

>> I UNDERSTAND THAT YOU CONTEND THAT THE BAR HASN'T GONE FAR ENOUGH.

BUT AS TO THE SPECIFICALLY PROPOSED RULES TODAY, DO YOU HAVE ANY OBJECTION TO THESE PROPOSED AMENDMENTS?

>> WELL, THE AMENDMENTS GUT THE MALPRACTICE REQUIREMENT WHICH HAS BEEN FOR 30 YEARS IN THIS STATE.

IF YOU'RE A MEMBER OF A LAWYER REFERRAL SERVICE, NONPROFIT OR PROFIT, YOU HAVE TO HAVE \$100,000 IN COVERAGE.

THE EXCUSE THE BAR GIVES AS WELL AS IT'S REALLY EXPENSIVE AND YOU CAN'T GET IT, WELL, THERE'S NO EVIDENCE OF THAT IN THIS RECORD.

ANYTIME I TAKE A CASE FOR LEGAL AID, THEY ALWAYS SEND ME A LETTER AND SAY YOU'RE COVERED UNDER OUR POLICY OF INSURANCE WHEN YOU TAKE ON THIS CASE.

SO I DON'T UNDERSTAND WHY WE CAN'T KEEP OUR REQUIREMENT OF \$100,000 IN MALPRACTICE COVERAGE FOR PEOPLE WHO PARTICIPATE.

THE OTHER THING-- THERE'S TWO OTHER ISSUES.

I'M SORRY?

>> TIME IS UP.

>> THANK YOU, SIR.

>> THANK YOU.

>> I'M BILL WAGNER FROM TAMPA,
FLORIDA.

I'VE ALREADY FILED A BUNCH OF
STUFF, AND I HOPE YOU'VE READ
IT.

I HAVE TWO SUGGESTIONS THAT I
WISH YOU WOULD CONSIDER FROM
SOMEBODY WHO'S TURNING 84 NEXT
YEAR.

NEXT WEEK.

FIRST IS I THINK YOU OUGHT TO
DESIGN RULES THAT LIMIT THE
ABILITY OF THE FLORIDA BAR TO
INVENT WAYS THAT LAWYERS CAN
MAKE MORE MONEY.

I THINK THAT'S THE BIG PROBLEM
IN THIS.

THEY'VE INVENTED ANOTHER WAY FOR
LAWYERS TO MAKE MONEY.

THE RULES SHOULD BE MADE TO
PROTECT THE PUBLIC AND PROTECT
THE LEGAL SYSTEM, AND I HOPE YOU
CAN DO THAT.

SECOND, I THINK YOU SHOULD
CONSIDER THE FACT THAT THIS IS A
PRODUCTION OF A VERY COMPLEX
SYSTEM USED BY THE FLORIDA BAR,
AND IT HAS BEEN FACED IN THE
PAST ONE TIME WHEN THERE WERE
STANDARD JURY INSTRUCTIONS
DECIDED TO BE USED.

AND PRETTY SOON THE INTEREST,
VARIOUS ECONOMIC INTERESTS
WITHIN THE BARGAIN AFFECTING THE
CREATION OF STANDARD JURY
INSTRUCTIONS.

SO THE COURT AT THAT TIME--
WISELY, I THINK-- TOOK THE
FORMING OF JURY INSTRUCTIONS
INTO A SEPARATE COMMITTEE.

AND THAT COMMITTEE PRESENTED,
WORKED ONLY ON THAT.

THAT WAS THEIR JOB.

AND THEN THEY PRESENTED THAT TO
THE COURT.

AND THE BAR, IF THEY WANTED TO
OBJECT TO, COULD.

I THINK THE COURT SHOULD

CONSIDER-- I PUT IT DOWN HERE AS WHAT'S GOING TO HAPPEN NEXT AFTER YOU RULE THIS TIME-- SHOULD CONSIDER CREATING THE SAME TYPE OF CATEGORY FOR HANDLING THE REGULATION OF LAWYERS, THE RESTRICTIONS ON LAWYERS.

AND HAVING THAT AS THEIR ONLY GOAL AS OPPOSED TO GETTING THROUGH THE POLITICAL PROCESS IN THE BAR.

THANK YOU VERY MUCH.

>> THANK YOU, SIR.

>> MAY IT PLEASE THE COURT, JOSH KING, I'M CHIEF LEGAL OFFICER FOR AVO.

THANK YOU FOR THE OPPORTUNITY TO SPEAK WITH YOU THIS MORNING.

I'LL POINT OUT FROM THE OUTSET THAT AVO IS NOT A LAWYER REFERRAL SERVICE, AND WE ARE NOT A MATCHING SERVICE.

AND I THINK IT'S REALLY IMPORTANT FOR A COUPLE OF BROAD REASONS THAT THE COURT AND THE BAR UNDERSTAND WHY THERE ARE IMPORTANT DIFFERENCES BETWEEN THESE TYPES OF SERVICES.

>> WELL, WHAT IS AVO?

IT'S NOT A REFERRAL SERVICE, IT'S NOT A MATCHING SERVICE, SO WHAT DO THEY DO?

>> AVO LAUNCHED AS A LEGAL DIRECTORY.

SO WE HAVE A DIRECTORY THAT INCLUDES VIRTUALLY EVERY LAWYER IN THE COUNTRY, INCLUDING EVERY LAWYER IN THE STATE OF FLORIDA.

WE RATE THESE LAWYERS BASED ON AN ALGORITHM WE'VE CREATED.

WITHIN THAT DIRECTORY WHERE YOU CAN LOOK UP ANY LAWYER IN THE STATE OF FLORIDA, ATTORNEYS CAN BUY ADVERTISING ON AVO.

BUT IT IS BROADLY A CONSUMER RESOURCE THAT HAS BECOME THE MOST WIDELY USED CONSUMER LEGAL RESOURCE IN THE COUNTRY WHERE CONSUMERS CAN GO AND RESEARCH

LAWYERS, RESEARCH THEIR LEGAL PROBLEMS, FIND A LAWYER TO HELP THEM WITH THEIR CASE.

WE HAVE ALSO RECENTLY LAUNCHED A LEGAL MARKETPLACE--

>> WAIT A SECOND.

>> YES.

>> YOU'RE NOT A REFERRAL SERVICE--

>> WE ARE NOT A REFERRAL SERVICE.

>> I MEAN, COME AGAIN WITH WHAT SERVICE-- LET'S SAY I'M WATCHING ANDY GRIFFITH ON TV, AND AVO COMES ON AS A COMMERCIAL.

WHAT IS IT I DO ONCE I CALL THAT NUMBER?

WHAT DOES AVO DO FOR ME?

>> YOU'RE NOT GOING TO CALL A NUMBER, YOU'RE GOING TO VISIT OUR WEB SITE.

YOU MAY HAVE ANY NUMBER OF LEGAL PROBLEMS.

YOU CAN ASK A QUESTION, YOU CAN GET FREE ANSWERS FROM LAWYERS. YOU MAY HAVE A SPECIFIC LEGAL PROBLEM, SO YOU CAN LOOK THAT UP AND SAY I NEED A BANKRUPTCY LAWYER IN TALLAHASSEE, AND YOU'LL SEE ALL OF THE BANKRUPTCY LAWYERS--

>> HOW DO THE BANKRUPTCY LAWYERS IN TALLAHASSEE GET ON YOUR LIST?

>> WE GET THE LIST FROM THE FLORIDA BAR--

>> DO THE LAWYERS PAY ANY FEES TO GET ON YOUR LIST?

>> THEY DO NOT.

WE CREATE A PROFILE FOR EVERY LAWYER FOR FREE.

THEY CAN ADD INFORMATION TO THEIR PROFILES.

THERE'S ACTUALLY NO OPT-OUT OF AVO.

EVERY LAWYER HAS A PROFILE.

>> SO IF THE LAWYERS DON'T PAY YOU TO BE ON YOUR LIST, HOW DOES VAVO MAKE MONEY?

>> IT'S SIMILAR TO GOOGLE IN

THAT WE HAVE ORGANIC RESULTS,
THOSE ARE THE LAWYER PROFILES,
AND A SMALL NUMBER CAN BUY
SPONSORED LISTINGS.

THERE'S A SMALL NUMBER OF ADS AT
THE TOP AND PERHAPS ON THE SIDE.
IF YOU DO A SEARCH FOR THAT
BANKRUPTCY LAWYER IN
TALLAHASSEE, YOU WILL SEE A
SMALL NUMBER OF ADS FOR
LISTINGS, TYPICALLY--

>> SO IF I HAVE THE BANKRUPTCY
PROBLEM, I CAN GO ON AVO, I CAN
SEARCH ALL THE BANKRUPTCY
LAWYERS IN TALLAHASSEE, AND I
CAN JUST PICK ONE OF THEM, AND
AVO NO LONGER HAS ANY PART IN
IT?

>> THAT'S CORRECT.

>> WHAT-- I JUST WENT ON FOR
WEST PALM BEACH, AND I'M
STARTING THROUGH THE LIST, AND
IT DOESN'T EVEN SEEM THAT IT'S
IN ALPHABETICAL ORDER.
AND KNOWING THAT AREA, IT
CERTAINLY DOESN'T LOOK LIKE IT'S
BASED ON, YOU KNOW, THERE'S A
LOT OF 10s IN THERE.

I GUESS THE CONCERN IS AND,
AGAIN, MAYBE THERE'S NO-- SO
HOW DOES IN TERMS OF LISTING THE
LAWYERS, IF THERE'S NO FEE THAT
AVO GETS FOR WHAT THEY'VE DONE
HERE, THE IF A LAWYER DOES
SOMETHING WITH YOU AND THEN THEY
GET A CASE, THEY DON'T OWE
ANYTHING TO YOUR, TO AVO?

>> NOT WITHIN THE DIRECTORY.
LAWYERS WHO BUY SPONSORED
LISTINGS ARE BUYING US FOR THAT
FEATURED PLACEMENT ON THAT PAGE.

>> WHAT DOES A SPONSORED
LISTING-- I MEAN, DOES THAT
MEAN THEY GET PREFERENCE, IF
THEY DO PERSONAL INJURY WORK, DO
THEY GET PREFERENCE IN THE
LISTING OF PERSONAL INJURY
LAWYERS?

>> THEY WOULD HAVE AN AD FOR
THEIR PRACTICE THAT WOULD BE

FEATURED AT THE TOP OF THAT LIST FOR PERSONAL INJURY LAWYERS IN THAT CASE.

>> HOW MUCH DO THEY PAY FOR THE AD?

>> IT'S HIGHLY DEPENDENT UPON THE GEOGRAPHY AND THE PRACTICE AREA.

>> WHEN YOU SAY "ORGANIC," I GUESS IF I'M A LAWYER, I DO BANKRUPTCY, AND I GET A CLIENT AND I ASK THE CLIENT HOW DID YOU FIND ME, THE CLIENT SAYS, WELL, YOU'RE ON AVO'S LIST, THEN YOU HOPE THAT I WILL THEN GO TO AVO BECAUSE YOU FOUND THAT ONE CLIENT AND PAY YOU FOR ADVERTISING AND SO ON.

>> CERTAINLY, THAT WOULD BE OUR WISH AND OUR DESIRE, YES. BUT IT'S IMPORTANT TO DISTINGUISH THIS TYPE OF MODEL FROM THE---

>> LET ME ASK YOU THIS. THE BAR'S ONLY STATED CONCERN, AS I UNDERSTAND IT, IS THOSE ADVERTISEMENTS ON YOUR WEB SITE WOULD BE MISLEADING. WHAT'S YOUR RESPONSE TO THAT? THEY COULD BE, AND THE BAR WOULD HAVE NO RECOURSE, THE COURT WOULD HAVE NO RECOURSE.

>> WELL, THE ADS ON OUR WEB SITE ARE THE LAWYERS' OWN ADS. SO THE EXTENT THEY'RE MISLEADING IN AND OF THEMSELVES FOR THAT GIVEN LAWYER, THAT LAWYER'S SUBJECT TO THE JURISDICTION OF THE FLORIDA BAR THE SAME WAY IT WOULD IF THAT WAS AN AD THAT APPEARED IN THE YELLOW PAGES, ON TV OR GENERALLY ON THE INTERNET.

>> SO YOU HAVE AN AGREEMENT WITH THE LAWYER YOU'RE NOT RESPONSIBLE FOR ANYTHING MISLEADING?

DO THEY HAVE TO SIGN SOMETHING THAT SAYS--- OR DO YOU SCREEN THE AD TO MAKE SURE IT'S IN COMPLIANCE WITH THE FLORIDA BAR

RULES?

>> OUR TERMS OF USE CERTAINLY HOLD THAT IT IS THE LAWYER'S RESPONSIBILITY FOR THE ADS, AND I THINK, YOU KNOW, ANY GOOD LAWYER WOULD KNOW THEY CAN'T OUTSOURCE THEIR ETHICS THAT WAY TO SOMEONE ELSE.

WE CERTAINLY DO PROVIDE THEM WITH SOME GUIDANCE BECAUSE WE WORK WITH LAWYERS ALL DAY, EVERY DAY AROUND THE COUNTRY, AND SO WHEN PEOPLE-- AND WE'VE HAD THIS HAPPEN SOMETIMES-- WHERE LAWYERS WILL WANT TO PUT STATEMENTS IN THEIR ADS THAT OUR PEOPLE ARE TRYING TO SAY MAYBE YOU SHOULDN'T SAY THAT BECAUSE THAT MIGHT BE AN OVERSTATEMENT. OBVIOUSLY, A LAWYER'S GOING TO KNOW BEST THE STATE RULES AND, MORE IMPORTANTLY, IS AN CONTRACT REPRESENTATION OF THEIR OWN-- AN ACCURATE REPRESENTATION OF THEIR OWN PRACTICE.

>> AND THAT'S THE ONLY INCOME THAT FLOWS BACK TO THIS INTERNET SERVICE, IS THE ADVERTISING DOLLARS THAT YOU'RE TALKING ABOUT.

THERE'S NO OTHER, NO OTHER REMUNERATION OF ANY TYPE THAT PASSES?

>> THE ONLY OTHER ONE IS A NEW PRODUCT THAT WE'VE LAUNCHED, IT'S A VERY SMALL REVENUE LINE FOR US RIGHT NOW WHICH IS OUR MARKETPLACE OF FIXED PRICE LEGAL SERVICES, SOMETHING WE'VE DONE TO TRY TO ADDRESS THE ACCESS TO JUSTICE PROBLEM WHERE PEOPLE ARE CONNECTED WITH A LOCAL LAWYER TO BUY A DISCREET LEGAL SERVICE AT A FIXED PRICE THAT'S VERY TRANSPARENT TO THEM.

AGAIN, IT'S ALL THROUGH LOCAL LAWYERS, AND, AGAIN--

>> O.K., SO WITH THAT, YOU GET MONEY FROM THAT TRANSACTION?

>> WE DO GET MONEY FROM THAT--

>> WHAT DO YOU GET?
>> AGAIN, IT DEPENDS ON THE TRANSACTION.
IT DEPENDS ON-- BECAUSE THOSE SERVICE VARY IN PRICE, AND SO--
>> WELL, HOW DO YOU CALCULATE WHAT IT IS?
YOU KNOW, THE RESPONSE TO A COURT THAT IT DEPENDS OR, YOU KNOW, IS NO ANSWER AT ALL.
SO HOW IS IT THEN CALCULATED? IS THAT A BETTER QUESTION?
>> I CAN GIVE YOU AN EXAMPLE, HOW'S THAT?
>> PLEASE.
THAT'S A GOOD IDEA.
>> OUR LOWEST PRICE SERVICE IS A \$39, 15-MINUTE CONVERSATION WITH A LAWYER.
WE'LL CONNECT THE CONSUMER WITH A LAWYER RIGHT AWAY.
THE FEE ON THAT, UNLESS WE'RE DOING PROMOTIONS OR PRICE TESTING, IS \$10.
>> \$10 IS THE PRICE TO--
>> THAT'S THE PRICE TO THE LAWYER.
>> SO THE LAWYER GETS \$10, AND YOU GET THE \$29--
>> I'M SORRY, THE LAWYER PAYS US \$10.
THE LAWYER COLLECTS THE \$39.
>> OKAY.
ON TOP OF THE ADVERTISING, THEY WOULD PAY YOU \$10 FOR THAT CLIENT.
>> THIS IS A PRODUCT THAT A LAWYER DOESN'T HAVE TO BE AN ADVERTISER WITH US.
THIS COULD BE THE ONLY THING THEY BUY, SO THEY DON'T PAY US ANYTHING UNLESS THEY'RE ACTUALLY CONNECTED WITH A NEW CLIENT.
IN THAT CASE, THE CLIENT PAYS THEM \$39--
>> HOW IS THAT \$10 CALCULATED, HOW IS THAT DETERMINED ON THE \$39-- THAT'S A THIRD OF THE FEE.
>> THAT'S 25% IN THAT CASE, AND

IT VARIES DEPENDING ON THE SERVICE ANYWHERE OR 18% UP TO ABOUT 30%.

BUT IT'S DETERMINED BASED ON A LOT OF MARKET TESTING THAT WE DO.

WE DO PROMOTIONS, WE DO PRICE TESTING, WE LOOK AT WHAT OTHER FORMS OF ADVERTISING COST, AND WE LOOK AT OUR OWN COSTS WHICH INCLUDE REFUNDS, BREAKAGE, CUSTOMER SERVICE, CREDIT CARD PROCESSING FEES, ALL THE VARIOUS COSTS THAT WE INCUR IN OPERATING THIS MARKETPLACE.

>> IT SOUNDS LIKE THEN THAT THAT IS A SERVICE THAT YOU PROVIDE AND THAT YOU ARE SOLELY RESPONSIBLE FOR ADVERTISING. YOU ADVERTISE THAT LAWYER OR THAT SERVICE.

SOMEONE CALLS AND THEN YOU SEND THEM TO THAT LAWYER.

SO THAT'S NOT A CASE WHERE THE LAWYER IS PUTTING AN AD ON YOUR WEB SITE, AND HOW IS THAT REGULATED, AND HOW DO WE ASSURE THAT THE PUBLIC'S PROTECTED FROM MISLEADING ADVERTISING IN THAT INSTANCE?

>> YEAH, IT'S ACTUALLY A HYBRID, YOUR HONOR.

AND IT'S-- WE ARE CREATING THE MARKETPLACE, BUT WE ARE NOT SENDING--

>> WHAT DO YOU TELL THE, WHAT DO YOU TELL PEOPLE WHO GO TO YOUR WEB SITE ABOUT THE QUALITY OF THAT LAWYER?

>> SO THE PEOPLE WHO COME TO OUR WEB SITE CAN LOOK AT ALL OF THE PARTICIPATING LAWYERS.

THEY CAN EVEN GO DIRECTLY TO THE LAWYER'S PROFILE ON AVO, AND SEE THAT THAT LAWYER OFFERS LEGAL SERVICES.

IS SO THE INFORMATION IS THE SAME INFORMATION WE WOULD HAVE FOR ANY LAWYER ON AVO--

>> AND THERE'S NO ADDITIONAL

STATEMENT OR PROMISE ABOUT THE QUALITY OF THE LAWYER THAT YOU'RE MAKING INDEPENDENT OF WHATEVER THEIR ADVERTISING IS ON YOUR SITE?

>> THERE'S, I MEAN, WE PROBABLY MAKE SOME GENERAL STATEMENTS ON THE SITE ABOUT HOW WE HAVE A WIDE VARIETY OF LAWYERS, WE HAVE EXPERIENCED LAWYERS, WE HAVE LAWYERS WHO HAVE RECEIVED HIGH REVIEWS FROM CLIENTS.

THESE TYPES OF GENERAL STATEMENTS.

>> AND IN ORDER TO PARTICIPATE IN THAT SERVICE, DOES THE LAWYER HAVE TO HAVE HIGH REVIEWS FROM CLIENTS?

>> THEY DO NOT.

>> SO, OKAY.

>> SO HOW DOES, HOW DO YOU KNOW WHICH LAWYERS ARE WILLING TO TAKE A \$39 CONSULTATION?

DO THE LAWYERS SIGN UP FOR THAT?

>> YEAH.

WE LET THE LAWYERS IN THE LEGAL COMMUNITY KNOW THAT THIS IS A SERVICE OFFERING WE HAVE.

WE MAKE IT AVAILABLE TO THEM, AND THEY CAN CHOOSE--

>> SO IF YOU OFFER THAT, THE LAWYERS SIGN UP FOR IT.

IF YOU OFFER SOME OTHER KIND OF AN HOUR SERVICE FOR SOMETHING ELSE, LAWYERS WHO ARE WILLING TO DO THAT FOR THAT PRICE SIGN UP FOR THAT.

IS THAT HOW THIS WORKS?

>> THAT'S EXACTLY HOW IT WORKS.

>> WE ARE, WE, OBVIOUSLY, HAVE VERY LIMITED TIME, AND THIS IS A HUGE ISSUE.

TO ME, THIS IS WHY THIS ISSUE THAT WE'VE BEEN BROUGHT TODAY IS SEPARATE FROM WHAT WE FIRST STARTED OUT REGULATING.

NOW, TWO QUESTIONS.

AVO OPERATES IN ALL, ACROSS THE COUNTRY?

>> CORRECT.

>> ARE YOU REGULATED LIKE THE BAR PROPOSES TO REGULATE YOU IN ANY OF THE OTHER 49 STATES?

>> WE ARE NOT REGULATED BY THE BAR.

WE ARE, OBVIOUSLY, REGULATED BY THE FTC AND BY--

>> OKAY.

BUT NO OTHER BAR-- NOTHING SIMILAR TO THIS HAS BEEN PROPOSED IN ANY OF THE OTHER 49 STATES?

>> I CAN'T SPEAK TO ANYTHING BEING PROPOSED BECAUSE I'M NOT ENTIRELY SURE--

>> ANYTHING ENACTED.

>> THERE'S NOTHING-- NO CURRENT REGULATION.

>> TWO, ONE IS JUST IF YOU CAN IN A MINUTE OR LESS, WHAT IS WRONG WITH WHAT THE BAR IS PROPOSING EVEN IF WE WERE TO GO BACK TO WHAT WE WANT TO DO WITH REFERRAL SERVICES FOR GENERALLY THE EXPANDING THE BAR REGULATIONS TO A COMPANY SUCH AS YOURS?

>> WELL, IT'S-- THE FUNDAMENTAL PROBLEM WITH IT IS THAT IT'S OVERLY EXPANSIVE WHICH HURTS BOTH ACCESS TO JUSTICE AND VIOLATES THE LAW.

ACCESS TO JUSTICE BECAUSE LAWYERS ARE CONSERVATIVE. AND IF WE LOOK AT SOMETHING AND THEY SAY ALL OF A SUDDEN THIS FORM OF REGULATION APPLIES TO EVERY FORM OF ONLINE LEGAL MARKETING, THERE'S GOING TO BE SOME PERCENTAGE OF THEM WHO ARE SIMILARLY GOING TO OPT OUT AND NOT DO IT.

>> HOW WOULD THESE PROPOSED RULES AFFECT YOUR BUSINESS AT ALL?

>> WELL, THEY WOULD CERTAINLY AFFECT OUR-- CERTAINLY AFFECT OUR BUSINESS AS I WOULD START HEARING FROM LAWYERS HOLD BE CONCERNED ABOUT COMPLIANCE.

WE PROBABLY COULD COMPLY WITH THESE RULES, I THINK, BUT WE DON'T REALLY KNOW BECAUSE THEY'RE FAIRLY UNCLEAR ABOUT THE BREADTH OF THEIR APPLICATION--

>> DO YOU CONSIDER THE \$10 OR ANY OTHER FEES THAT YOU WOULD GET DESCRIBED AS A SPLITTING OF LEGAL FEES?

>> WE DO NOT.

WE DO NOT.

BUT I WANT TO--

>> IT DEPENDS.

I MEAN, IT WOULD LEAVE YOU, LET'S TAKE A TYPICAL ABUSE THAT'S OCCURRED IN PERSONAL INJURY WHICH WERE BASED ON CONTINGENCIES IS THE AND PERCENTAGES IS THAT YOU, THIS PROVIDER OR THIS PERSON-- DOESN'T HAVE TO BE THE INTERNET, COULD BE A GUY ON THE STREET THAT'S TRYING TO BROKER CASES FOR SOMEONE, THEY GET A PIECE OF THE ACTION.

WE'LL SEND YOU THIS CASE IF YOU GIVE, IF YOU AGREE THAT YOU'LL GIVE ME 5% OF ANY RECOVERY. YOU DO THAT, CAN YOU DO THAT? YOU CAN DO THAT WITHOUT ANY REGULATION, RIGHT?

>> WELL, I DON'T THINK YOU CAN BECAUSE--

>> WHY NOT?

>> I BELIEVE THAT WOULD VIOLATE THE RULE ON FEE-SPLITTING UNDER FLORIDA'S RULES AND, INDEED, THE RULES OF ANY STATE.

>> ISN'T THAT JUST SEMANTICS IF YOU SAY I'M GOING TO CHARGE YOU \$10 OF YOUR \$30 FEE OR 5% OF YOUR RECOVERY, THAT, TO ME, IS JUST A PLAY WITH WORDS, ISN'T IT?

>> WELL, IN MY VIEW, WHEN YOU LOOK AT THE FEE-SPLITTING RULES, WHAT YOU REALLY HAVE TO LOOK AT IS THE CONSUMER PROTECTION CONCERNS THAT ANIMATE THOSE RULES WHICH IS IS THERE

SOMETHING HERE THAT'S INDICATING THE LAWYER'S PROFESSIONAL JUDGMENT.

AND, INDEED, THAT'S WHY WE HAVE TO LOOK AT ALL THESE RULES.

AND THAT'S WHY THE BAR'S PROPOSED RULES REALLY RUN AFOUL OF YOU HAVE TO BE LOOKING AT A SPECIFIC CONCERN.

THE SPECIFIC CONCERN HERE IS EXCESSES IN CERTAIN LAWYER REFERRAL SERVICES REFERRING TO MEDICAL PROVIDERS AS DOCUMENTED BY THE SPECIAL COMMITTEE.

AND INSTEAD OF NARROWLY REGULATE ANYTHING THAT AREA TO TRY TO ADDRESS THAT NARROW CONCERN, THE BAR HAS PROPOSED SOMETHING THAT ON THE ONE HAND SEEMS TO WATER DOWN THAT CONCERN AND ON THE OTHER HAND EXPANDS THIS ROLE BROADLY TO INCLUDE SERVICES LIKE OURS AND MANY OTHERS THAT ARE NOT LAWYER MATCHING, THAT DO NOT OPERATE IN, YOU KNOW, TO OBFUSCATE WHAT'S INVOLVED IN THE LAWYERS BEHIND THE SERVICES AND THAT SIMPLY LAYERS A WHOLE ADDITIONAL STRATA OF REGULATION IN A WAY THAT I THINK IS GOING TO MAKE THINGS BAD BOTH FOR FLORIDA LAWYERS AND FOR THE PUBLIC IN FLORIDA.

I SEE MY TIME IS UP.

>> I THINK, I MEAN, IT SEEMS LIKE THE BAR'S CONCERN WITH RESPECT TO YOUR KIND OF OPERATION, WHAT YOU SAY IS A VERY NARROW PART OF WHAT YOU DO IS YOU ARE FREE TO TELL THE PUBLIC THAT YOU'RE GOING TO MATCH THEM WITH A VERY EXPERIENCED LAWYER IN AN AREA, AND THEY CAN GIVE YOU ADVICE IN A SHORT AMOUNT OF TIME ON A PHONE CALL, AND THERE'S NO-- I MEAN, AND THEN THEY COULD GET SOMEONE WHO HAS NO EXPERIENCE, NO REAL EXPERIENCE IN THAT AREA.

>> THIS IS CRITICALLY IMPORTANT

IN THAT WE ARE NOT MATCHING THEM WITH A LAWYER.

WE ARE SHOWING THEM THE LAWYER'S BACKGROUND.

THEY CAN CHOOSE FROM ANY PARTICIPATING LAWYER.

BUT THE REASON WE HAVE LAWYER REFERRAL SERVICE REGULATION IS BECAUSE TRADITIONALLY, YOU'VE HAD REFERRAL SERVICES WHERE CLIENTS ARE BEING KEPT IN THE DARK.

THEY DON'T KNOW WHO THEY'RE BEING REFERRED TO.

THEY'RE SENT TO A SPECIFIC LAWYER.

IT MAY BE THE BEST LAWYER FOR THEM, BUT IT MAY BE WHOEVER'S BOUGHT EXCLUSIVITY IN THAT-- EXCLUSIVITY IN THAT AREA.

>> YOU'RE JUST A BILL YELLOW-- BIG YELLOW BOOK IN THE SKY.

>> THAT WOULD BE ONE WAY OF DESCRIBING IT.

>> YOU'RE JUST A DIRECTORY.

>> WE ARE A DIRECTORY AND A MARKETPLACE, THAT'S CORRECT.

>> AND WHAT YOU HAVE, YOU'RE SHOWING SOMEONE WHO HAS MISCONDUCT, AND YOU'RE SHOWING OTHER REVIEWS--

>> CORRECT.

>> SO, AGAIN, IT LOOKS LIKE THERE'S MORE.

BUT, AGAIN, TO ME THIS IS A HUGE ISSUE, AND IT'S VERY HARD TO DO THIS IN THE CONTEXT OF A CASE THAT STARTED ONE WAY AND MORPHED INTO SOMETHING ELSE.

>> AND WE WOULD BE HAPPY TO WORK WITH THE BAR IN REVIEWING THAT IN A SUBSEQUENT PROCEEDING.

>> I NEED TO MOVE ON.

>> THANK YOU.

>> MAY IT PLEASE THE COURT, MY NAME IS TIM CHENERROS, I REPRESENT 1-801-411-PAIN.

MY CLIENT GENERALLY SUPPORT IT IS BAR'S--

>> SEE, THIS IS WHAT MAKES ME NERVOUS, BECAUSE YOUR SERVICE WAS THE ONE WE WERE TRYING TO-- NOT YOU, YOU KNOW, YOU PARTICULARLY, YOUR SERVICE. THE ABUSE OF THE DOCTOR-LAWYER MATCHING THING, AND NOW YOU HIKE THIS, YOU LIKE THIS BECAUSE NOW YOU WOULD NO LONGER HAVE TO KEEP MALPRACTICE INSURANCE?

>> MALPRACTICE INSURANCE IS IRRELEVANT AS FAR AS WE'RE CONCERNED.

THAT WAS THE BAR'S DECISION. I WOULD POINT OUT THAT WHAT THE BAR'S ASKING THIS COURT TO DO IS TO REASONABLY REGULATE THE CONDUCT OF LAWYERS WHO USE THIRD PARTIES TO GET CLIENTS AND WHETHER THE THIRD PARTY ADVERTISES ON BILLBOARDS OR THE INTERNET, WHETHER THE CONTACT WITH THE LAWYER IS MADE BY TELEPHONE OR ON LINE, THE THIRD PARTY'S FUNCTION IS THE SAME; TO MATCH OR CONNECT PROSPECTIVE CLIENTS WITH LAWYERS.

AND WE THINK THAT SHOULD BE THE SAME REGARDLESS OF THE ENTITY THAT PERFORMS THE FUNCTION.

THERE'S BEEN DISTINCTIONS BETWEEN WHAT HAVE BEEN CALLED TRADITIONAL REFERRAL SERVICES LIKE MY CLIENTS AND THE ONLINE SERVICES AND HAVE SUGGESTED THAT MAYBE THE ONLINE SERVICES DON'T NEED AS MUCH REGULATION AND THE TRADITIONAL ONES NEED MORE, BUT I WOULD SUGGEST IT'S JUST THE OPPOSITE.

MY CLIENT FILES ALL OUR ADS FOR REVIEW AND DON'T RUN ADS UNLESS THEY'RE APPROVED.

MY CLIENT PERFORMS A SINGLE FUNCTION, AND THAT IS CONNECTING A PERSON WHO NEEDS A IS SERVICE WITH A PROFESSIONAL WHO PROVIDES THAT SERVICE.

THE ONLINE PROVIDERS MAKE THAT CONNECTION AS WELL, BUT THEY GO

MUCH FURTHER THAN THAT, AND IF YOU LOOK AT THEIR WEB SITE, YOU CAN SEE THEM OFFERING A VARIETY OF SERVICES; FREE LEGAL ADVICE, BUSINESS FORMATION, THE ABILITY TO TALK WITH A LAWYER, QUICK ANSWERS FROM QUALIFIED ATTORNEYS AND EVEN LIVE CHAT TO ANSWER YOUR QUESTIONS.

THE QUESTION WAS ASKED WHAT ABOUT THE MATCHING SERVICES, WHY DO THEY NEED REGULATION? THEY ADVERTISE, AND LAWYERS USE THAT ADVERTISING TO GET CLIENTS, AND IT SHOULD BE REGULATED FOR THE PROTECTION OF THE PUBLIC.

GOING BACK TO THE RECORD THAT HAS BEEN MENTIONED, THE INCIDENTS THAT THE SPECIAL COMMITTEE REFERRED TO WERE MOSTLY COMPLAINTS FROM OTHER LAWYERS, COMPETITORS OF THE ADVERTISING WITH MY CLIENT. THE ACTUAL COMPLAINTS THE BAR WILL ACKNOWLEDGE RARELY, IF EVER, COME FROM CLIENTS. THE THREE INCIDENTS OF CLIENT COMPLAINTS IN THE REPORT HAPPENED ALMOST SEVEN YEARS AGO, AND THERE HAVE BEEN NO REPORTS OF PROBLEMS SINCE THEN.

AND I THINK WE LOOK AT WHAT IS GOING ON TODAY TO JUSTIFY RULES THAT ARE ENACTED TODAY. JUST CLOSE BY POINTING OUT AT THE FIRST PUBLIC HEARING OF THAT SPECIAL COMMITTEE, REPRESENTATIVES OF FDLE CAME, AND THEY POINTED OUT THAT THERE WERE INVESTIGATIONS INTO FRAUD RELATING TO REFERRAL SERVICES, AND THEY PROMISED-- TO QUOTE FROM THEM-- ARRESTS ARE IMMINENT.

WELL, IT'S BEEN SEVEN YEARS LATER, THERE HAVE BEEN NO ARRESTS, AND WE THINK THE BAR'S OVERSIGHT HAS HELPED REFERRAL

SERVICES COME INTO COMPLIANCE,
AND WE WOULD JUST ASK THAT ALL
SERVICES PERFORMING THE SAME
FUNCTION BE SUBJECT TO THE SAME
REGULATION.

>> THANK YOU.

>> THANK YOU.

>> IN ONE MINUTE LET ME SAY THAT
WHAT YOU HEARD FROM AVO IS
EXACTLY WHY WE BELIEVE THAT WE
HAVE TO HAVE OVERSIGHT OF EVERY
MATCHING COMPANY.

I'M NOT A MATCHING SERVICE, I'M
NOT A LAWYER REFERRAL SERVICE,
WE DON'T CONNECT LAWYERS TO
CLIENTS.

>> SO LET ME ASK YOU THIS IN YOU
ONE MINUTE--

>> OKAY.

[LAUGHTER]

>> IF WE APPROVE THIS RULE AND
AVO AND ALL OTHER KINDS OF
SERVICES LIKE THAT ARE PULLED
INTO THIS SCHEME, WHAT IS IT
THAT AVO WOULD HAVE TO DO THAT
THEY DON'T DO NOW?

>> ALL THEIR ADVERTISEMENTS
WOULD HAVE TO BE OKAYED BY THE
ETHICS DEPARTMENT WITH A LETTER
OF APPROVAL.

>> OKAY.

>> THE LAWYERS WOULD UNDERSTAND
THAT NOW THAT THEY ARE WORKING
WITH A, AN OVERSIGHT THROUGH THE
BAR WITH AVO, THAT THEY CANNOT
HAVE FEE-SPLITTING, THAT THERE
CANNOT BE PRESSURE ON THEM TO
MAKE CERTAIN REFERRALS, THAT
THEIR INDEPENDENT JUDGMENT IS
IMPORTANT.

RIGHT NOW AVO IS ADVERTISING,
AND THEY'RE HIS-- THEY'RE
ADVERTISING ON FLORIDA RADIO
STATIONS AND FLORIDA TV STATIONS
WITHOUT ANY OVERSIGHT BY THE
BAR.

I'M NOT SAYING THEY'RE
MISLEADING, BUT THEY CAN BE
INHERENTLY MISLEADING, THEY CAN
BE PREJUDICIAL.

AND RIGHT NOW THEY, LIKE AVO AND ANY OTHER MATCHING COMPANY, IS ABSOLUTELY UNREGULATED BECAUSE THEY WANT TO CALL THEMSELVES A LAWYER REFERRAL SERVICE.

THEY ALSO DON'T WANT TO BE CALLED A LAWYER REFERRAL SERVICE BECAUSE SO MANY STATES DON'T ALLOW LAWYER REFERRAL SERVICES.

SO IF THEY'RE A LAWYER REFERRAL SERVICE HERE IN FLORIDA, WHAT HAPPENS IN, SAY, MISSISSIPPI.

THAT'S WHY WE'VE CHANGED THE NAME TO QUALIFYING PROVIDERS.

WE DON'T CARE WHO YOU ARE.

IF YOU MATCH A CLIENT WITH A LAWYER, YOU THEN ARE-- YOUR LAWYERS WHO WORK WITH YOU ARE TO BE REGULATED.

AND I MUST SAY--

>> I HAVE ONE LAST QUESTION.

I KNOW YOU'RE OVER TIME--

>> YES, SIR.

>>-- BUT HOW LONG DO YOU THINK IT WOULD TAKE THE RESPOND TO THE LAST OPINION WITH A PROPOSAL THAT SAYS THIS IS THE BEST WE CAN DO FOR HOW TO ADDRESS THE COURT'S ORIGINAL CONCERN?

THESE ARE THE RULES THAT WE WOULD SUGGEST, AND THESE ARE THE REASONS WHY WE THINK IT WOULD BE INADVISABLE TO DO IT RATHER THAN WE'RE JUST NOT GOING TO GIVE YOU WHAT YOU ASKED?

>> WELL, WE WERE HOPING THAT OUR PETITION WHICH LAYS OUT FOUR SPECIFIC REASONS WHY THERE WAS NOT COMPLIANCE WAS ENOUGH.

WE WOULD ASK THAT IF YOU WISH TO GIVE US LEAVE TO SUPPLEMENT OUR PETITION, TO GIVE YOU MORE INFORMATION, I HAVE TO SAY THAT IN THE LAST MANY YEARS OUR REGULATION DEPARTMENT HAS HAD NO COMPLAINTS ABOUT THE LAWYER, THE TRADITIONAL LAWYER REFERRAL SERVICES THAT WE WERE TALKING ABOUT, AND THAT'S WHY WE LUMP THIS ALL TOGETHER AS ONE, TO

INSURE THAT WE HAVE COMPLIANCE.
AND IF I MIGHT JUST TAKE JUST A
FEW MORE SECONDS.

ONE, THIS IS BROAD BECAUSE IT
GOES TO EVERY GROUP, INDIVIDUAL
THAT CONNECTS.

TWO, THE LAWYERS NOW HAVE A
BRIGHT LINE JUST LIKE YOU DID
WHEN YOU PASSED JANUARY 2013 THE
ADVERTISING RULES.

SUDDENLY, ALL THE COMPLAINTS
WENT DOWN.

SUDDENLY, ALL THE REQUESTS FOR
OVERSIGHT, EVERYONE HAS BEGUN TO
COMPLY WITH THE--

>> WELL, I DON'T KNOW THEY'VE
COMPLIED, WE JUST DID, LIKE,
SUCH A HUGE ISSUE THAT IT'S LIKE
EVERYONE'S THROWN UP THEIR
HANDS.

IT'S HARD TO THINK THAT
ADVERTISING HAS REALLY HELPED
THE LEGAL-- I MEAN, THE
CONSUMER.

>> WE SEE MORE COMPLIANCE BY THE
LAWYER AS A RESULT OF THAT
BRIGHT LINE THAT OCCURRED AS A
RESULT OF THOSE RULES.

WHY?

BECAUSE LAWYERS NOW UNDERSTAND
EXACTLY WHAT THEY CAN DO AND
CAN'T DO.

>> YEAH, AND THOSE BILLBOARDS
ARE JUST GREAT, AREN'T THEY?
YOU KNOW, SO AND SO GOT ME--
500,000.

>> AND FINALLY, IF I--

[LAUGHTER]

AND FINALLY, IF I MIGHT--

>> I ASK ONE QUESTION?

>> YES, SIR.

>> WE STARTED OFF WITH ONE
PROBLEM, AND THAT WAS THAT WE
HAVE NON-LAWYERS OUT THIS MAKING
A LIVING AND LIVING OFF OF CASES
THAT THEY ARE THEN DIRECTING TO
LAW FIRMS.

SOMETHING LIKE THAT.

>> YES.

>> NOW WE'VE GOT SUPERIMPOSED

OVER THAT THIS INTERNET ISSUE.

>> YES.

>> IS IT WRONG FOR US TO ADDRESS THE ONE PROBLEM FIRST, GET A BETTER UNDERSTANDING AND HANDLE ON THIS INTERNET DEAL THAT'S COMING UP AND APPROACH IT IN THAT FASHION RATHER THAN ALL OF A SUDDEN?

BECAUSE I THINK WHAT WE'RE DOING IS WE ARE, YOU KNOW, ADDRESSING THE WATERFRONT, SO TO SPEAK, TRYING TO HIT ALL THE PROBLEMS. I APPRECIATE THE PROBLEMS INVOLVED WITH ALL THAT, BUT THAT MAYBE WE OUGHT TO TAKE IT STEP BY STEP RATHER THAN THROWING EVERYBODY INTO ONE BUCKET AT ONE TIME AND ADDRESSING IT.

AND I COULD BE WRONG BUT, YOU KNOW, THERE IS-- SINCE I'VE BEEN DOING THIS, AND I'M COMING TO THE END OF THIS, BUT THE WORST THING THAT I HEAR FROM CITIZENS ALL ACROSS THE STATE OF FLORIDA, THE WORST THING THAT'S HAPPENED TO THE LEGAL PROFESSION IS WHAT'S HAPPENED IN ADVERTISING.

THEY HATE US BECAUSE OF WHAT THEY SEE ON TV AND ALL THAT KIND OF STUFF.

NOW, IT MAY BE WE HAVE TO HAVE A CERTAIN AMOUNT, BUT IT SEEMS TO ME THAT IT'S IMPORTANT ENOUGH-- I MEAN, TO BE REALLY VERY PARTICULAR ON HOW WE'RE GOING TO START CRAFTING ANY RESTRICTIONS THAT ARE THERE, I MUST TELL YOU I CAME IN THIS MORNING, I WAS A LITTLE MORE OPPOSED TO THIS THAN I MAY BE GOING OUT.

I MAY NOT BE AS OPPOSED GOING OUT AFTER ALL THIS, BUT IT JUST SEEMS TO ME THAT WE ARE OPERATING WITH SO MANY THINGS NOW, SO MANY MOVING PARTS THAT I DON'T KNOW THAT THAT'S-- IS THAT REALLY THE BEST THING?

>> JUSTICE, YOU KNOW I'D NEVER

SAY YOU'RE WRONG, BUT IF I COULD
MAKE THE FOLLOWING STATEMENT:
THE BAR IS IN THE MIDDLE, AND
THERE IS THE CLASH OF THE TWO
WORLDS.

FOR THE FLORIDA BAR, WE FOLLOW
YOUR DICTATES.

BEFORE ANY OF YOU SAT HERE, WE
WERE TOLD THAT, IN FACT, IN
LAWYER ADVERTISING IT'S
PROTECTION OF THE PUBLIC.

BUT WHEN WE GO BEFORE THE
FEDERAL COURT, THE SYSTEM IS
DIFFERENT.

OR THEIR BASIC MANTRA IS FREEDOM
OF SPEECH AND FREEDOM OF
COMMERCE.

AND WE CAN'T GO BEFORE A FEDERAL
COURT AND SAY THAT, IN FACT, THE
FLORIDA, YOU KNOW, THE FLORIDA
SUPREME COURT TOLD US THAT WE
HAD THE SAY THAT LAWYER
ADVERTISING--

>> NO, THERE ARE STANDARDS,
THERE ARE STANDARDS.

YOU CAN HAVE RESTRICTIONS ON
ADVERTISING.

IT'S NOT AS THOUGH YOU CANNOT.
I THINK THAT'S AN OVERSTATEMENT
THAT YOU JUST MADE.

FEDERAL JUDGES AND FEDERAL LAW
RECOGNIZES THAT THERE ARE SOME
LIMITATIONS.

CERTAINLY, THERE IS A
CONSTITUTIONAL RIGHT TO THOSE
THINGS.

BUT YOU CAN JUSTIFY, BASED UPON
SURGEON FACTORS. -- CERTAIN
FACTORS AND IF YOU MEET THE
CERTAIN TEST.

>> WE'VE TRIED TO TAKE EACH STEP
THE LEAST RESTRICTIVE
METHODOLOGY TO STILL GET TO THE
SAME GOAL.

AND, FOR INSTANCE, ON THE ISSUE
OF OWNERSHIP OF A LAWYER
REFERRAL SERVICE, THE FLORIDA
BAR BELIEVED THAT SINCE WE
ALREADY REGULATE THE LAWYERS WHO
WORK WITH THE LAWYER REFERRAL

SERVICE, THAT, IN FACT, THERE WAS GOING TO BE NO FURTHER RESULT OR BETTER RESULT BY NOW SAYING THAT PERHAPS TAKING, PERHAPS NOT THE COMPANIES THAT HAVE BEEN HERE FOR 30 YEARS AND WHO OPERATED LAWYER REFERRAL SERVICES AND WERE NOT LAWYERS NOW HAVE TO BE OWNED AND OPERATED BY A LAWYER REFERRAL SERVICE.

WE WERE CONCERNED THAT IT WAS--

>> SO IF WE ADOPT--

>>-- AN OVERREGULATION.

>> JUSTICE CANADY HAD CONCURRED IN PART AND DISSENTED IN PART THE LAST OPINION, AND HE WOULD HAVE ADOPTED WHAT YOUR COMMITTEE HAD PROPOSED.

SO IF WE PROPOSE THAT, DOES THAT GET AROUND THE PROBLEM THAT YOU'VE, AT LEAST THE INITIAL PROBLEM THAT WE STARTED WITH?

>> YOU MEAN THAT IT'S NOT, THAT LAWYER REFERRAL--

>> WHATEVER IT WAS THAT YOU PROPOSED IN, YOU KNOW, THERE WAS A VERY SPECIFIC PARAGRAPH. WOULD THAT GET AROUND THE PROBLEM?

THEY'RE SHAKING THEIR HEAD NO, SO--

>> THIS IS THE ONE--

>> I THINK WHAT JUSTICE CANADY PROPOSE IS THAT WE ADOPT THE-- A REFERRAL SERVICE NOT BE PERMITTED TO BE REFERRED TO BOTH A LAWYER AND A DOCTOR TO THE SAME INCIDENT, IS THAT CORRECT, JUSTICE CANTY?

SO HERE'S THE PROBLEM WITH THAT--

>> [INAUDIBLE]

>> OKAY.

[LAUGHTER]

>> SO NOW YOU THINK, THE ONE THING YOU PROPOSED NOW YOU THINK--

>> THAT AGAIN, WELL, THAT AGAIN HAS NOT BEEN APPROVED BY AND

RECOMMENDED TO YOU.
AND THAT HAS NOT BEEN APPROVED
BECAUSE WE FOUND THAT THERE WAS
A LEAST RESTRICTIVE METHODOLOGY
WHICH IS THAT YOU HAVE TO IN OUR
NEW RULES, YOU HAVE TO ADVISE
YOUR CLIENT THE PROS AND CONS OF
REFERRING TO, LET'S SAY, A
DOCTOR THAT'S ALSO OWNED BY A
LAWYER REFERRAL SERVICE AND GET
IT, APPROVAL IN WRITING.
THAT IS WHAT OUR NEW RULES SAY
BECAUSE THOSE ARE THE SAME RULES
WE'VE ALWAYS HAD FOR CONFLICTS.
THESE CONFLICT RULES THAT WE'RE
PROPOSING TODAY ARE NO DIFFERENT
THAN WE HAVE IF A REALITY LAWYER
REFERS TO AND SAYS USE MY
COMPANY FOR WHATEVER.
THEY HAVE TO GO TO THEIR-- TO
THE CLIENT, THEY HAVE TO GET
APPROVAL, AND THEN THEY MOVE ON.
>> I KNOW, SORRY.
>> SO I'D ASK, I WOULD ASK THAT
OUR RULES AS PROPOSED, THAT YOU
ACCEPT OUR RULES AS PROPOSED.
WE THINK IT'S IN THE BEST
INTERESTS OF THE STATE OF
FLORIDA.
>> THANK YOU.
WE THANK YOU FOR CLEARING THIS
WHOLE THING UP FOR US.
[LAUGHTER]
>> OKAY.