



FOR IMMEDIATE RELEASE

September 9, 2004

**WLF SUPPORTS PEER REVIEW OF
EXPERT MEDICAL TESTIMONY**
(Fullerton v. Florida Medical Association)

The Washington Legal Foundation (WLF) filed a brief today supporting the Florida Medical Association and a group of physicians who are defendants in a civil action for defamation based on professional peer review of another physician's courtroom testimony. WLF's brief asked the trial court in the case, the Circuit Court of the Second Judicial Circuit in Florida, to rule that participants in peer review of medical testimony are immunized from liability for money damages under a federal statute, the Health Care Quality Improvement Act of 1986.

The plaintiff who brought the case, Dr. John Fullerton, had testified in an earlier, unsuccessful medical malpractice action. After the conclusion of that action, the doctors against whom Dr. Fullerton had testified wrote a letter of complaint to the Florida Medical Association on July 11, 2003, alleging that his testimony was false and financially-motivated. They further requested an investigation of Dr. Fullerton's testimony. That letter is the basis of the present lawsuit.

Rebecca O'Dell Townsend of the Tampa law firm of Haas, Dutton, Blackburn, Lewis & Longley, P.L., represented WLF as local counsel in the case on a *pro bono* basis.

WLF entered the case as an *amicus curiae* because it presents an important legal issue regarding the protection of professional peer review of expert testimony. Improper expert testimony is a longstanding concern of the business community, particularly in asbestos litigation, where studies have indicated that the vast majority of claims of asbestos-related diseases are backed by unfounded "expert" interpretations of screening X-rays. Peer review, and the possibility of sanctions by medical associations against wrongdoers, may bring about higher ethics in such testimony.

WLF is a public interest law and policy center with supporters nationwide. WLF engages in litigation and participates in administrative proceedings in a variety of areas of importance to free enterprise, including the screening and policing of expert witness testimony in civil cases. To that end, WLF has appeared as an *amicus* in several of the U.S. Supreme Court's recent cases addressing the use of expert testimony.

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