

**FOR IMMEDIATE RELEASE****June 20, 2005**

WLF OPPOSES LIABILITY FOR 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, which is a defendant in a civil action for defamation based on professional peer review of a physician's expert testimony. WLF's brief asked the state appeals court in the case, the District Court of Appeal of Florida, First District, 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 physician 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.

WLF entered the case as an *amicus curiae* in the trial court because the lawsuit 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.

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 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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WLF's brief is posted on its web site, <http://www.wlf.org>. For further information, contact WLF Senior Vice President for Legal Affairs David Price, (202) 588-0302.