

4-4-1988

Attorney Fees Limit For Tort Claims.

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Office of the Secretary of State
March Fong Eu

Executive Office
1230 J Street
Sacramento, California 95814

#448

(916) 445-6371

June 29, 1988

TO: All County Clerks/Registrars of Voters (88168)

Pursuant to Section 3523 of the Elections Code, I hereby certify that on June 29, 1988 the certificates received from the County Clerks or Registrars of Voters by the Secretary of State established that the Initiative Statute, ATTORNEY FEES LIMIT FOR TORT CLAIMS, has been signed by the requisite number of qualified electors needed to declare the petition sufficient. The ATTORNEY FEES LIMIT FOR TORT CLAIMS. INITIATIVE STATUTE is therefore, qualified for the November 8, 1988 General Election.

ATTORNEY FEES LIMIT FOR TORT CLAIMS. INITIATIVE STATUTE. Measure places limit on amount of a contingency fee an attorney may collect for representing a person in connection with a tort claim. The fee may be no more than twenty-five percent of first fifty thousand dollars recovered, no more than fifteen percent of next fifty thousand dollars recovered, and no more than ten percent of amount recovered above one hundred thousand dollars. The court may review the fee and reduce it below the stated limits if it is not reasonable and fair. Defines amount recovered to calculate fee limitations. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Measure contains features which could result in both cost increases and savings. Fiscal magnitude or net fiscal impact on state and local governments is unknown.

Sincerely,

March Fong Eu
MARCH FONG EU



Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

ELECTIONS DIVISION
(916) 445-0820
For Hearing and Speech Impaired
Only:
(800) 833-8683

April 4, 1988

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (8890)

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

ATTORNEY FEES LIMIT FOR TORT CLAIMS.
INITIATIVE STATUTE.

Circulating and Filing Schedule

- 1. Minimum number of signatures required..... 372,178
Cal. Const., Art. II, Sec. 8(b).
- 2. Official Summary Date..... Monday, 04/04/88
Elec. C., Sec. 3513.
- 3. Petition Sections:
 - a. First day Proponent can circulate Sections for
signatures..... Monday, 04/04/88
Elec. C., Sec. 3513.
 - b. Last day Proponent can circulate and file with
the county. All Sections are to be filed at
the same time within each
county..... Thursday, 09/01/88+
Elec. C., Secs. 3513, 3520(a).
 - c. Last day for county to determine total number
of signatures affixed to petition and to
transmit total to the Secretary of State..... Monday, 09/12/88

(If the Proponent files the petition with the county on a date prior to 09/01/88, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

+PLEASE NOTE: To the Proponent who may wish to qualify for the November 8, 1988 General Election. The law allows approximately 85 days for county election officials to check and report petition signatures and transmit results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 85 days. But if you want to be sure that this initiative qualifies for the November 8, 1988 General Election, you should file this petition with the county before April 6, 1988.

ATTORNEY FEES LIMIT FOR TORT CLAIMS.
INITIATIVE STATUTE.

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April 4, 1988

d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties..... Wednesday, 09/21/88**

e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State..... Thursday, 10/06/88

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 09/12/88 the last day is not later than the fifteenth day after the county's receipt of notification.)
Elec. C., Sec. 3520(d), (e).

f. If the signature count is more than 409,395 or less than 353,569, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 353,569 and 409,395 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures..... Sunday, 10/16/88**

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State..... Monday, 11/28/88

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 10/06/88, the last day is not later than the thirtieth working day after county's receipt of notification.)
Elec. C., Sec. 3521(b), (c).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient..... Friday, 12/02/88

**Date varies based on receipt of county certification.

ATTORNEY FEES LIMIT FOR TORT CLAIMS.
INITIATIVE STATUTE.

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April 4, 1988

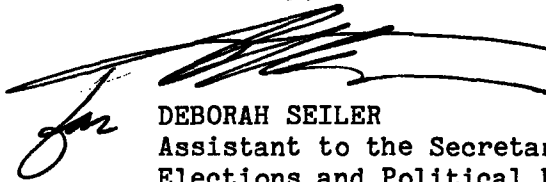
4. The Proponent of the above named measure is:

Edwin E. Smith
2850 Rhonda Way
Sacramento, California 95821

5. Important Points:

- (a) Please refer to Elections Code sections 44, 3501, 3507, 3508, 3517, and 3519 for appropriate format and type considerations in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.
- (b) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (c) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (d) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (e) When filing the petition with the county elections official, please provide a blank petition for elections official use.

Sincerely,



DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

Attachment: POLITICAL REFORM ACT OF 1974 REQUIREMENTS

04/04/88

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



April 4, 1988

1515 K STREET, SUITE 511
P.O. BOX 944255
SACRAMENTO 94244-2550
(916) 445-9555
(916) 324-5468

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, California 95814

FILED
In the office of the Secretary of State
of the State of California

APR - 4 1988

Dear Mrs. Eu:

MARCH FONG EU, Secretary of State

By *Paul H. Dobson*
Deputy

Initiative Title and Summary.
Subject: ATTORNEY FEES LIMIT FOR TORT
CLAIMS. INITIATIVE STATUTE.
Our File No.: SA 88 RF 0006

Pursuant to the provisions of sections 3503 and 3513 of the Elections Code, you are hereby notified that on this day we mailed to the proponent of the above identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Paul H. Dobson
PAUL H. DOBSON, Supervising
Deputy Attorney General

PHD:kca

Enclosures

Date: April 4, 1988
File No.: SA 88 RF 0006

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

ATTORNEY FEES LIMIT FOR TORT CLAIMS. INITIATIVE STATUTE.

Measure places limit on amount of a contingency fee an attorney may collect for representing a person in connection with a tort claim. The fee may be no more than twenty-five percent of first fifty thousand dollars recovered, no more than fifteen percent of next fifty thousand dollars recovered, and no more than ten percent of amount recovered above one hundred thousand dollars. The court may review the fee and reduce it below the stated limits if it is not reasonable and fair. Defines amount recovered to calculate fee limitations. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Measure contains features which could result in both cost increases and savings. Fiscal magnitude or net fiscal impact on state and local governments is unknown.

TITLE.

This shall be known as the Lawyers Fair Fee Act.

FINDINGS AND DECLARATION.

Attorneys who represent injured persons in most tort claims charge a fee based on a percentage of the amount recovered, whether by settlement or judgment. Contingency fees of up to 40% are common.

The people of California find that excessively high contingency fees deprive injured persons of too large a share of the amounts they recover on tort claims. Adequate legal representation will be available to injured persons if attorneys' fees are limited as provided herein.

LIMIT ATTORNEY FEES.

Section 6146.1 of the Business and Professions Code is added to read:

(a) An attorney shall not contract for or collect a contingency fee in connection with a tort claim, including a claim covered by Section 6146, in excess of the following limits:

(1) Twenty-five percent of the first fifty thousand dollars (\$50,000) recovered.

(2) Fifteen percent of the next fifty thousand dollars (\$50,000) recovered.

(3) Ten percent of the amount of recovery above one hundred thousand dollars (\$100,000).

The limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment.

(b) The court, in any action filed seeking damages based on a tort claim, including a claim covered by Section 6146, may on its motion, or on the motion of a party, review the contingency fee arrangement upon notice and hearing to determine whether the fee is reasonable and fair and may order a fee less than the amount set out in subdivision (a). The fee ordered by the court shall not exceed the amount set out in subdivision (a).

(c) If periodic payments are awarded to the plaintiff pursuant to Section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectancy of the plaintiff and include this total amount in computing the award from which attorney's fees are calculated under this section.

(d) For purposes of this section, "recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges are not deductible disbursements or costs for such purpose.

(e) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electorate.

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



April 4, 1988

1515 K STREET, SUITE 511
P.O. BOX 944255
SACRAMENTO 94244-2550
(916) 445-9555

(916) 324-5468

Edwin E. Smith
2850 Rhonda Way
Sacramento, CA 95821

Initiative Title and Summary.
Subject: ATTORNEY FEES LIMIT FOR TORT
CLAIMS. INITIATIVE STATUTE.
Our File No.: SA 88 RF 0006

Pursuant to your request, we have prepared the attached title and summary of the chief purposes and points of the above identified proposed initiative. A copy of our letter to the Secretary of State, as required by Elections Code sections 3503 and 3513, our declaration of mailing, and the text of your proposal that was considered is attached.

The Secretary of State will be sending you shortly a copy of the circulating and filing schedule for your proposal that will be issued by that office.

Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

A handwritten signature in cursive script, appearing to read "Paul H. Dobson".

PAUL H. DOBSON, Supervising
Deputy Attorney General

PHD:kca

Enclosures

DECLARATION OF MAILING

The undersigned Declarant states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy or copies of the attached letter to the proponents, by placing a true copy thereof in an envelope addressed to the proponents named below at the addresses indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: April 4, 1988

Subject: ATTORNEY FEES LIMIT FOR TORT CLAIMS.
INITIATIVE STATUTE.


Our File No.: SA 88 RF 0006

Name of Proponent and Address:

Edwin E. Smith
2850 Rhonda Way
Sacramento, CA 95821

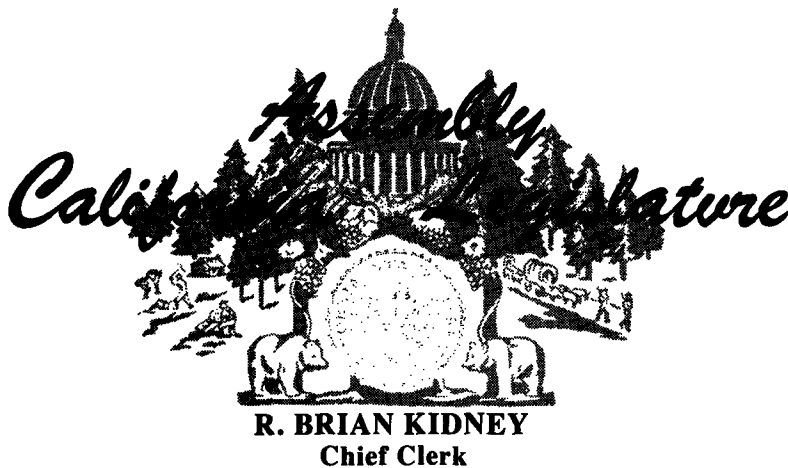
I declare under penalty of perjury that the foregoing is true and correct.

Executed at Sacramento, California, on: April 4, 1988.


Kathryn C. Amann
Declarant

State Capitol
P.O. Box 942849
Sacramento, CA 94249-0001

Telephone: 445-3614



August 22, 1988

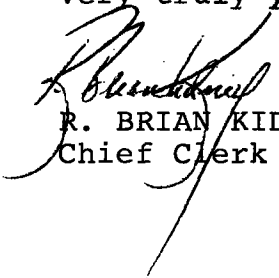
Honorable March Fong Eu
Secretary of State
1230 "J" Street
Sacramento, CA 95814

Dear Dr. Eu:

This is to acknowledge receipt of your letter dated June 29, 1988, transmitting two copies of the initiative entitled "Attorney Fees Limit for Tort Claims. Initiative Statute" (pursuant to Section 3523.1, Elections Code).

Your communication and initiative have been presented to the Speaker (see Assembly Journal for July 21, 1988, page 8970).

Very truly yours,


R. BRIAN KIDNEY
Chief Clerk

RBK:eh

448



Office of the Secretary of State
March Fong Eu

Executive Office
1230 J Street
Sacramento, California 95814

(916) 445-6371

June 29, 1988

Mr. Brian Kidney
Office of the Chief Clerk
State Capitol, Room 3196
Sacramento, California 95814

Dear Mr. Kidney:

Pursuant to Section 3523.1 of the Elections Code, I am hereby transmitting to you two (2) copies of the initiative entitled: ATTORNEY FEES LIMIT FOR TORT CLAIMS. INITIATIVE STATUTE. This initiative has qualified for the November 8, 1988 General Election.

Sincerely,

A handwritten signature in cursive script that reads "March Fong Eu".

MARCH FONG EU

MFE/l/gw

Enclosures





Office of the Secretary of State
March Fong Eu

Executive Office
1230 J Street
Sacramento, California 95814

(916) 445-6371

June 29, 1988

Mr. Darryl White
Secretary of the Senate
State Capitol, Room 3045
Sacramento, California 95814

Dear Mr. White:

Pursuant to Section 3523.1 of the Elections Code, I am hereby transmitting to you two (2) copies of the initiative entitled: ATTORNEY FEES LIMIT FOR TORT CLAIMS. INITIATIVE STATUTE. This initiative has qualified for the November 8, 1988 General Election.

Sincerely,

A handwritten signature in cursive script that reads "March Fong Eu".

MARCH FONG EU

MFE/1/gw

Enclosures



Office of the Secretary of State
March Fong Eu

Executive Office
1230 J Street
Sacramento, California 95814

(916) 445-6371

June 29, 1988

Mr. Edwin E. Smith
2850 Rhonda Way
Sacramento, California 95821

Dear Mr. Smith:

Pursuant to Elections Code § 3523, I hereby certify that on June 29, 1988 the certificates received from the County Clerks or Registrars of Voters by the Secretary of State established that the Initiative Statute ATTORNEY FEES LIMIT FOR TORT CLAIMS, has been signed by the requisite number of qualified electors needed to declare the petition sufficient. The ATTORNEY FEES LIMIT FOR TORT CLAIMS. INITIATIVE STATUTE is, therefore, qualified for the November 8, 1988 General Election.

Sincerely,

A handwritten signature in cursive script that reads "March Fong Eu".

MARCH FONG EU

MFE/1/gw



NEWS RELEASE

from: Secretary of State March Fong Eu
1230 J Street, Sacramento, CA 95814
(916) 445-6375

For Immediate Release
April 5, 1988

Contact: Caren Daniels-Meade or
Melissa Warren

EU REPORTS ANOTHER INITIATIVE IN CIRCULATION

SACRAMENTO — Secretary of State March Fong Eu announced today (Apr. 5) that she has given a Sacramento man the go-ahead to begin gathering signatures in an effort to qualify an initiative measure designed to limit attorney fees for tort claims.

Stating that ". . . excessively high contingency fees deprive injured persons of too large a share of the amounts they recover. . .," Edwin E. Smith has launched a campaign to limit such fees an attorney may collect for representing a person in connection with a tort claim. Under the provisions of his measure the fee could be no more than 25% of the first \$50,000 recovered, 15% of the next \$50,000, and no more than ten percent of the amount recovered over \$100,000. The measure allows the court to review the fee to determine if it is "reasonable and fair" and to reduce it below the specified limits if it is not.

The measure, titled "Attorney Fees Limit for Tort Claims", in an initiative statute that requires 372,178 signatures of registered voters to earn a spot on the ballot. Proponent Smith must submit all signatures to county elections officials by the legal 150-day deadline of Sept. 9.

Smith can be reached at (916) 488-1489.

Addition of this measure brings the total number of initiatives in circulation to 31.

A copy of the initiative, its circulation calendar and title and summary is attached.

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NEWS RELEASE

from: Secretary of State March Fong Eu
1230 J Street, Sacramento, CA 95814
(916) 445-6375

For Immediate Release
June 29, 1988

Contact: Caren Daniels-Meade or
Melissa Warren

FINAL INITIATIVE QUALIFIES FOR NOVEMBER BALLOT, REPORTS EU

SACRAMENTO — Secretary of State March Fong Eu announced today (June 29) that she has certified the twelfth and final initiative measure for the Nov. 8 general election ballot, an initiative statute dealing with limitations on attorneys fees.

Fifty-one of California's counties have reported the results of their random sample verification, indicating that a total of 425,353 signatures are projected valid. In order to qualify by random sample, the measure needed 409,396 projected valid signatures, which represents 110% of the 372,178 signatures required for a statutory proposal.

Proponent Edwin E. Smith spearheaded the campaign to limit the contingency fees an attorney may collect for representing a person in connection with a tort claim. Under the provisions of his measure such fee could be no more than 25% of the first \$50,000 recovered, 15% of the next \$50,000, and no more than ten percent of the amount recovered over \$100,000. The measure allows the court to review the fee to determine if it is "reasonable and fair" and to reduce it below the specified limits if it is not.

Proponent Smith can be reached at (916) 488-1489.

(over)

Qualification of this initiative brings the total number of measures certified for the November ballot to 25 — eight legislative bonds, five legislative constitutional amendments and the twelve initiatives. There are no further initiatives pending; however, the Legislature is considering several measures that may be included on this ballot.

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8877MW

INITIATIVE CHECK LIST

Phone Notification from AG - Date/Time: 4/4/88 - 11:45
 Title of Initiative: ADDITION OF FREE - MEETING TIME CLAUSE
 Type of Initiative: CA / S CA and S
 Number of Pages 3 Number of Proponents 1
 Date and Time Initiative will be ready for pick-up 4/4/88 - 11:45

Initial/Date/Time

1. JD 14/4/11:47 OSSI informs Deborah/David/Barbara/Caren and Don day and time initiative will be ready for pick-up.
2. JD 14/4/12:05 OSSI gives check list to Word Processing Technician to prepare calendar.
3. AGP, 4/4/88-11 Word Processing Technician prepares and proofs fraud calendar and log and returns both to OSSI.
4. da 14/4/12:14 OSSI proofs calendar and log.
5. da 14/4/12:20 OSSI gives final calendar and log to Elections Analyst.
6. BC 14/4/13:20 Elections Analyst reviews and has Elections Chief sign. Elections Analyst returns signed calendar to OSSI.
7. da 14/4/13:45 OSSI makes copies of initiative calendar for each proponent.
8. da 14/4/13:50 OSSI attaches copy of Political Reform Act of 1974 Requirements to proponent's copy of initiative calendar.
9. da 14/4/13:45 OSSI prepares Mail/Freight Request Form. OSSI hand carries Mail/Freight Request form and initiative calendar for each proponent (ready for mailing) to Service and Supply. Initiative calendar sent on 3/4/88 to each proponent.
Date

(This must be sent to each proponent same day AG prepares Title and Summary).

10. da 14/4/15:00 OSSI advises Assistant Chief when initiative calendar is sent to proponent(s).

INITIATIVE CALENDAR CHECK LIST

Page two

11. da 14/4 4:15 OSSI distributes copies of initiative calendar same day AG prepares Title and Summary to:
- Tony
 - Caren
 - Jerry
 - Deborah
 - Barbara
12. da 14/51 2:30 OSSI distributes copies of initiative calendar to:
- All CC/ROV
 - Political Reform (3 copies)
 - Elections Staff
 - LA Office via LA Pouch - J.R. Schultz (12 copies)
 - Initiative mailing list
 - Extra copies for public distribution
 - Master copy
13. da 14/51 3:00 OSSI advises Assistant Chief of completion of above distribution.
14. da 14/41 3:20 OSSI makes copies of log and distributes as follows:
1. Initiative canvass binder
 2. Vi Daniels - FTB
 3. Archives
 4. Oliver Cox
 5. Initiative Clipboard
15. da 14/51 2:35 OSSI prepares folder for public distribution.
16. da 14/51 2:15 OSSI prepares index cards for each initiative.
17. da 14/51 3:45 OSSI staples Mail/Freight Request form to back of INITIATIVE CHECK LIST.
18. da 14/61 12:00 OSSI returns completed INITIATIVE CHECK LIST to Assistant Chief.
19. da 14/61 15:02 Assistant Chief returns check list to Election Analyst.

ELECTIONS DIVISION
MAIL/FREIGHT REQUEST

Mail Submitted to Mail Room 3/4/88 3:45
Date Time

Request mail to be sent no later than 3/4/88
Date

MAIL:

- 1st Class
- Bulk
- Book Rate
- Presort
- Third Class

CHARGES:

Amount: 22
Pieces: 1

FREIGHT:

- UPS
- Purolator
- Greyhound (Next bus out: Yes ___ No ___)
- Air-Freight
- Truck Lines

ACTIVITY:

- Outreach (Specify: _____)
- County Mailings (#'s: _____)
- Ballot Pamphlet
- Other (Specify: _____)
- Initiative Calendar to Proponent(s).

Mail room sent requested mail on 3/4/88

A. Stevens
Initial (Service and Supply)