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IN THE SUPREME COURT OF FLORIDA

Case No. SC19-385
L.T. Case No. 5D18-3548

STEVEN YOUNKIN,

Petitioner,

v.

NATHAN BLACKWELDER,

Respondent.

BRIEF OF AMICI CURIAE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA AND FLORIDA JUSTICE REFORM INSTITUTE IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF AUTHORITIES

Page(s)

Cases

TABLE OF AUTHORITIES
(continued)

Page

Statutes

Rules

Other Authorities

TABLE OF AUTHORITIES
(continued)

Page

IDENTITY OF AMICI CURIAE AND STATEMENT OF INTEREST

The Chamber of Commerce of the United States of America (the "Chamber") is the world's largest business federation. It represents 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and state and federal courts. To that end, the Chamber regularly files amicus briefs in cases that raise issues of concern to the nation's business community.

The Florida Justice Reform Institute (the "Institute") is Florida's leading organization of concerned citizens, business owners, business leaders, doctors, and lawyers who seek the adoption of fair legal practices to promote predictability and personal responsibility in the civil justice system. Since its founding, the Institute has advocated practices that build faith in Florida's court system. It represents a broad range of participants in the business community who share a substantial interest in a balanced litigation environment that treats plaintiffs and defendants evenhandedly.

Many of the members of the Chamber and the Institute (collectively, the "Amici") are frequently named defendants in personal injury lawsuits brought by injured plaintiffs. With increasing frequency, the claims against them for medical

damages are grossly and unreasonably inflated. In large part, these inflated damages are the result of preexisting referral relationships between personal injury law firms and certain treating physicians and clinics.

In *Worley v. Central Florida Young Men's Christian Association*, 228 So. 3d 18 (Fla. 2017), this Court ruled that such referral relationships are protected by attorney-client privilege and are therefore not discoverable. Many lower courts have noted that *Worley* has resulted in the disparate treatment of plaintiffs and defendants in the context of discovery related to attorney-physician referral relationships. The Amici will explain the effect this disparate treatment has on defendants in personal injury lawsuits and why all attorney referral relationships to specific health care providers must be treated the same.

SUMMARY OF THE ARGUMENT

The potential for financial bias on behalf any party's witness must be and should be discoverable, relevant, and admissible. The majority opinion in *Worley v. Central Florida Young Men's Christian Association*, 228 So. 3d 18 (Fla. 2017), has created a situation where lower courts are treating plaintiffs and defendants differently when it comes to who may engage in financial bias discovery. This undermines the integrity and fundamental fairness of the trial process as well as the public's faith in the civil justice system.

The question of who referred an injured plaintiff to a particular treating physician is critical to the discovery process in personal injury litigation, especially when plaintiffs are treated under letters of protection and their medical bills appear to be grossly inflated. If the plaintiff's attorney referred the plaintiff to the treating physician, and the treating physician will also testify as the plaintiff's purported expert witness, the inherent bias of the physician's opinions and potential for inflated or fraudulent billing must be exposed.

This Court should revisit the majority opinion in *Worley* to address the disparity it has created and return a balance to this area of the law. At minimum, this Court should use this opportunity to narrow the holding in *Worley* to apply the attorney-client privilege solely to conversations between an injured plaintiff and his or her attorney made in furtherance of legal services.

ARGUMENT

I. EVIDENCE OF FINANCIAL BIAS OF ALL PARTIES' WITNESSES SHOULD BE RELEVANT AND ADMISSIBLE.

The credibility of any witness may be attacked by showing the witness is biased. § 90.608, Fla. Stat. "Proof of bias is almost always relevant because the jury, as finder of fact and weigher of credibility, has historically been entitled to assess all evidence which might bear on the accuracy and truth of a witness' testimony." *United States v. Abel*, 469 U.S. 45, 52 (1984). Parties should be afforded wide latitude to demonstrate bias on the part of a witness. *Henry v. State*, 688 So. 2d 963, 966 (Fla. 1st DCA 1997).

"Included within the type of matters that demonstrate bias are those that relate to the interest of the witness . . . ." Charles W. Ehrhardt, *Florida Evidence* § 608.5 (2019 ed.); *see also Morrison v. State*, 818 So. 2d 432, 446-47 (Fla. 2002) ("[D]isclosing a witness's self-interest is a proper purpose of attacking the witness's credibility."). As it relates to a witness's financial stake in the outcome of litigation, a party is entitled to present evidence to demonstrate that "a witness might be more likely to testify favorably on behalf of the [other] party because of the witness's financial incentive to continue the financially advantageous relationship." *Allstate Ins. Co. v. Boecher*, 733 So. 2d 993, 997-98 (Fla. 1999).

Pre-trial discovery was implemented to aid and protect all parties "to achieve a balanced search for the truth to ensure a fair trial." *Elkins v. Syken*, 672 So. 2d

517, 522 (Fla. 1996). The purpose of such discovery is not meant to favor either plaintiffs or defendants. *Id.* To do so would "lead to a lack of public confidence in the credibility of the civil court process." *Id.*

These principles are fundamental. But this Court's decision in *Worley* has had the effect of undermining these longstanding practices. Lower courts' application of *Worley* has created the type of disparate treatment of plaintiffs and defendants during the discovery process the court in *Elkins* warned against. When the attorney-client privilege is used to shield the discovery of plaintiffs' attorneys' referral relationships with treating physicians, but not the relationships defense attorneys have with compulsory medical examiners, defendants are unjustly, and even irreparably, prejudiced.

In *Worley*, Justice Polston cautioned that the majority's position had the potential to create this type of prejudice and stated that the Court "should treat the plaintiff's law firm the same as an insurance company for purposes of discovering and disclosing potential bias." 228 So. 3d at 30 (Polston, J., dissenting). Similarly in this case, the Fifth District seemed troubled by the "seemingly disparate treatment in personal injury litigation between plaintiffs and defendants regarding disclosure of [referral relationships]." *Younkin v. Blackwelder*, No. 5D18-3548, 2019 WL 847548, at *2 (Fla. 5th DCA Feb. 22, 2019).

In short, *Worley* has created more questions than answers when it comes to the scope of discoverable evidence to establish the financial bias of a party's expert witness. This Court should take the opportunity presented here to ensure this area of the law is being applied in an even-handed manner to all litigants.

A. Plaintiffs' attorneys refer injured plaintiffs to the same small pool of treating physicians as part of a financially advantageous referral relationship.

Many of the Amici's members are frequently named defendants in personal injury lawsuits brought by injured plaintiffs. With increasing frequency, the claims against them for medical damages are grossly and unreasonably inflated. In large part, these inflated damages are the result of preexisting referral relationships between personal injury law firms and certain treating physicians and clinics. Indeed, in some instances, law firms have referred hundreds of injured plaintiffs to the same treating physician—regardless of whether the plaintiff has private health insurance and regardless of whether in-network physicians under that insurance are available.

The question of who referred an injured plaintiff to a particular treating physician is critical to the discovery process in personal injury litigation, especially when plaintiffs are treated under letters of protection and their medical bills appear to be grossly inflated. If the plaintiff's attorney referred the plaintiff to the treating physician, and the treating physician will also testify as the plaintiff's purported

expert witness, the inherent bias of the physician's opinions and potential for inflated or fraudulent billing must be exposed.

1. Financial bias discovery is necessary to allow defendants to contest the reasonableness of a plaintiff's medical bills.

When plaintiffs' lawyers have referral relationships with treating physicians, the injured plaintiff, like Mr. Blackwelder in this case, is almost always treated under a letter of protection ("LOP"). An LOP is generated by the plaintiff's attorney to guarantee payment to the treating health care providers. *See* Charles Scott & Kathryn Fenderson Scott, *Letters of Protection – What You Need To Know*, Fla. L. Blog (Feb. 4, 2012), https://www.florida-lawblog.com/2012/02/letters-of-protection-what-you-need-to-know.html. This allows an injured plaintiff to receive medical care on credit that will be settled at the end of the case through proceeds from a settlement or judgment. *Id.*; Marcus Michles, *What is a Letter of Protection?*, Michles & Booth Blog, https://blog.michlesbooth.com/auto-accidents/letter-protection/. If the injured plaintiff does not obtain a favorable recovery, he or she is still liable to the provider for any unpaid bills. *See Worley*, 228 So. 3d at 23 n.4; Neufeld Law Firm, *What is a Letter of Protection – LOP?*, Neufeld L. Firm Blog, https://www.neufeldlawfirm.com/articles/what-is-a-letter-of-protection-lop.

LOPs can be used even when plaintiffs have their own personal health insurance or when they would otherwise be covered by Medicare or Medicaid.

This allows a provider to bill much more for services than they could bill under a network contract or federal program, which have considerably lower reimbursement rates. *See, e.g.*, David W. Hirshfield, Fla. Healthcare Law Firm Blog, *The Use of an "Inventory" with ASC Rental Arrangements in Bodily Injury Cases*, (July 19, 2012), http://floridahealthcarelawfirmblog.com/tag/letter-of-protection/. Providers also can bill a liability insurer for extremely expensive procedures and other services that a private health insurer would never approve.

But an injured plaintiff's obligation is not to pay whatever the provider demands, but only a ***reasonable*** amount. *E.g.*, *Walerowicz v. Armand-Hosang*, 248 So. 3d 140, 143 (Fla. 4th DCA 2018). Furthermore, a jury may only award damages to an injured plaintiff for ***necessary*** medical expenses. *See id.*; *see also* Fla. Std. Jury Instr. (Civ.) 501.2. It is the plaintiff's burden to prove the reasonableness and necessity of his or her medical expenses. *Walerowicz*, 248 So. 3d at 143. Evidence of the amount of a bill is not enough to establish reasonableness. *Id*. Because the reasonableness of a plaintiff's medical bills is a central issue in a personal injury case, discovery into this issue must be permitted, including pre-trial discovery to determine whether the amount of a particular bill is related to any financial bias on behalf of the treating physician.

The majority in *Worley* acknowledged that "medical bills that are higher than normal can be presented to dispute the physician's testimony regarding the

necessity of treatment and the appropriate amount of damages." 228 So. 3d at 24. But limiting defendants solely to presenting "medical bills that are higher than normal" does not paint the full picture of bias for the jury.

It is critically important for defendants to be able to ask plaintiffs about who referred them to a particular doctor, regardless of whether the referral came from the plaintiff's attorney. Defendants should also be able to ask treating physicians about how particular plaintiffs are referred to them. This discovery is relevant to two discrete issues. First, has the physician-witness recommended an unnecessary and costly medical procedure with greater frequency in litigation cases. Second, has the physician-witness overcharged for routine medical services in litigation cases. The answers to these two questions are just as relevant to the defendant's case as it is to the plaintiff's case.

It is crucial the jury be allowed to consider all evidence when deciding whether the doctor is biased in testifying about the amount of his or her charges. Allowing this discovery will help expose bias, and at the same time ensure decisions makers are informed of the critical facts and trials are not deliberately carried out in the dark.

2. Financial bias discovery is necessary to allow defendants to challenge the expert opinions of a plaintiff's treating physician.

Plaintiffs' attorneys hang their hats on blocking the financial bias discovery at issue in *Younkin* on the fact that they are referring injured plaintiffs to "treating physicians." But in reality, these doctors are acting in a hybrid role at trial as both a treating provider and an expert witness. As Justice Polston explained in *Worley*, "these treating providers will be giving expert opinions, including expert opinions about permanency of the injury as well as the reasonableness and necessity of [the plaintiff's] care and treatment." 228 So. 3d at 30 n.6 (Polston, J., dissenting).

In *Boecher*, this Court made clear that an expert witness may be biased when he or she has a financial interest in the outcome of the litigation. *See* 733 So. 2d at 997-98. Putting limitations on discovery of the financial relationship between a plaintiff's law firm and a treating physician/expert witness who testifies at trial, "has the potential for thwarting the truth-seeking function of the trial process." *Id.* at 998. Defendants must be permitted to present evidence of a potential financial bias of any expert witness regardless of whether that expert was also the plaintiff's treating physician.

B. Defendants' attorneys refer injured plaintiffs for compulsory medical exams, which are performed by physicians chosen from the same small pool by the defendant's attorney.

When an injured plaintiff files suit against a defendant, the defendant's counsel will often seek a compulsory medical exam (CME) of the plaintiff pursuant to Florida Rule of Civil Procedure 1.360. These CMEs are performed by physicians chosen by the defendant's counsel. The physicians performing CMEs are often later called as expert witnesses at trial to testify about the plaintiff's injuries and the reasonableness of his or her past and future medical expenses. Generally, CMEs are paid by a defendant's insurance company.

Because CME physicians are designated as expert witnesses, plaintiffs are permitted to engage in discovery about the number of occasions a particular doctor has been retained to perform a CME. *See Boecher*, 733 So. 2d at 993-94. This discovery usually comes in the form of interrogatories and requests for production seeking the amount of money an insurance company and a defendant's law firm has paid a CME physician for the last three years, the physician's taxpayer ID number for the last three years, and the number of time a defendant's law firm has retained the physician in the last three years. The financial relationship between CME physicians and defendants' law firms is not the same as the one between treating physicians and plaintiffs' law firms—i.e., CME physicians do not examine

injured plaintiffs under LOPs. But the possibility of inherent bias is there nonetheless and should be relevant, admissible, and discoverable.

1. Financial bias discovery is necessary to allow plaintiffs to argue that CME physicians have an interest in the litigation based on the way they are paid for their services.

Due to the limited number of physicians who perform CMEs, defense law firms and insurance companies typically send plaintiffs to the same pool of doctors, thereby creating referral relationships similar to the ones between a plaintiff's law firm and a treating physician. This referral relationship between defendants and CME physicians lends itself to the same type of financial bias that may exist on the part of a treating physician who has a referral relationship with a plaintiff's attorney. It can be argued that a CME physician may have a financial incentive to testify favorably for a defendant in order to maintain his or her referral relationship with an insurance company or a defense law firm. Because of this potential for financial bias, the current state of the law allows plaintiffs to conduct discovery into the CME physician's relationship with a particular insurance company or defense law firm and then present any relevant and admissible findings to the jury. *See Boecher*, 733 So. 2d at 997-98. This type of discovery is necessary to maintain the integrity of the trial process.

2. Financial bias discovery is necessary to allow plaintiffs to challenge the expert opinions of a CME physician.

There is no dispute that a CME physician testifies at trial as an expert witness. As discussed above in Section A.2., discovery is currently permitted to allow plaintiffs to uncover any potential for bias based on a CME physician's financial interest in the outcome of a case. *See Boecher*, 733 So. 2d at 997-98. Plaintiffs have a right, as should defendants, to attack the credibility of any expert witness by arguing to a jury that the expert may tailor his or her testimony based on referral relationships and how he or she is paid. Again, this practice promotes "the truth-seeking function of the trial process," *id.* at 998, and should remain unchanged.

* * * * * * * * * * * * *

The potential for financial bias on behalf any party's expert witness must be and should be discoverable, relevant, and admissible. The majority opinion in *Worley* has created a situation where lower courts are treating plaintiffs and defendants differently when it comes to who may engage in financial bias discovery. This undermines the integrity of the trial process as well as the public's faith in the civil justice system. This Court should revisit the majority opinion in *Worley* to address the disparity it has created.

II. THIS COURT SHOULD REVISIT *WORLEY* TO END THE DISPARATE TREATMENT OF PLAINTIFFS AND DEFENDANTS AS IT RELATES TO FINANCIAL BIAS DISCOVERY.

Prior to *Worley*, the scope of financial bias discovery was clear and applied to both plaintiffs and defendants equally. Lower courts recognized that referral relationships between law firms and doctors "could reasonably be viewed as creating a bias toward testifying favorably to [the law firm's client]." *Flores v. Miami-Dade Cty.*, 787 So. 2d 955, 958 (Fla. 3d DCA 2001). Accordingly, evidence of such relationships and the inherent bias flowing from those relationships was discoverable. *See, e.g., Brown v. Mittelman*, 152 So. 3d 602, 604-05 (Fla. 4th DCA 2014); *see also, e.g., Crable v. State Farm Mut. Auto. Ins. Co.*, No. 5:10-CV-402-OC-37TBS, 2011 WL 5525361 (M.D. Fla. Nov. 14, 2011) (compelling production of invoices between plaintiff's attorney and plaintiff's treating physician).

The reason for this, which the majority in *Worley* may have overlooked, is simple—"[a] physician may derive substantial income from treating patients involved in litigation beyond the provision of services as a retained expert." *Id.* at 604; *see also Katzman v. Rediron Fabrication, Inc.*, 76 So. 3d 1060, 1064 (Fla. 4th DCA 2011) (concluding that a physician who treats a patient on a lawyer's referral has injected himself into the litigation and potentially has a "stake" in its outcome). Thus, "[a] jury is entitled to know the extent of the relationship between the

treating doctor and the referring law firm."[1] *Id.*

According to the majority opinion in *Worley*, the financial relationship between a plaintiff's law firm and the plaintiff's treating physician is now protected by attorney-client privilege and therefore no longer discoverable. *See* 228 So. 3d at 22-23. Since this decision in 2017, lower courts have grappled with if and how *Worley* applies in the similar context of a defendant's law firm's relationship with a physician performing the plaintiff's CME. In *Younkin*, the Fifth District noted that the current state of the law appears to require lower courts to treat plaintiffs and defendants differently with respect to financial bias discovery. 2019 WL 847548, at *2. This type of disparate treatment allows plaintiffs to attack the credibility of a defendant's CME physician based on financial bias while simultaneously preventing defendants from doing the same as it relates to the plaintiff's treating physician. The Florida Supreme Court could not have intended this result.

[1] Importantly though, prior to *Worley*, financial bias discovery was permissible even when a party had not demonstrated the existence of a referral relationship. *Brown*, 152 So. 3d at 604. ("Whether the law firm directly referred the plaintiff to the treating physician does not determine whether discovery of the doctor/law firm relationship is allowed."). The majority in *Worley* incorrectly cites to *Brown* to support its statement that a referral was required prior to allowing discovery into the relationship between an attorney and a medical expert. 228 So. 3d at 24 (citing *Brown* for the proposition that "courts that have allowed [financial bias] discovery have first required evidence of a referral relationship between the law firm and the treating physician").

A. The current state of the law regarding financial bias discovery creates an unbalanced view of the credibility of the parties' expert witnesses.

As it stands now, lower courts feel constrained to apply *Worley* in a way that permits financial bias discovery for plaintiffs only, resulting in situations that can severely prejudice a defendant in front of a jury. *See, e.g.*, *Dodgen v. Grijalva*, Case No. 4D19-1010, 2019 WL 2608343 (Fla. 4th DCA June 26, 2019) (recognizing that "discovery laws in this context have resulted in disparate and possibly unfair treatment of plaintiffs and defendants"); *Salber v. Frye*, Case No. 5D18-2917, 2019 WL 2062373 (Fla. 5th DCA May 10, 2019) (certifying a question of great public importance because "the law in this area is not being applied in an even-handed manner to all litigants"); *Dhanraj v. Garcia*, Case No. 5D18-2330, 2019 WL 1302540 (Fla. 5th DCA March 22, 2019) (same).

The Fifth District explained the situation this way:

> For example, under *Worley*, a plaintiff law firm can refer 100 of its clients to the same treating physicians, who may later testify as an expert witness at trial, without that referral arrangement being either discoverable or disclosed to the jury, yet if a defense firm sends each one of those 100 plaintiffs to its own expert to perform a CME under Florida Rule of Civil Procedure 1.360, and then later to testify at trial, the extent of the defense law firm's financial relationship with the CME doctor is readily discoverable and can be used by the plaintiff law firm to attack the doctor's credibility based on bias.

Younkin, 2019 WL 847548, at *2.

This example may seem extreme, but it adequately describes the circumstances defendants face post-*Worley*. Without the ability to conduct financial bias discovery related to a plaintiff's treating physician, defendants cannot make the case that the treating physician is biased due to his or her financial relationship with plaintiff's attorney. In other words, a defendant's ability to defend against a personal injury claim has been eviscerated in such a way that harm will continue throughout a trial.

Not having the ability to explain to a jury the full extent of a treating physician's relationship with a plaintiff's attorney leaves the jury with a false impression that the treating physician is acting with only pure intentions when determining the cost and necessity of a plaintiff's medical care. In this scenario, the jury never gets to make an informed decision about the treating physician's credibility. Compound that with the fact that the plaintiff is the only party allowed to attack an expert witness's credibility based on financial bias, and the jury is left believing the defendant's CME doctor is the only witness who may have a personal interest in the outcome of the case.

Justice Polston put it best:

> The majority improperly draws the line of allowing bias to be shown by permitting only evidence of a letter of protection from the lawyer "which may demonstrate that the physician has an interest in the outcome of the litigation." This letter of protection involves just this one case. Allowing the jury to consider just this limited financial interest of the one case completely ignores, and improperly limits, the

> ability to show bias of a provider that may arise from a potentially very significant amount of compensation, and percentage of total business, from other cases brought to the provider by the law firm.

Worley, 228 So. 3d at 28 (Polston, J., dissenting). Limiting the defense's ability to impeach an expert witness by showing a financial interest in just a single case, while simultaneously allowing a plaintiff to demonstrate bias on part of a CME physician through that physician's involvement in many cases is not only unfair and prejudicial, it flies in the face of due process. The jury would be given only one side of the story, improperly leading them to believe that only the defendants' attorneys have referral relationships with physicians. This is not the case.

B. To the extent *Worley* holds that defendants cannot engage in any financial bias discovery related to plaintiffs' treating physicians, this Court should overturn that decision.

The Amici recognize that in Florida the presumption in favor of *stare decisis* is strong. *Brown v. Nagelhout*, 84 So. 3d 304, 309 (Fla. 2012). But the doctrine of *stare decisis* must bend where there has been an "error in legal analysis." *Id.* (quoting *Puryear v. State*, 810 So. 2d 901, 905 (Fla. 2002)). In determining whether to overrule prior precedent, this Court should address these relevant factors: (1) whether the decision is "unsound in principle"; and (2) whether reliance interests militates against departing from precedent. *See id.* (citing *Allied-Signal, Inc. v. Director, Div. of Taxation*, 504 U.S. 768, 783 (1992)). The answers to these questions overwhelmingly rebut the presumption in favor of *stare decisis*.

First, the rule of law announced in *Worley* is unsound in principle and an impractical legal fiction. *See id.*; *Strand v. Escambia Cty.*, 992 So. 2d 150, 159 (Fla. 2008). As Justice Polston stated in his well-reasoned dissent, "[a] lawyer's referral of a client to a treating medical provider is for the purpose of the client's medical care, not in furtherance of legal services. Therefore, the referral itself is not protected as an attorney-client privileged communication." *Worley*, 228 So. 3d at 26-27. This Court should depart from the majority opinion in *Worley* to the extent it holds that even communications that do not involve legal advice may be protected by the attorney-client privilege. *Cf.* § 90.502(2), Fla. Stat. (providing that "[a] client has a privilege to refuse to disclose, and to prevent any other person from disclosing, the contents of confidential communications . . . made in the rendition of legal services to the client").

Second, there are no reliance interests that justify maintaining the majority's decision in *Worley*. *Worley* upended the scope of pre-trial discovery for financial bias just over two years ago, abrogating longstanding principles related to expert witnesses, attorney-client privilege, and the fundamental fairness of the trial process. In other words, *Worley* created a serious disruption in the stability of this area of the law. Returning to the state of the law pre-*Worley* would bring much-needed balance to the issue of financial bias discovery in cases like *Younkin* and many others.

And the process would not be difficult. As Justice Polston pointed out, issues involving attorney-client privileged information occur with all discovery "and is not a basis for completely disallowing permissible discovery." *Worley*, 228 So. 3d at 29 (Polston, J., dissenting). He outlined a very simple way to deal with this situation in the circumstances of this case, and any case for that matter—make appropriate objections and seek an in camera review of the information claimed to be privileged. *Id.*

CONCLUSION

Prior to the majority's decision in *Worley*, defendants were permitted to engage in the same type of financial bias discovery as plaintiffs in order to attack the credibility of an expert witness. Now, only plaintiffs are afforded this opportunity. This disparate treatment of plaintiffs and defendants violates the fundamental fairness of the trial process. The parties should be treated equally. Either all parties should be permitted to engage in financial bias discovery, or no party should be permitted to do so. This Court should revisit the majority decision in *Worley* to return a balance to this area of the law. At minimum, this Court should use this opportunity to narrow the holding in *Worley* to apply the attorney-client privilege solely to conversations between an injured plaintiff and his or her attorney made in furtherance of legal services, not the attorney's independent referral relationships with treating physicians.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of July, 2019 a true and correct copy of the foregoing was furnished by e-mail to all counsel listed below.

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the font requirements set forth in Florida Rule of Appellate Procedure 9.210 because it was prepared using Times New Roman 14-point font.

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