

**CALB**  
Citizens Against Legal Blackmail

SA2004 RF0021

phone / fax (626) 919-8290

May 1, 2004

Bill Lockyer, Attorney General  
Attn: Initiative Coordinator  
Office of the Attorney General  
13001 I Street  
Sacramento, CA 95814

**RECEIVED**  
MAY 18 2004

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

We are requesting title and summary for our proposed initiative to amend the California Code of Civil Procedure Section 128.7.

Should you have any questions or need further information, please contact me at the above phone number or you may leave a message at (626) 918-5339. Thank you for immediate attention in this matter.

Sincerely,

Robert McCracken  
Director

**CALB**

Citizens Against Legal Blackmail

(626) 919-8290

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

I, Robert McCracken, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

(Signature of Proponent)

Dated this 7 day of May, 2004

**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS**

**TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA**

We, the undersigned, registered, qualified voters of California, residents of \_\_\_\_\_ County, hereby propose amendments to the Government Code, relating to frivolous lawsuits, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed statutory amendments read as follows:"

The people of the state of California have decided that it is time to do something about frivolous lawsuits and propose to amend the California Code of Civil Procedures Section 128.7 to include the following:

- ( 1 ) Make it mandatory that the loser and their lawyer, of a frivolous lawsuit, pay the legal cost of the other side.
- ( 2 ) Judges should be held accountable for not dismissing frivolous lawsuits. Make it mandatory that if a party to a lawsuit declares the suit to be frivolous and upon presentation of the reasons for this declaration, the judge shall prepare a written explanation for dismissing or continuing the case, which becomes part of the case file.

For the purpose of this section, frivolous means;

- ( a ) It is being presented primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.
- ( b ) The claims, defenses and other legal contentions are contrary to common knowledge.
- ( c ) The goods or services of one or more of the defendants is not relevant to the case.
- ( d ) The claims, defenses, and other legal contentions are not warranted by existing law or by nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.
- ( e ) The allegations and other factual contentions have no evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.
- ( e ) The denials of factual contentions are not warranted on the evidence or, if specifically so identified, are not reasonably based on lack of information or belief.

( 3 ) When the court imposes sanctions upon an attorney or law firm, it shall notify the State Bar of the sanction imposed for filing a frivolous lawsuit or frivolous answer or other responsive pleading. The notification shall include the sanction order, any written findings related thereto and those portions of the record relevant to the order. The attorney or law firm against whom the order was written shall reimburse the court for all expenses incurred in reporting to the State Bar. If the State Bar determines that it has received three notifications of sanctions against the same attorney or law firm within the past five years, the State Bar shall recommend appropriate discipline, including, but not limited to, suspension or disbarment.

- ( 4 ) If the plaintiff's own actions result in a measure of liability, the plaintiff must be responsible for the consequences of their own actions.
- ( 5 ) This section shall not apply to small claims court.
- ( 6 ) This section shall have no expiration date.