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**News Release**

For Immediate Release

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**Little Rock, AR (August 29, 2016)** **—**Today Arkansas Bar Association President Denise Hoggard, joined by 14 past Presidents of the Arkansas Bar Association, announced the filing of a lawsuit asking the Arkansas Supreme Court to remove Issue 4 from the ballot. Issue 4 is an Initiated Amendment with the popular name of “An Amendment to Limit Attorney Contingency Fees and Non-Economic Damages in Medical Lawsuits.”

The lawsuit was filed by Little Rock attorney Scott Trotter on behalf of plaintiffs Paula Casey and Nancy Wilson to challenge the legality of the initiated amendment. Paula Casey is a retired Dean of the UALR William H. Bowen School of Law and former United States Attorney for the Eastern District of Arkansas. Nancy Wilson is a retired school teacher who taught at Central High School in Little Rock.

“This popular name and ballot title are misleading and insufficient under Arkansas law,” Hoggard said. “This Amendment would take away fundamental rights of Arkansans that have been protected in our state and national constitution. The right of ordinary citizens to be protected from the government and from powerful special interests in court is a sacred one. This ballot title is deceptive and that must be exposed; voters would not give up their own rights if they knew that was the purpose of the measure,” Hoggard continued.

The Arkansas Supreme Court has sometimes removed measures from the ballot when they deemed the ballot title to be deceptive, ambiguous or insufficient for voters to understand the impact of their votes. The complaint was filed today in the Arkansas Supreme Court.

Formed in 1898, the Arkansas Bar Association is required by its constitution to act in the public interest. “The fair administration of justice for all citizens is critical to our economy and for protecting jobs, property rights and individual liberty,” Hoggard said. “Justice for all suffers if some taxpayers have less access to the county courthouse than others. That’s what this Initiated Amendment would do if passed. It would allow businesses to enjoy full rights in court, while limiting the rights of individual citizens to enforce their own rights,” Hoggard said.

“Juries in all 75 counties hear civil and criminal cases each year. Americans always believed that it was better to trust one’s neighbors with upholding justice rather than a king or even a judge. For the first time in our history, Arkansans are being asked to let the legislature hamstring a jury of his or her peers when rights have been violated,” Hoggard said. “That would violate the separation of powers doctrine. The Arkansas Bar Association sees the need for this lawsuit because such an historic and radical change in our rights should not go to the people without a clear description of that we are voting on,” Hoggard said.

The measure purports to limit attorneys’ fees rather than the right to a jury trial. That is intentionally misleading in the hope that voters will think more about fees than their own rights. Furthermore, that limitation would be one-sided. Nursing homes and wealthy medical parties could spend unlimited money to fight patients in court, but this initiated amendment would limit a patient’s ability to fight for his or her day in court as a matter of law. Our constitution is supposed to guarantee equal rights for all, not limit the rights to the many who protect the elite few,” Hoggard said.

The initiated amendment would limit a contingency fee contract to 33.3 % of any recovery realized after deduction for all costs of the litigation. Arkansas law already prohibits excessive fees, so there is no need to limit an individual’s right to contract further with an attorney.

On May 24, 2016, the Arkansas Bar Association Legislation Committee voted unanimously to oppose Issue 4. On June 17, 2016, the House of Delegates also voted unanimously for the Association to form a ballot question committee and take all steps deemed appropriate to oppose Issue 4. Therefore, the Association formed **Fairness For Arkansans (www.FairnessArkansas.com)**, a ballot question committee to oppose the Amendment. Scott Trotter, Arkansas Bar Association member and practicing attorney in Little Rock since 1987, is volunteering his time and extensive knowledge as attorney in filing the legal challenge. He is also serving as a Director of Fairness for Arkansans.

Mr. Trotter has written constitutional amendments and has written, challenged and defended ballot titles over the years.

Additionally, Kristin L. Pawlik, Chair of the Association’s Legislation Committee, is a director of Fairness for Arkansans and will be directing the Association’s other efforts against the Amendment. She has authored an article, “Initiated Attack” published in [The Arkansas Lawyer Vol. 51, No. 3, Summer 2016](https://issuu.com/arkansas_bar_association/docs/the_arkansas_lawyer_summer_2016_iss_2f2f914b376c39/21?e=1669881/37933857), which further explains, supports, and sets out the Association’s position.

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