Citizens, Voters, and Taxpayers of Missouri:

Missouri Roundtable For Life

Wonders

So Why Did The Cloners Spend $30 Million On Amendment 2, The So-Called "Missouri Stem Cell Research And Cures Initiative"?

Under this cover you will discover an intriguing exposé of a devious scheme, perhaps one of the worst that has ever been put over on the electorate of any State of the Union.

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The Missouri election campaign of 2006 saw a handful of individuals spend an astonishing ***30 million dollars*** in an effort to pass Amendment 2, the so-called "Missouri Stem Cell Research and Cures Initiative".

This was the most expensive initiative campaign in Missouri history, funded almost entirely by a few individuals tied to prominent research institutions in the state.

The amendment was touted as a vehicle to ensure cures for Missouri citizens and to ban human cloning—two goals that would seemingly find few opponents.

Given the disproportionate expenditures for such an apparently innocuous initiative, the question naturally arises: Why did the supporters of Amendment 2 spend ***so much money***?

The Ballot Summary

A natural place to look for answers to this question is the Ballot Summary. This is the only document voters see when they go into their voting booth, so it is the first place to look for clues.

We assume that most voters see the Ballot Summary as a fair and transparent summary of the amendment. Indeed, voters have every right to expect that a Ballot Summary prepared by the appropriate elected officials under the governing regulations would be so.

Here is the Ballot Summary for Amendment 2:

> Shall the Missouri Constitution be amended to allow and set limitations on stem cell research, therapies, and cures which will:
>
> - ensure Missouri patients have access to any therapies and cures, and allow Missouri researchers to conduct any research, permitted under federal law;
>
> - ban human cloning or attempted cloning;
>
> - require expert medical and public oversight and annual reports on the nature and purpose of stem cell research;
>
> - impose criminal and civil penalties for any violations; and
>
> - prohibit state or local governments from preventing or discouraging lawful stem cell research, therapies and cures?
>
> The proposed constitutional amendment would have an estimated annual fiscal impact on state and local governments of $0-$68,916. *[Note: this fiscal estimate is for potential costs to enforce the Initiative's ethical requirements. The Initiative does not ask for or require any state or taxpayer funding for stem cell research.]*

Why might the cloners have wanted to spend $30 million for this? Let's see what the Ballot Summary says about the state of the relevant law before and after the election. We will inspect each bullet point.

Ballot Summary Point 1:

- ensure Missouri patients have access to any therapies and cures, and allow Missouri researchers to conduct any research, permitted under federal law;

On November 6, 2006, the day before the election, ***no researcher was prohibited from conducting any stem cell research, including human cloning, in Missouri***, and ***no potential stem cell therapies or "cures" permitted under federal law were being denied patients in Missouri.***

As a practical matter the Food and Drug Administration (FDA) is the controlling authority over the medicines, therapies and cures available to citizens of the United States and no FDA-approved medicines, therapies, or cures were being denied to anyone in Missouri.

It hardly seems worth spending $30 million to ensure Missourians what they already have.

Ballot Summary Point 2:

- ban human cloning or attempted cloning;

On November 6, 2006, the day before the election, attempting to clone a human being, carried out via a procedure termed somatic cell nuclear transfer, was perfectly legal in Missouri. And indeed, attempts to clone human beings via somatic cell transfer nuclear transfer were ongoing in various places in the world.

Somatic cell nuclear transfer is the universally understood scientific term and technique for cloning, which means to make a genetic copy of something.

But did Amendment 2 actually ban human cloning or attempted cloning? In fact, Amendment 2 merely ***pretends*** to ban human cloning. The amendment ***explicitly sanctions*** somatic cell nuclear transfer and thus ***actually creates a constitutional right to clone or attempt to clone a human being***.

In support of this truth, we cite the following (Do No Harm: the Coalition of Americans For Research Ethics, www.stemcellresearch.org):

> Experts in Science, Medicine, Law, and Ethics Declare That Missouri's Amendment 2 Endorses Human Cloning
>
> Today over two dozen experts in science, medicine, law and ethics released an open letter to news media and the people of Missouri on the state's proposed ballot initiative known as Amendment 2...

> The signers include experts in embryology, microbiology and maternal/fetal medicine, as well as past and present members of the President's Council of Bioethics and several founders of Do No Harm: the Coalition of Americans for Research Ethics.

We quote from this letter:

> A key question regarding Missouri's proposed Amendment 2 is: Would this constitutional amendment prohibit or promote "human cloning"? As individuals who have studied this issue in depth, we hold that it clearly authorizes and promotes human cloning.
>
> Human cloning is the asexual production of a new living organism, at any stage of development, that is genetically virtually identical to an existing or previously existing human being. It is done through ***somatic cell nuclear transfer*** (SCNT) [emphasis added], which introduces the nuclear material of a human somatic cell into an ooctye (egg) whose own nucleus has been removed or inactivated, to create this new organism. And it is designed to produce (and when successful does produce) a new living organism of the human species, that is, a *human embryo*…
>
> In short, human cloning for research purposes creates human embryos, using the SCNT procedure, in order to destroy them. This is *exactly* what Amendment 2 authorizes. In fact, the amendment creates a statewide *constitutional right* to conduct such human cloning, so completely ethical or human safety considerations, or other state laws, cannot meaningfully limit the research community's right to do human cloning.
>
> Some have tried to claim that the SCNT cloning technique does not produce an embryo. But as this country's most prominent embryonic stem cell researcher, James Thomson of the University of Wisconsin, said last year, such claims are "disingenuous," and attempt to "define away" the moral issue instead of confronting it honestly (MSNBC, June 25, 2005, www.msnbc.msn.com/id/8303756/).

Thus human cloning was ***legal before*** and still is ***legal after*** the passage of Amendment 2.

Let's leave aside for the moment the verbal chicanery inherent in turning an apparent ban on human cloning into the establishment of a constitutional right to human cloning.

The key point for us now is that again it hardly seems worth $30 million to ***pretend*** to ban something.

Ballot Summary Point 3:

> • require expert medical and public oversight and annual reports on the nature and purpose of stem cell research;

On November 6, 2006, the day before the election, governing boards of research institutions, as fiduciaries of their institutions, were requiring expert medical oversight and reports necessary to ensure compliance with their operating standards. The same was still true after the passage of Amendment 2.

This ballot summary point does not describe a material change in the law. The existing laws of corporate governance, and especially of those of tax-exempt institutions that are scrutinized by the Internal Revenue Service, and the common laws of fiduciary responsibility all result in "public oversight and annual reports".

And anyway, the cloners certainly did not spend $30 million so they could write extra reports.

Ballot Summary Point 4:

> • impose criminal and civil penalties for any violations; and

Okay, so there will be criminal and civil penalties for violations. This is true about almost any law in the state. Again, this certainly doesn't seem to be worth $30 million.

Ballot Summary Point 5:

> • prohibit state or local governments from preventing or discouraging lawful stem cell research, therapies and cures?

We have already pointed out that before the passage of Amendment 2, there were no state or local laws or regulations that prevented or discouraged any stem cell research whatsoever. How are state and local governments going to prevent or discourage anything that is already lawful? This doesn't seem to be worth a $30 million investment.

> The proposed constitutional amendment would have an estimated annual fiscal impact on state and local governments of $0-$68,916. *[Note: this fiscal estimate is for potential costs to enforce the Initiative's ethical requirements. The Initiative does not ask for or require any state or taxpayer funding for stem cell research.]*

Such a precise estimate of such a small amount of money makes you wonder what the state government could do for so little, and how it could compute so exactly such a small number. Anyway, it doesn't explain the expenditure of $30 million.

When we compare these statements of the Ballot Summary to the state of the law before and after the November 7, 2006 election, we discover that the ballot language reveals not one material right, privilege, or obligation that is conveyed to or imposed upon any citizen of the

state. All the rights and privileges that the Ballot Summary implies that Amendment 2 will grant are actually possessed by the citizens of Missouri before the election.

A useful chart:

Permitted Activity	Before Election	After Election
Missouri patient access to FDA-approved therapies	Yes	Yes
Missouri patient access to stem-cell-related therapies	Yes	Yes
Adult stem cell research	Yes	Yes
Human embryonic stem cell research	Yes	Yes
Human cloning by researchers	Yes	Yes

If the Ballot Summary does not even point to one material right or obligation granted to or imposed on the citizens of Missouri that is distinct from those preexisting before the election, has it failed to reach the appropriate standards of fairness and transparency?

Furthermore, there is nothing about these affirmative ballot summary statements that would direct voters to seek additional information. It all seems just so straightforward and intrinsically attractive.

Nonetheless, the Ballot Summary language does not suggest any reason for the unprecedented $30 million investment by the cloners.

The public statements of supporters of Amendment 2

What about the public statements of the cloners? Do they provide a rationale for the cloners' $30 million investment?

Here is a collection of key pre-election public statements by Donn Rubin, president, board member, and spokesperson for Missouri Coalition for Lifesaving Cures (a leading organization in the campaign in support of Amendment 2, see 2006 Annual Registration Report, filed with Missouri Secretary of State 10/16/06, file #200628990393 N00673967):

> Quote: Donn Rubin, Jefferson City News-Tribune, 1/21/2006:
>
> "The initiative will ensure that Missouri patients have access to federally approved medical cures and therapies. It will ensure that our medical institutions are able to help find those cures and provide those treatments and cures, right here in Missouri."

Quote: Donn Rubin, Springfield News-Leader, 2/13/2006:

> "I think people are serious about supporting and helping push this constitutional amendment because they recognize it's the only way to ensure that Missouri's patients are treated equally with other Americans."

The pro-Amendment 2 spokesperson harps on "access" to "cures", but in fact there were then no laws that restricted, and are now no laws that restrict, Missouri patients from any "federally approved medical cures" or treatments. And any research institution in Missouri could then and can now spend its own funds to pursue any research, including any stem cell research, without any restriction by the state of Missouri.

Quote: Donn Rubin, Springfield News-Leader, 7/5/2006:

> "The Missouri Stem Cell Initiative simply ensures that any stem cell research and treatments allowed under federal law and available to other Americans will continue to be allowed in Missouri. So if a new stem cell treatment is found to be safe and effective by the FDA, then Missourians will have the same right to be treated as patients in other states."

In his own words, this quote ***confirms*** our previous comments. The FDA regulates "cures", treatments, and therapies in this country. There is probably no State in the Union that has ever prevented its citizens from receiving an FDA-approved medicine, cure, or therapy, and we do not believe Missouri has in the past. Why would it ever do so in the future?

You really need to see a lot of these assertions to see that they give no specific information about any actual changes in the law. Here is a selection:

Quote: Donn Rubin, Jefferson City News-Tribune, 7/13/2006:

> "It ensures equal access for Missourians to the same stem-cell therapies and cures available to all other Americans."

Quote: Donn Rubin, Jefferson City News-Tribune, 7/18/2006:

> "Protecting Missourians' equal access to stem cell research and cures is an issue that everyone in Missouri has a stake in…."

Quote: Donn Rubin, St. Louis Post-Dispatch, 7/22/2006:

> "Scientists here in Missouri should be able to perform whatever kind of research the federal government decides is appropriate."

Quote: Donn Rubin, St. Louis Post-Dispatch, 8/29/2006:

> "Critics, said Rubin, are 'inventing wild claims to distract the public from what we're really voting on—the right of Missourians to obtain the same medical treatments available in other states.'"

Again, the FDA regulates medical treatments in the United States and FDA-approved treatments were available before the passage of Amendment 2 and still are available now. No Missourians were denied before or are denied now any FDA-approved treatment by any Missouri law.

Researchers were legally free to perform any stem cell research, including embryonic stem cell research and human cloning, before the passage of Amendment 2. And they still can after the passage of Amendment 2.

Patients could receive any stem cell treatment or "cure" before the passage of Amendment 2, and they still can after the passage of Amendment 2.

Just as an aside, the rhetoric of the supporters of Amendment 2 might leave voters with the impression that there are treatments or "cures" derived from human embryonic stem cells, which are obtained by destroying human embryos. In fact, while adult stem cells have been used to treat over 70 different conditions from cancer to autoimmune disease (see www.stemcellreseach.org), ***there is not a single treatment derived from human embryonic stem cells***. And there appears to be little prospect of any in the future, evidenced by this news item drawn from *Science*, a premier research journal:

> In a sign that hopes for quick medical benefits from [human embryonic] stem cells are fading, ES Cell International (ESI)—a company established with fanfare in Singapore 7 years ago—is halting work on human embryonic stem (hES) cell therapies. Investors lost interest because "the likelihood of having products in the clinic in the short term was vanishingly small," says Alan Colman, a stem cell pioneer who until last month was ESI's chief executive. (Science 317:305, 2007)

In any case, Missouri patients had then and have now access to any stem treatments regardless. Thus, the public statements of the supporters of Amendment 2 do not really identify any material changes in the law.

Leaving aside the puzzling and disingenuous fear-mongering about "access" to "cures", it is hard to see how the public statements of the cloners explain their massive $30 million dollar investment in Amendment 2.

Why would a handful of prominent individuals tied to Missouri research institutions spend such a large sum to "ensure access to cures" when Missourians already have the same access as any other citizen of the United States?

Again, a useful chart:

Permitted Activity	Before Election	After Election
Missouri patient access to FDA-approved therapies	Yes	Yes
Missouri patient access to stem-cell-related therapies	Yes	Yes
Adult stem cell research	Yes	Yes
Human embryonic stem cell research	Yes	Yes
Human cloning by researchers	Yes	Yes

Having examined both the Ballot Summary and the public statements of the cloners, we were starting to wonder how Amendment 2 changes our laws.

Who has ever heard of Missouri Technology Corporation?

In our as yet unfruitful investigations into the cloners' $30 million campaign, we discovered that Donn Rubin was not only the president and spokesperson for the Missouri Coalition For Lifesaving Cures (a leading supporter of Amendment 2) but also the chairman of an entity known as Missouri Technology Corporation.

We decided to examine this connection in the hope that it might possibly shed light on the motivations behind the cloners' $30 million investment.

Missouri Technology Corporation is a state-chartered, private, not-for-profit corporation created by § 348.251.2, RSMo with fifteen board members (§ 348.256, RSMo). According to the statute, the purposes of the Missouri Technology Corporation are

> 1. to contribute to the strengthening of the economy of the state through the development of science and technology,
> 2. to promote the modernization of Missouri businesses by supporting the transfer of science, technology and quality improvement methods to the workplace,
> 3. and to enhance the productivity and modernization of Missouri businesses by providing leadership in the establishment of methods of technology application, technology commercialization and technology development. (§ 348.256, RSMo)

Missouri Technology Corporation "may receive MONEY from any source, may borrow MONEY, may enter into contracts and may expend MONEY for any activities appropriate to its purpose…" (§ 348.256.3, RSMo) (emphasis added).

The Missouri Technology Corporation "may appoint staff and do all other things necessary or incidental to carrying out the functions listed in section 348.261" (§ 348.256.4, RSMo). The functions listed in § 348.261, RSMo, include:

- Determine specific areas in which financial investment in scientific and technological research and development from private businesses located in Missouri could be enhanced or increased if state resources were made available to assist in financing activities;
- Assist in financing the establishment and continued development of technology-intensive businesses in Missouri;
- Provide financial assistance through contracts, grants and loans to programs of scientific and technological research and development;
- Make direct seed capital or venture capital investments in Missouri business investment funds or businesses which demonstrate the promise of growth and job creation. Investments from the Missouri Technology Corporation may be in the form of debt or equity in the respective businesses.

There are a lot of words here, none of which is very explicit about a very unique feature of Missouri Technology Corporation. Missouri Technology Corporation can expend MONEYS "for any activities appropriate to its purpose" (§ 348.256.3, RSMo). Therefore, Missouri Technology Corporation can do all these things, and who knows what else, for the benefit of **private, for-profit corporations**. There is no apparent provision against this, so it is allowed.

In fact, Missouri Technology Corporation can route moneys into "direct seed capital or venture capital in Missouri… businesses which demonstrate the promise of growth and job creation" (§ 348.261.13, RSMo). Seed capital or venture capital investments are all about ***benefiting shareholders of private, for-profit corporations***.

Does Missouri Technology Corporation receive money from the state of Missouri?

Yes it does.

House Bill 16 (MO L 2007 HB no 16 § 190), a supplemental appropriations bill for fiscal year 2007, provides Missouri Technology Corporation with $15,000,000 from the sale of the assets of the Missouri Higher Education Loan Authority (MOHELA) "for the attraction and retention of high technology companies and commercialization of existing research being conducted in Missouri" (MO L 2007 HB no 16 § 190).

Missouri Technology Corporation also has strategic partners throughout Missouri, including the Department of Economic Development, which itself receives money from the state of Missouri.

Missouri Technology Corporation also receives funds from the General Revenue Fund of the state of Missouri through an entity termed the Missouri Technology Investment Fund. The Missouri Technology Investment Fund was established by § 348.264, RSMo and consists of

money appropriated to it by the legislature, gifts, contributions, grants or bequests from federal, private and other sources.

For example, from House Bill 7 (MO L 2007 HB no 7 § 30):

> Section 7.030. Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the Missouri Technology Investment Fund for… Missouri Technology Corporation/Research Alliance of Missouri…
> From General Revenue Fund $4,329,999
> (MO L 2007 HB no 7 § 30)

We have now identified three separate sources of MONEY from the State of Missouri for the Missouri Technology Corporation. These are:

1. The sale of MOHELA assets,
2. The Missouri Technology Investment Fund, and
3. The State Treasury, General Revenue Fund.

So Missouri Technology Corporation can receive state money from at least these three sources, and can expend money "for any activities appropriate to its purpose" (§ 348.256.3, RSMo).

Isn't this interesting… a chief spokesperson for Missouri Coalition For Lifesaving Cures, Mr. Rubin, seems to make no specific points about how Amendment 2 changes the laws of the state, makes assertions about how the citizens of Missouri are going to be denied "cures" and "therapies", while the existence of Missouri Technology Corporation is hardly mentioned.

Missouri Technology Corporation is a center point of a money distribution apparatus that has as a prime purpose "the strengthening of the economy of the state through the development of SCIENCE and TECHNOLOGY" (§ 348.256, RSMo) (emphasis added). Did it ever cross his mind to emphasize this?

It seems more than an odd coincidence that the same person, Mr. Rubin, served as chairman of Missouri Technology Corporation, the board of which can direct the flow of substantial amounts of state MONEYS; and as president, board member, and chief spokesman for Missouri Coalition For Lifesaving Cures.

Our curiosity was aroused. Are there any other avenues for state funding of science and technology? We came across an interesting article:

> Nearly $40 million once set aside by Missouri to support life science research and commercialization could soon become a casualty of the state's battle over the legality of embryonic stem cell research… The spending dispute centers on a 2003 law that earmarked 25 percent of the state's tobacco settlement money to the ***Life Sciences Trust Fund*** beginning in July. (St. Louis Post-Dispatch, 'Stem Cell Squabble in Missouri Endangers $40 Million", March 30, 2006, emphasis added)

Hmmm… Very interesting… Apparently there was LOTS of state MONEY at stake in entities such as Missouri Technology Corporation and now the Life Sciences Research Trust Fund. Who ever heard about this in the promotions for Amendment 2?

What is the Life Sciences Research Trust Fund?

Let's look at selected sections of the authorizing statute of the Life Sciences Research Trust Fund:

HOUSE BILL NUMBER 688
92ND GENERAL ASSEMBLY
2003

AN ACT

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 196, RSMo, is amended by adding thereto twelve new sections, to be known as sections 196.1100, 196.1103, 196.1106, 196.1109, 196.1112, 196.1115, 196.1118, 196.1121, 196.1124, 196.1127, 196.1130 and Section 1, to read as follows:

196.1100. 1. There is hereby established in the state treasury the "Life Sciences Research Trust Fund" to be held separate and apart from all other public moneys and funds of the state including but not limited to the tobacco securitization settlement trust fund established in section 8.550, RSMo. The state treasurer shall ***deposit into the fund twenty-five percent of all moneys received*** from the master settlement agreement, as defined in section 196.1000, beginning in fiscal year 2007 and ***in perpetuity*** thereafter. Moneys in the fund shall not be subject to appropriation for purposes other than those provided in sections 196.1100 to 196.1130 without a majority vote in each house of the general assembly. All moneys in the fund shall be used for the purposes of sections 196.1100 to 196.1130 only. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, the moneys in the fund shall not revert to the credit of general revenue at the end of the biennium. (emphasis added)

Suddenly, are we looking at a WHOLE LOT MORE MONEY! First, there is the disputed $40 million balance, but we also discover a PERPETUAL annual flow of MONEYS into the fund from the "tobacco securitization settlement." Wow, here is a existing sum of MONEYS that is to be increased every year—forever and ever in perpetuity. And it is called the Life Sciences Research Trust Fund. With all the talk about "cures" and "therapies" and "research", has anyone ever heard a proponent of Amendment 2 mention this Trust Fund?

196.1100.2. MONEYS in the life sciences trust fund shall be used strategically, in cooperation with other governmental and not-for-profit private entities to enhance

> the capacity of the state of Missouri's ability to perform research to better serve the health and welfare of the residents of the state of Missouri as a center of life sciences research and development by building on the success of research institutions located in Missouri, creating in and attracting to Missouri new research and development institutions, commercializing the life sciences technologies developed by such institutions, and enhancing their capacity to carry out their respective missions.

It is clear from this paragraph 2 that these MONEYS can be applied to a broad set of purposes "used strategically… to enhance the capacity of the state of Missouri's ability to perform research…"

And so, who controls all this MONEY? And who gets it?

> 196.1109. All moneys that are appropriated by the general assembly from the life sciences research trust fund shall be ***appropriated to the life sciences research board*** to increase the capacity for quality of life sciences research at public and private not-for-profit institutions in the state of Missouri and to thereby:
>
> (1) Improve the quantity and quality of life sciences research at public and private not-for-profit institutions, including but not limited to basic research…
>
> 196.1115.3. The life sciences research board shall utilize as much of the moneys as reasonably possible for building capacity ***at public and private not-for-profit institutions to do research***…

Wow! The very few individuals who comprise the life sciences research board will control the distribution of a very large, perpetual stream of MONEY from the Life Sciences Research Trust Fund to ***private*** and ***public*** non-for-profit research institutions. How many Missouri citizens have been made aware of this?

NOW we are getting somewhere. There is A LOT of MONEY in the Life Sciences Research Trust Fund, and an unquantifiable amount of MONEY is going to flow into it in the future, and its beneficiaries will be private and public research institutions.

How much money is a LOT of MONEY? Let's look at a lawsuit filed in this year in Cole County, Missouri.

The Redmond Lawsuit

On May 30, 2007, Thomas Redmond and Margaret Redmond filed in the Circuit Court of Cole County, Missouri a lawsuit entitled State ex rel. Thomas Redmond and Margaret Redmond vs. State of Missouri, et al., Case No. 07AC-CC00478.

It contains some very, very interesting information all of which we take at face value. Most interesting are further details on the "Tobacco Settlement". We quote from specific language of this lawsuit:

> (Redmond v. State of Missouri)
> 4. The State of Missouri filed suit against certain tobacco companies in the Circuit Court in St. Louis styled State of Missouri v. American Tobacco Co. Inc. et al. No. 972-1465 with respect to the sale of tobacco products in the State and the health risks to residents of the State associated with the usage of such tobacco products.
>
> 5. Thereafter, on November 23, 1998 Jeremiah W. (Jay) Nixon, Attorney General of the State on behalf of the State, along with other Attorneys General and other representatives of 45 states, Puerto Rico, the U.S. Virgin Islands, American Samoa, the Northern Mariana Islands, Guam and the District of Columbia signed a Master Settlement Agreement ("Settlement Agreement") with the five largest tobacco manufacturers ending a four-year legal battle between the states and the industry that began in 1994 when Mississippi became the first state to file suit. The Settlement Agreement is too voluminous to attach hereto but it is incorporated herein by reference.
>
> 6. The Settlement Agreement under Article IX required the Tobacco Defendants to pay certain funds as part of the settlement as follows:
>
> a) The initial payments were to be made to the designated Escrow Agent under Article IX subparagraph (b) commencing January 10, 2000 in the amount of $2,400,000,000 and increasing in amount each year thereafter until it reached $2,701,221,144 on January 10, 2003 which was the last year of the initial payments.
>
> b) Commencing on April 15, 2000 and on April 15 of each year thereafter in perpetuity Article IX subparagraph (c) requires the Tobacco Companies to pay a base amount starting at $4,500,000,000 in 2000 and increasing in amount each year thereafter until the yearly payment reaches $9,000,000,000 in the year 2018 and to be paid thereafter in the amount of $9,000,000,000 per year in perpetuity.

This is a real eye opener. The short story is the huge amount of MONEY that tobacco defendants must pay—$4,500,000,000 per year with annual increases until 2018, when the payment reaches $9,000,000,000 per year and thereafter becomes a ***PERPETUITY***, which is a requirement to pay ***FOREVER***. Continuing with the text of the lawsuit:

> (Redmond v. State of Missouri)
> 7. From fiscal year 1998 through fiscal year 2006 $1,098,678,208 has been generated and collected by the State from the Settlement Agreement during the following fiscal years:

Missouri Actual Receipts

FY 1998	0
FY 1999	0
FY 2000	0
FY 2001	$338,230,653
FY 2002	$172,679,543
FY 2003	$166,895,179
FY 2004	$142,829,966
FY 2005	$144,964,644
FY 2006	$133,078,223
	$1,098,678,208

How many people in Missouri realize that from FY 2001 to FY 2006 the state received a total of $1,098,678,208 from the tobacco settlement? This is real MONEY. But it is nothing next to the MONEY that is estimated to be received looking forward to the year 2025.

(Redmond v. State of Missouri)

8. The State is to receive 2.2746011% of the settlement proceeds under the Settlement Agreement and the amount of money estimated by the State to be received by the State of Missouri from the Settlement Agreement for fiscal year 2007 through fiscal year 2025 is broken down as follows:

Missouri Prospective Receipts

Fiscal Year	Amount
2007	$133,000,000
2008	$143,000,000
2009	$146,400,000
2010	$148,000,000
2011	$149,700,000
2012	$151,400,000
2013	$153,100,000
2014	$154,800,000
2015	$156,600,000
2016	$158,400,000
2017	$160,200,000
2018	$168,400,000
2019	$170,300,000
2020	$172,300,000
2021	$174,200,000
2022	$176,200,000
2023	$178,200,000
2024	$180,200,000
2025	$182,200,000
Total	$3,056,600,000

The Life Sciences Trust Fund is scheduled to receive 25% of this more than $3 billion, or $764,150,000 (more than ***seven hundred million dollars***) just through 2025. This is only the first 19 years of a perpetuity, but it gives us a good idea of the tremendous amount of money involved. And it will continue to grow forever beyond this.

Who in Missouri has any idea of the huge amount of MONEYS that will be flowing into the Life Sciences Research Fund? As a voting citizen of Missouri will we ever have anything to say about how this money is spent? NO!!! If not the citizens, then who will control it?

How about the Missouri Life Sciences Research Board? Look at §196.1103, RSMo:

> § 196.1103, RSMo. The management, governance, and control of moneys appropriated from the life sciences research trust fund shall be vested in the "Life Sciences Research Board" which is hereby created in the office of administration as a type III division and which shall consist of seven members. The following shall apply to the life sciences research board and its members:
>
> (1) Each member shall be appointed by the governor with the advice and consent of the senate pursuant to the procedures herein set forth for a term of four years; except that, of the initial members of the board appointed, three shall be appointed for two-year terms and four shall be appointed for four-year terms.

All money flowing out of the Life Sciences Research Trust Fund will be controlled by just ***seven private citizens*** appointed by the governor. This is a substantial amount of power for seven unelected individuals.

But let us turn back to the lawsuit to see what relief it is seeking. In particular we quote paragraphs 24, 25, 26 and following:

> (Redmond v. State of Missouri)
> 24. The State Treasurer has no justification whatsoever for not depositing into the Life Sciences Trust Fund **$274,669,552** for fiscal years 1998 through 2006 which is twenty-five (25%) of the $1,098,678,208, and the Missouri Legislature has no justification for diverting from its intended purpose the full $33,250,000 which the State Treasurer was mandated under § 196.1100 RSMo.
>
> 25. Section 196.1100 RSMo makes it very specific that these moneys received from the Settlement Agreement are to be deposited by the State Treasurer into the Life Sciences Research Trust Fund and are trust moneys which are untouchable and may not be tampered with by the Legislature or the State Treasurer under the law and are to be used solely for and by the Life Sciences Research Trust Fund "to perform research to better serve the health and welfare of the residents of the State of Missouri" and "the moneys in the fund shall not revert to the credit of general revenue."

> 26. As residents, citizens and taxpayers of the State of Missouri, Plaintiffs are two of the named and intended beneficiaries of the moneys received from the Settlement Agreement to be paid to the Life Sciences Research Trust Fund, as mandated by § 196.1100, RSMo.
>
> WHEREFORE, Plaintiffs pray for judgment in their favor against the State of Missouri, for the State and the State Treasurer to be required to pay to the Life Sciences Research Trust Fund the principal sum of $283,364,390 plus interest thereon at the statutory rate of nine percent (9%) for each year that those payments are not deposited to the Life Sciences Research Trust Fund as mandated and required by the specific language of § 196.1100, RSMo, for a judgment in favor of Plaintiff and against State for the reasonable attorney's fees of the Plaintiffs, for an order of payment of the attorney's fees of the Plaintiffs and costs from the amount recovered under the common fund doctrine, and an order for such other and further relief as the Court deems just and proper under the circumstances."

In other words, the Redmonds are asking that $283,364,390 plus interest be deposited into the Life Sciences Research Trust Fund. We estimated the interest to be $58,313,786, which gives a total of $341,678,176 to be added into the Life Sciences Trust Fund. Since according to the cited article above the Fund balance should be approximately $40 million at present, this claim would raise the beginning balance of the Life Sciences Trust Fund to approximately $381,678,176—***381 million dollars***—or almost ***ten times*** the balance at present.

Since the legislature has presumably already spent this money, any replacement will come from the Missouri taxpayers.

This beginning balance of $381 million would be increased by each annual installment of the perpetuity from the tobacco settlement, as we discussed above, to yield an enormous and perpetual stream of public moneys.

Then, the Redmonds are making the extraordinary claim that this huge stream of money should be untouchable by the legislature:

> MONEYS received from the settlement agreement are to be deposited by the State Treasurer into the Life Sciences Research Fund and are trust moneys which are untouchable and may not be tampered with by the Legislature…." (Redmond v. State of Missouri, paragraph 25)

In one fell swoop they are attempting to abolish the appropriation power of the general assembly of Missouri, which has existed since the beginning of the State.

And then, they are attempting to create new class of entitled citizens called "beneficiaries" of the Life Sciences Research Trust Fund. But if they want to abolish the appropriation power of the legislature, who is going to deal out all these MONEYS from the Life Sciences Trust Fund to the

new class of entitled beneficiaries? This is legal vacuum that will create unending litigation. And who will decide all this litigation?—Missouri judges.

Therefore, the Redmond claim would transfer control of all these MONEYS from the Missouri legislature to the Missouri court system.

Yet it gets worse. There is still another claim that the "Legislature has broken faith and broken its covenant with the residents of this State to care for them and find cures for their illnesses" (Redmond v. State of Missouri, paragraph 28).

What's going on here? Having asserted claims that would abolish legislative authority over the public funds in the Life Sciences Research Trust Fund and that would create a new entitled class of "beneficiaries", the plaintiffs are now claiming that the state government is required to "cure" our illnesses.

Wow! We have no opinion on the merits or the outcome of this lawsuit. But we wonder who else in Missouri besides the Redmonds would be interested in taking control of this huge perpetual river of money that is the Life Sciences Trust Fund so that we can get our "cures".

Let's take our bearings

Where are we? The spending of an unprecedented $30 million to promote Amendment 2 by a handful of individuals tied to private research institutions in the state piqued our curiosity. Why such an enormous investment? A careful parsing of the words of the Ballot Summary and the public pronouncements of Amendment 2 supporters yielded few clues. It was difficult to identify any obvious material change in the law instituted by Amendment 2 from these sources. And in particular, researchers were free and still are free to perform any stem cell research in Missouri, and patients were free and still are free to receive any potential treatments derived from stem cell research.

In our investigations, we discovered that the president of a leading organization campaigning in favor of Amendment 2 was also the chairman of the board of Missouri Technology Corporation, a corporation funded by the state with $15,000,000 from the sale of MOHELA assets. Missouri Technology Corporation is charged with distributing funds to entities, including ***private, for-profit corporations,*** for the purpose of encouraging the development of science and technology in Missouri (MO L 2007 HB no 16 § 190).

Next, we stumbled upon the Life Sciences Research Trust Fund, established by the state to fund life sciences research. The Fund had a targeted balance of nearly $40,000,000 in 2006, and is allocated ***perpetual*** additions from the multi-***billion***-dollar Tobacco Settlement thereafter.

And then, we discovered the Redmond lawsuit, in which two private citizens are asking a judge to increase the "beginning balance" of the Life Sciences Trust Fund even further and remove control of the money permanently from the hands of the elected representatives of Missouri.

Even more intriguingly, they seem to want the judge to create a new entitlement for citizens to be "cured" by the state.

First $15 million from Missouri Technology Corporation… then approximately $40 million in the Life Sciences Research Trust Fund… then hundreds of millions from the Tobacco Settlement in the future… and then an odd lawsuit with claims that would increase the Life Sciences Research Trust Fund even further, abolish legislative control over this money, and create a constitutional right to be cured via research in the state.

Wait a minute… did anyone ever hear anything about these rivers of money from the supporters of Amendment 2?

Maybe we had better look ***a little more carefully*** at the full text Amendment 2.

Has anyone ever found or seen or read the 2000-word text of Amendment 2?

The proponents of a citizen initiative petition compose their own amendment text, a text that amends the state constitution directly if approved by the voters. It is then the duty of the appropriate elected officials of the state to present fairly and accurately the material contents of the amendment text to the voter in the form of a short Ballot Summary in the voting booth (§ 116.025 RSMo).

The text of Amendment 2 is about 2000 words. The Ballot Summary is about 100 words. We don't think anyone should have to have read a 2000-word text to figure out what they were voting on when they went into a voting booth on Election Day, November 7, 2006. America's democracy depends on the integrity of the voting booth. We believe almost all voters rely on the Ballot Summary that is before their eyes in the voting booth. The purpose of the Ballot Summary is to convey the material changes in the law to give a fair and transparent translation of the complete amendment text to the typical voter, who sees only the Ballot Summary, not the full amendment text, when in the voting booth. We believe that most voters never read the entire text of a proposed amendment.

A ballot summary must protect the rights of the well educated as well as the poorly educated. It must treat fairly all the diversities expected among our voting citizens. No one should be at a disadvantage because of what a Ballot Summary says. And every voter should have every reasonable chance to fully comprehend the changes in the laws from the words before him. This obligation is especially strict in the case of a citizen initiative where the voters must be able to fairly evaluate what the proposed initiative will do to the constitution of the state.

To get a proposed amendment on the ballot, the proponents present it as a petition to be signed by the citizens. The text must be available to voters when their signature is solicited. When the signature seekers for Amendment 2 presented their petition to the citizens, the Ballot Summary accompanied the 2000-word text on their clipboards. As we have already mentioned, there is nothing in the Ballot Summary that would alert a voter that he or she should read the 2000-word text. Understanding the complexity of the full 2000-word text as we do, we doubt that few if any

ever attempted to read the full text when they signed the petition outside a grocery store or post office or wherever. No one could fully understand the 2000-word text in such a casual setting. Rather, they no doubt relied on the 100-word Ballot Summary.

Who is responsible for summarizing the full amendment text in the Ballot Summary?

In the state of Missouri, at least three officials are involved—the Secretary of State, the Attorney General, and the State Auditor.

State officials are really fiduciaries of the VOTERS and have a clear obligation to translate the complete text of the initiative petition into a Ballot Summary that tells the voters what the amendment text means. The officials who write the Ballot Summary have a special fiduciary obligation to the VOTERS to reveal how the amendment proposes to change the constitution in a clear and understandable way in this shorter format.

But from our already thorough review of the Ballot Summary, we cannot find any words that identify specific changes in the laws of the State of Missouri by Amendment 2. And we certainly didn't see anything anywhere about hundreds of million and even billions of dollars flowing around and through the state's fiscal system for "science" and "technology".

Oh yes, the State Auditor did mention that "The proposed constitutional amendment would have an estimated annual fiscal impact in the state and local governments of $0-$68,916" (Ballot Summary). If anyone standing in a voting booth was concerned about Amendment 2 costing the state or the taxpayers MONEY, this statement would eliminate their concerns with finality if they first read it in the VOTING BOOTH. And this statement is the last thing on the Ballot Summary.

Structure of the amendment text

Since the Ballot Summary doesn't mention any material changes in the law much less anything about the hundreds of millions of dollars at stake for life science research, we thought we had better take a closer look at the actual amendment.

The amendment has eight sections organized as follows:

1. Title
2. Establishes that any stem cell research may be conducted in Missouri
3. Penalties established
4. Annual reports required
5. See comments below
6. Definitions
7. See comments below
8. All sections are severable

Who in Missouri ever saw the text of Amendment 2? There is nothing in the Ballot Summary or in the cloners' public pronouncements that would direct a voter's attention to this text. As a practical matter, it covers three single spaced pages and contains about 2000 words (see our website, www.moroundtable.org). This is a lot of language for a constitutional amendment, so a voter would need something significant to trigger a desire to seek it out for a complete review. So where could it be found?

The complete text was available on the websites of the Secretary of State and of the Missouri Coalition for Lifesaving Cures, which was the leading proponent organization for Amendment 2. But the complete text was NOT printed in the proponents' own public literature piece entitled "The Missouri Stem Cell Research and Cures Initiative—What it says—What it does". It is extremely noteworthy that this color brochure did not include Section 6, that is the Definition Section, of the amendment text. Here is their explanation for the exclusion, taken from page 5 of their brochure:

WHAT IT SAYS	WHAT IT DOES
6. As used in this section, the following terms have the following meanings: [NOTE: ***To save space in this document, these legal and scientific definitions are not copied here***. If you'd like to read all of the definitions, please visit the website www.MissouriCures.com.] (emphasis added)	***To save space in this document, definitions of the legal and scientific terms in the Initiative are not described here***, since the basic effects of the definitions are included in the explanations of the provisions. If you'd like to read the legal and medical definitions, you can view the entire measure by visiting the website www.MissouriCures.com. (emphasis added)

Of the eight pages of the proponents' brochure, only five are used to explain the Amendment text. Section 6 of the amendment is a very large section constituting about 35% of the complete text. If this is true, the cloners would have only had to include approximately an additional two pages in their brochure to put the complete text before the reader. The brochure with the entire text could then have been 10 pages. They chose not to do this. But why?

In a $30 million dollar campaign, it seems a stretch that the cloners needed to "save space" by not printing Section 6 in their public brochure. At the same time they were saving space, they were making repetitive mailings of color brochures across the state. These expensive mailings were targeted to different constituencies, yet they claim they needed to save space and money by not printing the Section 6 definitions in their explanation brochures.

This omission made it very difficult for a VOTER or other interested party to read Section 6 in the proximate written context of the other sections of the complete text. The definitions in Section 6 are essential to comprehending exactly what are the ***true changes*** in the state of the law before and after the passage of Amendment 2.

To understand the Amendment clearly, it must be read with the definitions in Section 6 physically proximate to the words and phrases they define in the body of the text. Without this proximity, even the most diligent reader will have great difficulty comprehending it. Without comprehension of the Section 6 definitions, no voter would understand what the text of Amendment 2 actually means.

Reversals of apparent meanings

The reality of the structure of the 2000 word text is that it is full of assertions that seem reasonable if taken at face value. But these assertions often have their apparent meanings changed, if not completely reversed, when the relevant definitions of Section 6 are applied.

Here is just one example of this:

Section 2(4) of Amendment 2 states that "No person may, for ***valuable consideration***, purchase or sell human blastocysts or eggs for stem cell research". (emphasis added)

That seems obvious. You can't pay women for their eggs.

But look at the definition of 'valuable consideration' in Section 6(17):

> 'Valuable consideration'… does not include ***reimbursement*** for reasonable costs incurred in connection with the removal, processing, disposal, preservation, quality control, storage, transfer, or donation of human eggs, sperm, or blastocysts, including lost wages of the donor. Valuable consideration ***also does not include the consideration paid to a donor of human eggs*** or sperm by a fertilization clinic…

In other words, fertilization clinics can pay whatever they want to donors of human eggs, and then the cloners can reimburse the clinics for their costs. The net result is that the cloners have the constitutional right to pay women anything they want for eggs.

Thus, Amendment 2 ***pretends*** to ban paying women for eggs, but when you look at Section 6, the definition there ***reverses*** the plain meaning of the apparent ban. Amendment 2 actually ***creates a constitutional right to do the very thing it pretends to ban***, in this case payment for human eggs.

We detail several other examples of this deceptive language structure in our brochure entitled "A Word-By-Word Critique Of The So-Called 'Missouri Stem Cell Research And Cures Initiative'" (see www.moroundtable.org).

This deceptive language structure placed an intolerable burden on the citizen voters of Missouri in their attempts to understand the true meaning of Amendment 2.

We find: "funds" and "public funds"

But fortunately for our readers, the citizens of Missouri, our prior work in publishing "A Word-by-Word Critique of the So-called 'Missouri Stem Cell Research and Cures Initiative'" provided us with some experience in penetrating and interpreting the language structure of Amendment 2. And from our close inspection of previously existing Missouri statutes, we have developed some very interesting insights.

Remember that HB 16.190—a supplemental appropriations bill for fiscal 2007—provides Missouri Technology Corporation with $15,000,0000 from the sale of MOHELA student loan assets "for the attraction and retention of high technology companies and commercialization of existing research being conducted in Missouri" (MO L 2007 HB no 16 § 190).

The publicity surrounding the MOHELA student loan sale controversy rang a large collective bell in our accumulated awareness and understanding of Amendment 2.

This very controversial appropriation received a lot of attention because it proposed selling student loans and utilizing the proceeds for purposes other than facilitating student education. But for our purposes in our examination of the text of Amendment 2, the $15 million appropriation points to very specific words of Section 5 therein. Here is the entire text of that section:

> 5. To ensure that no governmental body or official arbitrarily restricts ***funds*** designated for purposes other than stem cell research or stem cell therapies and cures as a means of inhibiting lawful stem cell research or stem cell therapies and cures, no state or local governmental body or official shall eliminate, reduce, deny, or withhold any ***public funds*** provided or eligible to be provided to a person that (i) lawfully conducts stem cell research or provides stem cell therapies and cures, allows for such research or therapies and cures to be conducted or provided on its premises, or is otherwise associated with such research or therapies and cures, but (ii) receives or is eligible to receive such ***public funds*** for purposes other than such stem cell-related activities, on account of, or otherwise for the purpose of creating disincentives for any person to engage in or otherwise associate with, or preventing, restricting, obstructing, or discouraging, such stem cell-related activities.

Our first observation is the presence of all the unnecessary phrases and words whose only purpose seems to be to obfuscate the true meaning.

Second, for the first time in the 2000-word text, which most voters almost certainly have not read, we find the words "FUNDS" and "PUBLIC FUNDS". In the law that created the Life Sciences Research Trust Fund, the term "public funds" is defined:

> § 196.1127.2, RSMo. As used in the this section the following terms shall mean:
> (7) "Public funds", include:

(a) Any MONEYS received or controlled by the state of Missouri or any official, department, division, agency, or political subdivision thereof, including but not limited to moneys derived from federal, ***state***, or local taxes, gifts, or grants from any source, ***settlements of any claims or causes of action***, public or private, bond proceeds, federal grants or payments, or intergovernmental transfers;

(b) Any MONEYS received or controlled by an official, department, division, or agency of state government or any political subdivision thereof, or to any person or entity pursuant to appropriation by the general assembly or governing body of any political subdivision of this state;

Now things are starting to get interesting…

At first glance, Section 5 of Amendment 2 may look innocuous because it is very hard to read. After struggling for quite a long time trying to decipher it, we tried to delete redundant and superfluous words. Here is what we got:

5. To ensure that no governmental body . . . restricts funds designated for purposes other than stem cell research . . . as a means of inhibiting lawful stem cell research . . . no . . . governmental body . . . shall . . . reduce . . . or withhold any public funds . . . provided to a person that (i) lawfully conducts stem cell research . . . (ii) receives or is eligible to receive such public funds for purposes other than such stem cell-related activities . . . for the purpose of creating disincentives for any person to engage in . . . stem cell-related activities.

In other words, it is ***unconstitutional*** to reduce or withhold public funds allocated for purposes other than stem cell research to create disincentives or discourage any stem-cell related activities. Wow!

So what does this have to do with the Missouri Technology Corporation? Remember that Donn Rubin was both a chief spokesperson for the proponents of Amendment 2 and chairman of Missouri Technology Corporation.

You will recall that Missouri Technology Corporation "may expend MONEYS for any activities appropriate to its purpose" (§ 348.256.3, RSMo). Therefore such expenditures could easily be ***routed through a for-profit corporation*** doing "activities appropriate to [Missouri Technology Corporation's] purpose" (§ 348.256.3, RSMo). You may also recall that we showed how Missouri Technology Corporation receives money from at least three separate sources of the state of Missouri.

Let's apply the language of Section 5 to a specific example. If Missouri Technology Corporation gives MONEYS to XYZ Corporation, a private for-profit corporation, for purposes "other than stem cell research", Missouri Technology Corporation conveys to that XYZ Corporation the opportunity to ***claim that money as an ongoing entitlement***!

How so?

All XYZ Corporation has to do to make its receipt of the money from Missouri Technology Corporation an ongoing stream is to hire a stem cell researcher! Section 5 says "no . . . governmental body . . . shall . . . reduce . . . or withhold any public funds . . . provided to a person. . . for the purpose of creating disincentives for any person to engage in . . . stem cell-related activities."

In other words, if you reduced or eliminated the non-stem cell MONEYS, you could be "creating disincentives" for the XYZ Corporation to hire a stem cell researcher, which would be a violation of Section 5. It would be unconstitutional to ever reduce or eliminate the non-stem cell MONEY, because it would create a disincentive to stem cell research. And so you could ***never*** cut off the non-stem cell moneys as long as the XYZ Corporation was doing stem cell research or stem cell-related activities.

Bingo!—A huge entitlement scheme unveiled

Incredible! XYZ Corporation becomes an entitled ward of the State Treasury of Missouri by the expenditure policies of Missouri Technology Corporation whose chairman was Donn Rubin with his board of fifteen directors members. The transaction effectively escapes legislative oversight in the case where the hiring of the stem cell researcher is subsequent to the receipt of Missouri Technology Corporation money. And how many of these XYZ-type corporations would be so funded? Who knows? There are no apparent restrictions.

In a variation of this example, assume the XYZ Corporation already has hired a stem cell researcher before it receives state MONEY from Missouri Technology Corporation for purposes other than stem cell research. The same thing happens. The MONEYS for purposes other than stem cell research become indefinitely affixed to the State Treasury, since any future reduction will create an unconstitutional disincentive to clone. Amazing!

Section 5 enables an exceedingly clever scheme to entitle public funding of private entities based on decisions of a small group of Missouri Technology Corporation directors. For example, the legislature could be providing money to cut the grass around the Capitol building, and if the grass cutter hires a stem cell researcher, the legislature could never deny him funding to cut the grass.

We are almost afraid to ask the question… Would this same language of Section 5 apply to the MONEYS flowing out of the Life Sciences Trust Fund? Unfortunately for the taxpayers of Missouri, the answer is YES!

The Life Sciences Research Board will be enabled to spend at least all the moneys in the Life Sciences Research Trust Fund for the purposes expressed in §196.1100.2, RSMo.

> 2. Moneys in the life sciences research trust fund shall be used strategically, in cooperation with other governmental and not-for-profit private entities, to enhance the capacity of the state of Missouri's ability to perform research to better

> serve the health and welfare of the residents of the state of Missouri as a center of life sciences research and development by building on the success of research institutions located in Missouri, creating in and attracting to Missouri new research and development institutions, commercializing the life sciences technologies developed by such institutions, and enhancing their capacity to carry out their respective missions.

Suppose the Life Sciences Research Trust Fund makes a grant to ABC Institution (private or public) to do stem cell research or hire a stem cell researcher, and ABC Institution already receives or is eligible to receive public funds for purposes other than stem cell research. Then ABC Institution can claim entitlement to the non-stem cell research funds and thereafter it will have attached itself to the state budget forever, because "no state or local government body shall eliminate, reduce, deny, or withhold any public funds" for the purpose of "discouraging" stem cell research.

This is how the initial entitlement to public funds can happen outside of legislative control.

But how does the entitled money grow after the initial funding is achieved?

The empowerment of Section 5 by the extraordinary Section 7

Let's look at the extraordinary Section 7 of Amendment 2:

> 7. The provisions of this section and of all state and local laws, regulations, rules, charters, ordinances, and other governmental actions shall be construed in favor of the conduct of stem cell research and the provision of stem cell therapies and cures. No state or local law, regulation, rule, charter, ordinance, or other governmental action shall (i) prevent, restrict, obstruct, or discourage any stem cell research or stem cell therapies and cures that are permitted by this section to be conducted or provided, or (ii) create disincentives for any person to engage in or otherwise associate with such research or therapies and cures.

Section 7 makes stem cell research and human cloning the highest law of the state, superceding every other law or right in the Missouri Constitution and statutes.

We doubt if there are any other words like these in any state's constitution, where the conduct of a ***private activity*** becomes a ***constitutional preference***. Let's just isolate the key words:

> 7. [A]ll state and local laws . . . and . . . governmental actions shall be construed in favor of . . . stem cell research . . . . No state or local law . . . or . . . governmental action shall (i) prevent . . . or discourage any stem cell research . . . or (ii) create disincentives for any person to engage in or . . . associate with such research . . . .

Just imagine that ***any discouragement*** of cloning and stem cell research is UNCONSTITUTIONAL.

Thus ***any public funds*** appropriated for stem cell research or to any entity that does stem cell research, whether such funds are for stem cell research or not, can ***never be cut***, since doing so could be construed as a discouragement to stem cell research which would be a violation of Section 7. Such public funding can never decrease; it can only increase. Why? Because to allow other types of public funding to grow without allowing stem cell research funding to grow would also be construed as an unconstitutional discouragement to stem cell research.

Thus Section 7 ***creates a constitutional entitlement to ever-increasing public funding of stem cell research and institutions, whether public or private***.

No wonder a handful of individuals with ties to research institutions in Missouri spent $30 million on the Amendment 2 campaign.

Under the authority of Section 7, if the Life Sciences Research Board decides to spend money on personnel doing stem cell research, a whole bunch of doors are opened to economic opportunity.

Consider this example:

If any ***one*** stem cell researcher is getting paid by the Life Science Research Trust Fund, then ALL stem cell researchers can claim entitlement to receive Life Science Research Trust Fund moneys so they won't be discouraged from performing stem cell research. By using state funds to pay only one stem cell researcher, the state would be discouraging all other stem cell researchers who did not get state funds, which would be unconstitutional.

Going back to the XYZ for-profit Company that received moneys from Missouri Technology Corporation for purposes other than stem cell research, the stem cell researcher that they hired would be entitled to claim moneys from the Life Sciences Research Trust Fund. And since restricting any future payments to such a researcher is unconstitutional because it would discourage stem cell research, the costs of the XYZ researcher becomes a permanent attachment to the state budget. So by applying Section 5 and 7 to the XYZ Company, both its moneys for purposes other than stem cell research and the moneys for the purpose of such research become permanent attachments to the Missouri state budget—forever!

And can the legislature, your elected representatives, do anything about this—ABSOLUTELY NOT! It is driven by constitutional entitlements. Language in the constitution supercedes any other laws or actions of our elected representatives.

Is there any limit to these claims to state funding?

These funding mechanisms working through the application of Sections 5 and 7 are how Amendment 2 starts the initial funding and starts the MONEY wheels rolling. But where could this all lead?

Here are extracts of an article from the St. Louis Post-Dispatch (September 15, 2006):

> Missouri's scientific, theological and political debate over embryonic stem cell research landed Thursday on economic ground.
>
> Proponents of Amendment 2 – a Nov. 7 ballot initiative to ensure that any stem cell research, therapies and cures permitted under federal law remain legal in Missouri – released a study saying the state could lose billions of dollars if the initiative fails.
>
> The report, commissioned by the Missouri Coalition for Lifesaving Cures... outlines several ways in which the state stands to gain financially from the success of embryonic stem cell treatments…
>
> The various scenarios and economic benefit figures "were designed to be analyzed in module form, so you could look at one line reasoning without accepting all of them," he said. "It permits a reasonable person to assess each thing we did in its own framework." (St. Louis Post-Dispatch September 15, 2006)

This is exactly what we are going to do here.

Let's consider this report with the background in mind of how state PUBLIC FUNDS and MONEYS for stem cell research are provided by Sections 5 and 7.

> The coalition's study assumes embryonic stem cells eventually will lead to effective treatments for five conditions that combined affect about 285,000 Missourians: Parkinson's disease, stroke, heart attack, spinal cord injury, and Type 1 diabetes…

But if a citizen of Missouri is going to receive an "effective treatment" it will have to be approved by the Food and Drug Administration (FDA). For this reason it is very simple to estimate the total cost of developing such a cure by referencing historical experience:

> Tufts Center for the Study of Drug Development today announced that the average cost to develop a new prescription drug is 802 million dollars [$802,000,000]. Related Tufts research has found that it takes between 10 and 15 years to develop a new prescription medicine and win approval [i.e. from the FDA] to market it in the United States. (Tufts Center for the Study of Drug Development, November 2001)

From this we calculate that the estimated average cost of 5 "effective treatments" is $800,000,000 x 5 = $4,000,000,000—that's right, four billion dollars. Normally creating drugs is the business of pharmaceutical and biotechnology companies, but the implication in the Post-Dispatch article about the economic study is that Missouri is going to go into this business in a

big way. And by the way, if a pharmaceutical or biotech company invents an FDA-approved drug, the citizens of Missouri would get all of the benefit of such a drug or cure without any of the development costs.

Yet the implication of the study is that Missouri research is going to produce these treatments. But no matter what, Missouri researchers are going to want a lot of money. For example, look at the St. Louis Post-Dispatch article's comments about the Stowers Institute, whose founders James and Virgina Stowers contributed over $25 million in support of passage of Amendment 2 (MEC report of Missouri Coalition of Lifesaving Cures, December 2006).

> The study also points to Kansas City, where the Stowers Institute For Medical Reseach is considering a $300 million expansion—but only if Amendment 2 passes, ensuring unfettered research opportunities for the world-class researchers it hopes to employ. These 500 scientists are expected to receive the same average $72,500 in annual salary and benefits received by the 350 already working at the institute… (St. Louis Post-Dispatch 9/15/2006)

The first important point is that there has never been a law in Missouri preventing the Stowers Institute from ***using its own money*** to conduct any kind of stem cell research. It may be doing this with 350 scientists already there. But how much money will it require to pay the next 500 researchers they want to hire? By their own figures these next 500 will cost 500 x $72,500 = $36,250,000 per year.

Let's apply the provisions of Sections 5 and 7 to this fact situation set forth by the Post Dispatch. If any of the 350 employees are already working on stem cell research, and if the Stowers Institute is already receiving money from the state of Missouri for purposes other than stem cell research, under the provisions of Sections 5 and 7 of Amendment 2, then they are entitled to receive money for any of the 500 new researchers if they are performing "stem cell research".

Furthermore, as to the 350 researchers already working there, the Stowers Institute, under the provisions of Sections 5 and 7, would be able to assert a claim for money for them. To have some of the new researchers qualify for public funds but to fail to give public funds to the existing stem cell researchers would be a discouragement to the already employed stem cell researchers. This is forbidden by Section 7. If all 350 existing employees are practicing stem cell research, the additional cost to the public funds of Missouri would be 350 x 72,500 = $25,375,000.

Applying the provisions of Sections 5 and 7 of Amendment 2 to these announced operations of the Stowers Institute alone could cost:

Existing researchers (350 x 72,500):	$ 25,375,000
New researchers (500 x 72,500):	$ 36,250,000
Total:	$ 61,625,000 ***annually—forever***

Wow! And this is only for the Stowers Institute.

What about other research institutions in the state? They have large ongoing research operations. If any one of them receives money to hire stem cell researchers, all of them will have to receive money to hire stem cell researchers. How many claims against state moneys will they generate? There is no way to measure what the ultimate costs of all these entitlements now and into the future will be as ***stem cell researchers from around the world discover that there is one state in the United States that has provided them with a constitutional entitlement to public funds***.

Let's just look back at the Redmond lawsuit to remind ourselves of the assured and potential supply of PUBLIC FUNDS available through the Life Sciences Research Trust Fund just through 2025. Of course, thereafter the tobacco settlement funds continue to flow at the rate more than $180 million per year ***in perpetuity***.

Life Sciences Research Trust Fund Through 2025		
Approximate beginning balance	$	40,000,000
Total annual deposits from tobacco settlement for 19 years		764,150,000
Assured total		804,150,000
Annual average of assured total		42,323,684
Claims of Redmond lawsuit if successful		341,678,176
Possible total	$	1,145,828,176
Annual average of possible total		60,306,746

The potential claims of the Stowers Institute of $61,625,000 annually would just wipe out the annual average availability of $60,306,746. And if the Redmond lawsuit fails in its claims, the potential Stowers Institute annual claims would certainly wipe out the annual average availability of $42,323,684.

When the other institutions in the state weigh in with their "constitutionally entitled" claims on the Life Sciences Research Trust Fund, the pressure to increase these available public funds is going to be enormous. And what will the cloners do?

In December 2006, the Missouri legislature suspended all limits on contributions to political candidates starting in 2007 (MO L 2006 HB no 1900). Within the first day or two of the New Year, several prominent supporters of Amendment 2 made substantial and outsized contributions, many times larger than the previous limits had allowed (MEC filings 2007).

The suspension of limits on political contributions was reversed by the Missouri courts in the summer of 2007. But during the short period when there were no limits, the cloners tipped their hand, revealing their plans to invest heavily to promote their own candidates. This would facilitate the legislature's adding of ***additional*** public moneys to those already in the Life Sciences Research Trust Fund and Missouri Technology Corporation to satisfy the claims by various institutions wanting to be paid to perform stem cell research.

Perhaps the cloners could convince a sympathetic legislature of representatives supported by their large political contributions to appropriate the entire tobacco settlement to the Life Sciences

Research Trust Fund instead of just the current 25%. This would increase the total annual funding through 2025 to $3.1 ***billion*** from the current $764 ***million***. And the perpetuity after 2025 would be four times as large as it is currently.

And a very sympathetic legislature could perhaps just appropriate more public moneys from the ***general revenues*** of Missouri, adding even more to the Life Sciences Research Trust Fund over and above those provided by the tobacco settlement.

And ***none of these increases could ever be reversed*** by any subsequent legislature, since such a reduction in funding could be construed as an unconstitutional discouragement to stem cell research. The effect is to create a one-way ratchet of ever-increasing public funds for stem cell research and research institutions.

The brief period without political contribution limits provided a critical insight into what we believe is a long-term goal of the cloners. Having spent $30 million on Amendment 2, there is no problem in their spending $4 or $5 million a year on cloner candidates to achieve eventual control over the general assembly of Missouri.

Because of the broad implied powers and entitlements of Amendment 2, its proponents will have an incentive to increase their claims against the public funds of Missouri and other statutory requirements of the existing law that they do not like. We suspect that they will have plenty of as-yet-unidentified claims. They will all be ***perfected by litigation***. The possible claims are basically unlimited and the legislature will have no control over these constitutional entitlements.

Now we are beginning to see why the cloners spent $30 million on Amendment 2.

What we have unbundled here is a monstrous financial entitlement system effectuated by Amendment 2. And this whole thing is completely outside the control of the general assembly, the elected representatives of the state, so the citizens, taxpayers, and voters are out in the cold and the cloners get the money.

The key to the vault

Now that we have discovered all this MONEY that the cloners never seemed to talk about, the obfuscation of the words of Amendment 2 begins to make sense from their perspective—but of course not to the benefit of the taxpayers of Missouri.

The purpose of the deceptive and opaque language structure of Amendment 2 and of the relentless media campaign was to keep the citizens from noticing a very few words in the Missouri Revised Statues.

Here we quote from § 196.1127.3, RSMo:

> **PUBLIC FUNDS SHALL NOT BE EXPENDED**, paid, or granted to or on behalf of an existing or proposed research project that involves… **HUMAN CLONING**

Can you believe this: public funds shall NOT be expended, paid, or granted to or on behalf of an existing or proposed research project that involves HUMAN CLONING.

Here are the definitions of these various terms as they appear in the statute (§ 196.1127.2, RSMo):

> § 196.1127.2(7) ***"Public funds"***, include
>
> (a) Any moneys received or controlled by the state of Missouri or any official, department, division, agency, or political subdivision thereof, including but not limited to moneys derived from federal, state, or local taxes, gifts, or grants from any source, settlements of any claims or causes of action, public or private, bond proceeds, federal grants or payments, or intergovernmental transfers;
>
> (b) Any moneys received or controlled by an official, department, division, or agency of state government or any political subdivision thereof, or to any person or entity pursuant to appropriation by the general assembly or governing body of any political subdivision of this state; (emphasis added)

And oh look, here is a very precise definition of human cloning!

> § 196.1127.2(5) ***"Human cloning"***, the creation of a human being by any means other than the fertilization of an oocyte of human female by the sperm of a human male; (emphasis added)

Wow! Have we found the true target of Amendment 2?

Three years before the Amendment 2 election, there existed in the settled law of the Missouri statutes a VERY PRECISE DEFINITION OF HUMAN CLONING!!!

Both of these clauses, the prohibition of spending public Life Sciences Research Trust Funds on human cloning and the definition of human cloning, are found in the very statute that originated the Life Science Research Trust Fund.

By changing this precise definition of human cloning, Amendment 2 abrogated the ban on using public funds for human cloning.

This was the KEY to the MONEY VAULT.

Sections 5 and 7 of the amendment then perfected the entitlement to use public funds as a perpetuity outside the oversight powers of the Missouri general assembly.

But their "ethical crime" is much worse than getting just access to the public moneys of the state of Missouri. They also get to spend it on the very procedures for which the use of it was prohibited before the passage of the amendment.

NOW WE HAVE DISCOVERED WHY THE CLONERS SPENT $30 MILLION ON AMENDMENT 2.

Why did the cloners spend $30 million on Amendment 2?

Activity	Legal Before Amendment 2	Legal After Amendment 2
Treatments and therapies		
Patients can receive FDA-approved treatments	Yes	Yes
Stem cell therapy trials	Yes	Yes
Stem cell research		
Adult stem cell research	Yes	Yes
Embryonic stem cell research	Yes	Yes
Destruction of human embryos for their stem cells	Yes	Yes
Human cloning by researchers	Yes	Yes
Private funding		
Private funding of human embryonic stem cell research	Yes	Yes
Private funding of destruction of human embryos	Yes	Yes
Private funding of human cloning	Yes	Yes
University endowment funding		
Endowment funding of embryonic stem cell research	Yes	Yes
Endowment funding of destruction of human embryos	Yes	Yes
Endowment funding of human cloning	Yes	Yes
Public funding		
Entitled public funding of embryonic stem cell research	**NO**	**YES**
Entitled public funding of destruction of human embryos	**NO**	**YES**
Entitled public funding of human cloning	**NO**	**YES**

To turn each red NO to a black YES

Judicial power supercedes legislative control

The scope of the explicit and implicit powers of Sections 5 and 7 of Amendment 2 is incomprehensively vast.

Who will finally decide what they are? Will it be the voters?—NO! Will it be the Missouri legislature?—NO! Will it be the judicial branch of the Missouri government?—YES! Because it is a constitutional amendment, Amendment 2 will be interpreted by the judiciary.

The Redmond lawsuit is a perfect example of what is going to happen. As you recall, two citizens of Missouri are suing to have the size of Life Sciences Trust Fund increased dramatically. The cloners could file such a lawsuit at any time. This is how they can make their legal claims against the state under the claimed and implied powers of Amendment 2. And the legislature will have no power over the interpretive decisions of the courts.

In the legal activities leading up to the election, judges were not very sympathetic to objections to Amendment 2.

Many of you may not know that there was a hotly contested litigation about the language of the Ballot Summary for Amendment 2. In particular, it was about the second bullet point in the Ballot Summary that read: "Ban human cloning or attempted cloning." In the litigation the plaintiffs wanted to change this language.

We believe that the contending parties, the circuit court, and the appeals court missed the main point: At the time of this litigation there existed in the settled law of Missouri since 2003 a very precise definition of human cloning in the Life Sciences Research Trust Fund statute, as we have just seen:

> § 196.1127.2(5) "Human cloning", the creation of a human being by any means other than the fertilization of an oocyte of human female by the sperm of a human male;

This definition of human cloning encompasses somatic cell nuclear transfer, which is the scientific definition of cloning. The Life Sciences Research Trust Fund statute forbids spending "public funds" on somatic cell nuclear transfer as covered by this definition.

The definition of cloning in Amendment 2 differs from that of the Life Sciences Research Trust Fund:

> 6(2) "Clone or attempt to clone a human being" means to implant in a uterus or attempt to implant in a uterus anything other than the product of fertilization of an egg of a human female by a sperm of a human male for the purpose of initiating a pregnancy that could result in the creation of a human fetus, or the birth of a human being. (Amendment 2, 6(2))

This language does not forbid somatic cell nuclear transfer and thereby permits "public funds" to be spent on somatic cell nuclear transfer, which is cloning.

And, as we have pointed out, ***changing this Life Sciences Research Trust Fund definition*** is how Amendment 2 opened the vault of ***the perpetual entitlement to public funds*** for cloning and cloning institutions.

At no time before or after the election was there any prohibition on using ***private funds*** on somatic cell nuclear transfer. It was and is perfectly legal.

Since none of the parties or the courts pointed to the then existing definition of human cloning in the Missouri statutes, they were permitted to ignore that the reason for the existing definition was to prohibit the spending of state public funds for human cloning, that is, somatic cell nuclear transfer.

Pointing to this existing definition of human cloning would have revealed the "trickery" of the cloners' scheme—that is, change the existing definition of human cloning and thereby open the floodgates of ***entitled state funds forever***.

The only reference point that the voters could have had when they saw the Ballot Summary in the voting booth was the then existent legal definition of cloning cited above. And in this context a logical Ballot Summary should have said that the amendment will ***change the definition of human cloning*** from the statutory definition in existence (§ 196.1127.2(5), RSMo) to the definition proposed by the Amendment in Section 6. In the absence of a disclosure of the change in the definitions, many voters fell into the deadly trap of voting against their own interests.

So while the judges and litigants were arguing about what a 'new definition' of cloning might be, they completely ignored the existence of this very precise definition of human cloning and the prohibition of using public funds to practice it. If they had done their job of protecting the Missouri constitution, the integrity of the Missouri voting booth, and the liabilities of the Missouri taxpayer, the only intelligent thing they could have said about the Ballot Summary language is that "It will change the existing definition" of human cloning as it presently exists today (at the time before the election) in § 196.1127.2(5), RSMo.

No matter what they decided about any NEW definition, everyone's attention would have been pointed to the existing statute's language. And the true reality of Amendment 2 would have been broken out of the fog before the election.

By accepting the deceptive language "bans human cloning" without noting the existing definition of human cloning in § 196.1127.2(5), RSMo, the judges gave the cloners the key to the money vault. The new definition erased the existing ban on spending state PUBLIC FUNDS on human cloning as defined in § 196.1127.2(5), RSMo. It thus ***entitled the cloners to spend public funds on the very practice that public funds were forbidden to be spent on*** under the preexisting law.

Never has legal sloppiness so poorly served an electorate. It facilitated voters voting against their own interests.

On the other hand, maybe the 2000-word text was so complicated that even the judges were confused.

As a result, as predicted by Missouri Roundtable For Life's "Citizens of Missouri" notice (advertisement, St. Louis Post Dispatch, August 24, 2006):

> The misleading Ballot Summary threatens to lead many citizens to vote against their own interests and in fact to nullify their own votes. The manipulation of the voters by the Ballot Summary threatens to cause citizens to unknowingly convey an ***extraordinary and unprecedented set of powers*** and authority to a very small group of people who will become a class of constitutionally privileged and legally immune elites. And these cloning elites and their multi-billion-dollar-endowed employers will receive unlimited tax support for their work.

And this is exactly what happened with the passage of Amendment 2.

Facts that suggest that the whole scheme caused many voters to vote against themselves

We are introducing data here that suggests that the mindset of the citizens of the state on the day of the election was such that they would have rejected Amendment 2 if they had a clear understanding of what all those 2000 words really meant.

Let's look first at the General Assembly voting on the Life Sciences Research Trust Fund statute. We repeat that it contained the definition of human cloning which resulted in a prohibition on spending public funds on somatic cell nuclear transfer, that is, cloning. From this we note two separate things: (1) the citizens, through their elected legislators, defined somatic cell nuclear transfer as cloning, and (2) the citizens, through their elected representatives, did not want to have public funds spent on somatic cell nuclear transfer.

Here are the final vote counts of the General Assembly in passing the Life Sciences Research Trust Fund Bill (§ 196.1100, et seq, RSMo):

Missouri House of Representatives:	Yeas	158
	Nays	2
Missouri Senate:	Yeas	28
	Nays	1

These votes reflect an overwhelming consensus about what would be acceptable to the citizens of Missouri—you can't use public funds for human cloning in Missouri.

And we have to emphasize again that this ban on using STATE PUBLIC FUNDS for human cloning covered all the vast rivers of public funds flowing in perpetuity out of the Life Sciences Trust Fund and any, if any, other subsequent appropriation of public funds.

This voting is as unanimous as you can get. As such it most clearly reflects the mindset of the citizens about not expending public funding on human cloning, that is, the "creation of human being by any means other than the fertilization of an oocyte of a human female by the sperm of a human male (§ 196.1127.2(5), RSMo), on the date of the election of November 6, 2006.

In 2005, a "McLaughlin poll showed that over 80% of Missourians oppose human cloning" (Prolife Profile, April 2007). This was two years after the passage of the Life Sciences Research Trust Fund bill (§ 196.1100, et seq, RSMo) discussed above. And because of the essentially unanimous voting for it, we believe that the "human cloning" referred to in the McLaughlin poll is in fact human cloning as properly defined by the Life Sciences Research Trust Fund statute. There is no reason to suspect anything else.

With this settled legal (and scientifically accurate) definition of human cloning having been in the statutes for two years at the time of the 2005 McLaughlin poll, it is quite reasonable to infer that the 80% who opposed human cloning would have most likely not voted to ***spend public funds*** to perform this human cloning. If they did vote to do this, it is very likely that they were deceived in some way, that is by the ballot summary, the proponents' media campaign, or the 2000-word text of the amendment.

In December 2006, McLaughlin & Associates conducted another poll, this one a Missouri statewide ***post-election*** survey. It provided further astounding confirmation that the whole Amendment 2 campaign and all its written language caused voters to defeat themselves. In answer to the question "Would you still have voted yes on Amendment 2 if you knew it were true that the actual language of Amendment 2 allows human cloning," 38% of the yes voters would have changed their votes to no! A change of 38% of the yes vote of 51.4% would have resulted in an additional no vote of 19.5%, which would have resulted in a defeat of Amendment 2 by 48.6% + 19.5% = 68.1%!

This provides an extraordinary confirmation of the 2005 poll margin against human cloning of 80%. Because the cloners spent $30 million, you could say that they swayed 80% - 68.3% = 11.7% of the electorate. This would only change the ***80% against*** of the 2005 poll to a calculated pro forma result of ***68.1% against*** at the time of the election.

Either way, 80% or 68.1% against would have been a resounding defeat of Amendment 2.

These 'fact sets' all point to an electorate that should have rejected Amendment 2 by a large margin.

Another useful chart:

	Construed **For** Public Funding For Human Cloning	Construed **Against** Public Funding For Human Cloning	Construed Percentage Against Public Funding
House vote on Life Sciences Trust Fund	2	158	99%
Senate vote on Life Sciences Trust Fund	1	28	97%
2005 Missouri poll	20	80	80%
December 2006 Missouri poll (pro forma)	32	68	68%

All of this data is compelling evidence that something went ***radically wrong*** with the voting on November 6, 2006.

Confusion, total confusion

The state officials charged with the statutory and fiduciary responsibility to translate the 2000-word text into the Ballot Summary did not express any material changes to the state of the law in Missouri effected by the amendment. With respect to the key ballot point, these officials apparently failed to recognize and call attention to the state's existing definition of human cloning set forth clearly in the Life Science Research Trust Fund statute (§ 196.1100, et seq, RSMo) and the explicit ban on spending state public funds on human cloning that would be eliminated by the proposed amendment's new definition of cloning. These officials would at least include the Secretary of State, the Attorney General, and the State Auditor. Apparently all these officers were so confused by the 2000-word text that they seem to have failed to convey any useful information to the voters on the ballot summary.

But these state officials were not alone. The judges presiding over the Ballot Summary litigation also seemed to be in a fog for the same reasons. We are not aware that any of these officials who are supposed to consider the relevant settled law of the state in the matter before them pointed out the already existing definition of human cloning. Thus the case devolved into arguments about what a new definition of human cloning might say while simultaneously ignoring the already existing definition expressed in the Life Sciences Research Trust Fund statute (§ 196.1100, et seq, RSMo). Any reference to the existing law would have readily exposed the cloners' new definition and the fact that it would eliminate the Life Sciences Research Trust Fund statute's ban on spending public money on human cloning.

This failure was key in permitting the cloners to achieve a constitutional entitlement in perpetuity to vast and ever-increasing flows of Missouri "public funds". Maybe the only thing to say is that the judges too appeared to have been so confused by the 2000-word text that they missed what was really going on.

In their full-color fold-out brochure distributed before the election, the proponents of Amendment 2 state the amendment "strictly bans human cloning". At the time this statement was made, the term "human cloning" was legally defined in the existing Missouri statutes, and the amendment did not ban "human cloning" as then legally defined. The literature should have said that the amendment "changes the legal definition of 'human cloning'", which is another thing entirely.

To add to all this confusion there is the confusion of the public pronouncements of the cloners. They seemed to imply, if not threaten, that without the passage of Amendment 2, Missouri citizens were going to be denied all sorts of cures and therapies. Yet as we have explained again and again there were no laws or regulations that put Missouri citizens at any disadvantage relative to any citizen of the United States in receiving any cure, therapy, or treatment approved by the FDA. These threatening claims seemed not to be grounded in reality. And to the extent that they were misleading they just added to the growing clouds of confusion. Maybe their spokesmen were just as confused as everyone else.

Well, well… If the 2000-word text and Ballot Summary could have confused:

the Secretary of State,
the Attorney General,
the State Auditor,
the spokesperson of the supporters of Amendment 2,
the parties in the ballot summary litigation,
the trial courts, and
the appeals courts,

what hope was there for the ***voters*** who just walked into the voting booth on election day in the face of all this confusion. ***They had no chance at all***.

The whole Amendment 2 scheme was an "exquisite fraud".

For the purposes of this brochure "exquisite fraud" is defined as something "marked by flawless craftsmanship which is not what is pretends to be" (Webster's Collegiate Dictionary 1987).

Whether or not it is a legal fraud would be a question for another venue.

How to convert taxpayer dollars into private wealth

But there is more bad news about this deceptive disaster. What if in using all these Missouri public funds, someone makes a potentially valuable discovery? Who gets all the profits?

Let's follow the money trail. Here are the beginning entities:

James and Virginia Stowers
Contributed $25+ million in suuport of Amendment 2 (MEC filings, 2006).

Missouri Taxpayers
Under Amendment 2, Missouri taxpayers will provide ever-increasing funds to any institution that does stem cell research or cloning, including the Stowers Institute For Medical Research (Amendment 2, sections 5 and 7).

Stowers Institute For Medical Research (Tax-exempt entity)
The Stowers Institute will be constitutionally entitled to receive ever-increasing taxpayer funding with no legislative oversight whatsoever. James and Virginia Stowers are directors of the Stowers Institute (Stowers Institute Annual Report, 2005).

Now excerpts from The Stowers Report, Fall 2002:

> Mr. Stowers announced the creation of two new corporate entities under the name Biomed Valley Partnership to develop and market scientific discoveries.
>
> The Partnership will meet the need to translate discoveries from the Stowers Institute and other research-focused organizations into products to improve people's health. It also provides the means for scientists to be rewarded for their breakthrough discoveries without having to turn themselves into business people…
>
> To accomplish these goals, two new companies have been incorporated at Mr. Stowers' personal initiative under the umbrella of the Biomed Valley Partnership. One, Biomed Valley Corporation, is a **not-for-profit** holding company that is to manage the Partnership. It will rally the community and the various research partners toward a common goal while generating financial support for research.
>
> The second entity in the Partnership is Biomed Valley Discovery, Inc., a **for-profit** company. It will focus on finding the best places, such as pharmaceutical firms and scientific equipment makers, to develop discoveries coming from the laboratories of the Stowers Institute and the other research partners…
>
> Mr. Stowers' plan will allow the Stowers Institute and other research institutions that join it in the partnership to own Biomed Valley Corporation, which, in turn, will control Biomed Valley Discovery. However, Biomed Valley Discovery, the for-profit arm, would be completely independent of the Stowers Institute and other research partners and would not receive financial or administrative support from them. Once established, it will support itself…
>
> Mr. Stowers said these are the key aspects of Biomed Valley Discovery:
>
> - Will focus on finding the best commercial home for new discoveries arising from laboratories devoted to basic biomedical research;
> - Will have the exclusive right to seek, patent, develop, and market all the discoveries arising from the laboratories of the research partners;

- Will eventually benefit those institutions in Biomed Valley that agree to become Research Partners, and
- Will go as far from Kansas City as necessary to find discoveries worthy of commercialization.

> Declaring that the Stowers Institute stands ready to become the first Research Partner of Biomed Valley Corporation, he said one of the requirements will be that the Institute turn over all of its future scientific discoveries to Biomed Valley Discovery for development and marketing. In return, scientists of the Institute "can look forward to having an excellent company especially created to patent, develop, and market discoveries arising from their research. This enables ***scientists*** to focus on their basic biomedical research while still being rewarded with ***half of all the profits*** derived from their discoveries." (The Stowers Report, 2002, Fall 2002) (emphasis added)

By deduction the other half of the profits ***would remain in Biomed Valley Discovery***.

A summary of the entities:

BioMed Valley Partnership (BVP) (Tax-exempt entity)
The Stowers Institute is a partner in the BioMed Valley Partnership. "One of the [partnership] requirements will be that the Institute turn over ***all of its future scientific discoveries*** to BioMed Valley Discovery," a ***for-profit*** Delaware Corporation. (The Stowers Report, Fall 2002)

BioMed Valley Corporation (BVC) (Tax-exempt entity)
BioMed Valley Corporation manages the BVP. The Stowers Institute controls BioMed Valley Corporation through its control of the board of directors. "SIMR [Stowers Insitute For Medical Research] has the right to appoint as many… directors as necessary for SIMR to represent a majority of the board of directors" of BioMed Valley Corporation. (Stowers Institute Annual Report, 2005)

BioMed Valley Discoveries, Inc. (BVD) (For-profit corporation)
BioMed Valley Discoveries, Inc., the ***for-profit Delaware Corporation*** that will receive the "future scientific discoveries" of the Stowers Institute, "is wholly owned by BVC" (Stowers Annual Report, 2005). BioMed Valley Discoveries, Inc. "will have the exclusive right to seek, patent, develop, and market all the discoveries arising from the laboratories of the research partners" (Stowers Annual Report, 2002). The Stowers Institute controls BVD through its control of BVC.

And from the 2005 Stowers annual report we find other relevant details:

> BioMed Valley Corporation (BVC) began operations in 2003… University of Missouri-Kansas City (UMKC) became a Research Partner in December 2004 and the University of Kansas (KU) became a Research Partner in January 2005.

The net effect of all this is that to the extent that the Stowers Institute receives Missouri PUBLIC FUNDS for its "stem cell research", the taxpayers of Missouri, who will get nothing, will

effectively be supporting high-risk basic research. Under this particular scheme, at least one-half of the value of any discoveries are transferred to the for-profit BioMed Valley Discoveries, Inc. Because BioMed Valley Discoveries is a for-profit corporation, its stock can be owned by individual and entities as yet unknown, just as is the case for any other common stock.

This is how venture capital works. A small group of people get control of a latent value through a closely-held company. When the value matures, they "take the company public" so that the equity market can value the company and make it liquid.

The controlling directors of BioMed Valley Discoveries, Inc. can create any variety of stock allocation, stock incentive, stock option, management incentive programs, etc., to distribute part of the realized market value of the then publicly held stock to any individuals or other entities that they choose.

So it is very important to note who controls the succession of directors in BioMed Valley Discoveries, Inc. We will here restate the relevant cite from the Financial Notes of the Stowers Report of 2005 (pp. 22-23):

> [E]ach Research Partner has the ability to appoint one director to the board of directors of BVC; however, SIMR [Stowers Institute for Medical Research] has the right to appoint as many additional directors as necessary for SIMR to represent a majority of the board of directors. Furthermore, an affirmative vote of the majority of the board members appointed by SIMR are required to approve significant transactions, changes in structure, liquidation, and other specified activities of BVC…

In other words, Stowers Institute for Medical Research controls the for-profit BioMed Valley Discoveries, Inc. through its control of the board of directors of BioMed Valley Corporation, which wholly owns BioMed Valley Discoveries, Inc. Of course other institutions will use variations of this scheme to do the same thing—that is, convert public funds furnished by the citizens of Missouri into patent royalties and common stock that can be held by individuals and entities chosen by the then governing entities.

We always end up with the same question. Did any proponent of or spokesperson for Amendment 2 ever tell anyone about this? If not, why not?

So what do we do now?

The 'exquisite fraud' of Amendment 2 has worked a grave injustice on the citizens and taxpayers of Missouri. The cloners' scheme was so effective that hardly anyone in the state knew what was going on.

At no time before or after the passage of Amendment 2 was it illegal to use any private funds to practice human cloning. But apparently the cloners wanted to use public funds instead of their

own money to practice human cloning, a procedure for which the law had specifically forbidden the use of state funds. And they wanted at the same time to establish a perpetual constitutional entitlement thereto without any legislative oversight. And still more, they wanted to share in any profits produced by the investment of public funds. They accomplished all these things with the passage of Amendment 2.

The only way to correct this injustice is to COMPLETELY REPEAL AMENDMENT 2. Then, invite the cloners to come back with language transparent to any voter that clearly reveals the effects of their amendment. We suggest the following:

> Shall the Missouri Constitution be amended to:
>
> • Repeal Section 196.1127.3 of the Life Sciences Research Trust Fund statute so that PUBLIC FUNDS of Missouri may used for the following:
>
> a. Clone (somatic cell nuclear transfer) human beings,
>
> b. Kill human embryos to harvest their stem cells,
>
> c. Implant human embryos from in vitro fertilization and then abort them at any stage of development to harvest their stem cells,
>
> d. Purchase by reimbursement eggs for somatic cell nuclear transfer from women at their own health risk;
>
> • Provide a constitutional entitlement to PUBLIC FUNDS for human cloning, without any legislative oversight, which funds can never decrease and must always increase because any decrease will be considered an unconstitutional disincentive to clone;
>
> • Provide that all Missouri laws, statutes, ordnances, and regulations must be construed in favor of human cloning and cannot discourage cloning or create disincentives to cloning in any way.
>
> The fiscal cost of the amendment to the public funds of Missouri could reach a cumulative total of over $3 billion by 2025, with increasing costs beyond that.

This is ***exactly*** what the passage of Amendment on November 7, 2006 did to the citizens, taxpayers, and voters of Missouri.

If the Ballot Summary had been this clear and transparent, who in Missouri would have voted for it?