An Analysis of Uber's 2026 California Ballot Initiative and its Likely Impacts on Californians Injured in Car Accident Cases

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Introduction

In October of 2025, rideshare company Uber submitted a ballot initiative to the California Secretary of State that seeks to amend the California Constitution to regulate how much people suing in car accident cases may pay their attorneys. Uber claims that the measure will protect Californians from self-serving attorneys who target low-income automobile accident victims and inflate victims' medical bills for a bigger payout. By capping the amount of contingency fees that accident cases can pay their attorneys, Uber argues that the initiative will benefit victims by providing them with a greater portion of their damages.

The purpose of this report is to provide an analysis of the initiative with an emphasis on the confusing and potentially misleading language of the initiative and the likely negative impacts of the initiative on access to legal services.

The first section provides an overview of the Ballot Initiative and Uber's campaign to pass it. Part II draws upon social science research on similar campaigns to show the likely effects of the proposed initiative. The report makes three key findings:

(1) The proposed initiative is confusing and likely to be misunderstood by voters;

(2) The proposed initiative, if passed, is likely to decrease the availability of legal representation in California; and

(3) The proposed attorneys' fees cap and the restrictions on the recovery of medical expenses will likely result in increased health care costs to state and local governments as well as in higher health care costs for injured individuals.

In Part III, the report concludes that, for all of these reasons and more, the proposed initiative is unlikely to benefit victims in automobile accident cases. The confusing language of the proposed initiative may lead voters to mistakenly think that the initiative will ensure that victims will receive more compensation for their injuries when the opposite is likely true. Indeed, as we explain below, many victims will likely receive nothing at all if the initiative is passed.

Uber’s proposal will radically restructure the provision of legal services in California in automobile accident cases, significantly reducing the availability of legal representation to people who are injured and dramatically limiting their ability to recover from wrongdoers. Contingency fee arrangements, such as those targeted by Uber’s proposal, have historically served as the 'key to the courthouse' for people who cannot otherwise afford an attorney.[1] The proposed initiative will effectively close the courthouse doors for these individuals.

I. Overview of the Ballot Initiative

The Uber proposed ballot initiative — "The Protecting Automobile Accident Victims from Attorney Self-Dealing Act (A.G. #25-0022)" — seeks to amend the California Constitution to regulate contingency fees in automobile accident cases and limit the recovery of some medical expenses. The ballot initiative comprises three main components:

(1) First, if passed, the initiative would prohibit attorneys representing victims in automobile accident cases from collecting contingency fees that would result in victims retaining less than 75% of the "total amount recovered." As we explain below, a great deal of confusion surrounds what this language actually means and how it will work in practice.

(2) Second, the ballot initiative would implement complex new restrictions on what medical fees may be included in the recovery. Most dramatically, injured victims could only claim recovery for unpaid medical expenses at the low rates paid out by Medicare — even if the victim is not in the Medicare system.[2] Recovery for future medical expenses would be limited to what a victim's health care coverage would pay, along with the victim's share of expenses, such as co-pays or deductibles. If a victim does not have coverage or qualifies for coverage through Medicare or Medi-Cal, the permissible health care costs would be limited by Medicare and Medi-Cal rates. Furthermore, the initiative imposes a higher burden of proof for past unpaid medical expenses.

(3) The third key component of the initiative would prohibit attorneys from gaining any remuneration or profit from referring an automobile accident victim to a health care provider. Related language would also protect whistleblowers who report any such illegal financial arrangements from retaliation.

In addition to these core components, the initiative includes language that paints personal injury lawyers in a negative light, referring to them as "billboard attorneys" and suggesting that they are a predatory profession seeking to take advantage of automobile accident victims. This can be seen in Section 2 of the initiative, Findings and Declarations, which claims that such lawyers often spend little time on most car accident cases yet take almost half of the victim's recovery. The text also claims that these attorneys "game the system" by inflating clients' medical bills, encouraging clients to seek out-of-network medical care, and pressuring medical providers to perform and recommend unnecessary procedures, all to increase the lawyers' own gain.

As we explain below, these types of claims and phrases play on well-funded efforts over the course of decades to convince the public that there is an epidemic of civil litigation brought by greedy attorneys who are lining their pockets at victims' expense. In fact, social scientists have repeatedly demonstrated that no such epidemic exists, nor has it ever existed.

II. The Proposal Is Likely to Be Misunderstood by Voters and Radically Reduce the Availability of Legal Representation, While Increasing Health Care Costs to the State and Individuals

In this section of the report, we draw upon extensive social science research to identify the likely effects of the proposed initiative. We emphasize three key findings:

(1) The proposed initiative is confusing and likely to be misunderstood by voters;

(2) The proposed initiative is likely to decrease the availability of legal representation in California; and

(3) The proposed attorneys' fees cap and the restrictions on the recovery of medical expenses will likely result in increased health care costs to state and local governments and in higher health care costs for injured individuals.

a. The Proposal is Confusing and Likely to Be Misunderstood by Voters

As we noted above, there is a great deal of confusion over what the language of the initiative means and how it will work in practice. Two competing interpretations have emerged. Under one interpretation, the initiative means what it says and victims will receive 75% of the total amount recovered. As a practical matter, this means that the permissible attorney's fee could be as little as zero, if medical expenses and liens exceed 25% of the recovery. This is because Section 1(a) prohibits a fee that would leave the client with less than 75% of the "total amount recovered," and

"There is a great deal of confusion over what the language of the initiative means and how it will work in practice."

Section 6(p) seems to define that figure without deducting medical expenses or liens. Moreover, the initiative also makes it a misdemeanor for an attorney to charge a fee if the client receives less than 75% of the total recovery. For all of these reasons, many attorneys and stakeholders believe that the initiative will be interpreted to ensure that victims do indeed receive 75% of the total amount recovered. And, again, as a practical matter, this means that the fee would then be capped at 25% minus whatever portion of the recovery the various medical expenses, liens and costs consume.

Uber claims, however, that this seemingly common sense interpretation of the initiative's language is not correct. Under Uber's interpretation, accident victims will receive 75% of the total amount recovered *before costs, fees and medical liens are deducted.* Under this interpretation, victims would effectively receive considerably less than 75% of the total amount recovered, as costs and fees are likely to consume at least some of this amount, while attorneys may receive up to 25% of the total amount recovered.

It will be up to the courts to try to sort this out. In the meantime, it seems likely the likely impacts of the proposed initiative will be even more confusing to voters who may not understand some of the legal terms involved.

While contingency fee contracts — where attorneys are paid a predetermined percentage of the amount awarded if they settle or win the case — are common in motor vehicle accident cases, many people, including many attorneys, do not understand how they operate in practice. In part, this is because contingency fees take many forms. The most common type of contingency fee arrangement states that the attorney will receive some percentage of the recovery (typically one third) plus reimbursement for litigation costs, such as filing fees and expert fees. But there are many other types of contingency fee arrangements. In *Risk, Reputations, and Rewards: Contingency Fee Legal Practice in the United States* (2004), Professor Herbert M. Kritzer found at least eight different kinds of contingency fee arrangements in use in the United States.

The proposed initiative would seemingly impact many of these varied types of contingency fee arrangements, though it is not clear exactly how. Interpreting the initiative is likely to be particularly challenging in those instances where the parties enter into mixed hourly/contingency fee arrangements. The only thing that seems clear is that plaintiff's attorneys risk criminal prosecution if the client recovers less than 75% of the total recovery, while contingency fee arrangements among defendants and their counsel face no restrictions at all.

The initiative also perpetuates misleading claims about the civil justice system and the role that lawyers play in it, increasing the likelihood that voters will not understand the real impacts of the proposed initiative. The disparaging rhetoric about attorneys in the proposed initiative is particularly misleading. There is no evidence to suggest that contingency-fee lawyers are any more "self-dealing" than lawyers who work on an hourly rate. If anything, the opposite may be true. Research shows that most contingency-fee lawyers receive less than they would have received had they been paid on an hourly-fee basis.[5] Another study conducted by the RAND Institute for Civil Justice found that 19.6 percent of cases handled on a contingency fee basis resulted in no fee at all.[6]

There is also no evidence to support the initiative's suggestion that somehow attorneys who advertise on billboards are more likely to bring frivolous cases. In fact, research suggests that the opposite is likely true as these firms expend significant resources screening and evaluating cases.[7] Approximately 90 percent of the time, cases by citizens who believe they deserve compensation for injuries are rejected.[8] Thus, rather than being a source of frivolous litigation, so-called "billboard attorneys" provide a service to the community by providing injured people with access to lawyers who help them evaluate their claim and preventing many non-meritorious cases from being filed *pro se*. This initiative is likely to drive accident victims to pro se representation — driving up costs and burdens on our already taxed judicial system.

Rather than an abundance of groundless lawsuits plaguing the civil justice system, there are actually many valid claims that never get to court; contingency-fee caps will likely to exacerbate this issue. Since most voters are unlikely to have knowledge of this broader context of litigation economics, the language of the initiative seems likely to mislead voters about the likely impacts of Uber's proposal.

b. The Proposal is Likely to Radically Reduce the Availability of Legal Representation for Automobile Accident Victims

While stakeholders disagree about how the proposed initiative would work in practice, it is clear that the initiative will significantly reduce the amount of fees that attorneys representing victims of car accident cases can receive for their services, perhaps driving fees to zero. As a practical matter, this means that, while Uber presents the initiative as a reform that will increase victims' recoveries, the opposite is likely true. This is because most car accident victims cannot afford to hire a lawyer on an hourly basis, which means that contingency fee arrangements are frequently the only viable option (Kritzer 2004). The initiative's proposed cap on such arrangements would discourage lawyers from taking on cases — even if the case was meritorious — because the attorney's fee would not be worth the time, effort, or risk.

The problem facing would-be plaintiffs and attorneys is not just the reduced fee, "but rather of a fee insensitive to risk or difficulty."[10] Essentially, contingency-fee practice is like an investment portfolio, where attorneys accept that some cases may result in a loss but seek an overall gain that exceeds the opportunity cost of working on an hourly-fee basis instead.[11] A limit on contingency fees would make this model difficult to sustain, as fees from successful cases with bigger recoveries might not balance out the losses of other cases. For this reason, many attorneys would stop working on a contingency-fee basis, and others would turn away more meritorious cases due to low fees.[12]

"Experts agree: contingency fee caps like those proposed in the Uber initiative would reduce plaintiffs' access to legal services, as well as the quality of legal services provided."

Indeed, because caps on contingency fees discourage lawyers from taking meritorious suits, car accident victims who might have expected to recover some compensation under current law would likely end up receiving nothing.[13] Moreover, while a plaintiff's share of the recovery might increase under the proposed initiative, the total amount recovered will likely decrease because lawyers have less incentive to spend time, effort, and money.[14]

It is also worth emphasizing that contingency fees currently provide a screening mechanism against "frivolous" or weak cases.[15] Because attorneys working on a contingency-fee basis have their income tied directly to the outcome of the case, they have no incentive to take a case they believe they will lose. Moreover, contingency-fee attorneys have an interest in maintaining a reputation for bringing legitimate claims to trial and winning cases so that their future claims will be seriously regarded by defendants.[16] Taking on weak or questionable cases is therefore against the attorney's interests.

Attorneys working on an hourly-fee basis, in contrast, actually have a motivation to take non-meritorious cases or pursue potential dead ends.[17] Likewise, frivolous lawsuits are most likely to come from pro se plaintiffs who lack legal experience.[18] Thus, the cap on contingency fees would remove an important screening process and lead plaintiffs with weak cases to either seek representation on an hourly basis or represent themselves in court.

"While the proposed initiative is ostensibly aimed at reducing frivolous litigation, it is more likely to have the opposite impact."

c. The Proposed Initiative is Likely to Increase Health Care Costs to the State and Injured Individuals

One aspect of the proposed initiative that seems especially likely to be misunderstood by voters involves the likely impacts on health care costs. While the initiative is framed in language that suggests that it will result in lowered medical expenses for car accident victims, it is much more likely that the opposite will be true. The proposed initiative is also likely to result in higher health care costs for the state. These increased health care expenses will result for two reasons, as detailed below.

First, as noted above, the ballot initiative would limit injured victims to recovering unpaid medical expenses — and some future expenses — to a formula that is tied to the low rates paid out by Medicare, even if the victim is not in the Medicare system. In addition, car accident victims need to prove that the medical services received from past unpaid medical expenses were reasonably necessary. These additional burdens on the recovery of medical expenses — that apply only to people injured in car accidents — will make it more difficult for plaintiffs to recover their medical costs, reducing their overall amount of recovery and thereby increasing the amount of unreimbursed medical expenses incurred by them.

Research on previous attempts to pass similar legislation also shows how initiatives like the proposed California Uber initiative are likely to increase health care costs to the state. For example, a 2021 California initiative sought to cap contingent fees in personal-injury cases at 20%. The Legislative Analyst's Office of the California Legislature found that the initiative could lead to increased costs of Medi-Cal for both state and local governments.[19] The measure ultimately failed to qualify for the ballot and was withdrawn.[20]

The reasons for this have to do with the state's ability to recover medical expenses incurred by the state when someone covered under a state program is injured by another's negligence, such as in a car accident. These are known as subrogation claims. However, if an individual cannot find a lawyer to represent them due to caps on contingency fees, it is also unlikely that the state will succeed in bringing a successful subrogation claim for the recovery of the medical costs incurred by the state. Thus, the contingency fee cap would hinder state and local governments in recovering fees paid for a wide range of benefits, including employee medical expenses, workers' compensation, and Medicaid. While in some instances, the injured individuals might bear some of the costs, the leftover deficit would ultimately become a burden for the state taxpayers.[21]

For similar reasons, the proposed initiative could also impact the health care costs of all Californians, even those who have not been involved in car accidents. This is because all insurers, whether private companies or state and local governments, can ordinarily recover some of the medical expenses they paid through the process of subrogation — and caps on contingency fees would make recovery of these expenses through subrogation more challenging as well.

Conclusion

The proposed initiative does not inform voters of the likely effects of the proposal. While Uber presents the initiative as a reform that will increase victims' recoveries, the opposite is much more likely to occur.

The proposed initiative will radically restructure the provision of legal services in California in automobile accident cases, significantly reducing the availability of legal representation to people who are injured and dramatically limiting their ability to recover from wrongdoers. The confusing caps on attorneys' fees, coupled with the threat of criminal prosecution, will deter lawyers from taking most (and perhaps nearly all) cases. Even for cases that are filed, plaintiffs may end up worse off. Although plaintiffs might get a larger slice of the pie under the proposed initiative, the total size of the pie is likely to shrink dramatically.

It is also unlikely that most voters will understand that the proposed initiative significantly restricts their legal rights and their autonomy — both in terms of their negotiations with lawyers they may wish to hire and with respect to their health care choices, as the initiative would restrict recovery of certain types of medical expenses More broadly, the initiative is likely to disproportionately harm vulnerable groups who rely on contingency fee arrangements with their attorneys for redress.

Finally, because of its misleading characterization of the legal system and legal representatives, the proposed initiative risks weakening public confidence in the civil justice system and courts generally. Contrary to what is suggested in the proposed initiative, there is not now and never has been an epidemic of civil litigation in the United States. Scholars definitively discredited these claims several decades ago and continue to do so.[22] Campaigns like this one which attempt to play upon those mistaken beliefs and inflated rhetoric are especially of concern because of the potentially broader implications for the justice system as a whole. Attacks on lawyers, such as those in Uber's proposed initiative, discredit the civil justice system, raising questions about the legitimacy of the legal system more broadly.[23]

Notes

[1] Corboy, Philip H. "Contingency Fees: The Individual's Key to the Courthouse Door." *Litigation* 2 (1976): 4.

[2] Specifically, the reasonable cost would be set at 125% of the local Medicare reimbursement rate for the service. If there is no applicable Medicare rate available, the reasonable cost would be considered 170% of the local Medi-Cal reimbursement rate. In the case of no Medicare or Medi-Cal rate, the reasonable cost would be considered the median or average of rates paid by local commercial insurers.

[3] *Uber Sexual Assault Survivors for Legal Accountability v. Nevadans for Fair Recovery*. Nevada Supreme Court, January 27, 2025.

[4] Haltom, William, and Michael McCann. *Distorting the Law: Politics, Media, and the Litigation Crisis*. Chicago: University of Chicago Press, 2004, 52–56.

[5] Kritzer, Herbert M. *Risk, Reputations, and Rewards: Contingency Fee Legal Practice in the United States*. Stanford: Stanford University Press, 2004, 180–218.

[6] Kritzer, Herbert M. Declaration of Herbert M. Kritzer. *Uber Sexual Assault Survivors for Legal Accountability and Nevada Justice Association v. Uber Technologies, Inc.* At 9.

[7] Kritzer, Herbert M. *The Justice Broker: Lawyers and Ordinary Civil Litigation*. New York: Oxford University Press, 1990, 72.

[8] Ibid.

[9] Graham, Andrew. "Uber Wants to Cap Attorney Fees After Crashes. Trial Lawyers, Scholars Oppose It." *The Sacramento Bee*, December 31, 2025. https://www.sacbee.com/news/politics-government/capitol-alert/article314041744.html.

[10] Kritzer, Herbert M. Declaration of Herbert M. Kritzer. *Uber Sexual Assault Survivors for Legal Accountability and Nevada Justice Association v. Uber Technologies, Inc.* Citing: Shajnfeld, Adam. "A Critical Survey of the Law, Ethics, and Economics of Attorney Contingent Fee Arrangements." *New York Law School Law Review* 54 (2009–2010): 773, 806–807.

[11] Kritzer, Herbert M. *Risk, Reputations, and Rewards: Contingency Fee Legal Practice in the United States*. Stanford: Stanford University Press, 2004, 40, 12–16.

[12] Kritzer, Herbert M. Declaration of Herbert M. Kritzer. *Uber Sexual Assault Survivors for Legal Accountability and Nevada Justice Association v. Uber Technologies, Inc.* Case No. 24-OC-000561B. Supreme Court of Nevada, July 15, 2024.

[13] Fitzpatrick, Brian T. "Do Class Action Lawyers Make Too Little?" *University of Pennsylvania Law Review* 158 (2010): 2043, 2062.

[14] Fitzpatrick, Brian T. "A Fiduciary Judge's Guide to Awarding Fees in Class Actions." *Fordham Law Review* 89 (2021): 1151, 1158. See also: Black, Bernard S., et al. *Medical Malpractice Litigation, How It Works, What It Does, and Why Tort Reform Hasn't Helped*. Cato Institute, 2021.

[15] Kritzer, Herbert M. Declaration of Herbert M. Kritzer. *Uber Sexual Assault Survivors for Legal Accountability and Nevada Justice Association v. Uber Technologies, Inc.* Case No. 24-OC-000561B. Supreme Court of Nevada, July 15, 2024.

[16] Kritzer, Herbert M. *The Justice Broker: Lawyers and Ordinary Civil Litigation*. New York: Oxford University Press, 1990, 241–250.

[17] Kritzer, Herbert M. Declaration of Herbert M. Kritzer. *Uber Sexual Assault Survivors for Legal Accountability and Nevada Justice Association v. Uber Technologies, Inc.* Citing: Rhode, Deborah L. "Ethical Perspectives on Legal Practice." *Stanford Law Review* 37 (1985): 589, 635.

[18] Kritzer, Herbert M. "The Commodification of Insurance Defense Practice." *Vanderbilt Law Review* 59 (2006): 2053.

[19] Petek, Gabriel, and Keely Martin Bosler. Letter to Hon. Rob Bonta, Attorney General. California Legislative Analyst's Office and Department of Finance, November 29, 2021. https://oag.ca.gov/system/files/initiatives/pdfs/fiscal-impact-estimate-report%2821-0030A1%29.pdf.

[20] Kritzer, Herbert M. Declaration of Herbert M. Kritzer. *Uber Sexual Assault Survivors for Legal Accountability and Nevada Justice Association v. Uber Technologies, Inc.* Case No. 24-OC-000561B. Supreme Court of Nevada, July 15, 2024.

[21] Ibid.

[22] Galanter, Marc. "Reading the Landscape of Disputes: What We Know and Don't Know (and Think We Know) About Our Allegedly Contentious and Litigious Society." *UCLA Law Review* 31, no. 1 (1983): 4–72.

[23] Bloom, Anne. "The Impact of Tort Reform in the United States." *Annual Review of Law and Social Science* 21 (2025): 415–429. https://doi.org/10.1146/annurev-lawsocsci-041922-035529.