

Violation Type: Advertisement Disclaimers effective 2018
Violation Code Section: Video Ads Disclaimer (e.g. TV and Internet) (84504.1)
Electronic Media Ads (e.g. Web Sites and Social Media) (84504.3)

We have recently become aware of significant violations of the Political Reform Act's ("Act") video advertisement disclaimer requirements, which require video ads to prominently display the name of the committee paying for the ad, as well as the top funders to the committee.

The so-called "Fairness for Injured Patients Act Coalition" (FPPC ID # 1422397) ("Coalition"), a recipient committee primarily formed to support a future statewide ballot measure, and Nicholas Rowley, the top contributor to the Coalition, have posted numerous video "advertisements" (as that term is defined in Cal. Gov. Code § 84501) that fail to contain **any** of the disclaimers required by the Disclose Act. Top funder Rowley also neglects to include disclaimers on his Instagram page that are required for advertisements appearing on social media.

On the Coalition's campaign website (<https://fairnessact.org>), the Coalition posted a video titled "Jennifer Ha" that unlawfully fails to include a disclaimer, even though the video is obviously a campaign advertisement. (See <https://fairnessact.com/jennifer-ha>.) Applicable law clearly requires video advertisements—such as this one—to include a full disclaimer, in specified formatting, that lists the name of the committee that paid for the ad as well as the top three contributors to that committee. (Cal. Gov. Code § 84504.1.) The law explicitly states that the video disclaimer provisions govern "videos disseminated over the Internet." (Cal. Gov. Code § 84504.1(a).)

The Coalition's failure to include a proper disclaimer on its video advertisement appears to be an attempt at obfuscation and deprives the public of essential information about who paid for the ads, as well as the funding sources for the committee. If these blatant violations are a coordinated attempt to deny potential voters critical facts about who is funding not only these advertisements but the campaign generally, action must be taken.

These egregious violations of the Act are compounded by the fact that the FPPC Enforcement Division recently found that the Coalition violated other provisions of the Act, including by erroneously reporting the intermediary of a prior contribution instead of the contribution's true source, as well as failing to update its website disclaimer within five days of a new contributor qualifying as a top contributor. (See FPPC Enforcement Division Letter re: Complaint No. COM-11232019-02588; Dec. 9, 2019.)

In addition to the aforementioned violation, it has come to our attention top funder Rowley has turned his personal Instagram page into a de facto campaign account. The

most recent posts on his account have all been campaign-related; therefore, his account should include the full, legally required disclaimer on his Instagram profile's cover photo or, alternatively, include a link in his profile to the Coalition's website. (Cal. Gov. Code § 84504.3(h).) Top funder Rowley has chosen to ignore this requirement, instead including in his Instagram profile a headshot photo of himself and a link to his personal injury law firm's homepage.

Rowley has posted numerous video ads in support of the Coalition that also do not contain disclaimers, as plainly required by law. (See [instagram.com/p/CPIxpWHL-LF/](https://www.instagram.com/p/CPIxpWHL-LF/) ("Rowley Video 1") & [instagram.com/p/B BEWA-AZKj/](https://www.instagram.com/p/B BEWA-AZKj/) ("Rowley Video 2").) Rowley Video 1 is an extended video ad that appears to be produced by the Coalition. Rowley Video 2 is an edited version of a similar video that appears on the Coalition's website; the phrases "Fairnessact.com" and "Fairnessact.com – Vote Yes 2020" appear at the bottom of the screen at various times during the ad.

Alongside his Instagram post containing Rowley Video 1, top funder Rowley writes: "FairnessAct.com #fairnessforinjuredpatients #fairnessforinjuredpatientsact #fixmicra #fixmicranow SPREAD THE WORD - 95% of voters have no clue that their life, child/baby's life, loved ones life is subject to a one-size-fits-all 1975 mandatory cap set by politicians and that juries are lied to. Civil Rights for Health Care Patients is essential to quality of care- medical negligence is the 3rd leading cause of death in America and the only vaccine is access to justice! Take away civil rights and accountability drops, people get hurt, maimed, and die. Share and save this please and keep posting it."

Likewise, in his Instagram post containing Rowley Video 2, top funder Rowley writes: "California's 1975 medical malpractice law is the most regressive in U.S. History. Big Insurance Corporations make a killing every year off of a one-size-fits-all \$250K Cap placed 45 years ago on the value of Life, Liberty & Happiness. #fixmicra #fairnessact."

There is no question that these videos and their accompanying captions constitute campaign advertisements under California law. Nonetheless, just as with the "Jennifer Ha" video, neither the Coalition nor top funder Rowley bothered to include the legally mandated disclaimers on the advertisements (Cal. Gov. Code §§ 84504.1 & 84504.3), leaving viewers in the dark about the true source of the committee that funded the ad, as well as the identities of the committee's funders.

Given the direct pecuniary interest of top funder Rowley and the other plaintiff attorney donors in the measure's outcome, this campaign is sure to be both well-funded and hotly contested. It is likely the Coalition will receive numerous additional contributions of substantial size and produce many more advertisements. Therefore, it is urgent that the public be fully informed about the ads' funding sources, and it is imperative that the Coalition not be permitted to continue to engage in blatant violations of the important disclosure provisions of the Act. Even though top funder Rowley is a legal Iowa resident, he is still an attorney duly and currently licensed to practice here, who therefore should be required to be aware of and compliant with California election law.

We respectfully request that the FPPC investigate these matters promptly, and commence an enforcement action, to ensure that the public is fully aware of the advertisements' funding sources, as required by law. Thank you for your consideration.