

O/a 6-8-87

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

JUN 11 1987

IN RE PETITION TO AMEND RULES)
REGULATING THE FLORIDA)
BAR)

CASE 70,366

CLERK, SUPREME COURT

By _____
Deputy Clerk

SUPPLEMENT TO ANSWER BRIEF OF HENRY P. TRAWICK, JR.

Henry P. Trawick, Jr.
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SUMMARY OF SUPPLEMENT

The brief of The Florida Bar in support of the amendment to Rule 4-1.5(a)-(c) was received by respondent on June 5, 1987. This left insufficient time to read and consider the brief or to serve and file anything in response before the hearing on oral argument on June 8. This supplement contains a suggestion for eliminating respondent's objection to the amendment to Rule 4-1.5(c).

ARGUMENT

POINT I

IN DETERMINING A REASONABLE FEE, ALL OF THE FACTORS IN RULE 4-1.5, RULES OF PROFESSIONAL CONDUCT, MUST BE CONSIDERED AND WEIGHED EVENLY.

Until the brief of The Florida Bar was received on June 5, 1987 respondent did not know the reason for the changes to Rule 4-1.5(c) and the addition of (d).

In the oral argument before the court on June 8, the distinction between a fee arrangement between an attorney and his own client and the imposition of a fee on the adverse party is a result of litigation was argued.

Respondent submits that it is a vital distinction and one that should be preserved. Respondent submits that The Florida Bar evidently did not give careful consideration to all of the ramifications of the proposal in its rather ill-advised attempt to circumvent the Rowe decision.

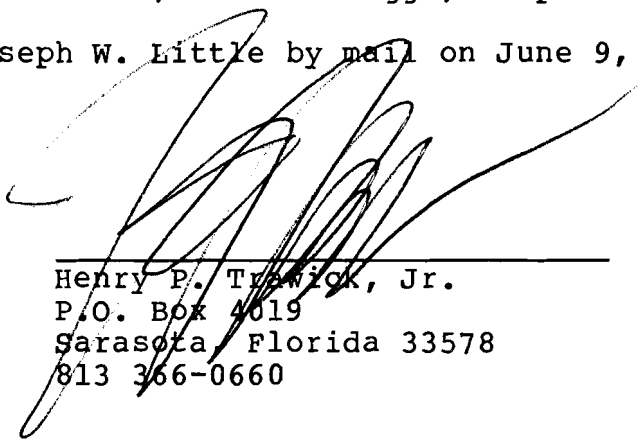
If this court is inclined to adopt Rule 4-1.5(c), respondent's objection can be obviated by placing:

"Unless the attorney and client have agreed otherwise,..." at the beginning of the proposed subdivision (c). This will preserve the right of the attorney and the client to contract on an hourly rate basis.

CONCLUSION

Respondent submits that Rule 4-1.5(c) should be amended as proposed if the court is inclined to adopt the Rule.

The undersigned certifies that a copy of the foregoing has been furnished to Joseph J. Reiter as President of The Florida Bar, Ray Ferrero, Jr., as President-elect of The Florida Bar, John F. Harkness, Jr. as Executive Director of The Florida Bar, John Beranek, Robert P. Lipsky, Alex Lancaster, Marcia K. Cypen, Charles Stepter, Jr., C. Rufus Pennington, III, Karen Bokan, Arthur I. Jacobs, Thomas A. Pobjecky, Larry D. Beltz, Bill Wagner, W.C. Gentry, Michael M. Tobin, Evan I. Fetterman, John A. Boggs, Stephen Tabano, Jeffrey I. Zuckerman and Joseph W. Little by mail on June 9, 1987.



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