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November 23, 1988

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SID J. WHITE

NOV 30 1988

CLERK, SUPREME COURT

By _____
Deputy Clerk

Clerk of The Supreme Court
Tallahassee, Florida 32399-1927

RE: Supreme Court Case No. 73263

Dear Sir:

This letter is being submitted regarding proposed Rule 1.442 Offer of Judgment. I note in the November 15, 1988 Florida Bar News comments about the proposal are solicited.

While recognizing the potential constitutional problems of Section 45.061 and Section 768.79, it is the opinion of the undersigned that the proposed Rule does not have strong enough sanctions to be effective. The statutory sections have excellent sanctions. I have found that in using the statutory sections, because of the stringent sanctions imposed, the use of these statutes promotes settlement. Neither the sanctions under the current version of Rule 1.442 nor the proposed Rule are sufficient enough in my opinion to carry forth the obvious intent of the proposed Rule which is to promote settlements.

Specifically, I would suggest that the proposed Rule contain a provision allowing the Trial Court to award attorneys' fees and court costs as well as other expenses incurred in litigation such as those listed in Section 45.061 and Section 768.79 Florida Statutes.

Very truly yours,

GOLDBERG, GOLDSTEIN & BUCKLEY, P.A.

BY: J. JEFFREY RICE

JJR/sb

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