

IN THE SUPREME COURT OF FLORIDA

AUG 15 1989

CLERK, SUPREME COURT

By Deputy Clerk

THE FLORIDA BAR

IN RE: PETITION TO AMEND

THE RULES REGULATING THE

CASE NO.

FLORIDA BAR - CONTINGENT

FEES

PETITION TO AMEND THE RULES REGULATING THE FLORIDA BAR

The Board of Governors of The Florida Bar, pursuant to rule 1-12.1, Rules Regulating The Florida Bar, hereby petitions the court to amend the Rules Regulating The Florida Bar, and says:

1. The amendments submitted with this petition were approved by the Board of Governors of The Florida Bar at their May, 1989, meeting.

2. Notice of intent to file this petition was published in the July 15, 1989, edition of The Florida Bar News. Exhibit A.

3. The proposed amendments relate to the language of the calculator of the appropriate maximum contingency fee in rule 4-1.5(F)(4)^(b)1.b., Rules of Professional Conduct, and do not alter the existing rule. Rather the amendments relate to clarity of the rule and are in response to various inquiries of the judiciary and

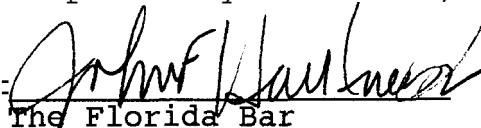
the profession as to the proper interpretation of the current rule. The amendments incorporate language of 4-1.5(F)(4)1.a., Rules of Professional Conduct, and 4-1.5(F)(4)1.f., Rules of Professional Conduct.

The proposed amendments are attached. Exhibit B.

WHEREFORE, the Board of Governors of Florida Bar prays the court will amend the Rules Regulating The Florida Bar in the manner requested.

Respectfully submitted,

by:



The Florida Bar
John F. Harkness, Jr.
Executive Director
Florida Bar No. 123390
Stephen N. Zack
President
Florida Bar No. 145215
James Fox Miller
President-elect
Florida Bar No. 95070
John A. Boggs
Director of Lawyer Regulation
Florida Bar No. 253847
650 Apalachee Parkway
Tallahassee, Florida 32399-2300
(904) 561-5600

Official Notice:

The Board of Governors of The Florida Bar hereby gives notice, pursuant to rule 1-12.I, Rules Regulating The Florida Bar, of intention to file on Monday, August 14, a petition to amend the Rules Regulating The Florida Bar in the form **as** set forth below. A copy of the petition and proposed rule amendments may be obtained by writing John A. Boggs, Director of Lawyer Regulation, The Florida Bar, 650 Apalachee Parkway, Tallahassee 32399-2300. Any member who wishes to file a response to the petition must do so within 30 days of the filing of the petition. Any response must be filed on or before Wednesday, September 13, 1989.

4-1.5 Fees for Legal Services

(F) As to Contingent Fees:

* * *

* * *

(4) A lawyer who enters into an arrangement for, charges, or collects any fee in an action or claim for personal injury or for property damages or for death or loss of services resulting from personal injuries based upon tortious conduct of another, including products liability claims, whereby the compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof shall do so only under the following requirements: * * *

(b) The contract for representation of a client in a matter set forth in paragraph (F)(4) may provide for a contingent fee arrangement **as** agreed upon by the client and the lawyer, except **as** limited by the following provisions:

1. Without prior court approval **as** specified below, any contingent fee which, **exceeds** the following standards shall **be** presumed, unless rebutted, to be clearly **excessive**:

a. 33-1/3% of any recovery up to \$1 million through the time of filing of an answer or the demand for appointment of arbitrators;

b. 40% of any recovery up to \$1 million **from the time of filing an answer or the demand for appointment of arbitrators through the trial of the case the entry of judgment**;

c. 30% of any recovery between \$1 million and \$2 million;

d. 20% of any recovery in excess of \$2 million;

e. If all defendants admit liability at the time of filing their initial answers and request a trial only on damages:

(i) 33-1/3% of any recovery up to \$1 million through trial;

(ii) 20% of any recovery between \$1 million and \$2 million;

(iii) 15% of any recovery in excess of \$2 million;

f. An additional 5% of any recovery after notice of appeal is filed or post-judgment relief or action is required for recovery on the judgment.

EXHIBIT A

4-1.5 Fees for Legal Services.

* * *

(F) As to Contingent Fees:

* * *

(4) A lawyer who enters into an arrangement for, charges, or collects any fee in an action or claim for personal injury or for property damages or for death or loss of services resulting from personal injuries based upon tortious conduct of another, including products liability claims, whereby the compensation is to be dependent or contingent in whole or in part upon the successful prosecution or settlement thereof shall do so only under the following requirements:

* * *

(b) The contract for representation of a client in a matter set forth in paragraph (F)(4) may provide for a contingent fee arrangement as agreed upon by the client and the lawyer, except as limited by the following provisions:

1. Without prior court approval as specified below, any contingent fee which exceeds the following standards shall be presumed, unless rebutted, to be clearly excessive:

EXHIBIT B

a. 33-1/3% of any recovery up to \$1 million through the time of filing of an answer or the demand for appointment of arbitrators;

b. 40% of any recovery up to \$1 million from the time of filing an answer or the demand for appointment of arbitrators through ~~the trial of~~ the ease the entry of judgment;

c. 30% of any recovery between \$1 million and \$2 million;

d. 20% of any recovery in excess of \$2 million;

e. If all defendants admit liability at the time of filing their initial answers and request a trial only on damages:

(i) 33-1/3% of any recovery up to \$1 million through trial;

(ii) 20% of any recovery between \$1 million and \$2 million;

(iii) 15% of any recovery in excess of \$2 million;

f. An additional 5% of any recovery after notice of appeal is filed or post-judgment relief or action is required for recovery on the judgment.