

SUPREME COURT OF FLORIDA

CASE NO. SC05-1150

In Re: Petition to Amend Rules
Regulating The Florida Bar -
Rule 4-1.5(f)(4)(B) of the
Rules of Professional Conduct.

Comments of Martin G. Arnowitz, Attorney,
Florida Bar No. 197491 and objections to
Proposed Amendment

Martin G. Arnowitz, Esq., respectfully submits the following comments and objections to the proposed Amendment to the Rules of Regulating the Florida Bar - Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct and for his reasons states:

1. I am a practicing trial attorney in Fort Myers, Florida. A small portion of my practice includes representing claimants in medical negligence cases.
2. It was my understanding that this honorable Court and the Florida Bar had set up procedures to be followed regarding edits, amendments or changes to the Rules Regulating the Florida Bar. This petition completely bypasses those procedures and eliminates the rights and protection of Florida Bar members offered by those procedures.
3. It is transparent that this petition is intended to gain litigation advantage for the Florida Medical Association and other medical negligence defendants both as to challenges to the constitutionality of Amendment 3 and in individual medical negligence litigation

cases. See DEBORAH C. ADDISON, as Personal Representative of the Estate of ERIKA ROSE ADDISON, deceased, Plaintiff, v. DOCTORS OSTEOPATHIC MEDICAL CENTER, INC D/B/A GULF COAST HOSPITAL, DWIGHT PHELPS, M.D., SOUTH GULF COAST EMERGENCY PHYSICIANS, PA, NANCY M. TROAST, D.O., ADRIANA LUKANOVA, M.D. AND NANCY M. TROAST D.O. PA. CASE NO. 05-CA-001431 - JBR, Gulf Coast Hospital's affirmative defense, paragraph 22, ¶ For its next defense, this defendant affirmatively alleges the constitutional limitation on attorneys fees on medical negligence cases. @

4. It is my opinion that amendment 3 is unconstitutional for a multitude of reasons. Shouldn't the judiciary have a right to rule on its constitutionality where it is presented as the issue of law to be decided, rather than bypassing the issue by altering the Professional Rules of Conduct?
5. Therefore, I respectfully request this Honorable Court deny the Grimes= Petition.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by U.S. Mail upon John Harkness, General Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee FL 32399-2300 and Stephen H. Grimes, Counsel for Petitioners, Holland and Knight, LLP, P.O. Box 810, Tallahassee, FL 32302-0810 on this 15th Day of August, 2005.

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By: _____
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