

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC05-1150

IN RE: PETITION TO AMEND RULE 4-1.5(f)(4)(B)
OF THE RULES OF PROFESSIONAL CONDUCT

OPPOSITION OF FRANK M. BEDELL TO PETITION

The undersigned is a member of The Florida Bar. I urge the Court to reject the petition. As pointed out by other lawyers who oppose the petition, the referenced constitutional amendment was clearly intended to preclude individuals who have been injured by medical malpractice from being able to retain certain counsel to represent them, in light of the difficulty and out-of-pocket expenses which are associated with properly preparing and presenting medical malpractice cases. Therefore, the petitioners are effectively attempting to limit access to the courts.

Individuals who have been injured by medical malpractice should be able to retain their rights to waive this purported constitutional protection just as individuals can waive constitutional rights in other areas, such as the rights to be free from self-incrimination in a criminal context. Contrary to petitioners' assertions, lawyers would not be placed in a position of negotiating with their clients but could simply advise the potential client of the constitutional right, that the lawyer is not willing to undertake the case on that basis, and that the client can seek independent counsel if he or she desires.

It was unfortunate that the three constitutional amendments were passed by the electorate in 2004, but it is even more unfortunate that petitioners are now trying to revisit this issue with

an ill-advised rule change. For these reasons, I respectfully request that this Court reject the petition.

Respectfully submitted,

**WINDERWEEDLE, HAINES, WARD
& WOODMAN, P.A.**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail to
STEPHEN H. GRIMES, ESQ., Holland & Knight, LLP, P.O. Drawer 810, Tallahassee, Florida
32302; and to JOHN F. HARKNESS, JR., ESQ., Executive Director, The Florida Bar, 651 East
Jefferson Street, Tallahassee, Florida 32399-2300, on September 28, 2005.

Frank M. Bedell