

IN THE SUPREME COURT OF FLORIDA
CASE NUMBER 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 ROBERT T. BERGIN, JR.,
FLORIDA BAR NO. 228389 IN OPPOSITION TO
THE PROPOSED AMENDMENT

Robert T. Bergin Jr. respectfully submits the following comments in opposition to the Petition to Amend the Rules Regulating The Florida Bar – Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct.

1. Nothing in Article I, Section 26 of the Florida Constitution nor in the Petition suggests that the fee schedule currently embodied in Rule 4-1.5 is unreasonable or unethical. Indeed, the changes in the statutory law regarding medical negligence cases since the fee schedule was adopted by this Court in 1986 have added to the already complex and difficult nature of the litigation. Thus, it cannot be reasonably argued that the fees deemed reasonable in 1986 are not reasonable today.

2. Amendment 3 was sold to the Public as a “Claimant’s right” but Petitioners are asking the Court to apply it as a “restriction” by prohibiting a

citizen from knowingly, intelligently and freely contracting for the services of the lawyer of his or her choosing.

3. The adoption of the proposed Amendment will effectively result in the denial of the Constitutional right to access to courts to the class of people injured by medical negligence.

I HEREBY CERTIFY, that a true and correct copy of the foregoing has been furnished by U.S. Mail this ____ day of October, 2005, to: John Harkness, Esq., General Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399, and Stephen Grimes, Esq., Counsel for Petitioners, Holland & Knight LLP, P.O. Box 810, Tallahassee, FL 32302

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By: _____
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