

**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.

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**COMMENTS OF GARY M. COHEN, ATTORNEY,  
FLORIDA BAR NO. 310433 AND OBJECTIONS TO  
PROPOSED AMENDMENT**

The undersigned attorney, GARY M. COHEN respectfully submits the following comments and objections to the proposed Amendment to the Rules Regulating the Florida Bar – Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct:

1. As a member in good standing of the Florida Bar since 1980, and as a practicing attorney, I hereby file this pleading regarding my opposition to the so called “Grimes Petition”.
2. This Petition is an abuse of a procedural privilege extended to each member of the Bar to seek changes in the rules regulating our profession in order to advance our profession and our professionalism. This “Grimes Petition” is in no way intended to advance our practice or benefit jurisprudence. In fact, it would act as a bar to legitimate claims of medical malpractice. This Petition seems to be an attempt on behalf of the Florida Medical Association (an undisclosed client), that has been filed in an effort to gain a litigation advantage as to the constitutionality of Amendment 3.
3. This Petition seems to be a blatant attempt on behalf of this undisclosed client to make Amendment 3 changes in the form of a Bar rule and thereby avoiding the

ultimate test of this Amendment's underlying legality under our State and Federal Constitution. It is my strong position that Amendment 3 and this "Grimes Petition" is unconstitutional under both the State and Federal Constitution.

4. I believe that this Petition, as well as Amendment 3, should be declared unconstitutional as it violates the rights of all malpractice victim's to due process, equal protection, access to courts as well as freedom of association. Further, such a rule change would prohibit the victim's right to waive one constitutional right in favor of another potentially conflicting right. There is no question that the constitutionality of this Amendment should be addressed by our judiciary and not circumvented by this "Grimes Petition" in its attempt to bolster a political interest group over the rights of individual citizens.
5. Respectfully, I oppose the Petition and request that 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 the 21st day of September, 2005.

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By: \_\_\_\_\_  
*Gary M. Cohen, Esq.*  
Fla. Bar No.: 310433