

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 JAY COHEN, ATTORNEY AT LAW, FLORIDA
BAR NO. 292192 TO PROPOSED AMENDMENT TO THE RULES
REGULATING THE FLORIDA BAR**

Jay Cohen, Attorney at Law, duly licensed to practice in the State of Florida and in good standing with The Florida Bar, objects to the Petition To Amend the Rules Regulating The Florida Bar filed by Steven Grimes on behalf of The Florida Medical Association. It is respectfully requested that this Honorable Court consider the following comment and observation in addition to the numerous objections and comments this Court has already received addressing the unlawful attempt to amend, modify or promulgate some Rule of Professional Conduct to restrict the rights of individuals to contract and negotiate terms with the attorney of their choice for the sole purpose of eliminating medical negligence lawsuits.

It is a concern that the Florida Rules of Professional Conduct are being used in this manner and one can only imagine what could lie in the future.

Please consider:

1. If The Florida Medical Association is successful in interfering in the relationship between a client and his/her attorney in this fashion in order to attempt to prevent the filing of meritorious malpractice cases against its members, then what would stop financial institutions from petitioning The

Supreme Court to modify Florida Bar Rules effecting attorney fee contracts between an individual who has been damaged in some manner by a thrift or other financial institution and a lawyer of that persons choosing?

2. What would prevent airline companies from petitioning this Court to prevent a person from engaging the services of an attorney by attempting to limit their fees or costs so that individuals who were injured or lost a family member in a tragic airline crash could not hire a lawyer to bring a claim against a negligent pilot or carrier?
3. What would prevent major corporations in America who are subject to claims against them for wrongful business practices, employer-employee violations, breaches of contracts and agreements, defaults on debts or other obligations from petitioning The Florida Supreme Court to effectively preclude those damaged and injured by their actions from hiring a lawyer?
4. What would prevent large corporate real estate and development companies who sacrificed safety for profit and built unsafe structures, violated zoning or land use laws from petitioning The Florida Supreme Court to amend the Rules Governing The Florida Bar in order to interfere with those who have been harmed or injured in any way as a result of their company's negligence or even intentional conduct from being able to engage the services of a lawyer designed solely and exclusively to prevent and preclude the filing and bringing of such meritorious claims?

If this Court entertains and grants any relief for the benefit of The Florida Medical Association then when will the assault on the right to seek redress in the Courts stop. It

won't. It will only encourage those with economic superiority to take advantage of the underprivileged. The next assault will be against Real Estate Lawyers or Tax Lawyers or Corporate Lawyers or Commercial Litigation Lawyers and so on...until...these selfish interests "first kill all the lawyers..." as Shakespeare wrote. Because once you "first ...kill all the lawyers" no champion to safeguard common people's rights will be around.

The Florida Medical Association's intent behind the misleading language of Amendment 3 was to gain some type of immunity for its members' negligent actions that caused injury, death and damage to innocent individuals and families. Does anyone really believe the Florida Medical Association wants victims of malpractice to receive more money?

This Court should not condone this type of action. Certainly, this Court should not condone such action under the guise of regulating the conduct of Florida Bar members.

This Petition of first impression commonly referred to as the "Grimes Petition", but more accurately, "The Florida Medical Association's Attempt To Preclude Meritorious Medical Malpractice Claims in the State of Florida," should be denied.

Respectfully submitted,

Jay Cohen, Esquire
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I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this ____ day of September, 2005 to John Harkness, General Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300 and Stephen H. Grimes, Counsel for Petitioners, Holland & Knight, LLP, Post Office Box 810, Tallahassee, FL 32302-0810.

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