

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 THE DADE COUNTY
BAR ASSOCIATION AND OBJECTIONS
TO PROPOSED AMENDMENT**

A. Introduction:

Pursuant to Rule 1-12.1(g) of the Rules Regulating The Florida Bar, the Dade County Bar Association (“DCBA”) submits these comments objecting to the proposed amendment to Rule 4-15(f)(4)(B). The Court should dismiss or deny the Petition and reject the proposed rule amendment.

B. Statement of Interest of Respondent DCBA:

The DCBA is the largest voluntary bar association in the State of Florida. The thousands of DCBA members practice in diverse legal fields, including civil and criminal trial work and appellate practice. Our members represent both plaintiffs and defendants in civil litigation. The DCBA was formed in 1916 and incorporated as a non-profit entity in 1920 to “advance the science of Jurisprudence, to promote reform in the law, to facilitate the administration of justice, to uphold the standard of integrity, honor and

courtesy in the legal profession, and to cultivate a spirit of cordiality and brotherhood among members of the Bar.”

C. DCBA Unanimously Resolves to Oppose Proposed Amendment:

On June 1, 2005, after the Petitioner gave notice that the present petition would be filed, the Board of Directors of the DCBA debated the matter and voted unanimously to issue the Association’s resolution in opposition to the petition. The text of that reads as follows:

WHEREAS, the Grimes petition seeks to engraft into the Rules Regulating The Florida Bar an incorrect interpretation of the provisions of Article I Sec. 26 of the Florida Constitution (now commonly known as Amendment 3); and

WHEREAS, the interpretation of Amendment 3 and any of its applications is a substantive legal matter to be addressed through appropriate litigation in the courts of this state; and

WHEREAS, the Grimes petition attempts to inappropriately change substantive law through the rules regulating professional conduct; and

WHEREAS it is an infringement of State and Federal Constitutional rights to interfere with any individual’s existing right under the current Florida Bar Rules to contract with a lawyer of his or her choice and to waive the existing provisions of Rule 4-1.5; and

WHEREAS, the DCBA has always stood for accessibility of legal representation to all segments of our society; and

WHEREAS, the effect of the proposed rule changes sought by the Grimes petition would unfairly impair the right of access to the judicial system to victims of medical malpractice.

NOW, THEREFORE, it is hereby resolved and agreed as follows:

1. The Dade County Bar Association opposes the Rule changes contemplated by the Grimes petition, and
2. The Dade County Bar Association urges the Disciplinary Committee of The Florida Bar, the Board of Governors of The Florida Bar as well as the Supreme Court of Florida to DENY THE GRIMES PETITION AND REJECT ITS PROPOSED CHANGES TO RULE 4-1.5(F)(4)(B).

A copy of the signed resolution is attached as Exhibit A.

CONCLUSION

WHEREFORE, the Dade County Bar Association respectfully submits that this Court should reject the proposed amendment to Rule 4-1.5.

Respectfully submitted,

ROY D. WASSON
Florida Bar No. 0332070
Wasson & Associates, Chartered
Gables One Tower – Suite 450
1320 South Dixie Highway
Miami, FL 33146
(305) 666-5053 Telephone
(305) 666-0010 Facsimile

JOHN W. THORNTON, JR.
Florida Bar No. 241148
President, DCBA
Thornton & Rothman
Ste. 2690–Wachovia Financial Centre
200 S. Biscayne Boulevard
Miami, FL 33131
(305) 358-9000 Telephone
(305) 374-5747 Facsimile

ROBERT J. FIORE
Florida Bar No. 606863
Immediate Past President, DCBA
Museum Tower, Penthouse II
150 West Flagler Street, Suite 2900
Miami, FL 33130
(305) 358-4011 Telephone
(305) 358-4019 Facsimile

Counsel for Dade County Bar Association

By: _____
ROY D. WASSON
Florida Bar No. 0332070

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 E. Jefferson Street, Tallahassee, FL 32399-2300 and Stephen H. Grimes, Counsel for Petitioners, Holland + Knight, LLP, P.O. Box 810, Tallahassee, FL 32302-0810 on this the 5th day of July, 2005.

By: _____
ROY D. WASSON
Florida Bar No. 0332070