

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
Rule of Professional Conduct

COMMENTS OF MICHAEL DIAZ, JR. ATTORNEY, FLORIDA BAR NO.: 606774, AND OBJECTIONS TO PROPOSED AMENDMENT

Michael Diaz, Jr., 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 practicing attorney and a member of the Florida Bar, I file this pleading to voice my opposition to the Grimes Petition.
2. As a member of the Florida Bar we have the privilege to seek changes in the law that regulates our conduct, and the Grimes Petition is clearly an abuse of this procedural benefit. There are no valuable benefits achieved through the Grimes Petition to the practice of law in our State. Instead, the only beneficiary is going to be an undisclosed client, which is The Florida Medical Association (FMA), in order to assist them with their legal position on the constitutionality of Amendment 3.
3. The Petitioner and their Trojan horse (the FMA) are not making an effort to improve the Florida Bar through rule change, as it may casually seem in their Petition, rather, they seek to graft Amendment 3 into a Bar rule and thereby avoid a challenge to the Amendment's underlying legality under our State and Federal Constitutions.

4. Amendment 3 is clearly unconstitutional as it violates the rights of malpractice victims to due process, freedom of association, equal protection, and access to courts. Moreover, a rule change of this nature would prevent a victim's right to waive one constitutional right (assuming for argument's sake the Amendment was unconstitutional) in favor of another potentially conflicting right. The constitutionality of Amendment 3 should be addressed by our judiciary and not side stepped by the Grimes Petition in its disingenuous effort to alter our professional rules of conduct through an inappropriate method.

5. The rule of law should be interpreted in our legal system through appropriate litigation in the courts of the state of Florida. This Petition attempts to change the law that regulates the lawyer's professional conduct inappropriately.

6. Claimant also seeks to implicate the rights of individuals to contract with a lawyer of their preference, thus waiving the existing provisions of Rule 4-1.5 and the liberty to contract.

7. Therefore, I oppose this petition and request that this Honorable Court deny the Grimes Petition.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy was served by U.S. Mail upon John Harness, General Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, and Stephen H. Grimes, Counselors for Petitioners, Holland and Knight, LLP, P.O. Box 810, Tallahassee, Florida 32302-0810, on this 29th day of July, 2005.

By: _____

Michael Diaz, Jr.
Fla. Bar No.: 606774