IN THE SUPREME COURT OF FLORIDA

CASE NUMBER SC-05-1150

IN RE: PETITION TO AMEND
RULE 4-1.5(f)(4)(B) OF THE
RULES OF PROFESSIONAL CONDUCT
_____/

RESPONSE TO PETITION BY DOUGLAS F. EATON, ESQUIRE

Herein please find my Response to the Petition filed by former Justice Grimes seeking to amend the Florida Rules of Professional Conduct, specifically Rule 1.15(f)(4)(B). Speaking on behalf of my colleagues at HomerBonner, P.A. and myself, I am writing to voice our opposition to this misguided attempt to highjack the Bar's Rules of Professional Regulation for a wholely political purpose.

As the Justices are well aware, Amendment 3 was the result of the Florida Medical Association's (FMA) dissatisfaction with the actions taken by Florida's elected Senators and Representatives during the numerous special sessions to draft a Medical Malpractice Bill that was, ostensibly, designed to reduce insurance rates for physicians, while at the same time protecting the rights of consumers injured by physicians. Having failed at obtaining the draconian $250,000.00 caps the FMA sought during the special sessions, they placed Amendment 3 on the Ballot and then proceeded to mislead voters as to what the actual effect of Amendment 3

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would be. To wit, Amendment 3 was designed to make filing a medical malpractice claim financially unattractive for lawyers, thus reducing the number of claims filed against doctors, meritorious or otherwise. Justice Lewis recognized this much in his dissent when he called Amendment 3 "a wolf in sheep's clothing."

Now, after successfully having duped the general public into voting for an Amendment that was designed specifically to limit their ability to bring a claim against a physician in the event that they are injured, the FMA, by and through attorneys on their payroll, is attempting to rob these same prospective injured consumers of their right to contract with an attorney at rates that the Florida Bar has long held to be reasonable.

When the Florida Bar set the percentages attorneys would be allowed to take in contingency fee cases, they were the result of an extensive vetting process that carefully balanced the rights of the consumer to a recovery and the incentive for attorneys to take contingency fee cases. The Bar reached these percentages with the input and participation of all interested parties - - attorneys on both sides of the aisle, consumers, and potential defendants.

No such process has occurred in this instance. There has been no evidence that has been an explosion in medical malpractice lawsuits filed. There has been no evidence presented that the contingency fees charged by attorneys in medical malpractice cases somehow need adjustment. In short, there has been no need

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demonstrated by the FMA for the change in the fee structure. Accordingly, we respectfully request the Court deny the Petition.

Respectfully submitted,

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By:_____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. regular mail this _____ day of **September, 2005**, to: Executive Director of The Florida Bar, **JOHN HARKNESS, JR., General Counsel,** 651 E. Jefferson Street, Tallahassee, FL 32399-2300; and **STEPHEN H. GRIMES, ESQ.,** Counsel for Petitioners, Holland and Knight, LLP, P.O. Box 810, Tallahassee, FL 32302-0810.

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