

IN THE SUPREME COURT OF FLORIDA

CASE NO.: SC05-1150

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

OPPOSITION TO PETITION

The undersigned are members of the Florida Bar practice together and are board certified in appellate practice. We urge the Court to reject the petition. The constitutional amendment was clearly intended to preclude individuals who have been injured by medical malpractice from being able to retain competent counsel to represent them, given the difficulty and out-of-pocket expense associated with adequately preparing and presenting medical malpractice cases.

Such individuals should be able to retain their rights to waive this purported constitutional “protection,” just as individuals can waive constitutional rights in other areas, including the rights to be free from self-incrimination in a criminal context. Contrary to the assertion in the petition, lawyers would not be placed in a position of “negotiating” with their clients, but could simply advise the potential client of the constitutional right, that the lawyer is not willing to undertake the case on that basis, and that the client can seek independent counsel if he or she desires.

RAYMOND T. ELLIGETT, JR., ESQ.
Florida Bar No. 261939
SCHROPP, BUELL & ELLIGETT, P.A.
3003 W. Azeele Street, Suite 100
Tampa, Florida 33609
Tel: (813) 874-2600
Fax: (813) 874-1760

CHARLES P. SCHROPP, ESQ.
Florida Bar No. 206881
SCHROPP, BUELL & ELLIGETT, P.A.
3003 W. Azeele Street, Suite 100
Tampa, Florida 33609
Tel: (813) 874-2600
Fax: (813) 874-1760

AMY S. FARRIOR, ESQ.
Florida Bar No. 684147
SCHROPP, BUELL & ELLIGETT, P.A.
3003 W. Azeele Street, Suite 100
Tampa, Florida 33609
Tel: (813) 874-2600
Fax: (813) 874-1760

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail to: STEPHEN H. GRIMES, ESQ., Holland & Knight, LLP, P.O. Drawer 810, Tallahassee, Florida 32302 and JOHN F. HARKNESS, JR., ESQ., General Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300, on July _____, 2005.

Attorney