

IN THE SUPREME COURT OF FLORIDA

CASE NUMBER SC05-1150

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

RESPONSE TO PETITION BY PAMELA HATLEY

I write in response to the Petition to Amend Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct.

I am a lawyer and practice in the areas of land use, environmental, zoning, animal law and real estate. I am confounded why this arcanelly motivated amendment should enter the ethical rules governing my practice. It appears the insurance industry, being unsuccessful in persuading the legislature adopt laws affecting medical malpractice lawyers, resorted to the constitutional amendment process and managed to get Amendment Three passed. The language of Amendment Three, which the insurance lobby drafted, has apparently failed, or this petition would not be before the Court. The failure of Amendment Three to effect the purpose intended by the insurance industry is a result of the flawed language composed by its drafters. This Petition has now been brought before the court seeking to impose an ethical rule of the Florida Bar governing lawyers as a mechanism

to correct the failure of Amendment Three. This is not what I would expect or desire in the complex rules governing the ethics of lawyers. I see no corresponding rule for the medical malpractice defense lawyers nor am I aware of any statutes capping the fees charged to insurance companies by defense lawyers. I see nothing but the slow one-sidedness that is used when one segment of a population has set about to conquer and control another segment. It plays out time and time again in state legislatures the United States Congress.

I see no salient need to impair the right of injured plaintiffs by making the failed Amendment Three an ethical rule governing lawyers in the State of Florida.

In addition to being a lawyer, I am a wife and mother of a child. If my husband, my son, or I were ever injured at the hands of a doctor, clinic or hospital, I would want to be able to hire a medical malpractice lawyer on terms that would guarantee his or her interest and active participation in the recovery from the offending doctor, clinic or hospital. It should be my right to choose any lawyer with whom I want to contract under whatever terms I choose. I do not wish the legislature, the Florida Medical Association, or any entity other interfering in that right.

The Florida Medical Association the Florida Board of Medicine are not removing doctors who are cause the majority of the malpractice, so it apparently is up to a competent trial lawyer to help the victims of medical malpractice.

According to the watchdog group, Public Citizen, over 2,000 Floridians are the victims of medical mistakes each year. The petition as I understand it, impairs my ability to obtain a medical malpractice lawyer since none will accept work with such high risk and little or no gain. The amendment itself was a “wolf in sheep’s clothing” and in no uncertain terms led the public to believe it would give them *more* money. In reality, Amendment Three deprives injured persons from receiving *any* money since the majority of experienced and capable trial lawyers will not work under Amendment Three’s terms with such high risk and costs.

This petition severely limits my right and ability to hire a lawyer. It is a rule which would perpetuate the subterfuge of Amendment Three.

I urge this court to deny the petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing original and an electronic copy as well as eight copies were sent to the Clerk of the Supreme Court of Florida by mail September 30, 2005 pursuant to the Court's Administrative Order: In Re: Mandatory Submission of Electronic Copies of Documents, AOSC04-84 dated September 13, 2004.

Respectfully submitted,

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