

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 DAWN IKERD, ESQUIRE

This is in response to the Petition filed by Former Justice Grimes which seeks to amend the Florida Rules of Professional Conduct Rule 1.15(f)(4)(B). I deeply oppose what is being requested.

The freedom to contract is one of our most fundamental rights. In an attempt to shun responsibility, the Florida Medical Association, paying Former Justice Grimes and the law firm of Holland & Knight, is attempting to destroy that right. This Honorable Court has long ago ruled the amounts that can reasonably be charged in contingency cases. Great thought and deliberation was made in that determination. This Honorable Court knew that unless the average citizen could obtain a lawyer on a contingency basis, he or she would effectively be denied the key to the courthouse.

The reality is that if this Honorable Court were to restrict the attorney's fees in medical malpractice in the manner suggested by Former Justice Grimes on behalf of the FMA, victims of medical malpractice would

have difficulty obtaining a good and competent lawyer. Simply put, the average citizen would not be able to handle his or her own medical malpractice case. The benefit to the FMA, who is the voice of healthcare providers across this state, is obvious. No lawyers would mean less malpractice claims. The end result is equally obvious, with the threat of a claim gone and no accountability, healthcare providers become careless and the citizens of this great state suffer.

At stake is the right of a citizen to waive his/her constitutional rights. Both state and federal law allow individuals to waive these rights. To eliminate this right when it comes to hiring a lawyer, but keeping it in place when it comes to an individual's freedom with a Miranda warning is outrageous and can only be explained away as promoting the agenda of the FMA.

CONCLUSION

This Honorable Court is faced with a decision that could have farther reaching implications than the issue now before it. The destruction of citizens' rights in this democracy in which we live should not be tolerated. I ask this Court to say "enough is enough" and preserve those rights that have been in our law books for hundreds of years and which each of us as lawyers and jurists swore to uphold. We must protect the rights of those less

fortunate. It is based upon that overriding concern, that the petition should be denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by US regular mail this ____ day of September, 2005 to: 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, PO Box 810, Tallahassee, FL 32302-0810.

Respectfully submitted,

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