

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
Rules of Professional Conduct.

RESPONSE TO PETITION BY SCOTT T. JOHNI, ESQUIRE

This is a Response to the Petition filed by former Justice Grimes seeking to amend the Florida Rules of Professional Conduct Rule 1.5(f)(4)(B). It is with great concern that I write this Response, both as an attorney and a person injured by actions of a nurse at a medical facility.

Although I have litigated several medical malpractice claims in the past, that is not where my practice is focused today. I primarily represent people who have been injured as a result of others negligence in motor vehicle and motor cycle collisions.

My dedication and passion to those injured in traffic collisions stems from a personal experience that occurred in 1986, when I fractured my cervical spine in a motor vehicle collision. While hospitalized, I was placed in a halo device, which stabilized my fractured spine. A nurse at the facility made the decision to lift me into a seated position. Unfortunately for me, she used my halo as handle bars@

to effectuate the lift, and that subsequently caused my C2 vertebra to shift, impinging on my spinal cord causing temporary paralysis. The neurosurgeon performed immediate surgery, saved my life, and I fortunately regained use of all my bodily functions. I chose not to pursue a claim against the nurse and facility, although in hindsight, I sometimes regret that decision, particularly when the legal profession is continuously attacked by the Florida Medical Association (FMA). It was a choice I was able to make without interference from outside parties.

The true proponent behind the Grimes Petition seeking to modify the attorney fee provision (Rule 4-1.5) is the FMA. It is clear from the long history the FMA seeks to eliminate medical malpractice lawsuits. The battle has been brewing since the mid-nineteen eighties and has taken on new vigilance since the most recent fee cap legislative assault in 2003.

After the passage of fee cap limitation provisions in medical malpractice claims, the FMA targeted the attorneys handling those claims in sponsoring Amendment 3. This was a calculated approach designed to eliminate access to the courts for those wrongly injured.

CONCLUSION

If the Grimes Petition is successful, many victims will not be afforded the choice I was able to make in 1986. This is simply the FMA's attempt to thwart justice and access to the Courts for those wrongly injured due to medical malpractice. This Court should deny the request to modify Rule 1.5(f)(4)(B).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail upon 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, P.O. Box 810, Tallahassee, FL 32302-0810 on this the 26th day of September, 2005.

By: _____
SCOTT T. JOHNI

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