

SUPREME COURT OF FLORIDA

CASE NO.: SC05-1150

**In Re: Petition to Amend Rules Regulating
the Florida Bar - Rule 4.1.5.(f)(B) of the
Rules of Professional Conduct**

**COMMENTS OF ESTHER U. LABOVICK, ATTORNEY,
FLORIDA BAR NO.: 872611 AND OBJECTIONS
TO PROPOSED AMENDMENT**

ESTHER U. LABOVICK respectfully submits the following comments and objections to the proposed Amendment to the Rules Regulating the Florida Bar - Rule 4-1.5(f)(B) of the Rules of Professional Conduct:

1. As a member of the Florida Bar and a practicing attorney, I file this pleading to voice my opposition to the Grimes' Petition.
2. It is my understanding that this Petition is being filed on behalf of an undisclosed client, that is, the Florida Medical Association. This would only be done to gain a litigation advantage as to the constitutionality of Amendment 3 which is already being pursued through the appropriate channels.
3. The appropriate method to proceed to change the Florida Bar rules would be a rule change through the Florida Bar and its members. Rather, the Petitioners and their undisclosed client (the Florida Medical Association) seek to graft Amendment 3 into a Bar rule change and thereby avoid a test of the Amendments underlying legality under state and federal constitutions.
4. Amendment 3 is unconstitutional. It violates the rights of malpractice victims to due process, freedom of association, equal protection, and access to courts. A

Rule change of this nature prevents the victim's right to waive a constitutional right (assuming the Amendment was constitutional) in favor of another conflicting right. Amendment 3's constitutionality should be addressed by the judiciary and NOT sidestepped by the Grimes' Petition in a disingenuous effort to alter our rules of professional conduct.

5. I oppose the Petition and request that this Honorable Court deny the Petition.

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this ____ day of _____, 2005 by U.S. Mail to the Florida Supreme Court, 500 S. Duval Street, Tallahassee, Fl 32399-1927 also via electronic filing at e-file@flcourts.org and by US Mail to John

Harkness, General Counsel, Florida Bar, 651 East Jefferson Street, Tallahassee, Fl 32399-2300,

Stephen H. Grimes, Counsel for Petitioner, Holland & Knight, LLP, PO Box Tallahassee, Fl 32302-

0810.

Respectfully submitted,

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BY: _____
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Fla. Bar No.: 872611