

# 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./

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**COMMENTS OF THE TAMPA BAY TRIAL  
LAWYERS ASSOCIATION AND OBJECTIONS  
TO PROPOSED AMENDMENT**

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**A. Introduction:**

Pursuant to Rule 1-12.1(g) of the Rules Regulating The Florida Bar, the Tampa Bay Trial Lawyer Association (ATBTLA@) submits these comments objecting to the proposed amendment to Rule 4-15(f)(4)(B). The Court should dismiss or deny the Petition and reject the proposed rule amendment.

**B. Statement of Interest of Respondent DCBA:**

The TBTLA is a voluntary bar association comprised of over two hundred attorneys in the Tampa Bay Region. Our members primarily represent the individuals injured due to the fault of others, including patients harmed by medical errors who seek redress against negligent health care providers. Our missions statement is to uphold and defend the principles of the Constitutions of the United

States and the State of Florida; to advance the science of jurisprudence, to train in all fields and phases of advocacy; to prompt the administration of justice for the public good; to uphold the honor and dignity of the profession of law; to encourage mutual support and cooperation among members of the bar; to diligently work to promote public safety and welfare while protecting individuals liberties; to encourage the public awareness and understanding of the adversary system and to uphold and improve the adversary system, assuring that the courts shall be kept open and accessible to every person for redress of any injury and that the right to trial by jury shall be secure to all and remain inviolate.

The proposed amendment to Rule 4-1.5 runs counter to the mission and purpose of the TBTLA, in that it threatens to restrict access to courts by those who need access most. The assumed fee caps raise barriers to prevent plaintiffs from litigating - with the assistance of counsel of their choice - meritorious malpractice claims against well-funded defense attorneys whose clients are not capped in the amount they can pay.

**C. TBTLA Unanimously Resolves to Oppose Proposed Amendment:**

After the Petitioner gave notice that the present petition would be filed, the Board of Directors of the TBTLA debated the matter and voted unanimously to oppose the Grimes Petition. The petition should be dismissed or denied because it: 1) misuses Rule 1-12.1(f), Rules Regulating the Florida Bar; 2) interferes with litigation which is currently being prosecuted; and 3) interferes with an individual's right to waive their legal rights.

### **CONCLUSION**

WHEREFORE, the Tampa Bay Trial Lawyers Association respectfully submits that this Court should reject the proposed amendment to Rule 4-1.5.

Respectfully submitted,

SCOTT T. JOHNI  
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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 21<sup>st</sup> day of September, 2005.

By: \_\_\_\_\_  
SCOTT T. JOHNI  
Florida Bar No. 0990220