

IN THE 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 MARTIN E. LEACH, FLA. BAR NO 0037990,  
AND OBJECTIONS TO PROPOSED AMENDMENT**

The undersigned, Martin E. Leach, an attorney licensed to practice in Florida, respectfully submits the following comments and objections related to the proposed amendment to Rule 4-1.5(f)(4)(b), Rules Regulating the Florida Bar (“the Grimes petition”), and states:

As a member of the Florida Bar and a practicing attorney, I am filing this pleading to voice my objection to the Grimes petition, which interferes with the right of the citizens of this state to obtain quality legal representation when they have suffered a civil wrong. If the Grimes petition is adopted, then the playing field will be uneven. Members of the medical profession will be able to select the attorneys of their choice on terms they deem fair and reasonable, while citizens victimized by medical errors will be hamstrung from finding competent attorneys to represent them because of the cost and time involved in litigating for a fee that would be inadequate. If the Grimes petition is adopted, the only victims of medical errors that will be able to pursue a claim are those who are already wealthy

and can afford to compensate the attorney on an hourly-fee basis. This is fundamentally unfair.

Although the citizens approved Amendment 3, they did not include language prohibiting the waiver of these rights. It is well established in Florida that citizens may waive any right to which they are legally entitled “whether secured by contract, conferred by statute or guaranteed by the Constitution.” *Bellaire Securities Corp. v. Brown*, 124 Fla. 47, 168 So. 625, 639 (1936). As long as there is a knowing and voluntary waiver of rights, there is no reason to hamstring the victims of medical errors from obtaining the kind of quality representation that the members of the medical profession will no doubt retain to represent their interests.

### **CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true copy of the foregoing has been served by mail on: John F. Harkness, Jr., Esq., 651 E. Jefferson St., Tallahassee, FL 32399-2300; and Stephen H. Grimes, Esq., P.O. Drawer 810, Tallahassee, FL 32302, on September 14, 2005.

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By: \_\_\_\_\_

Martin E. Leach  
Florida Bar No. 0037990