

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.

**COMMENTS OF DOUGLAS J. McCARRON, ATTORNEY,
FLORIDA BAR NO. 0077453 AND OBJECTIONS TO
PROPOSED AMENDMENT**

Douglas J. McCarron, Esq. respectfully submits the following comments and objections to the proposed Amendment to the Rules Regulating the Florida Bar **B** Rule 4-1.5(f)(4)(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. The Petition, filed on behalf of the Florida Medical Association and its political allies, is a bold abuse of a procedural privilege extended to the members of the Florida Bar to advance our practice or to benefit jurisprudence. Instead, this Petition is a brazen attempt by the Florida Medial Association to seek a litigation advantage against medical malpractice victims and to encroach on the ability of

medical malpractice victims to obtain representation of their choice.

3. The Petition should further be rejected because it tramples upon a very basic right under both the Florida and federal constitutions: the right of citizens to knowingly waive one constitutional right in order to more fully exercise another such right more valuable to the holder of both those rights. There is nothing about the right assumedly established by Amendment 3 that is deserving of different treatment than any other right under the state or federal constitutions. It is well settled that a defendant in a criminal case may waive just about any right, even though his or her liberty, and life itself, hangs in the balance. *See Tucker v. State*, 417 So.2d 1006 (Fla. 3d DCA 1982). Nothing in the language of Amendment 3 could be read to prevent a knowing and intelligent waiver of any purported rights established by Amendment 3.
4. Clearly, Florida medical malpractice victims should not be stripped of their fundamental right to retain counsel of choice at a reasonable fee for the benefit of the Florida Medical Association.
5. Therefore, I oppose the Petition and request that this Honorable Court deny the Petition.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was served by U.S. Mail upon John Harkness, General Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, FL 32399-2300, and Stephen H. Grimes, Counsel for the Petitioners, Holland and Knight, LLP, P.O. Box 810, Tallahassee, FL 32302-0810, on this 28th day of July, 2004.

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By: _____
Douglas J. McCarron
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