

NOTICE OF COMPLIANCE WITH COURT'S ORDER
DATED WEDNESDAY, OCTOBER 12, 2005

October 18, 2005

Thomas D. Hall, Clerk
Florida Supreme Court
500 South Duval Street
Tallahassee, Florida 32399-1927

Re: Grimes Petition - SCO5-1150

Dear Sirs:

It has come to my attention recently that the Court is considering a petition to incorporate the recent Amendment 3 into rules regulating the Florida Bar. I strongly recommend that the Court deny this petition.

In my opinion, the Amendment is bad economics. It changes the price of a service by government fiat in a manner that is not un-similar to the wage/price controls that caused so many problems to our economy in the 1980's. In a market society such as ours, left to their own devices, the buyers and sellers of such services will eventually sort out ways to rectify any shortages that arise from the Amendment. This proposed rule change would make it much more difficult for the market to work.

Complaints about the level of contingency fees are based on a misunderstanding of how the plaintiff attorney's business model works. A defense attorney charges for time by the hour and has relatively little risk of not being able to receive payment. The contingency fee incorporates a similar fee for service component, along with a return on the capital that is risked in undertaking a lawsuit – payments for winning cases offset costs on ones that are not won. In my business, advising companies on the design of compensation programs, this difference is analogous to the difference between base salaries and stock based compensation devices such as stock options. It is a well-established opinion among my professional peers that one should not compare an all salary pay package to a salary plus stock compensation package without adjusting for the relative risk.

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Lastly, I would recommend that the Court consider the “Law of Unintended Consequences” that so often accompanies government actions. It is not inconceivable that a strict rule such as the one proposed by the Petition could have the effect of splitting the plaintiff attorney business model into two components: a fee for service legal profession, governed by Bar rules; and a lawsuit financing business that operates largely outside the jurisdiction of the courts through loans with contingent repayment arrangements and risk based fees. Such a business model could easily result in plaintiffs receiving even less of their proper judgments than they did under the pre-Amendment 3 fee schedule.

Very truly yours,



Paul J. McConnell

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 East Jefferson Street, Tallahassee FL 32399-2300 and Stephen H. Grimes, Counsel for Petitioners, Holland and Knight, LLP, P.O. Box 810, Tallahassee, FL 32302-0810 on this the 18th day of October, 2005.

A handwritten signature in blue ink, appearing to read 'Paul McConnell', with a large loop at the top and a horizontal line at the bottom.

Paul McConnell