

SUPREME COURT OF FLORIDA

CASE NO.: SC05-1150

IN RE: PETITION TO AMEND
RULE 4-1.5(f)(4)(B) OF THE
RULES OF PROFESSIONAL CONDUCT

RESPONSE TO PETITION BY KEVIN McLAUGHLIN, ESQ.

COMES NOW Kevin McLaughlin and files his Opposition and Comment to the proposed Amendment to the Rules Regulating the Florida Bar – Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct. I am opposed to the Petition commonly referred to as the Grimes’ Petition, as follows:

1. As a member of the Florida Bar, I file this pleading to voice my opposition to the Grimes’ Petition.
2. This Petition is an abuse of a procedural privilege extended each of us as members of the Florida Bar to seek changes in the rules regulating our profession to advance our profession and our professionalism. The Grimes Petition is not intended to advance our practice or benefit jurisprudence. Instead, the Petition is filed on behalf of an undisclosed client (The Florida Medical

Association) in an effort to gain a litigation advantage as to the constitutionality of Amendment 3.

3. Amendment 3 is unconstitutional as it violates the rights of malpractice victim's to due process freedom of association, equal protection, and access to courts. Moreover, a rule change of this nature would prevent a victim's right to waive one constitutional right (assuming for argument's sake the Amendment was constitutional) in favor of another potentially conflicting right. The constitutionality of Amendment 3 should be addressed by our judiciary and not side stepped by the Grimes Petition in its disingenuous effort to alter our professional rules of conduct.

4. Even if the Amendment is upheld, clients should still be permitted to waive the Constitutional right and enter into a contract with counsel regarding the handling of medical negligence claims. Constitutional rights are routinely waived for a variety of reasons.

5. Most importantly, the existing rules already protect clients against the assessment of excessive fees.

6. Therefore, I urge this Honorable Court to not implement the changes to Rule 4-1.5 suggested in the Grimes Petition.

Respectfully submitted,

KEVIN McLAUGHLIN
Wagner, Vaughan & McLaughlin, P.A.
601 Bayshore Blvd., Suite 910
Tampa, FL 33606
(813) 225-4000
(813) 225-4010 (fax)
Florida Bar No.: 0085928

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this _____ day of September, 2005 by U.S. Mail to the Clerk of the Florida Supreme Court, 500 S. Duval St., Tallahassee, FL 32399-1927 and by US Mail to John Harkness, General Counsel, Florida Bar, 651 E. Jefferson St., Tallahassee, FL 32399-2300, Stephen H. Grimes, Counsel for Petitioner, Holland & Knight, LLP, P.O. Box 810, Tallahassee, FL 32302-0810.

Respectfully submitted,

KEVIN McLAUGHLIN
Wagner, Vaughan & McLaughlin, P.A.
601 Bayshore Blvd., Suite 910
Tampa, FL 33606
(813) 225-4000
(813) 225-4010 (fax)
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