

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.

**OBJECTIONS AND COMMENTS OF JOSEPH P. MILTON,
ATTORNEY, FLORIDA BAR NO. 119974, TO PROPOSED
AMENDMENT TO THE RULES REGULATING THE FLORIDA BAR**

Joseph P. Milton, an attorney in good standing of The Florida Bar, objects to the Petition filed before this Honorable Court which improperly seeks to amend the Rules Regulating The Florida Bar.

The following is respectively submitted for this Honorable Court's consideration:

1. It is clear that the proponents of the Petition (which is clearly the Florida Medical Association) after deceiving the citizens of Florida into passing Amendment 3 have now realized that it did not really accomplish their ultimate goal - i.e., to reduce attorney's fees in medical malpractice cases to such a low recovery that no competent medical malpractice attorney would take a case.¹
2. Having realized the flaw in their plan, they now want to use The Rules Regulating The Florida Bar to close this perceived "loop hole".

¹I am surprised that Amendment 3 did not pass by even a larger margin in spite of the tremendous sums of money spent in opposition to it as it was really tantamount to placing on a national ballot whether or not one would be in favor of reducing income taxes. It is hard to imagine that would not receive a large plurality.

3. The issues which are improperly presented by the Petition should be addressed in individual cases, in the appropriate courts, under the appropriate facts presented in those cases, rather than attempt to have this Court amend The Rules Regulating The Florida Bar.²
4. The fact that this Court ruled that the Amendment could be placed on the ballot is of little import in the assessment of the Amendment which can be addressed in the appropriate civil cases which are sure to arise.
5. Lastly, Rule 4-1.5(f) (C) provides under “The Statement of Client’s Rights” every person in Florida the right to discuss with their lawyer any proposed fee, including whether to increase or decrease their normal fee. Apparently, the Petition would have this Honorable Court disregard this established precedent.

One could go on and on in a logical, well-reasoned opposition to the proposed Amendment, but, in a nutshell, the undersigned has attempted to address some of the major flaws. The Petition should be denied.

²Saved for another day is whether or not in its current form Amendment 3 is even constitutional in that it clearly was misleading to the average electorate and wrongfully attempts to limit the public’s access to the Courts in violation of the Federal and Florida Constitutions.

/s/ Joseph P. Milton
JOSEPH P. MILTON
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and nine (9) copies hereof have been forwarded to the Clerk for filing, along with an electronic copy filed with the Clerk at e-file@flcourts.org; and that a copy has been furnished by U.S. Mail to John F. Harkness, Jr., General Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, and to Stephen H. Grimes, Counsel for Petitioners, Holland & Knight, LLP, Post Office Drawer 810, Tallahassee, Florida 32302-0810, this 19 day of September, 2005.

/s/ Joseph P. Milton
Joseph P. Milton