IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENT TO THE RULES REGULATING THE FLORIDA BAR – RULE 4.15(f)(4)(B) OF THE RULES OF PROFESSIONAL CONDUCT

CASE NO.: SC05-1150

_____/

COMMENTS RE: AMENDMENT THREE

To Whom It May Concern:

I would like to take this opportunity to advocate against any vote that would result in Amendment 3 becoming a rule. Voting for the adoption of Amendment 3 as a rule would be a tremendous mistake and an abuse of the trust and power that has been bestowed on this or any other governmental body. Regardless of how it is dressed or disguised, this entire campaign is nothing more than a methodical exertion to chisel away at plaintiffs' access to courts. Proponents of the amendment have relied on misguided sentiment and appeal against allegedly excessive fees by medical malpractice attorneys. These attorneys have been crucified as the scapegoat of a problem that exists not because of the fees, but because of incompetent doctors and an allegedly omnipotent insurance industry, neither of which wants to take responsibility. It is their well-financed campaign that has hoodwinked the public and challenges this Court into considering a compromise of the guaranteed freedom of access to courts, one of the pillar rights of our nation.

Please realize that there is no basis for subjecting medical malpractice lawyers to a more stringent contingency fee standard than those imposed on other personal-injury lawyers. While I dread to give proponents of the amendment any additional ideas, there is no conceivable reason why a Florida lawyer who brings a products liability case for an injured client should be permitted to charge a higher contingency fee than a lawyer who brings a medical malpractice case for the same client and obtains compensation for the same injury. Why should the differing legal nature of the claim bear any relationship as to whether or not the compensation is reasonable? Could it be because there are well-financed doctors and influential insurance companies pushing their agenda?

In conclusion, medical malpractice attorneys are a small class of sellers of a highly specialized professional service. Implementing what will be, in effect, a price control will yield very predictable market dislocations. The inevitable effect of Amendment 3 becoming law will be to cause plaintiff's medical malpractice attorneys to leave their field and move into other fields where they can charge a fee that is commensurate with their skills and sufficient to cover the risk and expense of the litigation. The result will be a shortage or potential elimination of plaintiff's medical malpractice attorneys in the State of Florida. Isn't it ironic that the advocates of tort reform have argued that restrictions on physicians' income allegedly caused by the existing tort system will force physicians to leave their practices and result in a shortage of qualified physicians in the State? One can hardly deny that the same economic principles apply to lawyers as well…

I remain,

Christopher M. O'Neal, Esquire
Parks & Crump, LLC