

IN THE SUPREME COURT OF FLORIDA

CASE NUMBER SC05-1150

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

---

**COMMENTS OF EDMUND ALONSO NORMAND  
TO PROPOSED AMENDMENT**

Please consider this as my comment to the Petition to Amend Rule 4-1.5(f)(4)(B) of the Rules Regulating the Florida.

This Court is being asked to create a Bar Rule limiting the contractual right of lawyers and their clients to engage in voluntary contracts for legal services based upon the recent Amendment 3, now Article I Section 23 of the Florida Constitution. Section 23 has not been judicially tested regarding its parameters or validity. Such a rule amendment is certainly premature and should not even be considered until the full import of Section 23 can be construed with relevant provisions of the United States Constitution and other provisions of the Florida Constitution.

For example, many constitutional rights can be waived by our citizens. The right of access to courts itself in Section 21 of the Florida Constitution can be waived by an arbitration clause in a contract. If such a fundamental right as the access to courts can be voluntarily waived by our citizens, they certainly should have the power

to waive a constitutional provision limiting their own freedom to contract with a lawyer of their choice. More importantly, before the Florida Bar creates a rule to effectively prevent our citizens from voluntarily waiving their constitutional rights so that they can seek effective legal counsel of their choice, the waiver issue must have been tested through the Florida Courts in a true controversy as with all important legal precedent. To prevent waiver of Section 23 now by the passage of the proposed amendment to the Bar Rules is the equivalent of a Judicial determination of the right to waive a constitutional provision without the benefit of due process.

Accordingly, I respectfully request that this court deny the Petition to Amend Rule 4-1.5(f)(4)(B) unless and until the validity of a citizens right to waive Section 23 has withstood the test of judicial scrutiny respecting the due process rights of all our citizens.

WOOTEN, HONEYWELL,  
KIMBROUGH, GIBSON,  
DOHERTY AND NORMAND, P.A.  
P.O. Box 568188  
Orlando, FL 32856-8188  
(407) 843-7060  
Fax: (407) 843-5836  
Attorneys for Plaintiff

By /s/ Edmund Alonso Normand  
Edmund Alonso Normand  
Florida Bar No. 865590

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the Executive Director of the Florida Bar, John F. Harkness, Jr., 651 E. Jefferson Street, Tallahassee, Florida 32399-2300, and Stephen H. Grimes, Post Office Drawer 810, Tallahassee, Florida 32302, **this 19<sup>th</sup> day of September, 2005.**

/s/ Edmund Alonso Normand  
Edmund Alonso Normand  
Florida Bar No. 865590