

**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 write this letter to express my discontent at the proposed rule on Amendment Three. It is an unconstitutional device that strips Floridians of their basic rights. Amendment Three limits access to the courts and an individual's right to enter into a contract. Both of these rights are explicitly protected in the Florida constitution. They are basic freedoms that are afforded to every citizen of this state. Its implementation denies equal access to the courts and effective representation. It also denies and/or severely compromises freedom in the selection of an attorney to represent your cause.

This amendment is a misguided attempt to cap attorney fees when such a mechanism already exists. Florida has a pre-suit process which requires the screening of a potential medical malpractice case. During this process, the legitimacy of a suit is established. Additionally, this process caps recoverable damages; thus providing protection from any overreaching on the part of the attorney.

Moreover, as you may well know, preparation for litigation in a medical malpractice suit is very costly and time consuming. It is unfair to ask any attorney to put the time, effort and staff into a case with no expectation of recovering proper compensation.

Further, proponents of this amendment argue that it is an attempt to afford parties their fair share of the compensation in a medical liability case. Not only does this oversimplify the issues, but it incorrectly states the issue. Currently, parties are given their fair share of recovery. To say otherwise is a gross misstatement of the facts. Also, to say capping attorney's fees would afford them more recovery presumes that they would be able to obtain representation. Capping attorney's fees results in less attorneys being able to absorb litigations costs. Consequently, fewer attorneys would be available for representation.

Attorneys provide a service and as society has taught us; those in a service providing industry get rewarded for their hard work.

Similar to the checks and balances system of the federal and state governments, attorneys act as the check and balance on the behavior of medical personnel in order to protect the physical well-being of the Florida public. Consequently, I implore you to rally against Amendment Three and aid the effort to cause its demise.

Respectfully,  
**PARKS & CRUMP, L.L.C.**

---

Daryl D. Parks, Esquire  
FBN: 0054097

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via regular U.S. mail this 18th day of October, 2005 to **John F. Harness, Jr.**, Executive Director of The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300 and **Stephen H. Grimes**, Post Office Drawer 810, Tallahassee, Florida 32302.

---

DARYL D. PARKS, ESQ.