

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 AND OBJECTIONS OF MICHAEL SREBNICK, ESQ.

NOW COMES Michael Srebnick, and files his comments and objections to the Petition to Amend Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct filed by Attorney Stephen Grimes (“the Petition”), stating as follows:

I. INTRODUCTION

Pursuant to Rule 1-12.1(g) of the Rules Regulating the Florida Bar, Michael Srebnick submits the following comments and objections to the Grimes Petition. The proposed rule amendment should be rejected.

II. STATEMENT OF INTEREST

I am an attorney in good standing with the Florida Bar and I make my office in Miami, Florida. In my practice, I represent persons and families who have sustained injuries due to negligence or wrongful death and as a result of workplace accidents under Florida’s Workers Compensation Act. Due to the complexity and high degree of specialization required, I do not personally and directly handle medical malpractice claims, but I do refer

clients who have been the victim of medical malpractice to Florida attorneys who possess the special competence and experience in that field. In all such cases in which I have been involved, my clients willingly retained medical malpractice counsel under a contingent fee contract under rates that were within the permissible rates allowed under the Florida Rules of Professional Conduct.

III. COMMENTS AND OBJECTIONS

It is my strong opinion that the Petition, by seeking to reduce the amounts that may be charged under a contingent fee contract, wishes to dry up the supply of competent and qualified attorneys to handle meritorious lawsuits on behalf of victims of medical malpractice. In my experience, gained though referring such cases and working with lead counsel for many years, medical malpractice litigation requires any competent, dedicated attorney handling such cases to devote substantial hours and out of pocket expenditures to prosecute such actions to a successful and just conclusion. The clients I have referred to such counsel through my years of practice are almost always severely injured or have lost a family member to wrongful death and are unable to afford to retain and pay an attorney on an hourly basis to handle their claims, let alone pay the substantial litigation costs required to pursue them. Adoption of the unreasonable contingent fee limits

requested by the Petition will on the one hand deny my clients who may wish to hire a medical malpractice attorney under a reasonable contingent fee the ability to find such a lawyer, and on the other leave them unable to afford to pay one pursuant to an hourly fee agreement. As a result, I would simply have to advise them that they must give up the notion of bringing a meritorious lawsuit for medical malpractice and live with the dual injustice visited upon them by their negligent healthcare providers and the Florida Rules of Professional Conduct which forbid them to hire counsel under an otherwise reasonable contingent fee.

I cannot more strongly urge the Court to reject the Petition and proposed amendment to the Rules of Professional Conduct. It is unfair and unjust to victims of medical malpractice and it will deny them the ability to hire an attorney, no matter how meritorious their claims.

IV. CONCLUSION

WHEREFORE, I respectfully request that the Court reject the proposed amendment to Rule 4-1.5 presented by the Petition.

Respectfully submitted,

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and nine copies of the foregoing have been sent to the Florida Supreme Court, attention: Clerk's

Office, 500 South Duval Street, Tallahassee, FL 32399, by Federal Express, with an electronic format copy to the Court at e-file@flcourts.org, and with copies served by Federal Express upon John Harkness, General Counsel, The Florida Bar, 651 E. Jefferson Street, Tallahassee, FL 32399-2300 and Stephen H. Grimes, Counsel for Petitioners, Holland and Knight, LLP, P.O. Box 810, Tallahassee, FL 32302-0810.

Respectfully submitted,

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