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September 26, 2005

**VIA FIRST CLASS MAIL**

Thomas D. Hall  
Clerk  
Florida Supreme Court  
500 South Duval Street  
Tallahassee, Florida 32399-1927

**Re: Grimes Petition – SCO5-1150**

Dear Mr. Hall:

I write regarding the Petition filed by Stephen Grimes and 54 others to amend 4-1.5(f)(4)(B) of the Rules Regulating the Florida Bar, which proposes to incorporate into the Rules restrictions on attorney's fees, as allegedly required by the passage of Amendment 3 in November of last year.

It must be stated at the outset that Amendment 3 said nothing about limiting attorney's fees or access to the Courts. It simply appears to grant claimants the right to keep a certain portion of any medical malpractice settlement or award. Thus, adding a rule on attorney's fees to the Rules Regulating the Florida Bar falls outside of the intended scope of Amendment 3. Furthermore, if the people of Florida knew that Amendment 3 was designed to limit attorney's fees and prevent them from getting the lawyer of their choice, they likely would not have voted for it.

Medical malpractice and the pain, anguish and monetary loss it causes is the problem, not an inability to obtain enough money because of high attorney's fees. Thousands upon thousands of this country's citizens are killed every year because of medical malpractice. Changing the rules on attorney's fees will greatly reduce the number of competent attorneys who will be willing to represent those injured or the families of those killed by medical malpractice. Medical malpractice cases often cost tens and even hundreds of thousands of dollars for the attorneys who handle such cases. There are few, if any, competent lawyers who will be able to take a case on contingency under the unfair and overly restrictive rules proposed by the Petition.

Adoption of these rules would further restrict the rights of each individual citizen to contract with the attorney of their choice. Everyone has the right to choose a lawyer to represent them, and the agreement on the fee to be paid is a matter between the lawyer and the client. The rules proposed by the Petition undeniably take away a right to contract given by the constitution to all citizens. As potential victims of medical malpractice, we must all have the right to contract with a lawyer of our choosing and be able to decide for ourselves whether we want to waive the rights granted by Amendment 3, not be restricted from exercising those rights by rules that were not within the Amendment's intended scope in

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the first place.

It cannot be stated enough that this Amendment does not require or even warrant a Bar rule addressed to attorney's fees. The proper way to interpret this Amendment is in the factual context of a case which comes before this Court, allowing evidence to be presented and arguments made based on decisions in previous cases, rather than the Court interpreting the Amendment by the quasi-legislative act the Petition calls for. The Court must not go beyond its purpose of interpreting ripe and justiciable controversies by adopting a Rule best left for litigation over the Amendment's meaning or the legislature to decide. Thus, it is my request that this Court deny or dismiss the Petition before it.

Respectfully submitted,

/s/ Brian M. Torres

BRIAN M. TORRES

BMT/eh

cc: John Harkness, General Counsel  
The Florida Bar  
Stephen H. Grimes, Counsel for Petitioner