

FLORIDA BOARD OF TRIAL ADVOCATES RESOLUTION IN OPPOSITION TO GRIMES PETITION TO AMEND RULE 4-1.5(f) (4) (B) OF THE RULES REGULATING THE FLORIDA BAR

WHEREAS, FLABOTA is a legal organization consisting of eleven chapters (five hundred and twenty five defense and plaintiff trial lawyers) throughout the state of Florida, and

WHEREAS, the Grimes petition seeks to engraft into the Rules Regulating The Florida Bar an incorrect interpretation of the provisions of Amendment 3 to the Florida Constitution; and

WHEREAS, the interpretation of Amendment 3 and any of its applications is a substantive legal matter to be addressed through appropriate litigation in the courts of this state; and

WHEREAS, the Grimes petition attempts to inappropriately change substantive law through the rules regulating professional conduct; and

WHEREAS, the proposed subsection (iii) of Rule 41.5 is premised upon the as yet untested federal constitutional validity of Amendment 3; and

WHEREAS, there are numerous serious constitutional challenges likely to be raised against enforcing Amendment 3 as a cap on contingency fees, including impairment of clients' rights to due process, freedom of association, equal protection, access to courts, as well as violations of the Supremacy Clause; and

WHEREAS, it is an infringement of State and Federal Constitutional rights to interfere with any individual's existing right under the current Florida Bar Rules to contract with a lawyer of his or her choice and to waive the existing provisions of Rule 4-1.5; and

WHEREAS, the effect of the proposed rule changes sought by the Grimes petition would unfairly impair the right of access to the judicial system to victims of medical malpractice.

NOW, THEREFORE, it is hereby resolved and agreed as follows:

1. The Florida Board of Trial Advocates (FLABOTA) opposes the Rule changes contemplated by the Grimes Petition, and
2. FLABOTA urges the Supreme Court of Florida, the Board of Governors of The Florida Bar as well as the Disciplinary Procedures Committee of The Florida Bar, to DENY THE GRIMES PETITION AND REJECT ITS PROPOSED CHANGES TO RULE 4-1.5(f) (4) (b)

Dated: May 18, 2005

FLORIDA BOARD OF TRIAL ADVOCATES

By Herman J. Russomanno
PRESIDENT