

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 KAREN R. WASSON
TO PROPOSED AMENDMENT

The recent ballot Amendment 3, now Article 1, Section 23 of the Florida Constitution, was an amendment that was brought, and placed on the ballot, on behalf of the Florida Medical Association. During last year's election they touted that the amendment's purpose was to insure that patients would receive more money when they file malpractice claims. However, the clear motive behind Amendment 3 was to make it less likely for victims of malpractice to find representation, thereby reducing their access to the Court, thus having the effect of eliminating, or significantly reducing, the number of malpractice claims filed.

The lawyers who signed the petition in this matter, requesting this Court to amend the rules regulating the Florida Bar, Rule 41.5(f)(4)(B) of the Rules of Professional Conduct, are attorneys who were acting on behalf of the Florida Medical Association and its political allies. It is significant to note that all of the petitioners, through their law practices and fee structures, are unaffected by the amendment and the proposed Rule changes. Their motives are to advocate on

behalf of their own clients, the wealthy insurance companies that are able to pay fees and costs on an hourly basis, at the expense of preserving the right to access to the Courts for non-wealthy victims of negligence. Preserving access to the Courts, particularly for injury victims who would not have the financial capacity to fund a lawsuit with upfront fees and costs, was a primary influence in creating the concept of contingency fee contracts, which are utilized in every state to provide citizens with access to the Courts they otherwise would not have. This is precisely what the Florida Medical Association is trying to eradicate with this petition.

Further, the proposed amendment to Rule 4-1.5 affects only the fees that attorneys who represent successful medical malpractice *plaintiffs* can recover on a contingency basis. It has no impact, nor any chilling effect, on the defendants, which are the insurance companies, represented collaterally by this petition on behalf of the Florida Medical Association.

The petitioners, in this instance, are primarily corporate healthcare lawyers, lobbyists, and malpractice defense lawyers representing certain segments of the Florida healthcare industry with a specific motive and agenda. They are asking this Court to amend the Rules of Professional Conduct to promote the special interests of a highly partisan group attempting to establish an advantage over Florida citizens who become the victims of medical negligence. The right of Florida's citizens to have equal and unrestricted access to the Court is of

fundamental and primary importance to this Court, the Florida Bar, and all of its members. The Rules of Professional Conduct should not be manipulated to protect the special interest of any one group.

This Court is respectfully urged to avoid the implementation of a rule change, which would have the direct and intended consequence of limiting the ability of victims to hire lawyers of their own choosing and to seek the assistance of the Court for redress of their claim.

Dated this 27th day of September, 2005.

Karen R. Wasson, Esquire
Florida Bar No. 0117587
JACOBS & GOODMAN, P.A.
890 S.R. 434 North
Altamonte Springs, FL 32714
(407) 788-2949, FAX (407) 788-8628

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this 27th day of September, 2005 to John F. Harkness, Jr., Executive Director of The Florida Bar, 651 E. Jefferson Street, Tallahassee, Florida 32399-2300 and Stephen H. Grimes, Post Office Drawe 810, Tallahassee, Florida 32302.

Karen R. Wasson, Esquire
Florida Bar No. 0117587
JACOBS & GOODMAN, P.A.
890 S.R. 434 North
Altamonte Springs, FL 32714
(407) 788-2949, FAX (407) 788-8628