

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC05-1150

IN RE: PETITION TO AMEND
RULE 4-1.5(f)(4)(B) OF THE
RULES OF PROFESSIONAL CONDUCT

COPY

**PETITION TO AMEND THE
RULES OF PROFESSIONAL CONDUCT**

Pursuant to Rule 1-12.1(f) of the Rules Regulating The Florida Bar, Petitioners request this Court to amend Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct in the manner explained below:

1. Petitioners, who total more than 50 in number and whose names are set forth on Exhibit A attached to this Petition, are all members in good standing with The Florida Bar.

2. A copy of this Petition has been filed with The Florida Bar 90 days before the filing of this Petition with this Court.

3. A notice of intent to file this Petition has been published in The Florida Bar News at least 30 days before the filing of this Petition, and a copy of the notice is attached hereto as Exhibit B.

4. In the election of November 2, 2004, the people of the state of Florida adopted an amendment to the Florida Constitution which reads as follows:

Section 1.

Article 1, Section 26 is created to read “Claimant’s right to fair compensation.”

In any medical liability claim involving a contingency fee, the claimant is entitled to receive no less than 70% of the first \$250,000.00 in all damages received by the claimant, exclusive of reasonable and customary costs, whether received by judgment, settlement, or otherwise, and regardless of the number of defendants. The claimant is entitled to 90% of all damages in excess of \$250,000.00, exclusive of reasonable and customary costs and regardless of the number of defendants. This provision is self-executing and does not require implementing legislation.

Section 2.

This Amendment shall take effect on the day following approval by the voters.

5. The amendment by its terms does not contemplate legislative implementation and reflects the intent to control contingency fee contracts in medical liability cases.

6. With respect to medical liability cases, Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct contained in the Rules Regulating The Florida Bar authorizes contingent fees in excess of the percentages permitted by the amendment.

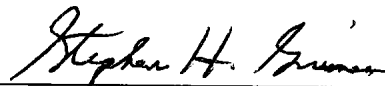
7. Petitioners respectfully request this Court to amend Rule 4-1.5(f)(4)(B) by the addition of subdivision (iii) as follows:

(iii) Notwithstanding the preceding provisions of subdivision (B), in medical liability cases, attorney fees shall not exceed the following percentages of all damages received by the claimant, exclusive of reasonable and customary costs, whether received by judgment, settlement, or otherwise, and regardless of the number of defendants:

- a. Thirty percent (30%) of the first \$250,000.00.
- b. Ten percent (10%) of all damages in excess of \$250,000.00.

8. Some lawyers have suggested that because the amendment is a constitutional provision, the client may waive its requirement and agree to higher contingent fees than permitted by the amendment. Such a suggestion would have the lawyer negotiating with the client in order to have the client agree to give up his constitutional right in order that the lawyer may receive a higher fee. To permit such a practice would not only put the lawyer in an unethical position but fly in the face of the constitutional mandate overwhelmingly approved by the voters of Florida.

WHEREFORE, Petitioners respectfully request the Court to amend Rule 4-1.5(f)(4)(B) as set forth above.



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Counsel for Petitioners

The undersigned members in good standing with The Florida Bar hereby join in the Petition to Amend Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct.

	NAME	ATTORNEY NO.
1.	John M. Knight	0188118
2.	William F. Whitson	0930148
3.	John Thrasher	0158757
4.	Christopher L. Nuland	0890332
5.	Jan J. Gorrie	0110906
6.	Kathrin F. Plendl	0765996
7.	James R. Daughton, Jr.	0148910
8.	Anna Cam Fentriss	0745162
9.	Keith Hetrick	0564168
10.	Richard Gentry	0210730
11.	Richard Watson	0185138
12.	Leslei G. Street	0962023
13.	John Wiley Horton	0059242
14.	Chad A. Guice	0762431
15.	Vincent J. Rio, III	0194291
16.	Kevin T. O'Hara	0613479
17.	Paul A. Nugent	0747660
18.	Roberta Goes Cown	0451800
19.	Robert L. Wortelboer, Jr.	0042382
20.	Randolph P. Collette	0360767
21.	Carol A. Lanfri	0110132
22.	John R. Byers	0306843
23.	Mark K. Delegal	0989924
24.	Kory J. Ickler	0194476
25.	Michael J. Thomas	0897760
26.	Cynthia S. Fletcher	0718416
27.	Brian A. Newman	0004758
28.	Joan Humphrey Anderson	0294063
29.	Edgar Murray Moore, Jr.	0847747
30.	Cynthia S. Tunncliff	0134939
31.	Virginia Saunders Delegal	0989932
32.	Nelson Diaz	0796441
33.	George Meros	0263321
34.	James Harold Thompson	0121325
35.	Mary Ann Stiles	0258008
36.	Tamela Perdue	0142638
37.	Susan L. Kelsey	0772097
38.	Luke S. Brown	0279390
39.	Susan L. Stephens	0906836
40.	Lawrence N. Curtin	0218049
41.	James A. Park III	0260983



42.	Jerome W. Hoffman	0258830
43.	Morris H. Miller	0284785
44.	John Arthur Jones	0040511
45.	William R. Lane, Jr.	0357731
46.	Shane A. Hart	0091261
47.	Robert J. Kline	0602840
48.	Mark E. Holcomb	0500811
49.	Martha W. Barnett	0160404
50.	Robert R. Feagin, III	0023903
51.	Matthew H. Mears	0885231
52.	Kelley J. Peterson	0560391
53.	James Lovely	0965596
54.	Tina Dunsford	0624721
55.	Stephen H. Grimes	0032005

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**NOTICE OF INTENT TO FILE PETITION TO AMEND
RULE 4-1.5(f)(4)(B) OF THE RULES OF PROFESSIONAL CONDUCT**

Pursuant to Rule 1-12.1 of the Rules Regulating The Florida Bar, notice is hereby given that a Petition to amend Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct will be filed in the Florida Supreme Court on June 29, 2005.

The Petition will request the Florida Supreme Court to amend Rule 4-1.5(f)(4)(B) by the addition of subdivision (iii) as follows:

(iii) Notwithstanding the preceding provisions of subdivision (B), in medical liability cases, attorney fees shall not exceed the following percentages of all damages received by the claimant, exclusive of reasonable and customary costs, whether received by judgment, settlement, or otherwise, and regardless of the number of defendants:

- a. Thirty percent (30%) of the first \$250,000.00.
- b. Ten percent (10%) of all damages in excess of \$250,000.00.

In accordance with Rule 1-12.1 of the Rules Regulating The Florida Bar, any comments or objections to the proposed amendment must be filed with the Florida Supreme Court within 30 days of the filing of the Petition. A copy of all comments or objections shall be served on the Executive Director of The Florida Bar and any persons who may have made an appearance in the matter.

