

**SUPREME COURT OF FLORIDA**

CASE NO. SC05-1150

In Re: Petition to Amend Rules  
Regulating The Florida Bar –  
Rule 4-1.5(f)(4)(B) of the  
Rules of Professional Conduct.

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**COMMENTS OF CLAUDIA B. GREENBERG, ATTORNEY,  
FLORIDA BAR NO. 283940 AND OBJECTIONS TO  
PROPOSED AMENDMENT**

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Claudia B. Greenberg respectfully submits the following comments and objections to the proposed Amendment to the Rules Regulating the Florida Bar – Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct:

1. As a member of the Florida Bar and a practicing attorney, I am opposed to the Grimes' Petition. I believe that the intent of this position is to effect a change in the Rules Regulating the Florida Bar. These rules have always come under the auspices of this Court. Also, the Petition is an unfortunate and misconceived construction of the provisions of Amendment 3.

2. Construction of Amendment 3 as well as the application of Amendment 3 should be addressed by appropriate litigation in court, as a substantive legal matter. Instead, the Grimes' Petition attempts to change substantive law by modifying the rules regulating professional conduct. This is inappropriate, in my opinion.

3. Claimants in a medical malpractice case have the right to receive certain damages. Amendment 3 concerns itself with the claimants' rights to receive such damages. It does not, by its express terms, place a limitation on attorneys' fees per se.

4. Consequently, a claimant's existing rights, under the present Florida Bar Rule, to enter into a contract with the lawyer of the claimant's choice and to waive the existing provisions of Rule 4-1.5 should not be changed via the Grimes' Amendment. If the Grimes' Amendment were to succeed, it would severely affect claimants' rights under both the State and Federal Constitutions. Also, Florida law clearly supports the right of an individual to waive, knowingly and voluntarily, the claimant's constitutional rights.

5. A client/claimant has always had the freedom, in Florida, as well as under the United States Constitution, to contract for legal services with the lawyer of his choice. This position will impact that freedom.

6. Consequently, my comments above reflect my serious objection to the Grimes' Petition which will impact both my practice of law under the current Rules Regulating the Florida Bar as well as potential clients' rights to access to the attorneys of their choice.

**CERTIFICATE OF SERVICE**

I Hereby Certify that a true and correct copy of the foregoing was served by U.S. Mail upon John Harkness, General Counsel, The Florida Bar, 651 East 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 on this the 7<sup>th</sup> day of July, 2005.

Grossman and Roth, P.A.  
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By: \_\_\_\_\_  
Claudia B. Greenberg  
Fla. Bar No.: 283940