

Supreme Court of Florida

WEDNESDAY, DECEMBER 14, 2005

CASE NO.: SC05-1150

IN RE: AMENDMENT TO THE RULES REGULATING THE FLORIDA
BAR - RULE 4-1.5(f)(4)(B) OF THE RULES OF PROFESSIONAL CONDUCT

On June 29, 2005, pursuant to Rule Regulating The Florida Bar 1-12.1(f), fifty-five (55) members of The Florida Bar filed a petition seeking an amendment to Rule 4-1.5(f)(4)(B) of the Rules of Professional Conduct in response to the recent creation of article 1, section 26 of the Florida Constitution, entitled "Claimant's right to fair compensation." On July 11, 2005, The Florida Bar filed a response in opposition to the petition. The proposed amendment was then published for comment in The Florida Bar News. Oral argument was heard in this case on November 30, 2005.

Before taking final action on the pending petition, the Court directs The Florida Bar to draft and submit to this Court a proposed amendment to rule 4-1.5(f)(4)(B) which includes, but is not limited to the following core features:

1. An acknowledgement of the provisions of article 1, section 26 of the Florida Constitution;
2. An affirmative obligation on the part of an attorney contemplating a contingency fee contract with a potential client to notify any potential client with a medical liability claim of the provisions of article 1, section 26. Such notice provision may include a standard written notice form; and
3. A procedure whereby a medical liability claimant may knowingly and voluntarily waive the rights granted by article 1, section 26. Such a proposed procedure may involve judicial oversight or review of the waiver and may include a standard waiver form or otherwise provide for the protection of the rights of a potential client.

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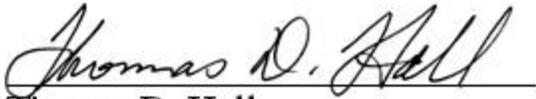
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The Florida Bar shall submit its proposed amendment to this Court within sixty (60) days of the date of this order. The pre-filing notice requirements of rule 1-12.1(g) are waived, and once the proposal is submitted, the Court will direct that it be published in The Florida Bar News for comment. All interested parties will be permitted a period of thirty (30) days to comment on the Bar's proposal.

PARIENTE, C.J., and WELLS, ANSTEAD, LEWIS, QUINCE, CANTERO and BELL, JJ., concur.

A True Copy

Test:



Thomas D. Hall

Clerk, Supreme Court



kd

Served:

STEPHEN H. GRIMES

BARRY RICHARD

JOEL S. PERWIN

RAQUEL A. RODRIGUEZ

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JOHN F. HARKNESS, JR.