>> SUPREME COURT OF FLORIDA IS
NOW IN SESSION, THE HONORABLE
CHIEF JUSTICE, CHARLES CANNADY
PRESIDING.
>> GOOD MORNING AND WELCOME TO
THIS SESSION OF THE FLORIDA
SUPREME COURT.
THE FIRST CASE ON OUR DOCKET IS
AMENDMENTS TO A CERTAIN RULE
REGULATING THE FLORIDA BAR.
FIRST I RECOGNIZE MATTHEW DIETZ.
>> THANK YOU, YOUR HONORS.
MAY IT PLEASE THE COURT, I HAD
THE PRIVILEGE AND HONOR OF
REPRESENTING THE COLLEAGUES OF
MY FLORIDA BAR, TO CHANGE THE
RULES IN THE BAR.
FOR THE PAST TEN YEARS THE
FLORIDA BAR HAS WORKED HARD TO
REDUCE STIGMA FOR THOSE WITH
MENTAL ILLNESS, DRUG ABUSE BUT
THERE HAS BEEN NO REVIEW OF THE
RULES THAT INCORPORATE THE
STRUCTURAL BARRIERS THAT
SIMILARLY HAVE TO BE DISMANTLED
TO REDUCE STIGMA FOR OUR
MEMBERS.
RULE 1.132 IS ONE OF THOSE
RULES.
THERE IS NO REASON WHY WE HAVE
THIS RULE.
THIS RULE DOES NOT PROTECT THE
PUBLIC.
THIS RULE IF YOU LOOK IN THE
FLORIDA BAR WEBSITE THE PUBLIC
CAN'T TELL WHETHER MEMBERS IN
QUICK STANDING OR CONDITIONALLY,
THE —
>> IF YOU LOOK UP SOMEONE YOU
HAPPEN TO KNOW HIS OR
CONDITIONALLY ADMITTED MEMBER
DOESN'T THAT SHOW THEY ARE A
MEMBER THAT IS STILL STANDING?
>> ABSOLUTELY.
ONLY STIGMA THIS IS IS TO THAT
MEMBER HIMSELF OR HERSELF.
THE MEMBER IS NOT IN GOOD
STANDING OFFICIALLY AND THEY
HAVE A SECRET PROBATIONARY STAT
WHICH ONLY SERVES TO MAKE THAT

PERSON FEEL WORSE THEMSELVES,
STIGMATIZED THAT THEY ARE NOT AS
WORTH AS MUCH AS EVERY OTHER
MEMBER SO WE DELETED THE
ADDITIONAL MEASURE AND ADDED A
SEPARATE RULE THAT STILL ALLOWS
PEOPLE TO BE ADMITTED UNDER
CONDITIONAL MEMBERSHIP BUT THAT
MEMBERSHIP MUST BE AND SHOULD BE
AN ACCOMMODATION FOR THAT
DISABILITY.
IF A PERSON IS OTHERWISE NOT
QUALIFIED TO BE A MEMBER OF THE
FLORIDA BAR BECAUSE OF A CURRENT
MENTAL ILLNESS OR CURRENT
SUBSTANCE ABUSE ISSUE, THAT
PERSON THEN CAN GO TO LAP OR
HAVE OTHER TREATMENT AND BE
MONITORED BY THE BAR.
IT SHOULD NOT BE A LIMITATION OR
CLASSIFICATION WITH REGARDS TO
THAT PERSON'S STATUS.
THE OTHER CHANGE THAT WAS MADE
WITH REGARDS TO PERSONS WITH
CONDITIONAL ADMISSIONS IS IT
GAVE THE COSTS PROVISION, MADE
IT DISCRETIONARY WITH THE COURT.
THE PRIOR PROVISION IN RULE
1.30 TO BE MADE IT MANDATORY,
THE MEMBERS SHALL PAY.
THIS ONE SAYS THE MEMBER MAY
MAKE COSTS.
THE REASON THAT WAS IMPORTANT IS
IF THE ADMISSION ITSELF IS AN
ACCOMMODATION FOR A PERSON WITH
DISABILITY, THAT MEMBER SHOULD
NOT BE REQUIRED TO PACK COST OF
THAT ADMISSION OF THAT SERVICE.
>> I'M SORRY TO INTERRUPT.
HOW DO YOU ENVISION THAT PART
WORKING IN PRACTICE.
THE COURT, ARE YOU ENVISIONING
THAT THERE BE A RECOMMENDATION
TO THE COURT IN TERMS OF IT
WOULD BE BUILT INTO THE CONSENT
AGREEMENT WHERE THERE IS MORE OF
AN OPPORTUNITY FOR
INDIVIDUALIZED CONSIDERATION?
IT DOESN'T SEEM PRACTICAL THAT
WE WOULD ON OUR END BE ABLE TO

KNOW CASE-BY-CASE WHETHER THE
COST SHOULD BE BORNE BY THE
CONDITIONALLY ADMITTED MEMBER OR
THE BOARD ITSELF.
>> IT SHOULD COME UP THROUGH THE
BAR EXAM WITH REGARD FOR THE
CONDITION AGREEMENT AND THAT
SHOULD BE DISCUSSED WITH THEM TO
THE COURT.
THE COURT HAS TO DECIDE.
ONE EXAMPLE, THAT IS WELL
TREATED.
THE PERSON HAS NO CONDUCT, A
WELL TREATED MENTAL DISABILITY.
AND TURNING IN MEDICAL RECORDS,
QUESTIONING WHAT IS HAPPENING IN
THE FLORIDA BAR EXAMINER'S
PROCESS AND IN THAT CIRCUMSTANCE
WERE THE ONLY ISSUE IS THE
PERSON'S DISABILITY, IMPOSING
COSTS ON THAT PERSON WOULD BE A
SURCHARGE, SAY THE PERSON WAS
CONVICTED OF A DUI AND WOULD
NEED TO GO INTO TREATMENT IN ANY
EVENT, THE REASON THAT PERSON IS
GOING INTO TREATMENT IS NOT ONLY
TO GET ADMISSION TO THE BAR BUT
ALSO THE FACT THAT THAT PERSON
HAS A DUI BUT OTHERWISE
DISQUALIFYING BEHAVIOR.
TREATMENT WOULD BE MORE
ENCOMPASSING NOT ONLY OF THE
POSITION ITSELF BUT THE LICENSE
ITSELF BUT OF THE PERSON'S LIFE.
THERE IS A DIFFERENCE BETWEEN ON
ACCOUNT OF A PERSON'S DISABILITY
AND OTHERWISE ON A DIFFERENT
ISSUE WHICH BROUGHT THE
CONDITION TO A HEAD.
>> DIFFERENT REASONS FOR THE
MONITORING AND 88 IMPLICATIONS
FOR ONE PERSON THAT MAY NOT BE
PRESENT.
THE LOGISTICS OF IT ARE GOING.
>> IT IS NOT EVEN DISCUSSED, IT
IS A MANDATORY, AND IT IS
NOTHING TO DO WITH ANY OTHERWISE
DISQUALIFYING ISSUE, THAT SHOULD
BE TAKEN UP TO THE BAR
EXAMINERS.

AND THEY WILL OBJECT TO IT.
>> WHAT WOULD BE WRONG WITH THE
DEFAULT THE PERSON PAYS --
UNLESS THE BOARD RECOMMENDS, AS
A RESULT OF FEDERAL LABOR
REQUIREMENTS OR SOMETHING LIKE
THAT.
>> THAT WAS ONE OF THE
SUGGESTIONS MADE BY THE
RESPONDENT, TO PUT IN SPECIFIC
LANGUAGE AS TO REASONABLE
ACCOMMODATIONS IN THAT ROOM
ITSELF.
MY SUGGESTION WAS INSTEAD OF
PUTTING IN SPECIFIC LANGUAGE AS
TO REASONABLE ACCOMMODATIONS TO
DISABILITY, WOULD GIVE THE COURT
THE DISCRETION INSTEAD OF THE
DIRECTION TO IMPOSED COSTS.
SO THE OVERALL GOAL HAS BEEN
UNOPPOSED BY THE FLORIDA BOARD
OF GOVERNORS WITH REGARDS TO
THIS IS TO REDUCE STIGMA AND TO
ENSURE PERSONS WITH DRUG AND
ALCOHOL ABUSE ARE ADMITTED AND
THE INTERESTING ISSUE, YOU CAN
SEE HOW THINGS CHANGE OVER 30
YEARS WHEN THIS WAS FIRST AN
ACCIDENT, THE RULE ITSELF SAID
THE SUPREME COURT OF FLORIDA MAY
ADMIT A PERSON WITH PRIOR
HISTORY, WITH PSYCHOLOGICAL
PROBLEMS.
65% OF FLORIDA LAWYERS ACROSS
THE COUNTRY HAVE A -- AT ONE
TIME IN THEIR LIFE HAD
PSYCHOLOGICAL PROBLEMS THAT
HINDERED THEIR PRACTICE OF LAW.
THE FACT IS MOST PEOPLE HAVE
PSYCHOLOGICAL PROBLEMS.
THIS ISSUE IS --
>> LET ME ASK YOU, LOOKS LIKE A
GOOD CHANGE, NOT CHALLENGING
THAT.
IN 3 AND A HALF YEARS ON THE
COURT I DON'T BELIEVE THERE'S
ANY CONDITIONAL ADMISSION THAT
DIDN'T INVOLVE DISQUALIFYING
CONDUCT.
I HAVEN'T SEEN THE FIRST

CATEGORY CASE YOU ARE TALKING
ABOUT.
WOULD YOU HAVE ANY WAY OF
KNOWING IF MY PERCEPTION IS
WRONG, ARE THERE CASES THAT FALL
INTO THE FIRST CATEGORY?
>> YES, WITHOUT A DOUBT.
A LOT OF THESE CASES ARE TAGGED
BY THE FLORIDA BAR EXAM, AND
THEY REQUEST SUBSTANTIAL
INFORMATION REGARDING MENTAL
ILLNESS OR SUBSTANCE ABUSE.
FOR MOST OF THESE YOUNG LAWYERS
IT IS EASIER TO AGREE TO A
3-YEAR, 5 YEAR CONDITIONAL
ADMISSION THAT CAN FIGHT IT.
THERE ARE SUBSTANTIAL NUMBERS.
THE ONLY CASES I HAVE READ
BEFORE THIS COURT ARE FOR THOSE
WITH SUBSTANTIAL DISQUALIFYING
BEHAVIOR, NOT JUST THE FACT THAT
SOMEBODY HAD A PSYCHIATRIC BREAK
OR DUI FIVE YEARS AGO.
THAT IS MOST OF THE PERSONS, THE
APPLICANTS WHO ARE CAUGHT IN
THIS DILEMMA.
THAT IS WHY THE LAW SCHOOL DEANS
HAVE COME OUT REPEATEDLY AND
MENTIONED THAT THIS IS AN ISSUE
AND THAT IS WHY JUSTICE LEWIS
HAD HIS RETREAT WHERE THE
QUESTIONS FOR 25 AND 26 WERE
CHANGED AND THOSE QUESTIONS
STILL ARE PRECLUDING A LOT OF
STUDENTS FROM GETTING THE
ASSISTANCE THEY NEED FOR THE
FEAR OF THE -
>> YOUR TIME HAS EXPIRED.
IN A SUM UP OF 15 SECONDS OR SO.
>> THANK YOU VERY MUCH FOR YOUR
ATTENTION TO THIS AND I HOPE
THIS IS AN ONGOING CONVERSATION
THE COURT CAN HAVE WITH REGARDS
TO THE MENTAL WELL-BEING OF ITS
MEMBERS.
THANK YOU VERY MUCH.
>> THANK YOU.
I WILL RECOGNIZE THE NEXT PERSON
TO ARGUE.
MY LIST IS INCONSISTENT.

>> GOOD MORNING MISTER CHIEF
JUSTICE, MAY IT PLEASE THE
COURT, KEY WEST, FLORIDA, ON
BEHALF OF THE FLORIDA BAR I HAVE
THE HONOR AND PRIVILEGE
REPRESENTING THE FLORIDA BAR ON
THIS MANNER BECAUSE I HAVE BEEN
A MEMBER OF THE BOARD OF
GOVERNORS FOR 4 OR 5 YEARS NOW
AND WHEN THIS PETITION WAS FIRST
PRESENTED TO THE BAR, I WAS
CHAIR OF THE DISCIPLINARY
PROCEDURES COMMITTEE THAT
CONSIDERED THE RULE.
I MAY HAVE ADDITIONAL EXPERIENCE
THAT WILL HELP INFORM THE ISSUES
BEFORE THE COURT TODAY.
IN 1994, I WAS CONDITIONALLY
ADMITTED TO THE FLORIDA BAR.
I HAD VOLUNTARILY SOUGHT OUT
THREE YEARS PRIOR.
I HAVE BEEN INVOLVED WITH
FLORIDA LAWYERS ASSISTANCE FOR
MORE THAN 30 YEARS, FIRST AS ONE
OF THEIR CLIENTS, THEN AS A
VOLUNTEER MENTOR AND MONITOR FOR
OTHER LAWYERS IN RECOVERY AND AT
THE END OF THIS MONTH I WILL
COMPLETE 21 YEARS OF SERVICE ON
THE FLORIDA LAWYERS ASSISTANCE
BOARD OF DIRECTORS.
THE PETITIONER HERE, THE GROUP
OF PETITIONERS, THEIR ORIGINAL
NOTICE CONTEMPLATED IN ITS FIRST
DRAFT THAT THERE WOULD BE
CHANGES TO SUBSECTION B OF RULE
1.32 WHICH SETS FORTH THIS
CATEGORY OF CONDITIONALLY
ADMITTED MEMBERS.
THE DISCIPLINARY PROCEDURE
COMMITTEE WITH A GREAT DEAL OF
GUIDANCE AND INSIGHT FROM THE
ETHICS COUNSEL ON STAFF AT THE
FLORIDA BAR WE CONCLUDED IT MADE
MORE SENSE TO DELETE THIS
CATEGORY OF LAWYERS AND THERE'S
A REASON FOR THAT.
FIRST OFF THE ADMISSIONS PROCESS
DOES NOT INVOLVE THE FLORIDA
BAR, THAT'S THE EXCLUSIVE

PROVINCE OF THE COURT AND THE
FLORIDA BAR EXAMINERS.
THE FLORIDA BAR IS NOT INVOLVED
IN ANY WAY WITH A CONDITION OF
ADMISSION UP UNTIL THE TIME A
CONSENT JUDGMENT IS ISSUED BY
THIS COURT ALLOWING THE
CONDITIONAL ADMISSION AND
SITTING FORWARD ITS CONDITIONS.
UNTIL THE ORDER IS ISSUED THE
FLORIDA BAR HAS NO IDEA THE
PROCESS IS UNDERWAY.
AS TO THE CATEGORIES THAT
RESULT, IT CREATES TWO
CATEGORIES ARE MORE MEANINGFUL
DISTANCE FOR USEFULNESS FOR THE
FLORIDA BAR'S, THOSE MEMBERS WHO
ARE CONDITIONALLY ADMITTED OUR
MEMBERS, CONDITIONAL STATUS IS
NOT A MATTER OF PUBLIC RECORD.
IF THERE'S A VIOLATION OR
NONCOMPLIANCE WITH CONDITIONAL
STATUS, THE ORDER OF THIS COURT,
THAT IS MANAGED AND MONITORED BY
THE FLORIDA BAR WHO CONTRACTS OR
OUTSOURCES SOME OF THAT
MONITORING TO FLORIDA LAWYERS
ASSISTANCE AND IF APPROPRIATE
FLORIDA BAR WILL PETITION THIS
COURT FOR AN ORDER ATTEMPT OR IF
THERE WAS CONDUCT THAT IS NOT
ONLY INCONSISTENT WITH THE
CONDITIONAL ADMISSION ORDER BUT
ALSO INCONSISTENT WITH THE
RULES, AND AT THE TRADITIONAL
DISCIPLINARY SYSTEM.
YOUR LIMITING CLASSIFICATION
ALTOGETHER IS NOT GOING TO
CHANGE THE FACT OF ANYTHING THAT
WILL MAKE A DISTINCTION THAT
SEEMS TO HAVE ANY APPARENT
USEFULNESS.
ALSO THE ADVANTAGE OF AVOIDING
ANY INCONSISTENCIES BETWEEN THE
RULES OF THE FLORIDA BAR, RULES
RELATING TO ADMISSION.
IT TAKES CARE OF THE
ADMINISTRATIVE PIECE OF IT BY
ADDING THE NEW, 3.48 WHICH SETS
FORTH THE AUTHORITY FOR THE

FLORIDA BAR TO CONTINUE TO
MANAGE CONDITIONAL ADMISSION
TERMS.
>> SORRY TO INTERRUPT.
THERE IS ASYMMETRY BETWEEN THE
TWO SETS OF RULES IN THE SENSE
BE BAR ADMISSION RULE SAYS THEY
RECOMMEND CONDITIONAL ADMISSION
AND LIST SPECIFIC THINGS AND
THEN MIRROR EACH OTHER.
I'M NOT SAYING THIS IS A FATAL
DEFECT OF THE PROPOSAL OR
ANYTHING BUT THE CHANGE WE ARE
MAKING WOULD ACTUALLY NOT
FURTHER THE GOAL OF BEING IN
HARMONY.
BASICALLY THERE WOULD BE THE
DIFFERENCE BETWEEN THE ADMISSION
RULES AND CONDITIONAL ADMISSION,
THE USE OF THE SAME TERMINOLOGY
AND THE WILL THAT WOULD BE TOO.
>> OUR CONCLUSION AT THE
DISCIPLINARY PROCEDURES
COMMITTEE LEVEL.
AND REGULATING THE FLORIDA BAR,
TO CONTINUE ITS ROLE OF MANAGING
THAT PROCESS ONCE THE
CONDITIONAL ADMISSION HAS BEEN
ACCOMPLISHED.
YOU ARE CORRECT THEY WILL NO
LONGER MIRROR ONE ANOTHER BUT
FROM OUR PERSPECTIVE THIS DIDN'T
HAVE ANY EFFECT ONE WAY OR
ANOTHER WHAT THE FLORIDA BAR
WOULD DO GOING FORWARD.
THAT THE NUMBER 2 IS THERE HAS
BEEN RECENT LITIGATION INVOLVING
ADA TYPE ISSUES, I DON'T PRETEND
TO BE AN EXPERT ON THOSE, THERE
HAVE BEEN SOME CHANGES ON WHAT
THE FLORIDA BAR EXAMINER HAS
DONE SO THERE IS SOME FLUIDITY
AS THE PROCESS CONTINUES IN
FINDING THE RIGHT BALANCE OF
PROTECTING THE PUBLIC REGULATING
LAWYERS IN THE LEGAL PROFESSION
AND ACCOMMODATING DISABILITIES.
FROM OUR PERSPECTIVE THAT
MIRRORING IS ELIMINATED BUT ALSO
ELIMINATES THE NEED THAT WHEN

ONE SIDE OF THE MIRROR CHANGES
WE ARE SURE TO ATTEND THE OTHER,
WITH EACH CHANGE CONTEMPLATED BY
THE FLORIDA BAR EXAMINERS, HAVE
TO LOOK AT A CORRESPONDING
CHANGE IN THE FLORIDA BAR BUT WE
DIDN'T SEE IT AS NECESSARY.
FOR THOSE REASONS THE
DISCIPLINARY PROCEDURE COMMITTEE
VOTED UNANIMOUSLY TO RECOMMEND
APPROVAL SUPPORTING THIS
POSITION IN THE BOARD OF
GOVERNORS UNANIMOUSLY SUPPORTED
THE POSITION.
I'M HERE TO TELL YOU WE SUPPORT
THE POSITION.
>> I UNDERSTAND ONE OF THE
ARGUMENTS IN FAVOR OF THIS IS AS
FAR AS THE PUBLIC PROTECTION
ASPECT, IT MAINTAINS THE STATUS
QUO BUT IT SEEMS THE MOTIVATION
FOR THE CHANGES ARE FOCUSED ON
THE NEEDS AND INTERESTS OF THE
APPLICANTS.
IS THERE ANY WAY IN WHICH THE
PUBLIC PROTECTION SIDE OF IT IS
ENHANCED BY THIS RULE CHANGE OR
IS IT DOING SOMETHING WE SAY IS
APPROPRIATE FOR APPLICANTS AND
NOT HARMING THE PUBLIC INTEREST.
>> THAT'S A GREAT QUESTION.
I DON'T RECALL IT SPECIFICALLY.
AS I STAND HERE TODAY I CAN'T
THINK OF ANYTHING I COULD POINT
TO TO SAY THIS ENHANCES IT.
>> AS I READ THE SUBMISSIONS
THAT ARE VERY HELPFUL BY
ENCOURAGING OTHER MEMBERS OF THE
BAR TO SEEK ASSISTANCE WHEN THEY
NEED IT.
THAT SEEMS TO BE IN PUBLIC
SERVICE.
DON'T YOU AGREE?
>> ABSOLUTELY I DO.
TO THE EXTENT THE CURRENT
STRUCTURE ENCOURAGES FOLKS FROM
GETTING ASSISTANCE AND CHANGE
WILL ENCOURAGE THEM.
THANK YOU VERY MUCH.
>> MISS COLLINS.

>> MAY IT PLEASE THE COURT, I AM
MEGAN COLLINS, DISABILITY RATES
FLORIDA AGREE IN LARGE PART THE
PETITION AND POINTS RAISED IN
THE PETITION PARTICULARLY WITH
REGARD TO THE BENEFIT OF
REMOVING THE CURRENT RULE
RELATED TO CONDITIONAL ADMISSION
STATUS, THE BENEFIT OF CREATING
RULE 3.48 TO DISCUSS THE CONSENT
AGREEMENT PROCESS.
THE NARROW DISAGREEMENT IN THIS
CASE, RELATED TO THE FACT WE
BELIEVE IT IS NECESSARY TO
SPECIFICALLY STATE THE EXCEPTION
TO THE BROAD GENERAL RULES
STATED BY PETITIONER.
PETITIONERS PROPOSE LANGUAGE
WOULD STATE THAT THE SUPREME
COURT MAY REQUIRE A MEMBER
ADMITTED UNDER CONSENT AGREEMENT
TO PAY MONITORING COSTS.
UNDER THE AMERICANS WITH
DISABILITIES ACT, THAT WOULD
CONSTITUTE IN THE CASE OF A
QUALIFIED INDIVIDUAL IN NEED OF
REASONABLE ACCOMMODATION IT
WOULD CONSTITUTE A SURCHARGE.
IN ORDER TO CLARIFY THE
APPLICATION OF THAT EXCEPTION
DISABILITY RATES, A NARROW
AMENDMENT BE MADE TO LANGUAGE
PROPOSE TO THE PETITIONER THAT
WOULD CLARIFY THE SUPREME COURT
DOES HAVE PERMISSION TO ASSESS
FEES IN MONITORING COSTS UNDER A
CONSENT AGREEMENT EXCEPT WHEN A
MEMBER IS A QUALIFIED INDIVIDUAL
WITH DISABILITY AND REQUIRES
MONITORING AS A REASONABLE
ACCOMMODATION.
PETITIONER RAISED THREE ISSUES
IN THE REPLY WITH DISABILITY
RATES, FLORIDA'S PROPOSE
LANGUAGE SPECIFICALLY WITH THE
ISSUES WHERE CLARITY, ACCURACY,
DISABILITY RATES FLORIDA THAT
OUR PROPOSED ADDITIONAL LANGUAGE
IS HERE, CLEARER THAN THE
ORIGINAL PROPOSED LANGUAGE.

WE BELIEVE IT IS ACCURATE AND DO
NOT BELIEVE IT IS OVER OR UNDER
BROUGHT.
SPECIFICALLY WITH REGARD TO
CLARITY, THE RULE AS PROPOSED
WOULD STATE THE SUPREME COURT
MAY ASSESS FEES.
THAT IS UNCLEAR BECAUSE THERE
ARE INSTANCES WHEN THE SUPREME
COURT MAY NOT ASSESS FEES AND
WHERE SUCH ASSESSMENT OF FEES
WOULD CONSTITUTE A CHARGE UNDER
THE FEDERAL REGULATIONS FOR
AMERICANS WITH DISABILITIES ACT.
WE BELIEVE PETITIONERS WILL IS
NOT CLEAR IN ITS BREVITY AND
EXPRESSLY STATING THE EXCEPTION
IS IMPORTANT AND WOULD ASSIST
THE COURT IN ADMINISTERING ANY
MONITORING PERMISSIBLE
MONITORING COSTS BECAUSE THE
RULE WOULD BE CLEAR WHEN THE
COSTS WERE AND WERE NOT
PERMISSIBLE.
WITH REGARD TO ACCURACY,
PETITIONER RAISED CONCERN WITH
OUR USE OF THE TERM MONITORING
AS REASONABLE ACCOMMODATION AND
PETITIONER STATED THAT THE
PETITIONERS BELIEVE THAT THE
CONSENT AGREEMENT ITSELF –
>> I THINK MATTHEW DIETZ
SUGGESTED A DISQUALIFYING
CONDUCT, THAT IS A CASE THAT
WOULD BE APPROPRIATE FOR FEES
AND IF THERE WAS NO
DISQUALIFYING CONDUCT, IT WOULD
NOT BE CONSISTENT WITH YOUR
VIEW.
>> IT IS NOT CONSISTENT WITH OUR
VIEW.
OUR VIEW IS FEES WOULD BE
PERMISSIBLE IN SOME CASES WHERE
CONDUCT WASN'T RELATED TO A
DISABILITY.
UNDER RULES AS CURRENTLY WRITTEN
IN RULES REGULATING ADMISSION A
CONSENT AGREEMENT CAN BE OFFERED
IN LIEU OF FILING SPECIFICATIONS
FOR DRUG OR ALCOHOL OR

PSYCHOLOGICAL PROBLEMS AND OUR
INTERPRETATION OF THAT IN THE
WAY THE DEPARTMENT OF JUSTICE
INTERPRETED THE APPLICATION IN
LOUISIANA, COSTS WOULD BE
IMPERMISSIBLE ANYTIME THEY WERE
RELATED TO AN ACCOMMODATION OF
DISABILITY.
THE WAY THAT WE HAVE DEFINED OR
WOULD DEFINE A QUALIFIED
INDIVIDUAL WITH DISABILITY WITH
REASONABLE ACCOMMODATION,
LOOKING AT THE REQUIREMENT, THIS
IS IN THE RULES REGULATING
ADMISSION BUT IT IS IMPORTANT TO
DISCUSS HERE.
WE WOULD LOOK AT QUESTIONS WHERE
THE BAR EXAMINERS LOOK AT
HISTORY OF CONDUCT OR BEHAVIOR
AND CLASSIFIED YEARS AND WE SEE
REASONABLE ACCOMMODATION,
INDIVIDUAL IN THE PAST, WITHIN
THE PAST FIVE YEARS EXHIBITED
BEHAVIOR RELATED TO MENTAL
ILLNESS.
OR GENDER ALCOHOL DEPENDENCY
WHICH THEY RECOVERED FROM, WE
DEEM THEM QUALIFY WITH
DISABILITY, OTHERWISE QUALIFIED
FOR MEMBERSHIP.
THEY ARE FIT TO PRACTICE LAW,
PASSED THE BAR EXAM OR DIFFERENT
LAW SCHOOL AND CURRENTLY HAVE
GOOD CHARACTER AND FITNESS BUT
THE BAR LOOKS AT THE PAST FIVE
YEARS OF CONDUCT AND SOMEWHERE
IN THAT FIVE YEARS THE
INDIVIDUAL HAD CONDUCT OR
BEHAVIOR RELATED TO MENTAL
ILLNESS THAT WOULD TRIGGER THE
FLORIDA BAR EXAMINERS.
WE WOULD SEE IT AS REASONABLE
ACCOMMODATION TO ALLOW THE
PERSON OVER THE FUTURE YEAR OR
TWO THE PENTAGON WHEN THE
CONDUCT WAS TO SHOW CONTINUED
CHARACTER AND FITNESS IN LINE
WITH THE TIME OF ADMISSION AND
THAT WOULD BE A REASONABLE
ACCOMMODATION.

REASONABLE TO THE WAY IT IS A
REASONABLE ACCOMMODATION OR
SOMEONE TO SHOW QUALIFICATION ON
A TEST, IT IS AN APPROPRIATE
ACCOMMODATION TO SHOW FITNESS
OVER A TOTAL FIVE YEARS THE TWO
OF THOSE YEARS CONDITIONALLY
ADMITTED TO THE BAR UNDER
MONITORING RATHER THAN WAITING
TO BE ADMITTED OR SHOW FIVE PAST
YEARS OF CONDUCT IN ADDITION TO
CURRENT QUALIFICATION.
WITH REGARD TO THE BREADTH OF
OUR PROPOSED LANGUAGE THE CUP
PETITIONER RAISED AN ISSUE.
>> WITH YOUR DEFINITION,
STRUGGLING TO SEE WHY THAT IS
CLEAR IN TERMS OF HOW YOU WOULD
APPLY THE LANGUAGE THAT YOU USE
OR SUGGEST.
VERY CASE-BY-CASE DETERMINATION
THAT YOU CAN'T --
>> IN COUNCIL, FEDERAL LAW IS
WHAT IT IS, RIGHT?
THE BAR EXAMINERS, THE BAR,
EVERYBODY HAS TO COMPLY WITH IT.
AS JUSTICE LAWSON WAS SAYING THE
APPLICATION WILL DEPEND ON EACH
PERSON WHO ARGUABLY IS COVERED
BY THE LAW AND WOULD HAVE TO
PRESENT WHATEVER NEEDS TO BE
PRESENTED AND WORK IT OUT.
WHETHER THE RULE MAKES AN
ALLUSION TO FEDERAL LAW OR NOT,
FEDERAL LAW IS GOING TO GOVERN
AND TO SOME EXTENT IT SEEMS IT
WOULD COME DOWN TO WHAT THE
DEFAULT IS.
WHAT WOULD BE WRONG WITH SAYING
SUBJECT TO ANY REQUIREMENTS OF
FEDERAL LAW THE APPLICANT WOULD
PAY FOR THE COST OF MONITORING.
IN THE SENSE THAT WHERE IT ISN'T
A DISABILITY ISSUE AND IS NOT
REQUIRED BY FEDERAL LAW THAT IT
BE TREATED AS AN ACCOMMODATION
WHY SHOULD OTHER MEMBERS OF THE
BAR BE THE ONES FOOTING THE BILL
FOR MONITORING.
>> OUR PROPOSED LANGUAGE WOULD

NOT HAVE MEMBERS ABOUT BAR
MONITORING THAT IS IN THE RESULT
OF AN ACCOMMODATION PROVIDED FOR
AN INDIVIDUAL ACCOMMODATION
BECAUSE OF THEIR DISABILITY BUT
THE LANGUAGE IS NECESSARY TO
INCLUDE BECAUSE AS YOU WERE
DISCUSSING WITH MATTHEW DIETZ,
THE RULE AS CURRENTLY WRITTEN
PLACES THE ONUS ON THIS COURT TO
DETERMINE WHEN FEES ARE
ASSESSED.
INCLUDING THAT THE COURT MAY
ASSESS FEES REQUIRES NOTATION
THAT THERE IS AN EXCEPTION TO
THAT RULE AND IF IT ISN'T
EXPRESSLY STATED IN THE RULES
REGULATING THE BAR THEN THE ONUS
IS ON THIS COURT TO DETERMINE
WHEN FEES ARE APPROPRIATELY
ASSESSED ON AN INDIVIDUAL BASIS
OR ON THE MEMBER TO DETERMINE
WHETHER THEY ARE QUALIFIED FOR
THIS EXCEPTION.
AND TO KNOW THE EXCEPTION IS
ELSEWHERE IN FEDERAL LAW AND
REQUEST IT IS BEYOND THEM.
OUR PROPOSE LANGUAGE MAKES IT
CLEAR IN THE RULE, DON'T THINK
THERE'S ANY PROBLEM IN STATING
THE WAY YOU DID THAT SUBJECT TO
FEDERAL LAW.
THAT MAKES SENSE CLEARER THAN
PETITIONERS, IT IS IMPORTANT TO
CLARIFY THAT THERE IS AN
EXCEPTION.
THE STATEMENT THE COURT MAY
ASSESS FEES IS UNCLEAR AND
INACCURATE BECAUSE THERE IS A
CLEARLY DEFINED CIRCUMSTANCE
THAT FITS IN LINE WITH THE WAY
THE FLORIDA BAR EXAMINER
RECOMMENDS CONSENT AGREEMENTS
WHEN PERMISSIBLE.
IF THE FLORIDA BAR EXAMINER IS
RECOMMENDING TO THE BAR TO ALLOW
INDIVIDUAL TO BE ADMITTED UNDER
CONSENT AGREEMENT AND THEY ARE
DOING THINGS IN PLACES WHERE THE
INDIVIDUAL HAS PASSED CONDUCT

RELATED TO PSYCHOLOGICAL
PROBLEMS THERE IS A SUBSTANTIAL
LIKELIHOOD THAT PERSON MIGHT FIT
THE CLASSIFICATION OF FRESEN
WITH REASONABLE ACCOMMODATION.
AS TO THE EXCEPTION IT SHOULD BE
CLEARLY STATED AND FOR THAT
REASON WE RESPECTFULLY REQUEST
ADOPT PETITIONER PROPOSED
LANGUAGE, STRIKE THE RULE WITH
REGARD TO CONDITIONAL ADMISSION
AND INCLUDE OUR PROPOSED
LANGUAGE WITH REGARD TO THAT.
>> WE THANK ALL OF YOU FOR YOUR
ARGUMENTS AND PETITIONERS
BRINGING THIS ISSUE BEFORE THE
COURT FOR CONSIDERATION.
WE ARE PREPARED TO MOVE TO THE
NEXT -- SOMEONE ELSE TO ARGUE.
MY LIST IS INCONSISTENT,
SHUFFLING THE DECK HERE.
THERE'S NO ONE ELSE TO ARGUE.
WE WILL MOVE TO THE NEXT CASE ON
THE DOCKET.