

>> ALL RISE.

HEAR YE, HEAR YE, HEAR YE, THE
SUPREME COURT OF FLORIDA IS NOW
IN SESSION.

ALL WHO HAVE CAUSE TO PLEA, DRAW
NEAR.

GIVE ATTENTION, YOU SHALL BE
HEARD.

GOD SAVE THE UNITED STATES, THE
GREAT STATE OF FLORIDA AND THIS
HONORABLE COURT.

>> LADIES AND GENTLEMEN, THE
SUPREME COURT OF FLORIDA.
PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO
THE FLORIDA SUPREME COURT.

BEFORE WE BEGIN OUR ORAL
ARGUMENT CASES TODAY, WE HAVE A
SPECIAL RECOGNITION AND A
SPECIAL PRESENTATION TO ERIN
O'HARA O'CONNOR, DEAN OF THE
FLORIDA STATE UNIVERSITY COLLEGE
OF LAW, WHO IS HERE WITH US.
DEAN O'CONNOR HAS LED THE
COLLEGE OF LAW SINCE 2016 AND
HAS SERVED WITH DISTINCTION IN
THAT CAPACITY.

WE ARE HERE TODAY TO MARK A VERY
IMPORTANT SERVICE SHE PERFORMED
AT OUR REQUEST RECENTLY.

IN 2020 THIS COURT NAMED DEAN
O'CONNOR TO SERVE AS REGISTRANT
ADVOCATE DURING THE
EXTRAORDINARY-- DURING AN
EXTRAORDINARY TIME OF TURMOIL
AND DIFFICULTY ASSOCIATED WITH
THE PANDEMIC.

AND FOR ANY OF YOU WHO WERE
INVOLVED IN THAT PROCESS AT THE
TIME, YOU KNOW HOW STRESSFUL IT
WAS AND DIFFICULT.

AND DEAN O'CONNOR STEPPED IN AND
PROVIDED OUTSTANDING SERVICE IN
HER CAPACITY AS REGISTRANT
ADVOCATE.

SO I HAVE A PROCLAMATION I WISH
TO PRESENT TO THE DEAN IN A
MOMENT, BUT I'D LIKE TO READ A
PORTION OF WHAT IS SET FORTH IN
THE PROCLAMATION.

WHEREAS DEAN ERIN O'HARA
O'CONNOR WAS NAMED BY THE
FLORIDA SUPREME COURT AS

REGISTRANT ADVOCATE TO ASSIST
FLORIDA BAR EXAM EXAMINEES WITH
SOFTWARE AND TESTING
ACCOMMODATIONS AFTER THEY FACED
UNPRECEDENTED CHALLENGES TAKING
THE BAR EXAM DURING THE PANDEMIC
AND THE CANCELLATION OR
POSTPONEMENT OF SCHEDULED BAR
EXAMINATION DATES IN 2020, AND
WHEREAS DEAN ERIN O'HARA
O'CONNOR GAVE EXTRAORDINARY
VOLUNTEER SERVICE AS THE SOLE
REGISTRANT ADVOCATE IN FLORIDA
COMMUNICATING WITH AND MAKING
HERSELF AVAILABLE TO ALL 3,137
APPLICANTS WHO TOOK THE
EXAMINATION, LISTENING TO THEIR
CONCERNS, ASSISTING THEM IN
NAVIGATING THE FREE EXAMINATION
PROCESS AND CRUCIALLY PROVIDING
A CONSISTENT VOICE OF
REASSURANCE AND CALM TO THE
EXAMINEES AS THEY TOOK THE
FIRST-EVER ONLINE EXAMINATION
DURING THE PANDEMIC.

NOW, THEREFORE, THE SUPREME
COURT OF FLORIDA HEREBY
EXPRESSES HEARTFELT THANKS TO
DEAN ERIN O'HARA O'CONNOR FOR
HER DEDICATED SERVICE AND
IMMENSE CONTRIBUTIONS TO THE
FLORIDA BOARD OF BAR EXAMINERS.
DEAN O'CONNOR, ON BEHALF OF THIS
COURT, I WANT TO THANK YOU FOR
YOUR EXTRAORDINARY SERVICE.
WE APPLAUD YOU.

[APPLAUSE]

>> AND SO NOW IT IS MY PLEASURE
TO PRESENT YOU WITH THE
PROCLAMATION WE HAVE FRAMED
HERE.

AND I THINK WE'RE GOING TO GET A
PICTURE TOO, SO--
CONGRATULATIONS.

WE'RE NOW PREPARED TO MOVE
FORWARD WITH THE CONSIDERATION
OF OUR CASES.

THE FIRST CASE WE WILL CONSIDER
TODAY IS IN RE: AMENDMENTS TO
RULES REGULATING THE FLORIDA
BAR.

>> MAY IT PLEASE THE COURT,
KEVIN COX ON BEHALF OF THE
FLORIDA BAR.

WE'VE AGREED THAT THE BAR WILL TAKE 11 MINUTES OF THE TIME, THE SECTIONS-- THERE ARE SOME SECTIONS FOR COMMENTING, AND I JUST RESERVE ONE MINUTE FOR REBUTTAL.

GOOD MORNING, EVERYBODY. THIS PETITION TO MODIFY CERTAIN, A SERIES OF RULES WITHIN CHAPTER SIX OF THE RULES REGULATING THE FLORIDA BAR AFFECTS LEGAL SPECIALIZATION AND EDUCATION, SPECIFICALLY THE CERTIFICATION OF SPECIALIZATION.

THERE ARE A NUMBER OF CHANGES, BUT THE PRINCIPLES ARE BASICALLY THE SAME.

TO TAKE FROM THE INDIVIDUAL CERTIFICATION AREAS CONCEPTS THAT ARE GENERAL AND COMMON ACROSS ALL CERTIFICATION AREAS AND TO MOVE THEM TO THE FRONT PART OF CHAPTER SIX WHICH ADDRESSES THE GENERAL STANDARDS FOR ALL OF THE RULES.

THIS WILL INCREASE CONSISTENCY, IT WILL AVOID REPETITION, AND DUE TO THE NATURE, THE SPECIAL NATURE OF CHAPTER SIX, IT WILL MORE CLEARLY PUT THIS COURT IN THE AUTHORITY POSITION FOR CRITERIA THAT AFFECT GENERAL STANDARDS, DISCRETION AND OTHER ASPECTS OF MECHANICS OF THE RULES THAT REALLY GO ACROSS ALL AREAS.

SO WITH RESPECT TO THAT LAST POINT, INDIVIDUAL CERTIFICATION AREAS, THE OBJECTIVE CRITERIA, FOR INSTANCE, FOR APPELLATE CERTIFICATION OR FAMILY AND MARITAL LAW CERTIFICATION, THOSE CHANGES CAN BE MADE PURSUANT TO THIS COURT'S RULES BY THE BOARD OF GOVERNORS AS FINAL ACTION ONCE IT'S SUBMITTED TO THE COURT BUT NOT THROUGH A FORMAL RULE PETITION LIKE THIS ONE IS.

THE OVERARCHING INITIAL PART OF CHAPTER SIX, THE PART THAT DOESN'T ADDRESS THE INDIVIDUAL CERTIFICATION AREAS, CAN ONLY BE MODIFIED THROUGH FORMAL ACTION-- AS FINAL ACTION

THROUGH THIS COURT.
AND SO WHAT'S HAPPENING HERE IS
THAT THE BAR IS PROPOSING TO
MOVE THOSE PROVISIONS THAT
REALLY ARE GENERAL IN NATURE AND
OVER TIME HAVE BECOME SOMEWHAT
INCONSISTENT WITH RESPECT TO
THINGS LIKE DISCRETION OR THINGS
LIKE WHAT WAIVER OR OTHER
ASPECTS THAT REALLY DON'T HAVE A
SPECIFIC CONNECTION TO THE
INDIVIDUAL AREA, TAKING THOSE
FROM THE INDIVIDUAL
CERTIFICATION PROVISIONS AND
MOVING THEM TO THE GENERAL
PROVISIONS THAT BECOME FINAL
ACTION PURSUANT TO THIS COURT.
THIS COURT'S ACTION.

SO, AND THE SPECIFIC AREAS THE
RULES, THERE ARE THREE AT ISSUE,
BUT THE REALLY KEY ONES IS 6-3.5
WHICH IS CERTIFICATION AND 6-3.6
WHICH IS RECERTIFICATION.

AND IN THIS INSTANCE, THE BOARD
OF GOVERNORS HAS GONE AHEAD AND
MADE SOME CONTINGENT CHANGES TO
THE INDIVIDUAL CERTIFICATION
AREAS THAT ARE DEPENDENT UPON
THE COURT'S RESOLUTION OF THE
CHANGES TO THE OVERARCHING
SECTIONS AT THE FRONT END OF
CHAPTER SIX.

THERE ARE ALSO-- AND IT'S A
ROUTINE MATTER FOR THE BOARD TO,
THE BOARD OF GOVERNORS, THE BAR,
TO MAKE CHANGES TO THE
CERTIFICATION IN THOSE
INDIVIDUAL AREAS.

THE INTENT, THE PURPOSE OF THEIR
ABILITY TO DO THAT IS SO IT
DOESN'T TAKE A LENGTHY FORMAL
PROCEEDING TO MAKE MODIFICATIONS
TO ADDRESS WHATEVER CHANGES--

>> A LOT OF THE CONTROVERSY
THAT'S BEEN EXPRESSED BY THE
COMMENTERS IS REALLY DIRECTED AT
THOSE CHANGES THAT ARE NOT EVEN
BEFORE US, ISN'T THAT CORRECT?

>> THAT IS CORRECT.

THERE ARE CERTAIN CHANGES THAT
WERE MADE IN DECEMBER IN
CONNECTION WITH THIS OVERALL
CHANGE THAT THE BOARD OF
GOVERNORS MADE DIRECTLY.

FOR INSTANCE, THERE'S ONE WITH THE APPELLATE CERTIFICATION, APPELLATE PRACTICE CERTIFICATION THAT ELIMINATES DISCRETION FOR CERTIFICATION BASED ON GOOD CAUSE AS DEFINED IN THAT INDIVIDUAL AREA BECAUSE THAT'S A RELATIVELY UNIQUE PROVISION. NOW, THERE ARE-- AND FOR THE FAMILY MARITAL LAW SECTION HAS A SIMILAR ONE WHERE THERE COULD BE A WAIVER OF REQUIREMENTS FOR RECERTIFICATION BASED ON CERTIFICATION TO THE FIELD. THE BOARD OF GOVERNORS DETERMINED THOSE CAN ALREADY BE TAKEN OUT. THEY'RE NOT CONSISTENT WITH-- ACROSS AREAS. AND AS PART OF THIS PROPOSAL TO THE COURT, THE GOOD CAUSE CAN BE DEFINED WITHIN 6-3.5 AND THE INSTANCES IN WHICH GOOD CAUSE CAN BE EXERCISED BY THE COMMITTEES WHO LOOK AT THESE CERTIFICATIONS AND RECOMMEND CERTIFICATION--

>> BUT IS THAT ON CERTIFICATION OR ON RECERTIFICATION?

>> SO IN 6-3.5 THERE'S A DEFINITION OF GOOD CAUSE, BUT THAT APPLIES TO THE ENTIRE CHAPTER.

SO, AND IT SAYS GOOD CAUSE IS DEFINED AS, AND THAT GIVES THE COURT THE OPPORTUNITY TO EXPLICITLY PUT FORTH THE CRITERIA THAT THOSE COMMITTEES WILL USE IN EXERCISING DISCRETION, SOME OF WHICH IS APPLIED IN RECERTIFICATION, SOME OF WHICH IS ACTUALLY STILL APPLIED IN CERTAIN INSTANCES WITHIN THE INDIVIDUAL AREAS. BUT GOOD CAUSE AS A SINGLE DEFINITION, THIS COURT PROVIDES THAT DEFINITION, AND SO THESE CERTIFICATION COMMITTEES WHICH DO AN EXEMPLARY JOB OF USING THEIR PRUDENCE AND EXPERIENCE TO MAKE GOOD DETERMINATIONS, THEY HAVE A STANDARD AND A SCOPE AND AN AUTHORIZATION FOR DISCRETION THAT IS AUTHORIZED DIRECTLY BY

THIS COURT, AND THEY CAN RELY ON THAT, AND IT WILL-- WE WANT THEM TO CONTINUE TO USE DISCRETION.

BUT THIS IS A BETTER DEFINITION OF DISCRETION, MAKES IT MORE CONSISTENT AND AVOIDS SOME OF THE VARIANCES THAT HAVE OCCURRED IN THE INDIVIDUAL CERTIFICATION AREAS.

THERE IS, THE COMMENTERS SUGGEST THAT-- AND I'M GLAD THE COURT HAS THE BENEFIT OF THE INPUT OF SECTIONS THAT HAVE COMMENTS.

I THINK IT'S VERY HELPFUL.

THEY HAVE SUGGESTED THAT BECAUSE OF THESE CHANGES THERE ARE GOING TO BE INSTANCES WHERE VERY OBVIOUSLY WELL QUALIFIED, HIGHLY COMPETENT PRACTITIONERS ARE NOT ABLE TO OBTAIN CERTIFICATION OR RECERTIFICATION AS A RESULT OF THE REDUCTION AND DISCRETION. THAT IS NOT THE ANTICIPATED EFFECT OR CERTAINLY THE INTENT OF THESE MODIFICATIONS.

RATHER, AS I MENTIONED BEFORE, THERE STILL WILL BE THE APPLICATION OF DISCRETION.

IT WILL BE DEFINED IN THE GENERAL STANDARDS AS DEFINED BY THIS COURT.

IN CERTAIN INSTANCES DISCRETION FOR CERTIFICATION ON THE FRONT END WITHIN THAT APPELLATE RULE I MENTIONED WITHIN THE FAMILY AND MARITAL LAW RULE I MENTIONED, THAT WILL NO LONGER BE PRESENT.

HOWEVER, THE BAR'S POSITION IS THAT IF THERE ARE INSTANCES WHERE IT IS DIFFICULT TO OBTAIN ORAL ARGUMENT OR IS DIFFICULT TO OBTAIN OPPORTUNITIES TO TRY A CASE, WHATEVER THE QUANTITATIVE REQUIREMENTS ARE, THAT THOSE CANDIDATES SHOULD-- THE CERTIFICATION PROCESS SHOULD STILL RENDER THOSE CANDIDATES-- THE WAY TO SOLVE THAT PROBLEM IS NOT BY RELYING ON DISCRETION.

THAT'S NOT THE MECHANISM.

BUT, RATHER, TO CHANGE THE OBJECTIVE CRITERIA WHICH THE BOARD OF GOVERNORS, PURSUANT TO

THIS COURT'S AUTHORITY, CAN DO QUICKLY AND NIMBLY. AND, IN FACT, EVEN IN THIS YEAR THE NUMBER OF ORAL ARGUMENTS HAS BEEN SLIGHTLY MODIFIED. THAT WAS PURSUANT TO ACTION IN JULY.

THERE WAS AN ISSUE REGARDING PROTRACTED LITIGATION AND WHETHER PROTRACTED LITIGATION WOULD QUALIFY FOR CRIMINAL CERTIFICATION.

THAT CHANGE HAS-- THERE'S A CHANGE THAT HAS BEEN MADE BY THE BOARD OF GOVERNORS.

AND SO THE RIGHT TOOL TO ADJUST FOR CONCERNS ABOUT CHANGES IN THE LEGAL--

>> AND THOSE CHANGES ARE DIRECTLY RESPONSIVE TO CONCERNS THAT HAVE BEEN RAISED IN THE COMMENTS.

>> I THINK THE BAR LISTENS TO COMMENTS, AND I DON'T KNOW IF IT WAS THESE SPECIFIC COMMENTS, BUT I KNOW THERE'S AN ONGOING DIALOGUE ABOUT THE WAY TO MAKE THESE RULES BETTER, TO IMPROVE AND INCREASE THE EFFICIENCY OF THESE RULES.

AS THE SUPREME COURT HAS RECOGNIZED, THE CERTIFICATION SYSTEM IS A GOOD SYSTEM. IT'S VERY IMPORTANT TO SERVE THE PUBLIC.

IT RECOGNIZES THESE GOOD LAWYERS.

WE THINK THE SYSTEM WILL CONTINUE, THIS WILL ONLY MAKE-- IT WILL CONTINUE TO SERVE THAT IMPORTANT PURPOSE IN THE WAY IT DOES.

THIS WILL ONLY SERVE TO IMPROVE THE WAY THAT THE CERTIFICATION PROCESS GOES.

AGAIN, WE DON'T BELIEVE THERE'S A PROBLEM OR THERE'S EVER BEEN A MISABUSE OF DISCRETION.

RATHER, THIS IS JUST LOOKING AT THE WAY THESE HAVE DEVELOPED OVER TIME, THIS IS A WAY TO MAKE MORE CONSISTENT AND TO PUT IN THIS COURT'S DIRECT HANDS THE DELEGATION OF AUTHORITY FOR

THESE COMMITTEES THAT ARE DOING THIS IMPORTANT WORK.

IF THERE ARE NO OTHER QUESTIONS, I WILL, I'LL RESERVE THE REST OF MY TIME.

>> VERY GOOD.

>> THANK YOU.

>> MAY IT PLEASE THE COURT, MY NAME IS CHRIS DONOVAN.

I'M THE IMMEDIATE PAST CHAIR OF THE FLORIDA BAR'S APPELLATE PRACTICE SECTION.

I'M ALSO APPEARING TODAY ON BEHALF OF THE TRIAL LAW SECTION AND THE PUBLIC INTEREST LAW SECTION AT LEAST FOR PURPOSES OF ORAL ARGUMENT.

IN RESPONSE TO JUSTICE CANADY'S QUESTION, THE CHANGES THAT WERE MADE WITH RESPECT TO THE ORAL ARGUMENT REQUIREMENTS WERE DONE IN DIRECT RESPONSE TO THE LOSS OF DISCRETION.

AND I THINK IT'S WORTH EMPHASIZING THAT THE BAR'S EXTENSIVE RULE AMENDMENTS ARE ESSENTIALLY A SOLUTION IN SEARCH OF A PROBLEM BECAUSE EVEN TODAY THE BAR HAS NOT EXPLAINED WHY WE ARE MAKING ALL OF THESE SIGNIFICANT CHANGES, PARTICULARLY REMOVING THE CERTIFICATION COMMITTEE'S DISCRETION.

THEY ADMIT THAT THERE'S NO PROBLEMS WITH HOW IT'S BEEN OPERATING, THEY ADMIT THERE'S BEEN NO ABUSE OF DISCRETION, THEY ADMIT THERE'S NO FLAW OR INSUFFICIENCY IN THE RULE AND THAT IN TERMS OF THE BAR'S WORDS THAT CERTIFICATION COMMITTEES DO EXEMPLARY WORK.

AND JUSTICE ANSTEAD'S COMMENTS, IT'S THE CROWN JEWEL OF OUR FLORIDA JUDICIAL SYSTEM.

SO WHY THEN DO WE REMOVE THE PRIVILEGE-- OR THE ABILITY TO ALLOW THESE CERTIFICATION COMMITTEES TO EXERCISE THEIR DISCRETION WHEN THERE'S GOOD CAUSE AND SUFFICIENT FOR APPLICANTS?

AND THE BAR'S IDENTIFIED

ESSENTIALLY TWO REASONS STATED
IN THE APPLICATION, BUT THEY
SIMPLY DON'T ADD UP.

THE FIRST IS TO STANDARDIZE AND
TO AVOID REPETITION, BUT RARELY
DOES ONE SIZE FIT ALL.

AND IF THAT'S PARTICULARLY TRUE
FOR CERTIFICATIONS ACROSS 27
DIFFERENT PRACTICE AREAS.
AND IT REALLY DOESN'T EXPLAIN
THOUGH WHY TO REMOVE THE
DISCRETION FROM SOME COMMITTEES
BUT LEAVE SOME DISCRETION FOR
OTHER COMMITTEES.

AND IT CERTAINLY DOESN'T EXPLAIN
WHY WE'RE DOING IT NOW, WHY
AFTER YEARS OF CERTIFICATION--
WHICH HAS BEEN AROUND SINCE AT
LEAST THE EARLY 1980s-- WHY
CHANGE THE DISCRETION NOW?
AND, INDEED, THE CONSISTENCY
ISN'T EVEN ACHIEVED, BECAUSE AS
I SAID A MINUTE AGO, SOME
COMMITTEES RETAIN SOME OF THEIR
DISCRETION, OTHERS LOST THEIR
DISCRETION SUCH AS THE APPELLATE
CERTIFICATION COMMITTEE.

THE SECOND MAJOR REASON WHY THEM
TRY TO MAKE THESE CHANGES IS TO
INSURE MAJOR CHANGES AND ANY
DISCRETION IS AUTHORIZED BY THIS
COURT.

BUT THE FLORIDA SUPREME COURT
ALREADY-- EXCUSE ME, THE
FLORIDA CONSTITUTION ALREADY
RECOGNIZES THIS COURT'S
AUTHORITY TO SUPERVISE AND TO
RULEMAKE, AND THAT'S PROVIDED
FOR IN ARTICLE V, SECTION TWO
AND 15.

PRESUMABLY, ALSO THIS COURT
RECOGNIZES ANYTIME THERE'S A NEW
CERTIFICATION, THIS COURT
APPROVED IT IN THE EXISTING
RULES, AND I KNOW THAT'S FOR
SURE TRUE FOR THE APPELLATE
RULES WHICH WERE CREATED IN 1992
THAT SPECIFICALLY INCLUDED THE
EXACT LANGUAGE OF ALLOWING
DISCRETION FOR GOOD CAUSE
REASONS WITH RESPECT TO IF
SOMEBODY DIDN'T MAKE FIVE ORAL
ARGUMENTS, INSTEAD THEY ONLY HAD
FOUR ORAL ARGUMENTS.

AND THAT'S THE VERY SAME LANGUAGE THAT THE BAR HAS REMOVED AND THAT THIS COURT HAD PREVIOUSLY APPROVED.

SO THIS COURT HAS ALREADY APPROVED THAT WHICH THEY'RE TRYING TO REMOVE.

AND IT'S WORTH EMPHASIZING THAT THE REMOVAL OF THE DISCRETION IS IN EFFECT TODAY, AS JUSTICE CANADY POINTED OUT.

IT ISN'T CONTINGENT ON WHAT THIS COURT DOES AND APPROVES IN THE PETITION.

IT'S ALREADY IN EFFECT--

>> HOW IS THAT BEFORE US?

I MEAN, I UNDERSTAND YOU'RE ARGUING ABOUT IT, YOU CAN TALK ABOUT IT, BUT IN TERMS OF HOW DO WE-- IT'S NOT REALLY BEEN PROPERLY TEEED UP FOR US TO REACH OUT AND GRAB THAT, HAS IT?

>> I THINK THIS COURT DOES HAVE THE AUTHORITY--

>> WELL, I MEAN, WE'VE GOT THE AUTHORITY--

[LAUGHTER]

OBVIOUSLY, OVER ANY OF THAT TYPICALLY, UNLESS WE DO SOMETHING SUA SPONTE AND PEOPLE WANT US TO DO THAT.

THERE'S A PROCESS THEY GO THROUGH TO TEE UP THE ISSUES FOR US, AND I THINK YOU'VE GOT TO GET 50 LAWYERS TO GET A PETITION.

IF YOU CAN'T CONVINCe THEM TO DO WHAT YOU WANT THEM TO DO, THERE ARE WAYS YOU CAN COME TO US WITH A PETITION.

>> WITH RESPECT, YOUR HONOR, I BELIEVE THAT AS I UNDERSTAND THE PROCESS THAT CREATED THIS, THESE CURRENT RULES THAT ARE BEFORE YOU ARE ALL PART OF THE SAME CHANGES.

SO IF THE COURT WERE TO DENY THE PETITION AND BASICALLY SEND IT BACK TO THE BAR TO MAKE CHANGES, THIS COURT COULD, BUT THEN ITS AUTHORITY, I THINK, ALSO TELL THE BAR TO RETURN THE DISCRETION BACK TO THE WAY IT HAD ORIGINALLY APPROVED IT SUCH AS

IN 1993.

AND I THINK THAT IT'S WORTH EMPHASIZING THAT, AS I'VE ALREADY ADDRESSED THE TWO REASONS THAT THEY'VE IDENTIFIED, I THINK THERE'S SOME-- WE'RE LEFT WITH SPECULATION FOR WHY THEY MADE ALL OF THESE CHANGES. AT FIRST THE SECTIONS BELIEVED THAT IT WAS BECAUSE OF THE RECENT 2018 TRADE UNION CASE INVOLVING OUT OF THE U.S. SUPREME COURT INVOLVING JANUS V. AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL. AND AS THIS COURT'S PROBABLY VERY MUCH AWARE, THAT INVOLVED MANDATORY UNION DUES TO BE PAID BY NON-UNION MEMBERS WHICH THE SUPREME COURT DECLARED WAS FIRST AMENDMENT.

WE QUICKLY REALIZED THAT DOESN'T APPLY BECAUSE CERTIFICATION IS VOLUNTARY, NO DUES ARE TAKEN FROM NONCERTIFIED MEMBERS BEING PAID FROM THIS PROGRAM, AT LEAST AS I UNDERSTAND IT.

THE COMMITTEES CAN'T TAKE IDEOLOGICAL OR POLITICAL POSITIONS.

THAT'S WHY THEY REACHED OUT TO THE SECTIONS WHO COULD TAKE. RECENTLY WE'VE BECOME AWARE THAT WHAT'S POSSIBLY THE BAR'S CONCERN IS A 2015 ANTITRUST CASE CALLED NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS V. FTC WHICH APPEARS AT 135 SUPREME COURT 1101, BUT THAT CASE IS EXTREMELY DISTINGUISHABLE BECAUSE IT INVOLVED A DENTIST LICENSING BOARD THAT HAD ACTIVE MEMBER-- EXCUSE ME, ACTIVE MARKET PARTICIPANTS.

IN OTHER WORDS, LICENSED DENTAL, DENTISTS SENDING CEASE AND DESIST ORDERS TO NON-DENTISTS WHO WERE PERFORMING TEETH WHITENING CLAIMING THAT WAS A PART OF THE CONDUCT OF DENTISTRY.

BUT THERE'S-- IN THAT CASE THERE WAS NO CLEAR STATE RULE STATING THAT TEETH WHITENING WAS

A PRACTICE OF DENTISTRY, AND THE FTC SO SUED CLAIMING THIS WAS AN ANTITRUST VIOLATION.

AND THE STATE BOARD COUNTERED WITH THIS IS A STATE IMMUNITY DEFENSE.

AND SO THE U.S. SUPREME COURT REFUSED TO RECOGNIZE THE UNION IN THAT CASE BECAUSE THERE WASN'T SUFFICIENT OVERSIGHT BY A STATE SOVEREIGN.

AND I BELIEVE THAT'S WHY THE BOARD, THE FLORIDA BOARD OF EXAMINERS-- EXCUSE ME, THE FLORIDA BAR BOARD OF GOVERNORS ARE CONCERNED ABOUT THAT CASE, BECAUSE THEY WANT, THEY KEEP SAYING THAT THEY WANT THIS COURT TO HAVE SUPERVISORY AUTHORITY OVER ANY RULES THAT ARE CHANGED OR ANY DISCRETION THAT'S ADMINISTERED.

BUT THERE'S TWO PROBLEMS WITH THAT.

AS I ALREADY MENTIONED, THIS COURT ALREADY HAS SUPERVISORY AUTHORITY.

IT INITIALLY PASSED THESE RULES WITH THAT DISCRETION.

AND IT EVEN HAS SUPERVISORY AUTHORITY OVER INDIVIDUAL DENIALS BY APPLICANTS BECAUSE FLORIDA BAR RULE 6-3.10 ALLOWS FOR AN AMENDMENT-- EXCUSE ME, ALLOWS FOR AN APPEAL FOR AN APPLICANT WHO HAS NOT, WHO HAS BEEN DENIED CERTIFICATION.

IT GOES THROUGH THE FLORIDA BAR BOARD OF GOVERNORS' APPELLATE PROCESS BUT EVENTUALLY WILL BE REVIEWABLE BY THIS COURT THROUGH PETITION FOR CERT.

SO THE STATE IMMUNITY DEFENSE ALREADY EXISTS UNDER, FROM THE FLORIDA BAR--

>> WE DON'T HAVE PETITION FOR CERT.

WE DON'T HAVE CERT JURISDICTION.

>> UNDER 6-3.10, IT PROVIDES THIS COURT HAS JURISDICTION TO REVIEW AND DENIAL, AND I BELIEVE IT REFERS TO CERT JURISDICTION, BUT IT HAS TO EXHAUST THE FLORIDA BAR BOARD OF GOVERNORS'

ADMINISTRATIVE REMEDY FIRST.
SO THIS COURT DOES HAVE
SUPERVISORY AUTHORITY WHERE
SOMEBODY HAS BEEN DENIED THE
EXERCISE OF THAT DISCRETION BY
COMMITTEE.

SECOND, IT DOESN'T EVEN
INVOLVE-- CERTIFICATIONS DO NOT
INVOLVE ANTITRUST MATTERS.
SIMPLY BECAUSE YOU'RE BOARD
CERTIFIED DOESN'T MEAN THAT
BOARD-CERTIFIED ATTORNEYS HAVE A
MONOPOLY OVER THE PRACTICE OF A
SPECIFIC AREA.

IN FACT, THERE'S APPROXIMATELY
200 BOARD-CERTIFIED APPELLATE
ATTORNEYS, BUT YET THERE'S
THOUSANDS OF APPEALS BEING FILED
EVERY YEAR.

IN FACT, SO MUCH SO THAT THIS
COURT HASP RECENTLY CERTIFIED
THE NEWS FOR A SIXTH JUDICIAL
CIRCUIT, SO THERE'S CLEARLY NOT
A MONOPOLY OVER THE PRACTICE OF
THAT AREA, NOR IS THERE ANY
EVIDENCE OF PRICE FIXING OR
GUARANTEED HIGHER COMPENSATION
SIMPLY BECAUSE YOU ARE BOARD
CERTIFIED.

YES, THEY MAY BE ABLE TO CHARGE
MORE, BUT THE CLIENTS TYPICALLY
GO SOMEWHERE ELSE IF THEY DON'T
WANT TO PAY FOR THAT.

THERE'S SIMPLY NO EVIDENCE THAT
ANTITRUST HAS BEEN INVOLVED HERE
AND, IN FACT, REMOVING, REMOVING
THE DISCRETION OF CERTIFICATION
COMMITTEES CREATES THE ANTITRUST
PROBLEM BECAUSE IT MAKES IT
HARDER FOR PEOPLE TO BECOME
CERTIFIED AND TO REMAIN BOARD
CERTIFIED.

AND, THEREFORE, THIS COURT, THE
BAR HAS ESSENTIALLY GOT A
SOLUTION THAT THEY ARE TRYING TO
BRING WITHIN THE STATE UNITY
EXCEPTION WHEN THERE REALLY IS
NO ANTITRUST PROBLEM.

BUT IF THIS COURT IS REALLY
CONCERNED ABOUT THE BELT AND
SUSPENDERS, OR THE BAR IS, THEN
ANOTHER WAY TO DO THAT WOULD BE
TO REMOVE THE FLORIDA BAR'S
ABILITY TO MAKE ANY CHANGES TO

THE CERTIFICATION ON ITS OWN BY AMENDING 1-12.1A WHICH WOULD ELIMINATE THE BAR'S AUTHORITY TO AMEND THE CERTIFICATION AREAS WITHOUT THIS COURT'S APPROVAL-- >> CAN I ASK YOU, WHAT WAS THE ROLE OF THE BOARD OF LEGAL SPECIALIZATION AND EDUCATION IN THIS PROCESS?

I SEE THAT THEY VOTED IN FAVOR OF IT 15-1.

>> YES, YOUR HONOR.

IT'S MY UNDERSTANDING THAT, IT'S MY UNDERSTANDING THAT THE BOARD OF GOVERNORS DRAFTED THE ORIGINAL CHANGES AND THAT IT WENT-- I COULD BE WRONG HERE, BUT IT WENT THROUGH THE BLSE AND IT WAS PROPOSED UP TO THEM. SO THERE WAS MAYBE A COMMITTEE THAT STARTED THESE CHANGES, THIS PROCESS.

>> DID THE SECTIONS YOU REPRESENT HAVE INPUT AT THOSE STAGES?

>> NOT THAT I'M AWARE OF.

WE DISCOVERED THIS, YOUR HONOR, BACK IN DECEMBER WHEN I RECEIVED A PHONE CALL FROM THE APPELLATE CERTIFICATION CHAIR SAYING DID YOU KNOW ABOUT THIS.

AND AS I UNDERSTAND-- AT THE TIME, I WAS QUESTIONING WHETHER OR NOT IT HAD EVEN BEEN ADVERTISED.

I KNOW THAT IT HAS BEEN ADVERTISED, BECAUSE THEY PUT THAT IN THEIR PETITION. THERE WAS-- I THINK WE ALL KIND OF MISSED SOME THINGS BECAUSE OF COVID OR WHAT NOT.

IT WAS ADVERTISED, APPARENTLY, IN THE FLORIDA BAR JOURNAL. BUT-- EXCUSE ME, THE FLORIDA BAR NEWS.

AND SO ONCE WE DISCOVERED IT, THAT'S WHEN WE TRIED TO PREPARE, BECAUSE AT THAT POINT IT HAD ALREADY BEEN APPROVED BY THE BOARD OF GOVERNORS, AS I UNDERSTAND IT, AND WAS BEING PREPPED FOR BEING FILE IN THIS COURT FOR PETITION.

THAT'S WHEN WE STARTED MOVING

TOWARDS FILING A COMMENT, AT THAT POINT.

AND I SEE THAT MY TIME IS UP, SO I WILL YIELD THE REST OF MY TIME TO THE FAMILY LAW SECTION.

>> MAY IT PLEASE THE COURT, MY NAME IS HEATHER APICELLA, AND I AM THE CURRENT CHAIR OF--

[INAUDIBLE]

ON BEHALF OF THE FAMILY LAW SECTION.

TO ANSWER YOUR QUESTION, JUSTICE CANADY, WE BELIEVE YOU HAVE THE RIGHT TO DENY THE PETITION--

THAT ARE DETRIMENTAL--

[AUDIO DIFFICULTY]

FAMILY LAW SECTION WAS CREATED IN 1973, AND WE HAVE 3,757 MEMBERS.

271 OF THOSE MEMBERS ARE BOARD CERTIFIED--

[INAUDIBLE]

THAT'S 7% OF OUR MEMBERSHIP.

THE PROCESS OF BECOMING BOARD CERTIFIED IS EXTREMELY RIGOROUS.

THE INITIAL APPLICATION PROCESS ITSELF WEEDS OUT MANY, MANY APPLICANTS.

AND THEN IF YOU'RE ELIGIBLE AND ABLE TO SIT FOR THE EXAMINATION,

HISTORICALLY 10-15% OF THOSE LAWYERS WHO SIT FOR THE

EXAMINATION ACTUALLY BECOME BOARD CERTIFIED AND PASS IT.

THE FLORIDA BAR-- ONCE A LAWYER OBTAINS HIS OR HER BOARD

CERTIFICATION STRIPPING THE

ABILITY FROM THAT LAWYER TO HAVE THE ABILITY TO ARGUE THAT

THERE'S GOOD CAUSE BECAUSE THEY DON'T FIT INTO A BRIGHT LINE

RULE IS DEVASTATING TO THE

MARITAL AND FAMILY LAW BOARD CERTIFICATION AS A WHOLE.

THE CONCERN FALLS SQUARELY WITH THE SERIOUS AND SIGNIFICANT

REVISION TO THE ROLE SOLELY IMPACTING THE RECERTIFICATION

APPLICANTS.

UNDER THE RULE WHICH HAS BEEN STRICKEN IN ITS ENTIRETY AND

PLACED UP ABOVE IN 6-6.5, NOW ONLY VESTS DISCRETION IN THE

BOARD CERTIFICATION REVIEW

COMMITTEE FOR LAWYERS WHO HAVE BEEN CONTINUOUSLY--
[AUDIO DIFFICULTY]
FOR MORE THAN 14 YEARS THAT ARE CONTINUOUSLY BOARD CERTIFIED. YOU'RE TALKING ABOUT A GROUP OF LAWYERS THAT IN MARITAL AND FAMILY LAW LIKELY ARE PRACTICING FOR 25 PLUS YEARS OR MORE. LAWYERS IN MARITAL AND FAMILY LAW DO NOT SENT FOR THE BOARD CERTIFICATION EXAMINE HISTORICALLY UNTIL THEY'RE IN PRACTICE FOR 10 PLUS YEARS. SO IN ORDER TO BE BOARD CERTIFIED CONTINUOUSLY, YOU'RE TALKING ABOUT A LAWYER WHO HAS 25 PLUS YEARS OF PRACTICE. HAVING THE TRIAL REQUIREMENT IN FAMILY LAW IS VERY, VERY DIFFICULT. FAMILY LAW RULES, AS APPLIED TO RECERTIFICATION, SPECIFICALLY VESTS THE CERTIFICATION COMMITTEE WITH THE ABILITY UPON GOOD CAUSE SHOWN TO WAIVE THE TRIAL REQUIREMENT FOR THOSE RECERTIFICATION APPLICANTS OR THE SUBSTANTIAL INVOLVEMENT. WE OPERATE UNDER THE BOUNDS OF ADVOCACY. THIS COURT HAS REPEATEDLY CITED THE BOUNDS OF ADVOCACY. THE RULES OF-- I'M SORRY, THE BOUNDS OF ADVOCACY SPECIFICALLY STATE THAT THE RULES OF PROFESSIONAL CONDUCT ARE OVERARCHING ON ALL SECTIONS. AND THE RULE, THE REASON THAT THE FAMILY LAW SECTION AND THE FAMILY LAW LAWYERS CANNOT BE COUCHED WITH ALL OTHER MEMBERS OF EVERY OTHER PRACTICE AREA IS BECAUSE WE'RE SO UNIQUE. WE OPERATE WITH THE STANDARD OF ACHIEVING RESOLUTION. THE BOUNDS OF ADVOCACY REQUIRE THAT ALL FAMILY LAW LAWYERS ATTEMPT TO CONSIDER AND AA CHIEF A MEANS OF APPROPRIATE RESOLUTION WITHOUT COURT INTERVENTION IF POSSIBLE. THIS IS CONSISTENT WITH THE MISSION OF THE FAMILY LAW

SECTION OF THE FLORIDA BAR.

IN 2017 THIS COURT ADOPTED THE RULES THAT APPLY TO THE ACT, THE COLLABORATIVE LAW PROCESS ACT WHICH BECAME IN EFFECT ON JULY 1ST OF 2017.

THE COLLABORATIVE LAW PROCESS ACT IS A NON-ADVERSARIAL PROCESS COMPLETELY AVOIDING THE NEED FOR TRIALS AND FOR FORMAL DISCOVERY.

JUSTICE PARIENTE, IN THE CASE OF 875 SOUTHERN SECOND 383 SPECIFICALLY STATED THAT IT WAS THE VISION OF THIS COURT THAT FOR OUR PRINCIPLES OF OUR UNIFIED FAMILY COURT THAT WE WORK TO SETTLE DISPUTES AS AMICABLY AS POSSIBLE.

SHE ALSO ENCOURAGED ALTERNATIVES TO THE ADVERSARIAL PROCESS.

SHE EMPOWERED LITIGANTS TO REACH THEIR VERY OWN SOLUTIONS, TO INSIST IN CRAFTING SOLUTIONS TO PROMOTE LONG-TERM STABILITY.

THE BAR'S REVISION TO THIS RULE, WHICH BY THEIR VERY OWN WORDS HAVE BEEN TO SEEK UNIFORMITY THROUGHOUT ALL SECTIONS, WILL NOW PLACE THE FAMILY LAW LAWYERS

INTO A BLACK AND WHITE RULE AND A VERY UNIQUE CATEGORY REQUIRING TRIALS AND REQUIRING THOSE VERY LAWYERS WHO HAVE, MAY HAVE GOOD CAUSE TO NO LONGER HAVE THE ABILITY TO WAIVE THE SUBSTANTIAL INVOLVEMENT COURT REQUIREMENT OR FOR THE TRIAL REQUIREMENT.

THIS IS CONTRARY TO THE PUBLIC POLICY AS ARTICULATED BY THIS VERY COURT.

IT'S THE OPPOSITE OF--

>> COUNSEL, YOU'RE OVER TIME NOW BY ABOUT HALF A MINUTE.

IF YOU COULD GO AHEAD AND SUM UP IN ABOUT 30 SECONDS?

>> SURE.

FOR A LAWYER TO KNOW THAT HIS OR HER BOARD CERTIFICATION, ONE OF THE MOST GRUELING PROCESSES THAT HE OR SHE HAS EVER HAD TO GO THROUGH, ONE OF THE MOST BIGGEST HONORS OF THAT LAWYER'S CAREER TO HAVE THAT SAME ACHIEVEMENT STRIPPED FROM HIM OR HER BECAUSE

THEY'RE NOT, THEY ARE ABIDING BY
WHAT THE LEGISLATURE HAS
MANDATED, THIS COURT HAS
MANDATED IS ABSOLUTELY
DEVASTATING.

IT IS GOING TO BE THE DEATH
KNELL OF THE BOARD CERTIFICATION
SHOULD YOU STRIP THE COMMITTEE
WITH DISCRETION.

THE FAMILY LAW SECTION IS
REQUESTING THAT THIS COURT DENY
THE PETITION AND INSTEAD
REINSTATE THE PROVISION THAT WAS
STRIPPED BY THE BAR IN 6-6.5B4.

THANK YOU.

>> THANK YOU.

>> MAY IT PLEASE THE COURT,
MICHAEL UFFERMAN ON BEHALF OF
THE CRIMINAL LAW SECTION.
LET ME TRY TO SUMMARIZE IT THIS
WAY: PRIOR TO DECEMBER OF LAST
YEAR, EACH OF THESE
CERTIFICATION COMMITTEES HAD
THEIR OWN DISCRETION TO GRANT A
WAIVER IF SOMEONE DIDN'T MEET A
MINIMUM REQUIREMENT.

IN MY SECTION, FOR INSTANCE,
WITH CRIMINAL LAW IF SOMEONE
WANTED TO BE RECERTIFIED AND
THEY DIDN'T HAVE THE FIVE-TRIAL
MINIMUM BUT THEY WERE IN
PROTRACTED TRIAL-- WE RECENTLY
READ ABOUT THAT IN THE
TALLAHASSEE PAPERS-- THEY COULD
SAY, LOOK, I'M A SPECIALIST,
I'VE BEEN CERTIFIED BEFORE,
COUNT THIS TRIAL AS TWO.

I HAVE FOUR, NOT FIVE, BUT I
HAVE THIS ONE TRIAL THAT'S
PROTRACTED LITIGATION.

THAT EXISTED PRIOR TO DECEMBER.
WHERE WE ARE NOW IS THERE'S BEEN
AN EFFORT BY THE BAR TO STRIP
MOST OF THAT DISCRETION FROM ALL
OF THE INDIVIDUAL CERTIFICATION
RULES AND INFLICT DISCRETION
ONLY IN 6-3 WHICH WOULD APPLY TO
ALL THE CERTIFICATION
COMMITTEES.

BUT THE ONLY DISCRETION THAT
EXISTS UNDER THIS PROPOSAL IS
FOR HEALTH.

SO LET ME REPEAT THAT.

UP UNTIL NOW THERE'S BEEN, I

WOULD-- HUNDREDS OF LAWYERS
OVER THE LAST TWO, THREE DECADES
THAT FOR WHATEVER REASON
COULDN'T MEET SOME MINIMUM
REQUIREMENT, AND THE COMMITTEE
HAD THE ABILITY TO GRANT A
WAIVER.

AND NOW THAT IS GONE.

>> THERE'S NO DISCRETION ON
ANYTHING ELSE INCLUDING THE
PERIOD IN WHICH THE EXPERIENCE
OCCURRED?

>> NO.

THE ONLY DISCRETION UNDER THIS
PROPOSAL IS HEALTH OR THE
14-YEAR WAIVER WHICH HAD ALWAYS
APPLIED FOR PEOPLE WHO HAD BEEN
CERTIFIED FOR A PERIOD OF 14
YEARS OR LONGER.

IT'S THE PEOPLE IN BETWEEN THAT
WE ARE MOST WORRIED ABOUT.
WHAT WE ARE SUGGESTING IS THIS,
BECAUSE YOU ALREADY-- YOU
BROUGHT UP THIS IDEA.

THIS HAPPENED IN DECEMBER WITH
THE SECTIONS INVOLVED.

I'M NOT SURE THERE WAS GOOD
COMMUNICATION FOR ALL OF THIS.
BUT, SO I WOULD ASK THIS, I
WOULD ASK THAT YOU SEND THIS
BACK, SEND THIS BACK TO THE BAR,
ASK THAT THEY GET THE COMMITTEES
INVOLVED, THE SECTIONS INVOLVED
AND COME UP WITH-- IF THE
PURPOSE OF THIS IS TO MOVE ALL
OF THE DISCRETION INTO 6-3 WHICH
WOULD THEN ALWAYS BE APPROVED BY
THIS COURT, GREAT.

BUT ALLOW US TO HAVE MORE INPUT
INTO WHETHER OR NOT THERE SHOULD
BE ADDITIONAL FACTORS BEYOND
HEALTH THAT WOULD ALLOW SOME
TYPE OF GOOD CAUSE EXCEPTION.
BECAUSE RIGHT NOW, AGAIN, THERE
ARE-- I SERVED AS THE CHAIR OF
THE CRIMINAL LAW CERTIFICATION
COMMITTEE RECENTLY, I WAS ON THE
COMMITTEE FOR SIX YEARS.
IN THAT ROOM WE DEAL WITH
LAWYERS THAT COME TO US-- AND
IT'S RARE.

IT'S NOT-- MOST LAWYERS MEET
THE MINIMUM REQUIREMENTS.
BUT SOME SAY, LOOK, I HAVE THIS

EXTENUATING CIRCUMSTANCE.
THAT'S GOOD, WE WANT THAT LAWYER
TO BE CERTIFIED, AND WE'RE ALSO
WILLING TO LOOK INTO WHETHER OR
NOT WE SHOULD COUNT THEM AS
WRITING THE TREATISE AND DUI LAW
AS ONE OF THE TRIALS.

THIS WILL TAKE THAT AWAY, LET'S
ALL GET TOGETHER AT THE TABLE,
LET US GET TOGETHER WITH THE
BAR, AND I THINK WE CAN COME UP
WITH A SOLUTION.

BUT IF YOU APPROVE THIS NOW, THE
BOARD OF GOVERNORS NEXT TIME
AROUND IF ALL THESE COMMITTEES
WITHIN THEMSELVES TRY TO COME UP
WITH A NEW RULE, I THINK THE
BAR'S GOING TO TAKE THE POSITION
THAT, NOPE, WE'VE NOW PUT ALL OF
THE DISCRETION IN 6-3, THE
SUPREME COURT'S APPROVED THAT.
WE LIKE THEIR GOOD CAUSE
DEFINITION, THAT SHOULD APPLY TO
ALL COMMITTEES, BUT PLEASE SEND
THIS BACK TO FURTHER
CONSIDERATION, OTHERWISE I THINK
WE'RE GOING TO LOSE OUT ON A LOT
OF VERY TALENTED LAWYERS THAT
SHOULD BE CERTIFIED.

THANK YOU.

>> THANK YOU.

>> THE ONLY COMMENT I WOULD MAKE
IN REBUTTAL IS THAT, AGAIN, THAT
WHAT WE'VE HEARD ABOUT WHAT THE
IMPACT WOULD BE IF THIS
DISCRETION IS REMOVED, THOSE--
THE BAR'S POSITION IS THAT THOSE
THINGS CAN BE ADDRESSED THROUGH
CHANGING THE CRITERIA, THE
OBJECTIVE CRITERIA, THE
QUANTITATIVE CRITERIA THAT THE
SECTIONS HAVE EXPRESSED ARE
SOMETIMES MISSED, AND THEY'RE
VERY HIGHLY-- THERE ARE VERY
HIGHLY QUALIFIED ATTORNEYS WHO
CAN'T MAKE THE CERTIFICATION
REQUIREMENT BECAUSE THEY CAN'T
MEET A CERTAIN QUANTITATIVE
CRITERIA.

THOSE CRITERIA CAN BE CHANGED,
AND THEY CAN BE APPLIED
UNIFORMLY ACROSS THE ATTORNEYS
WHO ARE APPLYING WITHOUT HAVING
TO RELY ON THE DISCRETION OF THE

COMMITTEES TO MAKE CONSTANT
WAIVERS OR RELAXING
REQUIREMENTS.

TO THE EXTENT THAT THERE IS A
HEALTH WAIVER THAT IS NOW,
PROVIDES GOOD CAUSE FOR HEALTH.
THERE IS ALSO WITHIN THE
RECERTIFICATION PROCESS, THERE
IS A SENTIMENT THAT
RECERTIFICATION IS SOMETHING
WHERE ATTORNEYS ARE
EXTREMELY WELL QUALIFIED,
THEY'VE DEMONSTRATED THAT, AND
SO THAT'S WHY--

>> LET ME ASK YOU THIS, HOW DO
YOU RESPOND TO THE FAMILY LAW
SECTION?

THERE ARE SOME AREAS OF THE LAW,
SOME DIVISIONS BE IT CRIMINAL,
CIVIL, FAMILY WHERE IT IS MORE
DIFFICULT TO ACTUALLY GET A
CASE, GET FIVE TRIALS.

YOU CAN BE WORKING 24 HOURS A
DAY, IT JUST DOESN'T HAPPEN
BECAUSE YOU HOLD ALWAYS TO
RESOLVE THE CASE AS YOU CAN FOR
YOUR CLIENT.

AND THAT'S WHAT WE WANT.
BUT HOW DO YOU RESPOND TO THIS
WHOLE IDEA OF ONE SHOE FITS ALL
THAT, I THINK, YOU WANT US TO DO
WHEN YOU HAVE DIVISIONS WITH
DIFFERENT NEEDS, DIFFERENT
APPROACHES, THINGS LIKE THAT?
IT'S HARD SOMETIMES TO GET FIVE
TRIALS IF ALL YOU'RE DOING IS
MEDIATING AND RESOLVING CASES.

>> YES, YOUR HONOR, IT'S A VERY
GOOD QUESTION.

AND THE GOAL IS NOT A ONE SIZE
FITS ALL WITH RESPECT TO THE
QUANTITATIVE REQUIREMENTS SO
THAT AN APPELLATE LAWYER,
HOWEVER MANY TIMES THEY GO INTO
A COURTROOM IS THE SAME AS
CRIMINAL OR FAMILY LAW.

IF A HIGHLY QUALIFIED FAMILY LAW
ATTORNEY SHOULD NOT NEED TO SHOW
AS MANY TRIALS, THAT CRITERIA
CAN BE ADJUSTED.

THE ACTUAL SPECIFIC NUMBER
RATHER THAN ASKING--

>> WELL, WHO DECIDES THAT?

>> SO UNDER-- AND THERE ARE

STANDING POLICIES FOR HOW THESE CERTIFICATION COMMITTEES WORK. SO THE INDIVIDUAL CERTIFICATION COMMITTEE, WHICH ALSO IS THE COMMITTEE THAT REVIEWS THESE APPLICATIONS, CONTINUALLY ALSO LOOKS AT THE METRICS THAT ARE USED.

THEY WOULD MAKE A RECOMMENDATION TO THE BOARD OF LEGAL SPECIALIZATION AND EDUCATION.

THEY WOULD REVIEW AND SAY, YES, THIS LOOK LIKE SOMETHING WHERE TIMES HAVE CHANGED AND NOW WE NEED TO REDUCE THIS NUMBER.

LET'S PRESENT THIS TO, EVENTUALLY IT'D GO TO THE BOARD OF GOVERNORS, AND THE BOARD OF GOVERNORS WOULD SAY, YES, ONLY X NUMBER OF TRIALS SHOULD BE REQUIRED FOR THIS INDIVIDUAL AREA.

AND THAT CHANGE CAN BE MADE WITHOUT FORMAL ACTION BY THIS COURT.

IT'S AN INDIVIDUAL SPECIALIZATION AREA.

THE PETITION THAT THE BAR IS ASKING FOR HERE IS SIMPLY TO THE OVERARCHING STANDARDS THAT WOULD APPLY TO ALL.

WITH RESPECT TO THE FAMILY LAW SECTION, THEIR PARTICULAR WAIVER WAS FOR ANYONE WHO MADE A SUBSTANTIAL CONTRIBUTION TO THE FIELD.

AND RATHER THAN ALLOWING THE COMMITTEES TO MOVE ON THAT STANDARD, THE BAR BELIEVES IT'S BETTER TO HAVE A MORE DEFINED OBJECTIVE CRITERIA AND A MORE DEFINED GOOD CAUSE STANDARD FOR WHEN IT WOULD APPLY.

AND IT DOES, AS THEY POINT OUT, IT'S MORE APPLICABLE TO RECERTIFICATION THAN CERTIFICATION BECAUSE THE IDEA IS THAT CERTIFICATION CAN BE-- THE QUALIFICATIONS CAN BE READILY SET FORTH WITH SPECIFIC QUANTITATIVE MATTERS THAT DON'T NEED TO BE RELAXED CONTINUALLY WITH DISCRETION.

>> THANK YOU.

>> ALL RIGHT.
THANK YOU.
WE THANK YOU ALL FOR YOUR
COMMENTS IN THIS CASE TODAY.