GOOD MORNING, LADIES AND GENTLEMEN. WELCOME TO THE FLORIDA SUPREME COURT. WE ARE HAPPY TO HAVE YOU HERE TODAY. OUR FIRST CASE IS DEALING WITH AMENDMENTS TO THE RULES REGULATING THE FLORIDA BAR. MS. OSMAN, ARE YOU GOING ON TO SPEAK, FIRST, ON BEHALF OF THE BAR?

GOOD MORNING. MAY IT PLEASE THE COURT.

YES.

WE ARE HERE THIS MORNING ON BEHALF OF THE BAR'S ANNUAL FILING OF CONSOLIDATED AMENDMENTS TO THE RULES REGULATING THE FLORIDA BAR, ALL OF WHICH ARE PROPERLY READY FOR FINAL COURT ACTION. I WOULD LIKE TO POINT OUT THAT WE STILL HAVE ANOTHER ITEM PENDING BEFORE THE COURT. THAT HIS CASE NUMBER 92,297, WHICH HAS NO BEARINGS ON ANY OF THESE PROPOSALS. I ASSUME YOU WILL CONSIDER THAT SEPARATELY. MOST OF THE AMENDMENTS BEFORE THE COURT, TODAY, IN THIS FILING, ARE PURELY EDITORIAL, CONFORMING OR SEEMINGLY NONCONTROVERSIAL ISSUES THAT HAVE DEVELOPED THROUGHOUT THE BAR'S AND THIS COURT'S ORDERLY PROCESS. THE ENTIRE PACKAGE, IN NEWMAN ERICAL ORDER -- IN NUMERICAL ORDER, CONTAINS PROVISIONS RELATED TO BAR RULES AND REGULATIONS, SELECTED RULES IN CHAPTER 3 --

MS. OSMAN, WHAT ARE THE RULES THAT YOU JUST REFERRED TO IN IS THAT THE ADVERTISING?

YES. NEW LEGAL SPECIALIZATION AREAS, THE LAWYER REFERRAL SERVICE PROGRAM, THE UNLICENSED PRACTICE OF LAW FUNCTION, THE FEE ARBITRATION PROGRAM, OUR AUTHORIZED HOUSE COUNSEL PROGRAM, THE MILITARY LEGAL ASSISTANCE COUNSEL RULE. ALL OF THESE ITEMS ARE WELL PRESENTED IN GREATER DETAIL IN YOUR PACKAGES, AND SUPPLEMENTAL PLEADINGS, AND IN THE ABSENCE OF FURTHER COURT INTEREST, WE ARE NOT GOING TO ADDRESS THOSE ITEMS. WE HAVE PEOPLE HERE, READY TO ADDRESS THEM, SHOULD YOU DESIRE THAT, BUT WE ARE GOING TO GO FORWARD. THE PEOPLE THAT ARE HERE ON BEHALF OF ALL OF THOSE ISSUES, JUST SO YOU KNOW, WE HAVE ELIZABETH RUSSO OF MAN-OF MIAMI -- -- RUSSO, OF MIAMI, WHO IS HERE, AND MS. BATEMAN, AND BARRY RICHARD, WHO IS SPECIAL COUNSEL FOR THE FLORIDA BAR ISSUES. IN THE ABSENCE OF QUESTIONS ON THOSE MATTERS, WE ARE GOING TO MOVE FORWARD AND JUST ADDRESS ARTICLES ON RULE 3.713, FOR WHICH WE HAVE A COMMENT BY MR. BOWMAN, AND MR. BOGGS, WHO IS THE FLORIDA BAR'S DIRECTOR OF OUR LEGAL DIVISION, WILL ARGUE ON THAT ISSUE, AND AFTER THAT, WE WILL HAVE ARGUMENT ON A NEW RULE, NEW CHAPTER 6-2.3, AND WE HAVE A COMMENT ON THAT, AND THAT IS THE LABOR AND SPECIAL EMPLOYMENT AREA, AND WE WILL TAKE THAT UP AND I WILL YEAR OLD IT -- AND I WILL YIELD TO MR. BOGGS ON THAT ONE.

I HAVE A QUESTION, IN REGARD TO 3, AS TO WHETHER THAT MATTER HAS BEEN ARGUED WITH THE JUC, AS FOR THE CONSTITUTIONAL AMENDMENTS, AS FOR PROCEEDING IN BAR DISCIPLINE, AS WELL AS JUDICIAL DISCIPLINE.

GOOD MORNING. MAY IT PLEASE THE COURT. JUSTICE WELLS, WE DID DISCUSS THAT, AT LENGTH, WITH BROOKE CANDIDLY, THE DIRECTOR -- WITH BROOKE CANNLY, THE DIRECTOR OF THE JUC. THE REMOVAL MAY, ALSO, SUSPEND THE LAWYER'S LICENSE TO PRACTICE LAW. WHAT WE ARE ASKING BY AMENDMENT IS FOR APPROVAL TO CONSIDER, WHEN THE BAR REMOVAL COMES TO THIS COURT FROM THE JUC, AND THEN ARGUE WHAT TO DO ABOUT THE LAWYER'S LICENSE, IF THE COURT DOES --

WHAT PROMPTS MY QUESTION IS THAT, I BELIEVE, IN AT LEAST ONE INSTANCE SINCE JANUARY OF LAST YEAR, WE HAVE HAD A SITUATION IN WHICH THERE HAS BEEN A DISCUSSION, WITHIN PAPERS FILED BY THE JQC, OF LAWYER DISCIPLINE, HAVING TO DO WITH A JUDGE THAT WAS BEFORE US FOR JUDICIAL DISCIPLINE, AND IT SEEMS TO ME THAT WE NEED TO HAVE AN ORDERLY PROCESS THERE, SO THAT WE ARE ADVISED, IN ALL OF THOSE CASES, AS TO WHETHER THE MATTER HAS BEEN HEARD BELOW, IN SOME FASHION, OR HOW WE ARE GOING TO DEAL WITH THOSE COMBINATION OF JUDICIAL AND LAWYER DISCIPLINE, IF THAT IS WHAT WE ARE DOING.

I THINK THAT THIS PROPOSAL DOES GIVE US ORDER WHERE THERE HAS BEEN NONE. RIGHT NOW THE BAR IS REQUIRED, BY CASE LAW AND THE CONSTITUTION, TO WAIT UNTIL A JURIST THE IS REMOVED FROM OFFICE AND THEN BEGIN TO CONSIDER THE DISCIPLINARY SIDE OF THE EQUATION, SO TO SPEAK, IS ON RIGHT NOW THERE IS NOTHING BEING DONE, AND JQC IS UNDERSTANDABLY RELUCTANT TO DO ANYTHING ON THEIR OWN, IN RESPECT TO DISCIPLINE, VIS-A-VIS THAT FORMER JUDGE'S LAW LICENSE, ONCE THAT ORDER HAS BEEN ENTERED, SO THIS GIVES A PROCESS, WHEREBY THE BAR AND THE JQC CAN PARTICIPATE WITH THIS COURT AT ONE PROGRAM AT ONE ONGOING POINT IN TIME AND ADDRESS ALL OF THOSE ISSUES, IN WHICH THERE IS A PROCESS AND NOTICE AND OPPORTUNITY OF BEING HEARD.

THAT IS MY QUESTION. SO THE INTENT OF THIS RULE IS TO DO WHAT APPEARS TO BE THE INTENT OF THE CONSTITUTIONAL AMENDMENT, WHICH IS TO HAVE, INSTEAD OF TWO SEPARATE PROCEEDINGS, TO HAVE THE PROCEEDINGS IN ONE COMBINED ACTION, WHEN IT IS FILED BEFORE THE JU. JQC.

-- BEFORE THE JQC.

PRECISELY, BUT THE BAR WOULD NOT SEEK TO INTERVENE IN ALL CASES. WE WOULD MAKE A DECISION ON WHICH ONES TO SEEK TO INTERVENE IN, AND THEN SEEK TO INTERVENE ONLY ONCE A REMOVAL AUTHORIZATION HAS BEEN HAD, BECAUSE THERE IS NOTHING THE COURT CAN DO, UNDER THE COURT'S PRIOR CASE LAW, ABOUT THE LICENSE OF THAT JUDGE, UNTIL THE JUDGE, IN FACT, IS REMOVED FROM OFFICE.

MR. BOGGS, WHILE YOU ARE STILL THERE, AND I AM NOT REALLY SO CERTAIN THAT WE CAN SOLVE, YOU KNOW, WHAT IS SORT OF A BUMP, WITH REFERENCE TO THE ISSUE NOW. HOW WILL THAT PROCEDURE BE ANY IMPROVEMENT OVER THE PROCEDURE PREAMENDMENT, WHEN THE JQC, REALLY, DIDN'T GET INTO THE OR DIDN'T HAVE THE AUTHORITY TO GET INTO THE ISSUE OF BAR STATUS BUT, OF COURSE, THE BAR MAY OR MAY NOT HAVE BROUGHT PROCEEDINGS IN THIS COURT, YOU KNOW, AND THIS COURT MAY OR MAY NOT, YOU KNOW, HAVE APPROVED THOSE. WE STILL HAVE THIS SORT OF, FOR LACK OF A BETTER WORD, AWKWARD SITUATION, WHERE THERE IS AUTHORITY GRANTED TO THE JQC TO MAKE A RECOMMENDATION, WITH REFERENCE TO BAR STATUS IN THE JQC PROCEEDINGS. NOW, IS IT YOUR POSITION THAT THIS IS GOING TO BE A SELECTED CHOICE BY THE BAR, REGARDLESS OF WHAT THE JQC DOES, AND THAT YOUR VIEW, NOW, IS THAT THE JCC IS GOING TO BE RELUCTANT TO GET INTO THE BAR ISSUE AND THEN IT IS GOING TO TRY TO LIMIT ITSELF JUST TO THE STATUS OF THE JUDICIAL OFFICER?

FIRST OF ALL, JUSTICE ANSTEAD, I DON'T READ THIS RULE AS AUTHORIZING THE JQC TO ENGAGE IN DISCIPLINARY RECOMMENDATIONS. THIS JUST, I THOUGHT, AUTHORIZED THIS COURT TO ENTER A POINT ORDER.

THE CONSTITUTIONAL AMENDMENT AUTHORIZES THE JQC TO DO THAT.

YES, SIR. BUT JQC, AS I UNDERSTAND IT, HAS NO INTENTION OF ENGAGING IN THAT ACTION, AND THIS, THEN, PUTS SOMEBODY INVOLVED IN THAT PROCESS THAT IS HISTORICALLY ABLE TO AND EXPERIENCEED IN THE AREA, SO WHAT DOES IT DO BETTER THAN PREAMENDMENT? IT PUTS SOMEBODY IN THE PROCESS, TO WHERE WE CAN, IN FACT, ENGAGE IN INN TIMELY ACTION.

SO YOU ARE TELLING US THAT THE BAR IS GOING TO BE ACTIVELY MONITORING ALL OF THE JQC PROCEEDINGS, TO MAKE A DETERMINATION IN THIS RESPECT?

I CANNOT ENVISION A REMOVAL RECOMMENDATION THAT THE BAR WOULD NOT WANT TO ACT ON.

PERHAPS, MR. BOGGS, SOMEONE ELSE, I HAVE ONE QUESTION IN THE UPL AREA. HAVING TO DO WITH THE PROPOSAL RULE 10-3.2. WHICH AUTHORIZED THE UPL STANDING COMMITTEE TO IMPOSE A CIVIL FINE UP TO $500 PER INCIDENT. IS THAT A NEW POWER THAT IS BEING GIVEN TO THE UPL COMMITTEE?

YES, SIR. AND I THINK I NEED TO DEFER TO BARRY RICHARD IN THIS RESPECT TO THAT MOTION.

THANK YOU. IF IT PLEASE THE COURT. I AM BARRY RICHARD, KOUNS FOALE THE FLORIDA BAR. MY UNDERSTANDING IS THAT THE FLORIDA BAR WOULD ENTER INTO A SETTLEMENT AGREEMENT FOR A $50 FINE OR THE COMMITTEE TO ENTER INTO A SETTLEMENT AGREEMENT OF A $500, WITHOUT THE NECESSITY OF BRINGING PROCEEDINGS. THE OTHER --

THIS WOULD NOT BE CONTEMPLATED, THEN, IT WOULD NOT BE AN IMPOSITION OF THE FINE BY THE COMMITTEE?

NOT THE $500 PART. THERE ARE TWO PARTS, ACCORDING TO THE PROPOSED RULES FORM THE PART THAT I THINK YOU ARE REFERRING TO IS APPARENTLY THE BAR CAN ENTER INTO A AGREEMENT WHERE THE INDIVIDUAL SIGNS AN AFFIDAVIT, ACKNOWLEDGING THE IMPROPRIETY AND AGREEING NOT TO DO IT IN THE FUTURE, BUT THERE IS NO PROVISION FOR ANY SANCTION TO GO ALONG WITH THAT. THE PROBLEM THAT THE BAR HAS HAD IS THAT, ESSENTIALLY, INDIVIDUALS HAVE ONE FREE OPPORTUNITY TO TAKE ADVANTAGE TO THE PUBLIC AND NOTHING HAPPENS TO THEM, AT THE POINT THAT THE PROCEEDINGS HAVE BEGUN, EXCEPT THEY ARE TOLD NOT TO DO IT ANYMORE. SO THERE ARE TWO PARTS TO THIS RULE. ONE PART PROVIDES THAT THE REFEREE CAN RECOMMEND TO THE COURT UP TO $1,000 CIVIL PENALTY, SO THAT THE COURT IS NOT FACED WITH HAVING NO ALTERNATIVE EXCEPT AN IN DIRECT CRIMINAL CONTEMPT. THERE CAN BE SOMETHING LESSON REDUCE THAN A CRIMINAL -- LESS ONEROUS THAN A CRIMINAL CONTEMPT. THE OTHER SIDE OF IT IS TO ALLOW THE COMMITTEE TO SETTLE, PRIOR TO THE FILING OF FORMAL PROCEEDINGS AND AGREE OF A VOLUNTARY PAYMENT OF UP TO $500, SO THAT IN LESS ONEROUS, THERE IS NOT THE NECESSITY OF COST AND TIME ELEMENT TO --

I JUST WANTED TO MAKE SURE THAT THE COMMITTEE'S POWER, HERE, WAS LIMITED TO SITUATIONS IN WHICH THERE WAS AN AGREEMENT, AS OPPOSED TO AN IMPOSITION.

THAT IS MY UNDERSTANDING, YOUR HONOR. THAT IS ONLY FOR AN AGREEMENT. THE IMPOSITION IS THE REFEREE'S RECOMMENDATION TO THE COURT, AND THAT IS FOR THE CIVIL PENALTY OF UP TO $1,000.

THANK YOU. WHO IS GOING TO ADDRESS MR. BOWMAN?

GOOD MORNING, AGAIN. I THINK IT IS IMPORTANT TO NOTE THAT THE IN CAPACITY RULE, WHICH IS RULE 3-7.13 OF THE RULES, IS A RULE THAT IS INSIDE OF THE DISCIPLINARY PROCESS. IN FACT SUBPART A, THE PROCEEDINGS WERE PUTTING PEOPLE ON THE LIST, PROVIDES IN THE LAST SENTENCE "PROCEEDINGS UNDER THIS RULE SHALL BE PROCESSED IN THE MANNER OF DISCIPLINE IN THE SAME MANNER AS THE PROCEEDINGS FOR CONDUCT." AS I READ IT, WITH REGARD TO THE COURT, IS THIS CHANGE ABOUT REINSTATEMENT ROUTE PUTS THESE PEOPLE IN A STIGMATIZED DISCIPLINARY PROCESS. THIS RULE DOES NOTHING IN CHANGING WHERE WE ARE ALREADY. WE ARE, ALREADY, INSIDE THE DISCIPLINARY PROCESS, WITH THESE INCAPACITATED CASES.

THIS SEEMS TO BE SUBSTITUTING A MORE FORMAL AND CUMBERSOME PROCESS FOR WHAT WAS

A MORE INFORMAL PROCESS, AND PERHAPS THE STIGMA GOES WITH MAKING IT MORE FORMAL AND LESS EFFICIENT. WHAT WOULD BE WRONG WITH STICKING WITH THE PRESENT PROCESS, WHERE THE BOARD, REALLY, IS THE EFFECTIVE ACTOR HERE, AND THEN HAVING THE BOARD CERTIFY, TO THE COURT, ITS APPROVAL OF THE REQUEST FOR REINSTATEMENT, WHICH WOULD RESULT IN AN ORDER FROM THE COURT, AND THAT THE ONLY TIME THERE MIGHT BE A MORE COMPLICATED PROCEDURE WOULD BE WHERE THE BOARD DECLINES TO CERTIFY, AND THEN THERE WOULD BE A RIGHT TO REVIEW BY THE PETITIONER IN THE COURT. WOULDN'T THAT KEEP THE BEST OF WHAT IS GOING ON RIGHT NOW?

WHAT YOU HAVE ALREADY DESCRIBED IS EXACTLY THE PROCESS THAT WE CURRENTLY ENGAGE IN, BOTH BY RULE AND BY ACTION. BY RULE, THE PROCESS IS VERY SIMPLE. YOU FILE A PETITION WITH THE BOARD OF GOVERNORS AND THE BOARD EITHER SAYS YES OR NO. THERE IS NO PROCESS, NO STANDARDS, NO DISCOVERY, NOTHING PROVIDED FOR, AND IF THE FUNCTION OF THE DISCIPLINARY PROCESS IS PRIMARILY, FIRST AND FOREMOST THE PROTECTION OF THE PUBLIC, THERE NEEDS TO BE SOME STANDARD FOR REVIEW AT THAT TIME. IT IS NOT JUST A MINISTERIAL ACT, LIKE WHEN SOMEONE WHO HAS NOT PAID THEIR DUES NOW CHOOSES TO PAY THEIR DUES. THIS IS SOMEONE PLACED ON THE INACTIVE LIST FOR CONDUCT NOT RELATED TO MISCONDUCT.

WHAT HAPPENS IF THE BOARD SAYS YES?

IF THE BOARD SAYS YES, THE INDIVIDUAL IS REINSTATED BY RULE --

IS THERE A ORDER OF THE COURT?

I AM SORRY YOUR HONOR.

IS THERE A ORDER OF THE COURT SUBJECT TO --

THE RULE DOES NOT PROVIDE FOR AN ORDER OF THE COURT. WHAT WE DO, BECAUSE THE BAR AND THE RESPONDENTS IN THIS PROCESS HAVE FELT UNCOMFORTABLE WITH THIS PROCESS, WE FILE A NOTICE OF REINSTATEMENT, WHICH IS NOT MODIFIED BY THE RULES, AND RATIFY WHAT THE BOARD OF GOVERNORS HAS DONE, SO YOU HAVE GOT AN ORDER PLACING THEM ON THIS INACTIVE STATUS AND AN ORDER TAKING THEM OFF. WHAT WE NEED TO PUT TOGETHER HERE IS A PROCESS WHEREBY WE GET AN ORDER OUT AND AN ORDER BACK IN, AND SOME KIND OF REASONABLE PROCESS THAT, IN THE MEANTIME, ESTABLISHING THE PROTECTION OF THE PUBLIC. NOW, THERE IS, WITHIN THE DISCIPLINARY REINSTATEMENT PROCESS, WHICH IS THE PROCESS WE ARE ASKING TO EMPLOYEE HERE, IS A -- ASKING TO EMPLOY HERE, IS A PROCESS FOR SUMRARY PROCEDURE. IF YOU HAVE NOT BEEN ASKED TO DO MANY ORDERS FOR REINSTATEMENT, IS WE CAN CONSENT TO IT. IF WE CONSENT TO IT, THEN THE COURT WILL ENTER AN ORDER AND THE INDIVIDUAL WILL BE IMMEDIATELY REIN STATEMENTED, BUT IF THERE -- REINSTATED, BUT IF THERE IS A REASON, TO PROTECT THE PUBLIC, THE BOARD WILL SIMPLY NOT REIN STAIMENT STATE. THERE IS NO STANDARDS FOR REVIEW IN THIS COURT, NO PROCEDURE SPECIFIED FOR THIS REVIEW. THIS PROCESS GIVES A TIME-PROVEN DUE PROCESS PROCESS.

WHAT HAPPENS, NOW, IF THE BOARD OPPOSES REINSTATEMENT?

THE INDIVIDUAL MUST PETITION THE COURT FOR REVIEW, WITHOUT STANDARDS, WITHOUT TIME PROCESSES, WITHOUT ANY -- THERE IS ONE SENTENCE THAT SAYS A REJECTION, A PETITION BY THE BOARD -- "A REJECTION OF SUCH PETITION MAYBE REVIEWED BY THE SUPREME COURT OF FLORIDA." THAT IS THE ENTIRE PROCESS RIGHT NOW.

SO IS THIS DONE FOR THE PROTECTION OF THE BAR MEMBERS WHO WERE NOT PLACED ON THE INACTIVE LIST, -V- YOU MENTIONED CONCERN FOR DANGEROUS TO THE PUBLIC. HOW DOES THIS FURTHER THAT?

THE BAR IS TRYING TO BALANCE BOTH ISSUES, BY GIVING A ROUTE THAT PROVIDES FOR ASSUMERY PROCEDURE BACK IN THAT THERE IS NO REASON TO OPPOSE, BUT THE ROUTE, NEVERTHELESS, GIVES THE BAR THE ABILITY TO ENSURE THAT THE PUBLIC INTEREST IS PROTECTED, AND THAT IS THE PROBLEM THAT THE BOARD OF GOVERNORS HAS FACED, OVER THE YEARS, IN THESE PROCEEDINGS, IS AN INABILITY TO DO ANY KIND OF MEANINGFUL INVESTIGATION OR TAKE ANY MEANINGFUL ACTION, WITHOUT ANY STANDARDS INVOLVED. WE ARE FACED WITH A PETITION WHERE YOU HAVE TWO CHOICES. ACCEPT IT OR REJECT IT.

I HAVE ARGUMENT ON THE SECOND POINT.

MAY IT PLEASE THE COURT. I AM STUART ROSENFELD, THE CEO BE CHAIRMAN OF THE LAW ENFORCEMENT SECTION. I HAVE BEEN ASKED HERE TO ADDRESS THE CONCERNS REGARDING LABOR LAW EMPLOYMENT CERTIFICATION. I WANT YOU TO KNOW THAT THE STANDARDS THAT WE HAVE SUBMITTED AND HAVE GONE THROUGH THE FULL PROCESS OF THE BOARD OF GOVERNORS TOOK YEARS IN THE MAKING. THEY WERE A PRODUCT OF GREAT CONSENSUS BUILDING AND THE FACT THAT ONLY ONE OPPOSITION WAS FILED, WE CONSIDERED, PROOF THAT THERE IS A GREAT CONSENSUS FOR LABOR AND EXPLOIT LAW CERTIFICATION. ADDRESSING MR. CAULKINS' PARTICULAR CONCERN, WHICH IS THAT SOMEBODY COULD PASS AN EXAM WITHOUT DEMONSTRATING SUFFICIENT KNOWLEDGE OF WHAT HE CHARACTERIZES AS LABOR LAW, WHICH IS THE NATIONAL LABOR RELATIONS ACT AND THE PUBLIC EMPLOYEE RELATIONS ACT. THAT IS JUST NOT SO. IF YOU LOOK AT THE STANDARDS, UNDER THE EXAMINATION, HE HAS PICKED OUT THE WORDS "AT LEAST SOME KNOWLEDGE". WHAT WE WERE TALKING ABOUT, HERE, WAS A COMPROMISE, RECOGNIZING THAT IT IS A VERY DIVERSE PRACTICE AREA AND PEOPLE WOULD HAVE TO SHOW KNOWLEDGE IN EVERY AREA. THE KEY IN FRONT-THAT IS THE KEY SENTENCE THAT THE COURT MUST PAY ATTENTION TO, WHICH IS "THE APPLICANT MUST PASS AN EXAMINATION THAT DEMONSTRATES SUFFICIENT KNOWLEDGE AND EXPERIENCE IN LABOR AND EXPLOIT EMPLOYMENT LAW TO -- AND EXPLOIT LAW TO JUSTIFY LEGAL COMPETENCE TO THE COURT AND TO THE PUBLIC." IF THE COURT HAS ANY QUESTIONS, I WILL BE HAPPY TO ANSWER THEM. THANK YOU.

ALL RIGHT. WE WILL CONCLUDE FOR THE BAR AND MR. BOWMAN.

MAY IT PLEASE THE COURT. I AM JOHN BOWMAN. I AM ADDRESSING, SPECIFICALLY, THE AMENDMENTS TO THE IN CAPACITY NOT RELATED TO MISCONDUCT. AS I UNDERSTAND, THE BAR'S ARGUMENT IS THE CURRENT RULES ARE TOO LOOSE, AND MY ARGUMENT IS THE PROPOSED AMENDMENT IS TOO STRONG, AND I THINK THERE IS SOME MERIT IN BOTH SIDES. OBVIOUSLY, WITH THE MISCONDUCT, WE HAVE A PROCEDURE THAT IS DESIGNED TO BE ROOTING OUT PEOPLE OF IMMORAL CONDUCT. I AM CONCERNED, WHERE WE HAVE SOMEBODY WHO HAS SUFFERED A DISABILITY, BE IT PHYSICAL OR MENTAL, THROUGH NO FAULT OF THEIR OWN, ARE GOING TO BE PLACED THROUGH THIS PROCESS. I DON'T THINK THE PUBLIC IS GOING TO BE WELL SERVED, BECAUSE, ONE, THERE IS NO INCENTIVE TO SOMEBODY TO SEEK OUT HELP, WHEN THEY NEED IT, NOR WILL BAR OR STAFF COUNSEL HAVE ANY ABILITY TO OFFER SOMETHING TO SOMEBODY TO SEEK HELP. IN OTHER WORDS WHAT ARE YOU GOING TO OFFER THEM? THE SAME PROCESS THAT YOU WOULD GO THROUGH IF YOU WERE DISBARRED. VERY LITTLE INCENTIVE TO GO FORWARD, SO I DON'T THINK THE PUBLIC IS BEING SERVED. I THINK THERE ARE SOME ALTERNATIVES THAT WE SHOULD CONSIDER AND THE BAR SHOULD LOOK AT. FOR INSTANCE LIMITED DISCOVERY. IF THE ISSUE IS MENTAL HEALTH AND COUNSELING, LET'S GET THE DISCOVERY REGARDING MENTAL HEALTH AND COUNSELING. SPECIFIC LIMITATIONS ON COSTS. AS YOU KNOW, WITH THE DISCIPLINARY PROCESS, THE COSTS CAN BE RATHER EXCESSIVE. OBVIOUSLY ECONOMIC INCENTIVES WORK ON PEOPLE. IF WE KNOW THAT, IF YOU GO THROUGH THE PROCESS AND YOU ARE NOT GOING TO BE HIT BADLY, AND WHAT WE ARE CONCERNED ABOUT IS GETTING YOU BACK ON YOUR FEET AND BEING A SAFE PRACTITIONER, THEN LET'S TALK ABOUT MAKING SURE THERE ARE LIMITATIONS ON THAT. HOW ABOUT ASSURANCES AS TO PRIVACY? IF YOU GO THROUGH THE

GRIEVANCE PROCESS TO BE REINSTATED, THEY ARE GOING TO PUB LYRIC YOUR NAME -- TO PUBLISH YOUR NAME. THEY ARE GOING TO ASK FOR COMMENTS FROM COMMITTEES. THEY ARE GOING TO PUT IT IN THE BAR NEWS. I AM NOT CERTAIN I WANT TO GO THROUGH THAT, IF I HAVE HAD A BOUT OF DEPRESSION, AND I WANT TO COME BACK. WE NEED TO ENSURE THAT THE PERSON GETTING THE HELP IS GOING TO HAVE SOME PRIVACY. WHAT ABOUT INCENTIVES TO SEEK HELP? HOW ABOUT IF YOU GO THROUGH A PROCESS, WE WILL HAVE A CONCEPT DECREE. YOU GET THE FOLLOWING TREATMENTS, PROGRAM, IF YOU COMPLETE THEM, SUCCESSFULLY DO THEM, SHOW US EVIDENCE OF THAT, YOU WILL BE REINSTATED. LET'S GIVE THEM SOME INCENTIVE TO GO FORWARD. ALSO I THINK WE SHOULD RECOGNIZE THE LEVELS OF IN CAPACITY. WE DO IT IN OUR GUARDIANSHIP LAWS, LIMITED DISCIPLINARY. WE MIGHT DO IT HERE, ALSO. TO LUMP EVERYBODY INTO ONE BROAD CATEGORY, I DON'T THINK, IS VERY FAIR. THE GENTLEMAN WHO SUFFERS A STROKE AND IS NOT ABLE TO PRACTICE CURRENTLY, AND SOMEBODY WHO SUFFERS FROM ALCOHOLISM OR ANY OF A NUMBER OF ITEMS, THERE ARE DIFFERENT LEVELS, AND I THINK WE NEED TO ADDRESS THAT AND CONSIDER THAT.

MR. BOGGS SEEMS TO BE SAYING TO SOME DEGREE, HOWEVER, THAT THE PROCEDURE REALLY IS NOT GOING TO CHANGE, AND THAT, FOR THE OVERWHELMING MAJORITY OF THE CASES WHERE THE BOARD DEALS WITH THIS, AS IN THE PAST, THERE IS GOING TO BE A RECOMMENDATION OF REINSTATEMENT, WITHOUT THE PROCEDURES THAT WE ARE TALKING ABOUT HERE, AND IT IS ONLY GOING TO BE IN THOSE CASES WHERE REINSTATEMENT IS NOT PROVED BY THE BOARD -- APPROVED BY THE BOARD, THAT THIS, NOW, SETS UP A STRUCTURE, IN TERMS OF THE REVIEW PROCEDURES IN THIS COURT. I AM NOT SURE, COMPLETELY, THAT THAT WAS -- BUT I GOT THAT AS A SIGNAL THAT WAS BEING SENT OUT.

RIGHT. BUT LET'S SAY THAT IN THE RULE. IT IS NOT SAID. THE STREAMLINED PROCEDURE SAYS "AFTER DISCOVERY." AFTER DISCOVERY IS SORT OF AT THE END OF THE LINE, HERE, AND WHATEVER ELSE. LET'S HAVE A RULE, WITH SPECIFIC PROCEDURES THAT SAY EXACTLY WHAT WE ARE GOING TO DO. WE ARE TALKING ABOUT THIS IS WHAT WE WANT TO DO AND WE AGREE TO DO IT. LET'S PUT IT IN WRITING THAT THIS IS WHAT WE ARE GOING TO DO, INSTEAD OF ALLUDING TO IT, AND IT WILL BE A SIMPLE PROCESS WITH A SIMPLE PROCEDURE. I THINK THERE NEEDS TO BE MORE EXAMINATION, UNDER THIS RULE, TO MAKE IT FAIR. I WOULD LIKE TO YIELD THE REMAINDER OF MY TIME TO MY COCOUNSEL, AS HE HAS INDICATED THAT HE NEEDS THE TIME. THANK YOU.

MAY IT PLEASE THE COURT. I AM CHARLES CAULKINS FROM FT. LAUDERDALE, AND I AM NOT HERE TO OPPOSE THE SPECIALIZATION IDEA OR CONCEPT, BUT I THINK THAT IT NEEDS TO BE FINE TUNED, SENT BACK AND SOME CHANGES MADE. I AM VERY CONCERNED FOR THE PURPOSE OF THE SPECIALIZATION RULES THAT IT CAN BE MISLEADING TO THE PUBLIC. THERE IS A DIFFERENCE BETWEEN A LABOR LAWYER AND AN EMPLOYMENT LAWYER. YOU CAN TALK TO LAWYERS THAT DO THIS, AND I THINK THEY WILL UNANIMOUSLY AGREE, WHETHER THEY DO BOTH OR ONE OR THE OTHER. I PRACTICED IN THIS AREA FOR 22 YEARS, AND THE LABOR LAW AREA IS INVOLVING, PRIMARILY, UNIONS, COLLECTIVE BARGAINING, NATIONAL LABOR RELATIONS ACT, THE PUBLIC EMPLOYEE RELATIONS ACT HERE, IN FLORIDA, ISSUES INVOLVING EMPLOYEE-PROTECTED ACTIVITIES, TO ENGAGE IN PROTEST OVER WAGES, HOURS AND WORKING CONDITIONS.

DO YOU DO LABOR LAW AS WELL?

YES.

SO YOU COULD PASS THE CERTIFICATION?

I WOULD GRANDFATHER IN, AS I UNDERSTAND IT, ANYWAY, BUT I COULD PASS THE CERTIFICATION AND THE TEST.

I MEAN, IS THERE A CONCERN ON YOUR PART THAT SOMEONE COULD BE A VERY HIGHLY-SPECIALIZED LABOR LAWYER AND NOT BE ABLE TO PASS THIS, BECAUSE THEY HAVEN'T PRACTICED THE MORE GENERAL FIELDS, THE WAY I WOULD SEE THEM, MORE GENERAL FIELD OF EMPLOYMENT LAW?

I HAVE SEVERAL CONCERNS, BUT ONE IS THAT IT IS REALLY OPPOSITE. MOST OF THE LAWYERS, TODAY, IN THIS AREA, ARE REALLY EMPLOYMENT LAWYERS. IT HAS REALLY CHANGED, DRAMATICALLY, IN THE LAST 10 OR 15 YEARS, AND MOST OF THE CLAIMS, NOW, INVOLVE EMPLOYMENT LAW RATHER THAN LABOR LAW. IN OUR OFFICE, WE HAVE GOT 14 LAWYERS IN FT. LAUDERDALE AND 130 AROUND THE UNITED STATES, AND ALL OUR FIRM DOES IS EMPLOYMENT LABOR LAW, PERIOD. THAT IS ALL WE DO, AND I WOULD ESTIMATE 75% OF OUR PRACTICE IS EMPLOYMENT LAW, AND MANY OF THE EMPLOYMENT LAWYERS COULD NOT PASS -- WOULD NOT BE COMPETENT TO BE GIVING LABOR LAW ADVICE, WITHOUT SOME TRAINING OR SUPERVISION, AND UNDER THE PROPOSAL, THERE IS THE ABILITY OF SOMEBODY TO PUT, TO THE PUBLIC, THAT I AM A LABOR EMPLOYMENT LAWYER, IN THE YELLOW PAGES OR WHATEVER ELSE. SOMEBODY COMES TO THEM FOR LABOR LAW ADVICE, AND THEY GET BAD ADVICE, BECAUSE SOMEBODY IS NOT COMPETENT TO GIVE LABOR LAW ADVICE.

WELL, IS THE PROBLEM, THERE, COMBINING THESE TWO SEEMINGLY DIFFERENT SPECIALTIES, OR IS THE PROBLEM IN THE NUTS AND BOLTS, IN TERMS OF THE JOB THAT THE BAR IS DOING, IN DETERMINING THE QUALIFICATIONS OF A LAWYER THAT ENDS UP BEING CERTIFIED AS A LABOR AND EMPLOYMENT LAW SPECIALIST? BECAUSE IS IT YOUR VIEW THAT THEY SHOULD NOT COMBINE THESE TWO, IN THE WAY THAT THEY HAVE, OR IS IT YOUR VIEW THAT THEY ARE NOT DOING AN ADEQUATE JOB HAD, IN TERMS OF SETTING THE QUALIFICATIONS AND THE TEST SOMETHING.

IT COULD BE EITHER WAY. IN TEXAS, I SUBMITTED THE RULES OF TEXAS, AND THEY HAVE COVERED IT, I THINK, ADEQUATELY, BECAUSE THEY REQUIRE, IN TEXAS, ONE OF THE AREAS YOU HAVE TO SHOW PROOF AND EVIDENCE THAT YOU HAVE EXPERTISE IN IS NATIONAL LABOR RELATIONS ACT. YOU EITHER HAVE TO HAVE HAD THE PRACTICE IN THAT AREA, OR YOU HAVE HAD HAD TO HAVE 26 HOURS OF ADDITIONAL CLE CREDIT.

BUT DO THEY HAVE THE COMBINED SPECIALTY OF LABOR AND EMPLOYMENT LAW? IN OTHER WORDS IS THAT THE DESIGNATION?

YES. YES, JUDGE.

SO YOU HAVE NO PROBLEM WITH THAT DESIGNATION. SO YOUR CONCERN IS THAT THEY ARE NOT DOING ENOUGH WITH REFERENCE TO THE LABOR SIDE OF IT?

YES, JUSTICE. YES.

IN TERMS OF DETERMINING QUALIFICATIONS. WHAT WOULD YOU HAVE THEM DO, AND HAVE YOU APPROACHED THE COMMITTEE WITH SPECIFIC SUGGESTIONS FOR STRENGTHENING THE LABOR SIDE OF IT? THAT IS YOUR CONCERN.

YES. YES. AND WE -- I HAVE, THROUGH ONE OF THE LAWYERS IN MY OFFICE, WHO IS ACTUALLY ON THE GROUP, THERE ARE SEVERAL LABOR LAWYERS AND LABOR EMPLOYMENT LAWYERS AROUND THE STATE WHO HAVE EXPRESSED OPPOSITION TO THIS TO THE COMMITTEE, IN DIFFERENT TAGS -- DIFFERENT FASHIONS. I HAVE TALKED TO THEM ALL OVER THE STATE. SO WE HAVE GIVEN SOME ADVICE, BUT I CAN GIVE YOU SOME SPECIFICS, AND THAT IS TO LOOK AT, REALLY, WHAT TEXAS HAS DONE AND TO REQUIRE ONE OF THE AREAS OF PROVEN EXPERTISE IS LABOR LAW, BUT I THINK IT OUGHT TO BE BOTH LABOR AND EMPLOYMENT LAW, BECAUSE I GUESS THERE COULD BE SOMEBODY WHO IS A LABOR LAWYER AND NOT AN EMPLOYMENT LAWYER.

BUT YOUR BOTTOM LINE VIEW IS SIMPLY, RIGHT NOW, THE QUALIFICATIONS THAT ARE SET OUT AND THE TESTING IS INSUFFICIENT OR INADEQUATE, IN THE LABOR LAW AREA.

YES. IF YOU WILL LOOK AT THE -- ONE OF THE RULES ON THE TESTING PART, IT SAYS THAT THEY WILL GIVE THE PERSON ADDITIONAL CREDIT OR SOME KIND OF EMPHASIS. I CAN FIND IT. THE PROPOSED RULE 6-23 F SAYS THAT THE APPLICANT WILL HAVE AN OPPORTUNITY TO EMPHASIZE THEIR SPECIAL KNOWLEDGE. I AM NOT SURE WHAT THAT MEANS, BUT WHAT I THINK IT MEANS IS, WHEN THEY TAKE THE TEST, LET'S SAY THERE ARE TEN QUESTIONS, THEY WILL BE ABLE TO SAY I AM AN ARISA LAWYER, AND SO THE QUESTION ON ARISA, I WANT EXTRA CREDIT FOR, AND THEREFORE THEY ARE GOING TO GIVE THEM EXTRA POINTS, I GUESS. I AM NOT REALLY SURE WHAT THAT SPECIAL EMPHASIS MEANS ON THE TESTING. I THINK THAT PROVISION IS CONTRARY TO THE OVERALL RULE 6, WHICH REQUIRES THE TEST BE UNIFORMLY APPLIED TO EVERYBODY. I THINK YOU WILL FIND, IF YOU LOOK AT THEIR PROPOSED RULES, THERE ARE SEVERAL INCONSISTENCIES, WHERE THEIR PROPOSAL IS LESS STRENUOUS THAN THE GENERAL RULE 6. I WILL GIVE YOU SOME EXAMPLES. IF YOU LOOK IN 6-23.3, THE PROPOSAL SAYS THEY HAVE TO HAVE FIVE YEARS OF ACTUAL PRACTICE, AND THE OVERRIDING, THE GUIDING 6-3.51 SAYS THAT SOMEONE HAS TO BE SUBSTANTIALLY ENGAGED IN THE PRACTICE OF LAW FULL -- NOT FULL TIME BUT SUBSTANTIALLY ENGAGED. I WOULD SUGGEST THAT THE BAR, THE PROPOSAL BY THE BAR WOULD ALLOW SOMEBODY WHO HAS PRACTICED PART-TIME TO BECOME SPECIALIZED IN LABOR AND EMPLOYMENT LAW, AND THAT IS NOT WHAT I THINK THE OVERRIDING RULE 6 REQUIRES. ANOTHER EXAMPLE, THEY SAY, IN 6-23.3 A AND B THAT YOU HAVE TO HAVE 50% OF LABOR AND EMPLOYMENT LAW IN FIVE YEARS, THE LAST FIVE YEARS. WELL, THE OVERRIDING RULE 6-53 C 2 SAYS YOU HAVE TO HAVE SPECIAL ZALESIZATION IN -- SPECIALIZATION IN THREE OF THE LAST FIVE YEARS. UNDER THE BAR PROPOSAL. SOMEBODY COULD HAVE HAD EXPERIENCE THREE OF THE LAST FIVE YEARS THAT THEY APPLIED, AND UNDER THE OVERRIDING RULE, IT IS SUPPOSED TO BE FIVE OF THE LAST FIVE YEARS. ANOTHER EXAMPLE, 6-3.25 C, YOU HAVE TO PRACTICE AS AN ATTORNEY IN THE LAST FIVE YEARS. IF YOU GET TO 30 DAYS, SOMEBODY COULD ACTUALLY HAVE 15 HOURS.

LET ME COME BARK, AND YOU MENTIONED THAT ONE -- LET ME COME BACK, AND YOU MENTIONED THAT ONE OF THE LAWYERS IN YOUR OFFICE IS ON THE COMMITTEE. DID YOU PRESENT THESE IDEAS, THOUGHTS, TO THE COMMITTEE, WHILE THEY WERE IN THE PROCESS OF DEVELOPING THIS, OR DID YOUR PARTNER OR YOUR ASSOCIATE DO THAT? OR ARE WE TALKING ABOUT THIS, REALLY, BEING THE FIRST TIME?

I DON'T KNOW EXACTLY WHAT DIALOGUE. I WASN'T INVOLVED IN THE COMMITTEE AND NOT DIRECTLY COMMUNICATING EVERY STEP WITH HER, OF EVERYTHING THAT WAS DISCUSSED. I KNOW, OVER THE LAST TWO YEARS, THE GROUP HAS REALLY BEEN LOOKING AT THIS, AND HAS HAD A LOT OF DIFFERENT PEOPLE STUDYING IT AND GIVING DIFFERENT IDEAS.

BUT YOU HAVEN'T HAD ANY CONTACT WITH THE COMMITTEE, UNTIL THEY MADE THE FORMAL NOTICE TO THE PUBLIC AND TO OTHER LAWYERS ABOUT IT.

I HAVE HAD SOME CONTACT, AND I INITIALLY FILLED OUT SOME IDEAS OF WHAT MY POSITION WAS, AND I HAVE HAD SOME INFORMAL DISCUSSIONS WITH MR. ROSE ENFELT, AND, ALSO, THROUGH MY ASSOCIATE FROM TIME TO TIME, WHEN SHE HAS TOLD ME THE STATUS, I HAVE GIVEN HER MY OPINION. WHETHER SHE CONVEYED THESE TO THE SECTION OR NOT, I DON'T KNOW. ONE OF THE THINGS THAT CONCERNS ME ABOUT THIS SPECIALIZATION IS, ON THIS 30 DAYS THING. IF I READ THE RULES CORRECTLY, OR THE PROPOSED RULE CORRECTLY, SOMEBODY CAN HAVE 15 HOURS OF LABOR AND EMPLOYMENT LAW EXPERIENCE, ACTUAL LITIGATION OR GOING TO TWO OR THREE UNEMPLOYMENT HEARINGS IN A YEAR FOR FIVE YEARS, GO AND TAKE THIS TEST AND BECOME A LABOR EMPLOYMENT LAW SPECIALIST, AND I THINK THAT COULD BE VERY SERIOUSLY MISLEADING THE PUBLIC, AND THAT IS WHY I FILED MY OBJECTION, WHY I AM HERE.

THERE ARE OTHER THINGS THAT YOU CAN LOOK AT.

DO YOU HAVE ANY ESTIMATE AS TO THE NUMBER OF LAWYERS WHO ARE IN THIS AREA? IN FLORIDA.

HOW MANY ARE IN THE SECTION?

THERE ARE OVER 2000 MEMBERS OF LAWYERS IN THE LABOR AND EMPLOYMENT SECTION, AND PART OF THE PROCESS, OVER 200 EXPRESSED AN INTEREST.

THANK YOU.

THERE ARE SOME OTHER THINGS, TOO, THAT I WOULD POINT OUT THAT THE RULES CONCERN ME. I WILL TAKE AN EXAMPLE OF AN ARISA LAWYER. AN ARISA IS A LAWYER THAT PRIMARILY PRACTICES EMPLOYEE BENEFITS. RETIREMENT PLANS, HEALTH AND WELFARE PLANS, THAT SORT OF THING. WE HAVE THEM IN OUR FIRM THAT THAT IS ALL THEY DO IS ARISA WORK. UNDER THIS RULE, AN ARISA LAWYER THAT HAS BEEN WITH OUR FIRM FOR THREE YEARS, AN ASSOCIATE WHO HAS BEEN WITH OUR FIRM FOR THREE YEARS, WHO HAS NO LABOR AND EMPLOYMENT LAW EXPERIENCE, IS ELIGIBLE TO TAKE THE TEST AND BECOME CERTIFIED, BY THE BAR, AS A LABOR AND EMPLOYMENT SPECIALIST, AND THATARIES A LAWYER HAS NO IDEA ABOUT UNIONS, NO IDEA ABOUT EMPLOYMENT LITIGATION, NO IDEA ABOUT CIVIL RIGHTS LAWS, TITLE VII, ADA, THE DISCRIMINATION EMPLOYMENT ACT, OTHER THAN WHAT THEY STUDIED TO PASS THIS TEST, AND I AM CONCERNED ABOUT THAT. I DON'T THINK THE TEST WILL GET IT ALONE. I WILL GIVE YOU SOME COMMON KPAMPES. WE HAVE CLIENTS, EVERYDAY, THAT ASK US TO LOOK AT THEIR HANDBOOK FOR EMPLOYEES. TAKE A LOOK AT THIS AND IS IT LEGAL. ONE CLAUSE THAT WE SEE A LOT IN THERE IS A STATEMENT THAT SAYS EMPLOYEES SHALL NOT DISCUSS, WITH EACH OTHER, THEIR WAGES, HOW MUCH THEY ARE BEING PAID. THAT IS AGAINST THE LAW. THAT IS A VIOLATION OF THE NATIONAL LABOR RELATIONS ACT, AND THAT IS NOT SOMETHING YOU LEARN IN GILBERTS OR IN, EVEN, A LABOR LAW COURSE IN LAW SCHOOL.

THERE IS AN APPLICATION PROCESS, CORRECT?

YES, SIR.

AND THERE HAS TO BE A REFERENCE BY SIX LAWYERS?

YES, SIR.

THAT ARE IN THIS FIELD?

NO, SIR.

SIX LAWYERS.

YES, SIR.

THAT KNOW THE APPLICANT. AT LEAST MY EXPERIENCE, IN THE CIVIL TRIAL CERTIFICATION PROCESS IS THAT THE REVIEW OF THOSE APPLICATIONS IS PRETTY RIGOROUS. WHEN I WAS ON THE BOARD OF GOVERNORS, WE HAD SEVERAL DISPUTES ARISING OUT OF THE FACT THAT IT WAS SO RIGOROUS, AND I THINK PART OF THIS PROCESS DOES HAVE TO CONTEMPLATE THAT THERE WILL BE THAT TYPE OF REVIEW, ESPECIALLY AMONG THE COLLEAGUES IN THE FIELD THAT ARE IN THIS AREA.

I AGREE WITH YOU.

IS THERE A FAIRLY BROAD, FROM YOUR PERSPECTIVE, IS THE MAKEUP OF THIS COMMITTEE A FAIRLY BROAD-BASED COMMITTEE?

I WOULD SAY THAT MY UNDERSTANDING OF THE COMMITTEE IS PRIMARILY EMPLOYMENT LAWYERS THAT MAKE UP THE COMMITTEE. I KNOW THAT THE INTENT IS TO PUT, GET A BROAD BASE OF EMPLOYMENT AND LABOR LAWYERS, TO REPCOME UP WITH A TEST AND TRY TO DO THE RIGHT THING, BUT I AM CONCERNED ABOUT THE WORDING OF THE RULES, AND I, REALLY, THINK THEY NEED TO GO BACK AND AMEND THEM, NOT ABOLISH THIS IDEA BUT AMEND THEM. YOUR THOUGHT ABOUT REFERENCES. IF YOU WILL LOOK AT TEXAS, FOR EXAMPLE, AT LEAST A FEW OF YOUR REFERENCES HAVE TO BE LABOR EMPLOYMENT LAWYERS THAT KNOW THAT YOU HAVE PRACTICED LAW, NOT, FOR EXAMPLE, MR. BOWMAN DOESN'T KNOW ANYTHING. HE AND I ARE FRIENDLY AND KNOW EACH OTHER A LITTLE BIT, BUT HE DOESN'T KNOW MY PRACTICE. WE NEVER RUN ACROSS EACH OTHER IN THE PRACTICE. WE PRACTICE TOTALLY DIFFERENT FIELDS OF LAW, AND I THINK THAT IS ONE AREA THAT OUGHT TO BE IMPROVED, TO MAKE SURE THAT THE REFERENCES THAT ARE BEING GIVEN ARE AT LEAST SOME FROM LAWYERS THAT KNOW LABOR EMPLOYMENT LAW THAT CAN VERIFY THAT THAT APPLICANT IS SOMEBODY WHO IS QUALIFIED TO BE A SPECIALIST IN FLORIDA. YOU KNOW, THERE ARE SO MANY OTHER EXAMPLES. I MENTIONED AN EXAMPLE ABOUT THE HANDBOOK. THERE ARE SO MANY OTHER THINGS THAT CAN COME UP DAY-TO-DAY WITH LABOR LAWYERS. WE GET A CLIENT WHO WILL CALL ME AND SAY THAT I WANT TO INTERVIEW AN EMPLOYEE AND DISCIPLINE, AND THE EMPLOYEE WON'T PARTICIPATE IN THE INTERVIEW WITHOUT A WITNESS, WITHOUT A REPRESENTATIVE. WELL, IF IT IS AN UNIONIZED EMPLOYER, THAT HAS TO BE HONORED. IF IT IS NOT AN UNIONIZED EMPLOYER, IT DOESN'T, AND THERE IS JUST A TON OF THESE KINDS OF EXAMPLES THAT I COULD GIVE YOU THAT SHOW THAT THE LABOR LAW IS, REALLY, DIFFERENT FROM EMPLOYMENT LAW, AND THE MAKEUP OF THE SECTION IN THE BAR IS ONE THAT I THINK IS PRIMARILY EMPLOYMENT LAWYERS, AND I AM VERY CONCERNED THAT THE PROPOSAL IS NOT GOING TO AFFECT I FEEL MAKE SURE THAT THOSE WHO HOLD THEMSELVES OUT TO BE LABOR AND EMPLOYMENT LAWYERS, SPECIALITIONS IN THAT FIELD, CERTIFIED BY THE BAR, REALLY ARE LABOR EMPLOYMENT LAWYERS, WITH REASONABLE AMOUNT OF KNOWLEDGE AND EXPERTISE THAT IS REQUIRED BY THE RULE. I WOULD JUST, IN CONCLUSION, POINT OUT THAT I DID SUBMIT THE RULES OF THE STATE OF TEXAS AND THE STATE OF SOUTH CAROLINA. THOSE ARE THE ONLY TWO STATES IN "THE NATION" THAT HAVE DONE THIS, WITH LABOR EMPLOYMENT LAWYERS. I DON'T THINK THE BAR, AND I HAD SUGGESTED TO THE BAR THAT THEY GO STUDY THOSE TWO STATES AND FIND OUT HOW IT IS WORKING. WHERE ARE THE PROBLEMS AND WHERE ARE NOT THE PROBLEMS? I DON'T, MYSELF, HAVING DONE THAT, SO I CAN'T SPEAK AS TO WHETHER IT IS WORKING EFFECTIVELY IN SOUTH CAROLINA OR TEXAS, BUT PARTICULARLY IF YOU LOOK AT THE TEXAS RULES AND SEE HOW THEY HAVE REQUIRED LABOR LAW, PROOF OF LABOR LAW EXPERIENCE OR CLE TLAN TRAINING -- TRAINING, THAT IS THE ONE THAT I THINK WE NEED TO DO IN FLORIDA, TO MAKE SURE THAT THOSE THAT ARE CERTIFIED BY THE STATE, BY OUR BAR AND ULTIMATELY BY, I GUESS, THIS COURT, ARE NOT MISLEADING THE PUBLIC AND TRULY HAVE THE PROPER EXPERIENCE AND EXPERTISE. AGAIN, I DON'T OPPOSE THE RULE IN GENERAL, THE CONCEPT OF THE RULE. IT IS A GOOD CONCEPT. I THINK JUST THIS SPECIALTY NEEDS TO BE SENT BACK AND HAVE SOME TWEAKING ON THE RULES, TO MAKE SURE THAT THE PUBLIC IS PROTECTED. THANK YOU.

THANK YOU. DOES THE BAR WISH TO RESPOND?

I WOULD LIKE TO ADDRESS THE ISSUE OF INCENTIVES. IT IS IMPORTANT, I THINK, FOR THE COURT TO UNDERSTAND THAT THE VAST MAJORITY, IF NOT ALMOST EXCLUSIVE MAJORITY OF PEOPLE HANDLED UNDER THIS RULE, THEY DON'T COME TO THE BAR SEEKING OUR HELP. WHAT HAPPENS IS WE USUALLY HAVE A DISCIPLINARY INVESTIGATION AND WE DISCOVER THIS IN THE CAPACITY OF THE DISCIPLINARY INVESTIGATION, AND THAT IS THE WAY WE ATTEMPT TO SETTLE THE DISCIPLINARY ISSUE, IS TO GET THEM OFF THE IN CAPACITY LIST, WHERE THEY CAN GO AND SEEK HELP AND NOT BE A POTENTIAL BURDEN FOR THEIR CLIENTS NOR FOR THE PUBLIC.

DO WE HAVE ANY NUMBERS, THOUGH, OF HOW MANY WOULD FIT INTO THE CATEGORY OF PEOPLE THAT VOLUNTARILY COME FORWARD?

WE DON'T KEEP THOSE KINDS OF STATISTICS, IN GENERAL, BUT I WILL TELL YOU THAT, IN THE 14 YEARS THAT I WAS IN LAWYER REGULATION, THE DEPARTMENT OF THE FLORIDA BAR, I CANNOT REMEMBER A SINGLE NAME -- I KNOW THERE WERE SOME, BUT I CANNOT RECALL A SINGLE NAME OF SOMEONE THAT VOLUNTARILY COME TO US. WHEN LAWYERS ARE LOOKING FOR HELP, THEY DON'T COME TO THE BAR FOR THIS KIND OF HELP. THEY GO TO FLORIDA LAWYER'S ASSISTANCE, WHICH IS NOT AFFECTED AT ALL BY THIS RULE, AND IF THEY WANT CONFIDENTIALITY, THEY CAN GO TO FLORIDA LAWYER'S ASSISTANCE, BUT IF THEY COME INTO A DISCIPLINARY PROCESS, THERE IS A DISCIPLINARY PROCESS AT SOME POINT IN TIME, AND THERE IS NOT MUCH THAT WE CAN DO ABOUT IT AND I AM NOT SURE THAT WE WANT TO DO SOMETHING ABOUT IT. IF THEY WANT HELP, FLORIDA LAWYER'S ASSISTANCE CAN HELP THEM. WHAT DO WE OFFER THEM?

A CHANCE NOT TO BE DISCIPLINED, A CHANCE TO GO ON THE IN CAPACITY LIST FOR CONDUCT NOT RELATED TO MISCONDUCT. THAT IS CURRENTLY OFFERED AND IT CURRENTLY EXISTS UNDER THE PROPOSAL. I DON'T THINK IF WE ARE GOING TO CHANGE ANYTHING, WITH RESPECT TO HOW WE GET TO THE IN CAPACITY LIST. INCENTIVES ARE THERE NOW. INCENTIVES WILL STAY THERE, AND I THINK THAT IS ALL THAT WE NEED TO LEAVE YOU WITH IS THAT INCENTIVES ARE THERE.

YOU CAN ONLY BE SO SPECIFIC IN DRAFTING STANDARDS FOR CERTIFICATION. I CAN SURE YOU, AS I HAVE ASSURED MR. CAULKINS, THAT IT IS THE INTENT OF THE LABOR AND EMPLOYMENT SECTION THAT NOBODY SHOULD BE ABLE TO HOLD OUT TO THE PUBLIC THAT THEY HAVE SUFFICIENT KNOWLEDGE, UNLESS THEY HAVE SUFFICIENT KNOWLEDGE TO DO THAT. AND THOSE OF OUST COMMITTEE, WHO SERVE TO PREPARE THE EXAM, ALMOST EVERYONE OF THEM IS A LABOR AND EMPLOYMENT LAWYER, MEANING THEY DO WORK UNDER THE NATIONAL EMPLOYEE RELATIONS ACT, THE PUBLIC EMPLOYEE LABOR RELATIONS ACT AND THE DISCRIMINATION LAW, WHICH WE ALL AGREE ARE A KIND OF EMPLOYMENT LAW. IT IS KIND OF DIFFICULT TO DHAU DRAU LINE WHERE LABOR BEGINS AND EMPLOYMENT BEGINS. YOU WILL NOT FIND TOO MANY PEOPLE WHO PRACTICE IN JUST LABOR LAW TODAY. AS MR. CAULKINS POINTED OUT, 70% OF THE LAWYERS IN HIS FIRM PRACTICE EMPLOYMENT LAW, BUT YOU NEED TO UNDERSTAND LABOR LAW, IN ORDER TO BE A COMPETENT EMPLOYMENT LAWYER, AND THAT IS RIGHT IN OUR STANDARDS THERE, AND IT IS OUR INTENTION THAT NOBODY WILL BE ABLE TO BE BOARD CERTIFIED, UNLESS THEY CAN DEMONSTRATE ADEQUATE KNOWLEDGE, SUFFICIENT KNOWLEDGE OF ALL OF THESE CONCEPTS. WE HAVE PEER REVIEW THERE. WE HAVE SUBSTANTIAL EXPERIENCE THERE. IF YOU LOOK AT THE OTHER TWO STATES, THEY REQUIRE 25% AND 35% OF THE PRACTICE DEVOTED TO LABOR AND EMPLOYMENT LAW. FLORIDA, WE WANTED 60%. BLSE CUT IT DOWN TO 50%. THAT WAS THE ONLY CHANGE THEY NEED -- THEY MADE. IT IS OUR INTENTION THAT NOBODY IS GOING TO BE ABLE TO FOOL THE PUBLIC. THAT NOBODY IS GOING TO BE ABLE TO FOOL THE BAR. THAT THOSE WHO HOLD THEMSELVES OUT AS LABOR AND EMPLOYMENT LAWYERS, IT WILL BE JUSTIFIED.

THANK YOU VERY MUCH. WE APPRECIATE IT. WE WILL TAKE IT UNDER ADVISEMENT. THANK YOU, COUNSEL.