

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

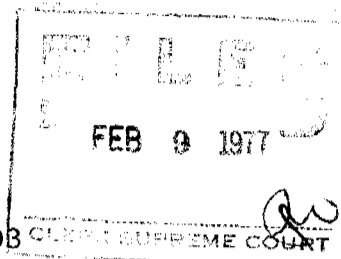
Petitioner)

vs.)

MARILYN R. BRUMBAUGH,

Respondent.)

Case No. 48,803



REFEREE'S REPORT OF FINDINGS OF FACTS,
CONCLUSIONS OF LAW AND RECOMMENDATIONS

THIS CAUSE, coming on to be heard on November 12, 1976, before the undersigned, as Referee, duly appointed by the Supreme Court of Florida, The Florida Bar being duly represented by counsel, the Respondent appearing in proper person, and the Referee having taken testimony and received evidence in this cause, and having considered same and being otherwise advised in the premises, the Referee does hereby make the following findings of fact in the above cause:

1. That this cause was properly brought before this Referee pursuant to the applicable provisions of the Florida Constitution and the Integration Rule of The Florida Bar.
2. (a) That the Respondent, Marilyn R. Brumbaugh, is not, and was not at any time pertinent hereto, licensed to practice law in the State of Florida or in any other jurisdiction of the United States. That said Respondent is sui juris and was at all times pertinent hereto a resident of Marion County, Florida.
(b) That the Respondent publishes and distributes gratis a shopping newspaper of wide circulation in Marion County and also operates what she styles a "secretarial service".
(c) That the respondent under the guise of "secretarial" or "typing" service for a fee, prepares all papers needed or deemed by her to be needed for the pleading, filing, and securing of a dissolution of marriage, as well as detailed instructions as to how the suit should be filed, service secured, hearings set, trial conducted, and final decree secured, numerous instances of which are hereinafter set forth.

3. That from September 1975 through January 1976 Respondent offered to perform legal services for the general public by advertising in her periodical named "Marilyn's Ad Market" and in the Ocala Star Banner.

4. That in September 1975 Respondent prepared a "Petition Of Dissolvment Of Marriage" for one Virginia Coiro for a fee of \$50. Respondent also gave Mrs. Coiro a 3 x 5 card with instructions written by Mrs. Brumbaugh telling Mrs. Coiro how to file the petition. Respondent also prepared and had Mrs. Coiro execute a power of attorney appointing Respondent as Mrs. Coiro's attorney. The record is silent as to whether Mrs. Coiro ever filed the petition prepared by Respondent with the clerk of the circuit court.

5. That in September 1975, Respondent prepared for Betty S. Williams a "Petition Of Dissolvment Of Marriage," a Motion for Default Judgment, a Notice of Hearing and a Power of Attorney appointing Respondent as Mrs. Williams' attorney. Respondent testified during deposition that the petition Respondent prepared for Mrs. Williams was denied and that Mrs. Williams ultimately went to the Marion County Legal Aid Society for legal assistance.

6. That in or prior to September 1975 Respondent prepared a petition for dissolution of marriage for one Linda Baldwin. Respondent told Mrs. Baldwin how to file her petition and how to get before the judge in the proceeding. At a subsequent date Respondent was advised by Mrs. Baldwin that her petition for dissolution of marriage had been denied. Respondent prepared a second set of papers for Mrs. Baldwin but the record is silent as to the disposition of same.

7. That in June 1976 Marvene Thomas and her husband Daniel R. Thomas asked Respondent to prepare dissolution of marriage papers for them. Mr. and Mrs. Thomas advised Respondent that dissolution of marriage proceedings were already pending in circuit court and that they were each represented by an attorney. They told Respondent that they believed they could drop the pending proceedings. For a fee of \$100 Respondent prepared a petition for dissolution of marriage, an answer, a waiver, a notice of hearing, a joint stipulation for motion for final hearing, and a final judgment. The petition stated that "petitioner and wife have no real properties to dispose of." At the same time she prepared the dissolution of marriage papers for Mr. and Mrs. Thomas, Respondent prepared two quit claim deeds deeding the marital property to Mr. Thomas. The referee notes that during Respondent's preparation of the papers, Mr. Thomas tried to talk Mrs. Thomas out of signing the dissolution of marriage papers. Respondent prepared the dissolution of marriage papers while Mr. and Mrs. Thomas were absent. When they returned to pick up the papers Respondent gave detailed instructions to Mrs. Thomas on procedures in filing the papers. The petition for dissolution of marriage prepared by Respondent was never filed and at the time of final hearing in this cause, the Thomas' marriage had not been dissolved.

8. In January or February 1976, Mary Lee Morris asked Respondent to prepare dissolution of marriage papers for her. Respondent asked Mrs. Morris if there were any children from the marriage, if Mr. or Mrs. Morris owned any real estate and personal property, if Mrs. Morris was seeking alimony, and if child custody and support payments were involved. Respondent told Mrs. Morris at their initial meeting to go home and come to an agreement with Mr. Morris as to the disposition of personal property. When Mrs.

Morris returned with the agreement, she was told by Respondent to delete some items from the list because it was too detailed and the judge might require Mrs. Morris to retain an attorney. After her second meeting with Mrs. Morris, Respondent prepared a petition for dissolution of marriage, answer, waiver, notice of hearing, and a final judgment. When Mrs. Morris picked up the papers Respondent gave Mrs. Morris instructions on dissolution procedures. Respondent's fee for the preparation of these papers was \$25. On March 16, 1976, the Morris marriage was dissolved. The referee notes that on September 27, 1976, Mrs. Morris, through an attorney, petitioned for modification of the final judgment entered on March 16, 1976, and as cause pointed out that Mr. Morris had filed for bankruptcy in Illinois, thereby placing the family domicile in jeopardy. The record is silent as to the court's ruling on the petition for modification.

9. That in June 1976, Jerry Phillip Griggs asked Respondent to prepare dissolution of marriage papers for him. Mr. Griggs' wife, Debra Jean Griggs, had previously petitioned for dissolution of marriage in November 1974. In that petition, Mrs. Griggs had asked for custody of the Griggs' three children. Mr. Griggs told Respondent that he already had a dissolution of marriage proceeding pending but that he thought he could drop it. For a fee of \$50 Respondent prepared a petition for dissolution of marriage giving Mr. Griggs custody of the children, an answer and a waiver to be executed by Debra Jean Griggs, a notice of hearing, a joint stipulation for motion for final hearing and a final judgment. On July 31, 1976, Mr. Griggs picked up Mrs. Griggs and had her execute the answer, the waiver and the joint stipulation before a notary public. In the answer Mrs. Griggs agreed to Mr. Griggs being awarded the custody of their children. On September 27, 1976, Mr. Griggs filed the petition for dissolution of marriage, the answer, the waiver and the stipulation.

Subsequent to the filing of the petition for dissolution of marriage, Debra Jean Griggs retained counsel who filed a motion for leave to amend her answer and asked the court for a continuance of the final hearing. In the motion for a leave to amend pleadings the attorney for Mrs. Griggs asked the court to award the custody of the children to her. Mrs. Griggs testified at the final hearing in these proceedings that she had been under the care of a psychiatrist until shortly before she executed the documents prepared by respondent.

10. In October, 1975, Frankie Clevenger contacted Respondent relative to preparing dissolution of marriage papers for her. For a fee of \$50, Respondent prepared a "Petition Of Dissolvement Of Marriage" and a motion for default judgment. Mrs. Clevenger filed the petition on October 7, 1975, and the motion for default judgment on November 17, 1975. Mrs. Clevenger's petition was denied by the judge. Respondent then prepared a second set of dissolution of marriage papers for Mrs. Clevenger, who filed the second petition on December 22, 1975. Mrs. Clevenger testified that her second petition was denied. Respondent prepared a third set of papers for Mrs. Clevenger which were filed on June 30, 1976. The third set of papers in addition to including a petition for dissolution of marriage contained a sworn statement for constructive service of process. Apparently, this petition was granted and Mrs. Clevenger received her dissolution of marriage on August 25, 1976.

11. In answer to The Florida Bar's allegations, Respondent contends that she merely operates a typing service and that she in no way practices law. This assertion is rebutted by numerous facts in evidence including:

A. Her testimony that Respondent has no blank forms either to sell or to fill out. Rather she types up the documents for people after they ask her to prepare a petition or an entire set of dissolution of marriage papers.

B. The questions respondent asks before typing up the papers, e.g., is custody or child support involved or is alimony involved?

C. The fact that respondent has four sets of dissolution of marriage papers and that she chooses which set is appropriate. This finding is reinforced by Mr. Thomas' testimony that he asked respondent to draw up whatever papers are necessary for him and his wife to obtain a dissolution of marriage.

D. The fact that respondent gives her customers instructions on how the papers are to be signed, where they are to be filed, and how the customer should go about setting up a final hearing, and that respondent gives this advice with the intent that it be used by the individual receiving the advice.

RECOMMENDATIONS

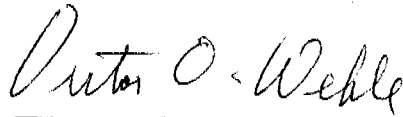
Based on the aforementioned findings of fact, these recommendations are made for the final disposition of this cause:

1. That respondent be enjoined from advertising for the preparation and sale of dissolution of marriage papers, from preparing any and all pleadings relative to dissolution of marriage proceedings or any other legal proceedings, from giving advice to persons on legal matters with the intent that the advice be used and from engaging in any activities which this Court has declared constitute the unauthorized practice of law.

2. That respondent be found in contempt of this court for her violation of this court's pronouncements in The Florida Bar v. American Legal and Business Forms, Inc., 274 So. 2d 225 (Fla. 1973) and The Florida Bar v. Stupica, 300 So. 2d 683 (Fla. 1974).

3. That the costs incurred by The Florida Bar in bringing this action be assessed against respondent, to be paid in a manner agreeable to respondent and The Florida Bar .

Respectfully submitted,

A handwritten signature in cursive script that reads "Victor O. Wehle". The signature is written in dark ink and is positioned above a horizontal line.

Victor O. Wehle
Referee