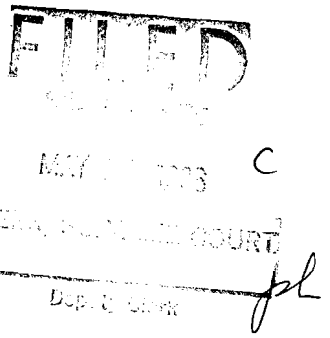
O/a 8-27-86



IN THE SUPREME COURT
OF FLORIDA

CASE NO. 68,191

DEPARTMENT OF HEALTH AND
REHABILITATIVE SERVICES,

Petitioner,

vs.

NATIONAL ADOPTION COUNSELING
SERVICE, INC., et al.

Respondents.

ON THE DISCRETIONARY REVIEW OF A DECISION
OF THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT

INITIAL BRIEF ON THE MERITS OF PETITIONER, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES

MORTON LAITNER, ESQUIRE
DADE COUNTY HEALTH DEPARTMENT
1350 N.W. 14TH STREET
MIAMI, FLORIDA 33125

Attorney for Petitioner,
Department of Health and
Rehabilitative Services

TABLE OF CONTENTS

TABLE OF CITATIONS

IN THE SUPREME COURT
OF FLORIDA

CASE NO. 68,191

DEPARTMENT OF HEALTH AND
REHABILITATIVE SERVICES,

Petitioner,

vs.

NATIONAL ADOPTION COUNSELING
SERVICE, INC., et al.,

Respondents,

ON THE DISCRETIONARY REVIEW OF A DECISION
OF THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT

INITIAL BRIEF ON THE MERITS OF PETITIONERS, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES

PRELIMINARY STATEMENT OF THE CASE AND FACTS

National Adoption Counseling Service (NACS), a Florida corporation, and its sole corporate officer, Richard Gitelman, opened an alleged counseling service with its principal place of business located in Coral Springs, Florida.[1] (R. 6-14)[2]

NACS operating from Coral Springs, Florida via the telephone and the United States mail would place advertisements in

1 Petitioner, the Department of Health and Rehabilitative Services is referred to in the Brief as HRS. Respondents, National Adoption Counseling Service, Inc. and Richard Gitelman are collectively referred to as NACS.

2 In this Brief, the symbol "R" followed by a number indicates the appropriate page in the Record on Appeal. The symbol "App." followed by a number indicates the appropriate page of the Appendix to the Petitioner's Brief on the Merits.

out-of-state newspaper claiming to be a "religious, young and white couple" who were unable to have children. "We will give the baby all our love and attention, warmth and devotion. All medical legal expenses paid. Please consider our plea of love. Confidential. Call collect 305-572-8171." (R. 5A) This is NACS's Coral Springs, Florida telephone number. (R. 14A)

If a pregnant woman or a woman with a young baby (R. 336-337, App. 1-2) called NACS, NACS would ask the mother or the prospective mother the questions found on the biological parents history form. (R. 15 , App. 3) Said questions related to the habits, health and ethnic background of the biological parents. NACS would also obtain referrals of prospective adoptive couples. Said adoptive couples would contact NACS via telephone, calling its Florida telephone number. NACS would inquire over the phone as to the questions found on the husband-wife history form. (R. 19, App. 4) NACS would inquire into the financial, ethnic, educational background of the prospective adoptive parents and whether or not the prospective adoptive parents wanted their future male child circumcised at the hospital. (R. 19, App. 4)

NACS would advise the prospective adoptive couple as to its fees which initially commenced at four thousand ($4,000.00) dollars and later escalated to eight thousand ($8,000.00) dollars. (See NACS contract sent to Carol D. Hutcheson of Tallahassee, Florida by NACS - R. 615, App. 5-7)

Paragraph number 10 of NACS's "Agreement" reads, in part, as follows:

"Client agrees to pay to Service, as its fee in connection with this matter, the total sum of $8,000.00, as follows: $4,000.00

upon the signing of this agreement, and $4,000.00 upon locating a natural mother willing to place her child for adoption with the client." (R. 615, App. 6)

NACS does not advise the pregnant woman who contacts its service as to the amount of money that NACS obtains for rendering its service. (R. 371, App. 8)

NACS implements a search throughout the United States on its clients behalf, to find a potential birth mother. (R. 328)

In NACS' contract the corporation agrees to commence a search for and on behalf of the client, both locally and nationally for a pregnant woman who desires to give up her child for adoption. (R. 614, App. 5) (Emphasis Supplied)

NACS did work on a case with an alleged pregnant woman who was requested to come into the State of Florida to deliver her child by NACS. (R. 391, App. 10-11) NACS further stated it would pay for her travel expenses to Florida and establish a place for her to stay while in Florida. (R. 408, App. 12) NACS flew pregnant women to Florida. (R. 427-428; App. 29-30)

While many of NACS's clients are from out-of-state, NACS has worked for prospective adoptive parents from within the State of Florida, who eventually were successful in adoption. (R. 371, App. 8-9) Further, a pregnant Florida woman was also NACS' client. (R. 421, App. 28)

NACS promises to find a birth mother for its clients in a three (3) to five (5) week period. (R. 610, App. 14) NACS has offered one of its clients an eight (8) day old baby on one day delivery upon receipt of ten thousand ($10,000.00) dollars (Attachment to Motion For Temporary Restraining Order, not listed on Index to Record, but presented to the Fourth District in HRS Appendix and sworn statement of Barbara Hessel, February 20, 1985. (App. 15-16)

HRS presented sworn statements and depositions to the trial court outlining the irreparable harm of NACS's activities and questionable practices, which included:

A) Threats of depriving the client of a potential child. (R. 191-192, App. 17-18)

B) Dealing with pregnant children as young as thirteen (13) years of age. (R. 99, App. 19)

C) Circumventing the Interstate Compact by moving pregnant women from one state to another. (R. 117 & 118, App. 20-21)

D) NACS caused emotional pain to its clients. (R. 193, App. 22)

E) NACS was totally unprofessional in dealing with its clients by using vile and vulgar language, as well as inhumane remarks. (R. 160-161, App. 23-24; R. 176-179, App. 25-26; R. 192, App. 18)

F) Claims by NACS of being a deity. (R. 463, App. 27)

G) Claims to its prospective adoptive parents by NACS of being able to corrupt the judicial system. (R. 428, App. 30)

H) NACS browbeats distraught pregnant women into agreeing to give up their future children. (R. 424, App. 31)

I) Gitelman's lack of training and education in dealing with pregnant women, women who had just given birth, or prospective adoptive parents. (R. 323)

THE CASE IN THE TRIAL COURT

Evidentiary hearings were held over a period of several months, commencing on February 5, 6, & 7, 1985. Further hearings were held on March 8, 1985 and April 22, 1985. On April 25, 1985 the trial court issued a temporary injunction prohibiting NACS from referring the names, addresses and telephone numbers of any pregnant women or women with children to their clients or attorneys

or agents thereof.

Further, the Court enjoined NACS from dealing in the placement of advertising or counseling for adoptions or any activity related to the placing of children for adoption. The lower Court found that NACS was not licensed by HRS as a child-placing agency pursuant to Chapter 63, Florida Statutes and/or Chapter 10C-15.82, Florida Administrative Code. It further found that NACS was neither licensed as a physician or attorney, nor had it been qualified to act as an intermediary for HRS.

Finally, the Court found that it was, "Manifest from the allegations and the proof that irreparable injury will be done to the adoptive children and adopting parents if an immediate remedy is not afforded". (R. 539-540, App. 32-33) From such temporary injunction, NACS appealed to the Fourth District Court of Appeals.

THE FOURTH DISTRICT OPINION

The Fourth District reversed. 480 So.2d at 250 (App. 34-37) It did so without determining whether HRS made out a sufficient case for the allowance of a temporary injunction, but expressed serious doubts. The Fourth District found that HRS grounded its case solely on Chapter 381 and Chapter 63, Florida Statutes, and concluded that neither of these Chapters allowed for HRS to have standing to seek injunctive relief against unlicensed child placement agencies or referral services. The Fourth District failed to note that HRS amended its original complaint removing the term "counts" and inserting the word "sections" in its petition for relief.

The Fourth District claimed that HRS, through an employee, "simply set National up", by calling Gitelman, identifying herself as a Florida resident and potential adoptive parent, and inquiring about National's operation.

The Court overlooked that on January 30, 1985, Richard Gitelman, under oath at his deposition, admitted to working for Florida prospective adoptive parents.

Q: How many Florida couples have you worked for?

A: A couple.

Q: Were you successful in getting them children?

A: I don't get them children.

Q: Were you successful in them finalizing an adoption based upon the services that you rendered initially?

A: Yes.

Webster's Third International Dictionary (Copyright 1971 G. & C. Merriam Co., Springfield, Massachusetts) defines "setup" as a project, plan, scheme. The Department did have a project to learn more about Gitelman's activities and brochures; and the Department had a plan to obtain these materials and information. The Department did not have anyone to scheme because his advertisements offered his services. HRS merely gave him the opportunity to offer such directly to an employee of HRS.

The Department learned from its planned project that:

1. Gitelman was desirous of having Tallahassee, Florida clients;

2. that he was charging $8,000.00 for his services;

3. and that he could locate a birth mother in three to five weeks. (R. 610, App. 14)

SUMMARY OF ARGUMENT

HRS filed a Motion for Temporary Restraining Order (R. 608, App. 43) wherein it cited Chapter 409 of the Florida Statutes and two of HRS's witnesses testified concerning the Interstate Compact on the placement of children, Section 409.401, Florida Statutes. (R. 40-41, App. 44-45) One witness discussed Chapter 10C-15, Florida Administrative Code, which lists as its specific authority, Chapter 409.175, Florida Statutes. The other witness, who is the author of the Florida Bar Practice Manual On Adoptions, stressed that Chapter 409 of Florida Statutes needs to be read in conjunction with Chapter 63, Florida Statutes. (R. 582, App. 46) Section 409.175(9)(a)(1984), Florida Statutes mandates that:

"The department may institute injunctive proceeding in a court of competent jurisdiction to: (1) enforce the provisions of this section or any licensed requirement, rule, or order issued or entered into pursuant thereto." (Emphasis Supplied)

Further, Section 409.175(10)(a), Florida Statutes (1984) reads:

"(10)(a) The department is authorized to seek compliance with the licensing requirements of this section to the fullest extent possible by reliance on administrative sanctions and civil actions." (Emphasis Supplied)

Accordingly, the decision of the Fourth District should be vacated and the judgment of the trial court reinstated so as to protect adoptive children and adopting parents from the irreparable harm committed by NACS.

QUESTIONS PRESENTED

I. WHETHER HRS HAS STANDING TO MAINTAIN SUIT TO ENJOIN RESPONDENTS FROM ENGAGING IN UNLICENSED REFERRAL AND CHILD PLACEMENT ACTIVITIES WHERE NEITHER RESPONDENT WAS AN INTERMEDIARY?

Florida's licensure of child-placing agencies embodies the state's commitment to protect the health, safety, and well-being of children. The legislative intent found in Section 63.022(1), Florida Statutes, clearly shows its desire to "protect and promote the well-being of persons being adopted and their natural and adoptive parents and to provide to all children who can benefit by it a permanent family life."

The legislature expresses its intent to limit persons working in the field of adoptions to highly trained, educated individuals, i.e. intermediaries, Section 63.032(8), Florida Statutes, licensed attorneys or physicians or child-placing agencies.

The state's commitment is reflected in Florida Statutes, 409.175(3)(b)(1984), which provides:

> (b) A person or agency other, than a parent or legal guardian of the child or an intermediary as defined in s. 63.032, shall not place or arrange for the placement of a child in a family foster home, residential child-caring agency, or adoptive home unless such person or agency has first procured a license from the department to do so. (Emphasis Supplied)

409.175(9)(a)&(c), Florida Statutes (1984) reads in part:

> (9)(a) The department may institute injunctive proceedings in a court of competent jurisdiction to:
> 1. Enforce the provisions of this section or any license requirement, rule, or order issued or entered into pursuant thereto; ...
> (b) If the department finds, within 30 days after written notification by registered mail of the requirement for licensure, that a person or agency continues to care for or place children without a license, the department shall notify the appropriate state attorney of the violation of law and, if

> necessary, shall institute a civil suit to enjoin the person or agency from continuing the placement or care of children.
> (c) Such injunctive relief may be temporary or permanent. (Emphasis Supplied)

The legislature continued expressing its intent in 409.175(10)(a):

> (10)(a) The department is authorized to seek compliance with the licensing requirements of this section to the fullest extent possible by reliance on administrative sanctions and civil actions. (Emphasis Supplied)

Ergo, HRS has standing to enjoin non-intermediaries (NACS and Gitelman) from engaging in unlicensed referral and child-placement activities.

HRS did not ground its case solely on the authority and standing to sue in Chapters 381 and 63 of the Florida Statutes (1984) as cited by the Fourth District. National Adoption Counseling Service, Inc. v. HRS, 480 So.2d 252 (1985). HRS cited Chapter 409 in its Motion For Temporary Restraining Order. (R. 608, App. 43)

An HRS employee testified at trial concerning the standards found in the Florida Administrative Code under Chapter 10C-15, licensing of child-placement agencies. (R. 65-66, App. 47-48) The specific authority given for the rules and regulations found in Chapter 10C-15, F.A.C. are both Chapter 409 and 63 of Florida Statutes.

The trial court noted his knowledge of Chapter 409. (R. 62)

A second witness presented at trial by HRS, clearly cited that Chapter 409, Florida Statutes, needs to be read in conjunction with Chapter 63, Florida Statutes, when one is talking about the case of unlicensed child-placing agencies. (R. 582, App. 46)

Even the trial court's order granting the temporary injunction cites Chapter 10C-15.82, Florida Administrative Code, from which again

the department received its specific authority to write said rule from Chapter 409.175, Florida Statutes (1984).

Therefore, the Fourth District erred in stating that HRS solely grounded its case on only two statutes.

II. WHETHER THE TEMPORARY INJUNCTION WAS PROPERLY GRANTED TO ENJOIN ADVERTISING AND PLACEMENT AND REFERRAL ACTIVITIES OF AN UNLICENSED "ADOPTION COUNSELING SERVICE" IN THAT PROBABLE INJURY TO THE PUBLIC WAS EVIDENT IN THE OBVIOUS AND IMMEDIATE POTENTIAL FOR A BLACK-MARKET-BABY-SALE NETWORK, ATTENDANT WITH IMPROPER AND HIGHLY PROBABLE "UNSUITABLE" PLACEMENT AND REFERRAL OF CHILDREN IN VIOLATION OF THE LAW?

An injunction's objective or purpose is to preserve an existing state or condition, and to afford relief against future actions that are against equity and good conscience. Pensacola and G.R. Co. v. Spratt (1867-1868) 12 Fla. 26; Seaboard Air Line R. Co. v. Southern Invest. Co. (1907) 53 Fla. 832, 44 So.35

In recognition of the fact that judgment in an injunction proceeding cannot prevent injury from occurring during the pendancy of the action, the Court in a proper case may grant a temporary injunction, the function of which is to preserve the status quo until the final hearing, when full relief may be granted. 42 AmJur 2d, Injunctions §§ 13 et seq., Tamiami Trial Tours, Inc. v. Greyhound Lines, Inc. 212 So.2d 365 (Fla. 4th DCA 1968).

A temporary injunction does not purport to decide any material points in controversy, and a denial thereof does not preclude the granting of a permanent injunction at the conclusion of the case. A temporary injunction is clearly not conclusive; its provisions may be merged in, or dissolved by, the final decree, North Dade Water Co. v. Adken Land Co., 114 So.2d 347 (Fla. 3d DCA 1959), or it may be attacked while the suit is pending. Fla. R. Civ. P. 1.610(c).

The controlling reason for the very existence of the power to grant a temporary injunction is that the court may thereby prevent a threatened or continuous irremediable injury which might

otherwise occur before the Plaintiff's claim could be thoroughly investigated. Tamiami Trail Tours, Inc. supra, 212 So.2d 365: Murphy v. Daytona Beach Humane Society, Inc., 176 So.2d 922 (Fla. 1st DCA 1965).

Corpus Juris Secumdum at Vol. 43, page 778 under the title Preliminary Injunction and Restraining Order states:

> Thus, it has been stated that the appropriateness of granting or denying a preliminary injunction depends on the consideration and balancing of several factors, including likelihood of success on the merits, lack of an adequate remedy at law, prospect of imminent and irreparable harm if an injunction is not issued, comparison of relative hardships imposed on the parties, and whether the relief requested will adversely affect other parties or the public interest. Wilson v. Sandstrom (1975, Fla.) 317 So.2d 732, cert den. 423 US 1053, 46 L.Ed.2d 642.

No one fact is determinative and the court should be flexible in fashioning suitable temporary relief. A temporary injunction usually should be granted where the questions presented are grave and injury to the moving party will be certain, substantial, and irreparable if it is denied and the final determination is in his favor, while if it is granted and the decision is unfavorable the inconvenience and loss to the opposing party will be inconsiderable or may be adequately protected by a bond. The trial court did protect NACS by granting a bond.

The court will also grant a preliminary injunction when it is made to appear that there is a substantial controversy between the parties and that one of them is committing an act or threatening the immediate commission of an act that will cause irreparable injury or destroy the status quo of the controversy before a full hearing can be had on the merits of the case. Bowling v. National Convoy and Trucking Co., 135 So.541, 101 Fla. 634.

In the case before the Court, the crucial issue is whether NACS is a corporation in operation for the purpose of child-placing and also a referral service (in contravention of the prevailing law in the area of adoption), or whether it is actually a counseling service (as NACS contends), has yet to be determined by the trial court.

The record compiled thus far in this case clearly supports the trial court's action in granting the temporary injunction.

As the Third District stated in the Adoption Hot Line, Inc. v. State, Department of Health and Rehabilitative Services, Dist. XI, ex rel Rothman, 385 So.2d 682 at 684, the probable injury to the public is evident in the obvious and immediate potential for black-market-baby-sale network, attendant with the improper and highly probable "unsuitable" placements of children in violation of Florida law.

The most significant allegations made by HRS regarding the activities of Richard Gitelman and NACS are:

1. That NACS did, in fact, commence the process of placing and referring a live child. (R. 336-337, App. 1-2)

3. Neither NACS nor Richard Gitelman are licensed by HRS as a child-placing agency, pursuant to Chapter 63 and Chapter 409, Florida Statutes and Chapter 10C-15, Florida Administrative Code, (R. 20, App. 49)

2. Neither NACS nor Richard Gitelman are either licensed physicians or attorneys, nor have they been qualified to act as intermediaries for HRS. (R. 31, App. 50)

4. The newspaper advertising placed and published at the behest of NACS states that "Young white couple religious unable to

have children. Please, before you have an abortion consider us and allow our family to become complete. We will give the baby all our love and attention, warmth and devotion. All medical, legal expenses paid. Please consider our plea of love. Confidential. Call collect 305-752-8171." (R. 5A)

The above four significant allegations are almost identical to the allegations found in the Adoption Hot Line, Inc. case, 385 So.2d 682 at 684 (1980). (App. 51-54) But NACS has numerous additional significant allegations regarding their activities.

5. NACS charged up to $8,000.00 for its referral and counseling service. (R. 615) Richard Gitelman does not advise the pregnant women of the amount of money he obtains, for rendering his referral and counseling service from the prospective adoptive couple. (R. 371, App. 8)

As Judge Ferguson stated in his dissenting opinion in the Adoption Hot Line, Inc. v. Department of Health and Rehabilitative Services, 402 So.2d 1307 at 1309 (1981). "I believe that the Legislature intended by enactment of Chapter 63, Florida Statutes (1979), to bring to an end the profiting by unlicensed entities in the transfer or arranging for transfer of children, whether born or unborn, from the natural parents to other persons."

Florida Statutes § 63.212(1)(g)(1984) reads as follows: It is unlawful for any person:

"(g) Except the Department of Health and Rehabilitative Services or an agency, to charge or accept any fee or compensation of any nature from anyone for making a referral in connection with an adoption."

The Appellants are not a licensed agency and they charge

and accept a fee of eight thousand ($8,000.00) dollars for the service of referring the names, addresses, and telephone numbers of the pregnant women or women with children to the attorneys for their clients with the intended purpose of an adoption taking place.

"But for" the Appellants" activities, the likelihood of the prospective adoptive parents and the pregnant women getting together would be slim to none. The Appellants are the critical nexus between the parties.

Webster's New Collegiate Dictionary (G. & C. Meriam Co., 1975) defines referral: 1. "The act, action, or an instance of referring, 2. one that is referred", and the word refer is defined in part by Webster's as, 2a: "to send or direct for treatment, aid, information or decision".

The Appellants are sending their information concerning the pregnant female's name, address, and telephone number to the client's counsel.

Ergo, Appellants refer the most important information in the adoption process for a rather substantial fee.

Finally, Appellant, Gitelman, admitted at trial that he is referring pregnant women:

"Q: Mr. Gitelman, isn't it a fact that women have contacted you at any time from when they first missed their first period until after they have given birth?

A: True.

Q: In 1984, you received a telephone call from a woman who had delivered her child?

A: True.

Q: And you referred her to an adoptive parent for

prospective adoption?

A: True.

6. NACS has offered one of its clients an eight (8) day old baby on one day delivery upon receipt of ten thousand ($10,000) dollars. (App. 15-16)

7. NACS has threatened to deprive clients of potential children. (R. 191-192, App. 17-18)

8. NACS has attempted to circumvent the Interstate Compact by moving pregnant women from one state to another state. (R. 117 & 118, App. 20-21)

9. NACS has caused emotional agony to clients. (R. 193, App. 22)

10. NACS uses obscene language when dealing with its prospective adoptive parents. (R. 160-161, App. 23-24; R. 176-179, App. 25-26; R. 192, App. 18)

11. Richard Gitelman lacks the education and training even to be a case worker for a child-placing agency.[3] (R. 323) Gitelman does not have the expertise to determine "suitability" of the intended placement as defined in Section 63.032(11), Florida Statutes.

12. NACS browbeats distraught pregnant women into agreeing to give up their future children. (R. 424, App. 31) Gitelman's behavior constitutes the intentional infliction of emotional stress as cited in Ponton v. Scarfone, Case No. 84-1259 (Fla. 2d DCA March 29, 1985) (10 F.L.W. 825), 468 So.2d 1009, we stated:

---

3 Chapter 10C-15.85 entitled Personnel outlines the criteria for for staff members of child-placing agencies.
10C-15.85 Personnel. (1) Staff members of child placing agencies shall be fitted by character, personality, health, education, training and experience for the duties and responsibilities entailed in

> The threshold test to be followed in assessing behavior claimed to constitute the "intentional infliction of emotional distress" is whether such behavior is "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency." In applying that standard, it is manifest that the subjective response of the person who is the target of the actor's conduct is not to control the question of whether the tort occurred. Rather, an evaluation of the claimed misconduct must be undertaken to determine, as objectively as is possible, whether it is "atrocious, and utterly intolerable in a civilized community." That burden falls to the judiciary—it is a matter of law, not a question of fact.

13. Richard Gitelman advised prospective adoptive parents that he controls the judiciary. (R. 428, App. 30)

Based upon these unconscionable acts of NACS, the record clearly supports the action taken by the trial court in granting the temporary injunction.

CONCLUSION

If ever a temporary injunction was necessary to afford relief against future acts that are against equity and good conscience, NACS has displayed the type of activity to warrant one.

---

the particular job. The following are the minimum qualifications for staff and the Department may require verification of qualifications: All reference to training in social work means training in graduate schools of accredited schools and universities. (2) Executive. (a) One year graduate training in social work, five years experience in social work, preferably some in child welfare and demonstrated executive ability, OR (b) One year graduate training in administration, demonstrated knowledge of social work, child welfare and public relations and proven executive ability, OR (c) Demonstrated outstanding ability and leadership through experience in a position carrying executive responsibilities, preferably in the field of social work. In agencies where the executive does not have social work training and experience set forth in (2)(a) above, a caseowrker with the qualifications of a senior caseworker must be employed. Also, if the executive performs any of the casework funcitons, at least a year of graduate social work and five years of social work experience are mandatory. (3) Senior Caseworker. (a) In larger agencies a senior caseworker should be employed to carry the responsibility for supervising and

training casework staff. 1. A graduate of an accredited school of social work or successful completion of two years of graduate training and three years experience in casework, at least one year in child placement, OR 2. One year of graduate training in social work, three years of experience in casework, at least one in child placement and two years experience as a casework supervisor or demonstrated ability within the agency for promotion to senior caseworker or supervisor. (4) Caseworker (a) Two years of graudate training in social work; HOWEVER, a worker with no experience must be supervised by a senior caseworker or an executive with the qualifications set forth in (2)(a) for executive, OR (b) One year of graduate training in social work and two years of exeprience in casework, one being in child placement; OR (c) Four years of experience in social work with a plan for completing one year of graduate training within three years. A worker without one year of graduate training and two years of experience may not be employed unless supervised closely by a senior caseworker or an executive with qualifications set forth in (2)(a) for executive, and assignments must be in accordance with the capacity to carry out the responsibilities involved. (Emphasis Supplied)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Initial Brief on the Merits of the Petitioner, together with a copy of the Appendix of the Petitioner's Initial Brief on the Merits, was mailed this 27th day of May, 1986, to Arthur J. England, Jr., Esquire, Fine, Jacobson, Schwartz, Nash, Block and England, P.A., 2401 Douglas Road, Miami, Florida 33145, and to James B. Boone, Esquire, Rotella and Boone, P.A., Broward Financial Centre, Suite 1460, 500 East Broward Boulevard, Fort Lauderdale, Florida 33301.

MORTON LAITNER, ESQUIRE
Dade County Health Department
1350 N.W. 14th Street
Miami, Florida 33125
(305)324-2408