IN THE SUPREME COURT

STATE OF FLORIDA

LAMAR TARVER, Deceased Employee, MAHALA TARVER, a/k/a MAHALA BAKER, and VONTAROUS McCLENDON,

Petitioners,

v.

EVERGREEN SOD FARMS, INC. and INSURANCE COMPANY OF NORTH AMERICA,

Respondents.
_____/

Case No.: 71,293

1st DCA No.: BM-373

ANSWER BRIEF OF RESPONDENTS

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INTRODUCTION

Respondents, EVERGREEN SOD FARMS, INC. and INSURANCE COMPANY OF NORTH AMERICA, are the employer/carrier in this workers' compensation proceeding which resulted in the deputy's award of dependency death benefits to the alleged grandson of the deceased employee, LAMAR TARVER. Said award was reversed by the First District Court of Appeal and the issue was certified by said appellate court to this Court as being of great public importance.

In this brief, the parties will be referred to as follows:

E/C -- employer/carrier.

TARVER -- deceased employee.

BAKER -- alleged daughter of TARVER.

McCLENDON -- alleged grandson of TARVER and illegitimate child of BAKER.

The symbol "R" will be used when referring to the record on appeal. All emphasis has been supplied by counsel unless indicated to the contrary.

STATEMENT OF THE CASE AND STATEMENT OF FACTS

The issue on appeal is a relatively narrow one involving the definitions of "child" and "grandchild" under Section 440.02(5), Florida Statutes (1983). Deputy Commissioner Pumpian denied the request for dependency death benefits filed by BAKER, the alleged daughter of the deceased, but granted such benefits to McCLENDON, the illegitimate son of BAKER and the alleged grandchild of the deceased. The award of dependency death benefits to McCLENDON was reversed by the First District Court of Appeal.

Respondents incorporate by reference the Statement of the Case and Statement of Facts set forth in Petitioners' Initial Brief with the following additions, corrections and/or clarifications.

1. Although BAKER lived with TARVER for most of her life, she did not live with him for "all" of her life. (R 81) She gave birth to an illegitimate son in 1979, McCLENDON, and the two of them lived with TARVER off and on until TARVER's death. (R 12, 21-22)

2. Respondents object to Petitioners' references to TARVER and his wife as BAKER's mother and father, since it is undisputed that they were not BAKER's natural parents and BAKER was never legally adopted by them. (R 88)

3. Petitioners are incorrect in stating that TARVER provided full support for BAKER and her son when, in fact, BAKER admitted on deposition that her son's (McCLENDON's) real father gave her money from time to time. (R 85)

ISSUE ON APPEAL

WHETHER THE DOCTRINE OF "VIRTUAL ADOPTION" MAY BE APPLIED IN A WORKERS' COMPENSATION PROCEEDING TO SUPPORT AN AWARD OF DEATH BENEFITS WHERE THE DEPENDENT CHILD'S MOTHER HAS NOT BEEN FORMALLY ADOPTED BY COURT ORDER UNDER CHAPTER 63, FLORIDA STATUTES.

SUMMARY OF THE ARGUMENT

It is the position of Petitioners, the employer/ carrier, that the doctrine of "virtual adoption" does not apply in this case and should not be extended to support an award of death benefits in a workers' compensation case where the dependent child's mother has not been formally adopted as required by Florida's statutes. As a result, the question certified by the First District Court of Appeal should be answered in the negative.

First, this Court need not even reach the certified question as one of the essential elements of a "virtual adoption" (i.e., an agreement between the natural and the adoptive parents) is conspicuously lacking in this case.

Second, even if all of the elements of a "virtual adoption" were satisfied, this Court should not expand the unambiguous definitions of "child" and "grandchild" as set forth in Florida's Workers' Compensation Act. The statutory definition of "child" under Section 440.02(5), Florida Statutes (1983), includes a child who is "legally adopted prior to the injury of the employee." It is undisputed that BAKER was never legally adopted by TARVER. Therefore, BAKER does not qualify as a child and McCLENDON does not qualify as a grandchild. To find otherwise would result in this Court erroneously stretching the statute beyond the intent of the Legislature. In light of the fact that the statutory definition of "child" is unambiguous and specifically includes legally adopted children, and not illegally, equitably or virtually adopted children, an award of

dependency death benefits to BAKER's illegitimate child would be erroneous.

Finally, since BAKER was over eighteen years of age at the time of TARVER's death, she is no longer considered a child under Section 440.02(5), Florida Statutes (1983). Therefore, McCLENDON cannot be considered a child <u>of a child</u> and is ineligible for dependency death benefits.

ARGUMENT

THE DOCTRINE OF "VIRTUAL ADOPTION" MAY NOT BE APPLIED IN A WORKERS' COMPENSATION PROCEEDING TO SUPPORT AN AWARD OF DEATH BENEFITS WHERE THE DEPENDENT CHILD'S MOTHER HAS NOT BEEN FORMALLY ADOPTED BY COURT ORDER UNDER CHAPTER 63, FLORIDA STATUTES.

It is respectfully submitted that this Court need not even determine whether the doctrine of "virtual adoption" may be applied in a workers' compensation proceeding to expand the definitions of "child" and "grandchild" under the Workers' Compensation Act as said doctrine is completely inapplicable to this case.

> Virtual adoption is an established doctrine usually invoked to avoid an unfair result from the application of intestacy statutes. Its underlying theories are drawn from the realm of contract law and relevant elements include some showing of an agreement between the natural and the adoptive parents, performance by the natural parents of the child in giving up custody, performance by the child by living in the home of the adoptive parents, partial performance by the foster parents in taking the child into the home and treating her as their child, and, finally, the intestacy of the foster parent.

Habecker v. Young, 474 F.2d 1229, 1230 (5th Cir. 1973) (applying Florida law); Laney v. Roberts, 409 So.2d 201, 203 (Fla. 3d DCA 1982); accord, Roberts v. Caughell, 65 So.2d 547 (Fla. 1953); Sheffield v. Barry, 14 So.2d 417, 419 (Fla. 1943); In re Estate of Wall, 502 So.2d 531 (Fla. 4th DCA 1987); Matter of Heirs of Hodge, 470 So.2d 740, 741 (Fla. 5th DCA 1985).

TARVER and his wife took BAKER into their home after BAKER's natural mother died. The record in this case is conspicuously lacking of any contract or agreement to adopt between the TARVERS and BAKER's natural parents and, therefore,

the doctrine of virtual adoption cannot apply.

Even if all of the elements of a virtual adoption were satisfied, said doctrine should not be applied to expand the clear statutory definitions of "child" and "grandchild" as defined by Florida's Legislature, and the appellate court's certified question should be answered in the negative.

Section 440.02(5), Florida Statutes (1983), defines "child" and "grandchild" as follows:

> (5) "Child" includes a posthumous child, a child legally adopted prior to the injury of the employee, and a stepchild or acknowledged illegitimate child dependent upon the deceased, but does not include married children unless wholly dependent on him. "Grandchild" means a child as above-defined of a child as above-defined.

The record supports the deputy's finding that McCLENDON was the acknowledged illegitimate child of BAKER. However, the appellate record does not support a finding that BAKER was a "child" of TARVER, the deceased employee. Since BAKER cannot be classified as a child of TARVER, McCLENDON cannot be considered the "grandchild" of TARVER and is ineligible for dependency death benefits.

It is clear from the record in this case that BAKER is not a posthumous child of TARVER, nor is she a stepchild or acknowledged illegitimate child of TARVER. It is equally clear from the record and undisputed that TARVER never legally adopted BAKER and no adoption proceeding was ever filed under Chapter 63, Florida Statutes. Therefore, since BAKER does not qualify as a "child" under the clear, unambiguous language of Section 440.02(5), her son cannot qualify as a "grandchild" of TARVER.

Where a statute is clear and unambiguous, there is no basis for judicial construction thereof and the courts have only the simple duty of applying it. Holly v. Auld, 450 So.2d 217 (Fla. 1984); State v. Egan, 287 So.2d 1, 4 (Fla. 1973); Ervin v. Peninsular Telephone Company, 53 So.2d 647, 654 (Fla. 1951); In re Levy's Estate, 141 So.2d 803, 806 (Fla. 2d DCA 1962); 57 Fla.Jur.2d Workers' Compensation, §6 and §8.

As this Court has stated on numerous occasions, "[w]orkmen's compensation is entirely a creature of statute and must be governed by what the statutes provide, not by what deciding authorities feel the law should be." J.J. Murphy and Son, Inc. v. Gibbs, 137 So.2d 553, 562 (Fla. 1962); see Holly v. Auld, 450 So.2d at 219.

> We do not deem it necessary to cite any of the myriad of cases wherein we have, without exception, held that under our system of three distinct and separate and independent branches of government -- executive, legislative and judicial -- no one of them should infringe upon the province of either of the others. Courts construe and interpret the laws, but they do not make them. They should never assume the prerogative of judicially legislating.

Hancock v. Board of Public Instruction of Charlotte County, 158 So.2d 519, 522 (Fla. 1963); accord, State v. Egan, supra.

Notwithstanding the statute's unambiguous definition of "child," and the fact that the record is clear that BAKER was not legally adopted by TARVER, Petitioners' are requesting that dependency death benefits be awarded to BAKER's son and the First District has certified said question to this Court. Said request is based upon a June 10, 1985 Order in the Circuit Court in and for Palm Beach County, Florida, Probate Division, which found

that BAKER was "the adopted child of the decedent by the doctrine of vertial[sic] adoption." (R 35) Petitioners appear to argue that the probate court's finding of an virtual adoption mandates the finding of a legal adoption in this case based on some type of res judicata or collateral estoppel grounds; however, neither of these doctrines control the outcome of this case.

More specifically, the doctrine of res judicata is inapplicable because E/C were not parties to the probate proceeding and because dependency death benefits under Florida's workers' compensation statutes was not part of Petitioners' claim in the probate court.

> To bring the doctrine of res judicata into valid play, there must be: (1) identity in the thing sued for; (2) identity of the cause of action; (3) identity of the persons and parties to the action; (4) identity of the quality or capacity of the person for or against whom the claim is made. If these conditions do not concur, the doctrine of res judicata is not applicable. [citation omitted]

Seaboard Coastline Railroad Co. v. Industrial Contracting Co., 260 So.2d 860, 862 (Fla. 4th DCA 1972) (emphasis in original). Similarly, the doctrine of collateral estoppel is also inapplicable because E/C were not parties to the probate proceeding. Seaboard Coastline Railroad Co., 260 So.2d at 864.

Most jurisdictions, Florida included, agree that the doctrine of virtual or equitable adoption, or adoption by estoppel, may be utilized in probate proceedings in order to allow a child to inherit from an adoptive parent. 97 A.L.R.3d 347, Modern Status of Law as to Equitable Adoption or Adoption by

Estoppel.[1]

The difference between an equitable or virtual adoption and a legal adoption is that an equitable adoption is an in personam action which is binding only upon the parties to said action and those in privity, while a legal or statutory adoption is an in rem action which is binding on the entire world. Goldberg v. Robertson, 615 S.W.2d 59 (Mo. 1981); accord, In re Estate of McConnell, 268 F.Supp. 346, 348 (D.C.D.C. 1967) (interpreting Florida law), aff'd, Prather v. District of Columbia, 393 F.2d 665 (D.C. Cir. 1968); Heien v. Crabtree, 369 S.W.2d 28, 31 (Tex. 1963); Rumans v. Lighthizer, 249 S.W.2d 397, 401 (Mo. 1952). The equitable doctrine permits enforcement of a promise of inheritance implied from an agreement to adopt, but it does not alter the status of the parties. Whitchurch v. Perry, 408 A.2d 627, 632 (Vt. 1979); Robinson v. Robinson, 215 So.2d 585, 590 (Ala. 1967) (equity has no power to declare that a child is the legally adopted child of the foster parents).

The case of Taylor v. Coberly, 38 S.W.2d 1055 (Mo. 1931), cited by Petitioners, actually supports Respondents' position that a contract of adoption is necessary prior to any determination of an equitable adoption and that such equitable adoption is only for inheritance purposes. Said case held that the contract of adoption was binding on the alleged adoptive

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[1] E.g., Calista Corp. v. Mann, 564 P.2d 53 (Alaska 1977); In re Prewitt, 498 P.2d 470 (Ariz. App. 1972); Chavez v. Shea, 525 P.2d 1148 (Colo. 1974); Sheffield v. Barry, 14 So.2d 740 (Fla. 1943); Ellison v. Thompson, 242 S.E.2d 95 (Ga. 1978); Rumans v. Lighthizer, 249 S.W.2d 397 (Mo. 1952); Bowden v. Caldron, 554 S.W.2d 25 (Tex. Civ. App. 1977); Whitchurch v. Perry, 408 A.2d 627 (Vt. 1979).

parent and those claiming through him. However, nothing in Taylor v. Coberly, supra, supports a conclusion that a child's legal status is changed based upon an equitable adoption, nor does the case support a proposition that a third party not in privity with the adoptive parent [e.g., Department of Labor] is bound by the contract to adopt or equitable adoption.

While some jurisdictions extend the virtual adoption doctrine to encompass other probate/inheritance matters which can be contemplated by the adoptive parent at the time of the alleged agreement to adopt (e.g., allowing equitably adopted child to contest adoptive parent's will and to receive life insurance benefits), the majority of the jurisdictions which have been confronted with expanding said doctrine have not found that a virtually adopted child is to be considered "legally" adopted for all intents and purposes.[2]

The two jurisdictions which have specifically considered

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[2] See e.g., 97 A.L.R.3d 347, Modern Status of Law as to Equitable Adoption or Adoption by Estoppel; Robinson v. Robinson, 215 So.2d 585 (Ala. 1967) (equitably adopted child could not inherit from the estate of blood relative of adoptive parent); Chavez v. Shea, supra note 1, (not legally adopted under Aid for Families with Dependent Children regulation); Grant v. Sedco Corp., 364 So.2d 774, 775 (Fla. 2d DCA 1978) ("a minor child that is neither the natural child, nor the legally adopted child, of a decedent has no claim under the Florida Wrongful Death Act"); Ellison v. Thompson, supra note 1, (declined to expand doctrine to require alleged adoptive parent to provide child with child support); Estate of Riggs, 440 N.Y.S.2d 450 (Surr. Ct. 1981) (interpreting equitable adoption under New Jersey law) (collaterals of the alleged adoptive parent would not have any rights to adoptee's property); Servantez v. Aguirre, 456 S.W.2d 467 (Tex. Civ. App. 1970) ("equitable estoppel" or "adoption by estoppel" does not entitle adoptive parent to workers' compensation benefits); Whitchurch, supra note 1, (equitable adoption would not confer next of kin status for purposes of wrongful death claim).

some variation of the doctrine of virtual adoption or an action based upon a contract of adoption in a workers' compensation setting are split on the issue of entitlement to benefits. Compare Servantez v. Aguirre, 456 S.W.2d 467 (Tex. Civ. App. 1970) (benefits not allowed), with Jones v. Loving, 363 P.2d 512 (Okla. 1961) (benefits allowed). Neither case is directly on point since the respective state statutes were not worded similarly to Florida's own Worker's Compensation Act and the state courts were concerned with the alleged adoptive parents' rights to benefits -- not the rights of the alleged virtually adopted child. The Jones case is totally distinguishable since the term "dependent" under Oklahoma's Workmen's Compensation Act required an interpretation of "heir at law" under the Descent and Distribution Statutes of Oklahoma, and since the alleged adoptive parent seeking to obtain compensation benefits was also the actual natural parent of the child in question. Florida's workers' compensation laws do not require an interpretation of probate law and TARVER was not the natural father of BAKER.

Furthermore, regardless of whether or not the doctrine of virtual adoption was properly applied in the probate proceeding, it is clear that "application of the doctrine ... does not change the status of the child to that of a legally adopted child," In re Estate of Wall, 502 So.2d at 532, and does not create a parent/child relationship. In re Adoption of R.A.B., 426 So.2d 1203, 1206 (Fla. 4th DCA 1983); Grant v. Sedco Corp., 364 So.2d at 775; accord, Ellison v. Thompson, 242 S.E.2d 95 (Ga. 1978); Estate of Riggs, 440 N.Y.S.2d 450 (Surr. Ct. 1981); Heien v.

Crabtree, 369 S.W.2d at 30 ("'equitable estoppel' or 'adoption by estoppel' does not create the same legal status as legal adoption and it does not have all of the legal consequences of a statutory adoption"); 2 C.J.S. Adoption of Persons §§34-35.

Based upon the above authorities, it is clear that BAKER, who was not "legally adopted prior to the injury of the employee [TARVER]," is not a child of TARVER and her illegitimate child cannot be classified as a "grandchild" of TARVER. Whether or not BAKER was named as a beneficiary on TARVER's life insurance policies or as a dependent on his income tax returns is irrelevant. As the Grant, supra, court recognized, "the doctrine of equitable adoption ha[s] never been extended beyond decreeing in the child a right to inheritance or a right to receive as a beneficiary under some types of insurance policies." Grant v. Sedco Corporation, 364 So.2d at 775.

To allow the son of an alleged "equitably" adopted child to receive death benefits when the statutory definition of child specifically refers to "legally" adopted would be contrary to the intent of the Florida Legislature and clearly erroneous. While Petitioners argue that the statute should be construed liberally, it is clear from Florida case law that such liberal construction cannot be stretched to the point of varying the literal term of the statute. City of Hialeah v. Warner, 128 So.2d 611, 613 (Fla. 1961); cf. Leon County v. Sauls, 9 So.2d 461 (Fla. 1942) (liberal construction cannot be strained to the point of extending it to employments not within its scope or intent).

The Florida Legislature qualified "adopted" with

"legally" for a reason.

> The words "legal adoption," appearing in the last clause of the statute, signify adoption according to law; that is, according to the statute relating to adoption. As a matter of fact, there is adoption, or there is not. The term applies to the creation of a new status. The status is not created unless the statute regulating adoption be substantially complied with. Should there be an unperformed contract relating to change of status, or relating to rights identical with those which would attend a change of status, the courts merely enforce the contract, when it is proper to do so. They do not recognize any change of status.
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> ...If, however, some legislative purpose must be found for qualifying the word "adoption" by the word "legal," it must have been to exclude all grafting of children upon another family stock otherwise than by adoption proceedings conforming to the law governing the subject.

Ellis v. Nevius Coal Co., 163 P. 654 (Kan. 1917). The word "legally" cannot be ignored. Lyman v. Sullivan, 157 A.2d 761 (Conn. 1960); Goldberg v. Robertson, supra; Stellmah v. Hunterdon Coop. G.L.F. Service, Inc., 219 A.2d 616 (N.J. 1966).

> [I]t is generally held that the Legislature intended by use of the term "legally" prefixing "adopted" in a dependency provision of a Workmen's Compensation Act to exclude all grafting of persons into and upon the family stock of a workman, whose death was due to a work-connected injury and thus eligible for death benefits, otherwise than by some adoption proceedings conforming to the law purported to govern the subject person.

Stellmah v. Hunterdon, 219 A.2d at 621; accord, Landon v. Motorola, Inc., 326 N.Y.S.2d 960 (N.Y. App. Div. 1971) (where workers' compensation law required legal adoption as condition precedent to benefits, infant was not entitled to benefits where final order of adoption was signed after worker's death).

Although the undersigned was unable to find any Florida cases which discussed and evaluated the reasons and ramifications of the Legislature's use of the qualifying term "legal" specifically in front of the word "adoption," it is clear from those Florida cases which have interpreted this State's statutory law that the inclusion of the word "legally" in Section 440.02(5) indicates that illegal, equitable and virtual adoptions are insufficient. If an alleged child is not legally adopted in accordance with Chapter 63, Florida Statutes, said person is not considered a "child" under the Workers' Compensation Act. See Thayer v. State, 335 So.2d 815 (Fla. 1976) (the mention of one thing implies the exclusion of another; expressio unius est exclusio alterius); Grice v. Suwannee Lumber Manufacturing Company, 113 So.2d 742 (Fla. 1st DCA 1959) (workers' compensation act does not affect rights which by necessary implication or negation are excluded).

Adoption is a delicate process and its ramifications are far-reaching. Therefore, strict construction of statutory provisions is even more important in adoption proceedings which are contrary to common law and purely statutory in nature. Korbin v. Ginsberg, 232 So.2d 417 (Fla. 4th DCA 1970); In re Levy's Estate, supra; McMillan v. Findley, 135 So.2d 873 (Fla. 3d DCA 1962).

In addition, BAKER cannot be decreed "legally adopted" after TARVER's death. Korbin v. Ginsberg, supra. Any finding of an adoption, virtual or otherwise, after the death of the deceased employee is clearly in violation of the long line of

cases which hold that statutes cannot be applied retroactively and the law in effect on the date of the accident is controlling. Kerce v. Coca-Cola Company-Foods Division, 389 So.2d 1177 (Fla. 1980); Martel v. Jibeaut, Inc., 330 So.2d 493 (Fla. 4th DCA 1976); Thomas v. City of West Palm Beach, 283 So.2d 109 (Fla. 1st DCA 1973).

> It is well established in Florida that the substantive rights of the respective parties under the Workman's Compensation Law are fixed as of the time of the injury to the employee. This is so because the acceptance of the provisions of the Workman's Compensation Law by the employer, the employee and the insurance carrier constitutes a contract between the parties which embraces the provisions of the law as of the time of the injury. Consequently, a subsequent enactment could not impair the substantive rights of the parties established by this contractual relationship.

Martel, 330 So.2d at 494; accord, Section 440.16(5), Florida Statutes (1983) (relationship to the deceased giving right to compensation must have existed at the time of the accident).

Finally, the cases cited on page 9-10 of Petitioners' Initial Brief are either distinguishable or inapplicable to this case. In two of the cited workers' compensation cases, death benefits were awarded to those relatives of the deceased employees who were specifically covered by Florida's workers' compensation statutory law. See, e.g., Floriland Farms, Inc. v. Peterman, 131 So.2d 477 (Fla. 1961) (definition of parent under Chapter 440, Florida Statutes, included stepparents); C. F. Wheeler Co. v. Pullins, 11 So.2d 303 (Fla. 1943) (definition of child specifically included a posthumous child). While the C. F. Wheeler court stated that the legitimacy or illegitimacy of the

posthumous child was not addressed by the applicable statute and, therefore, was irrelevant to a determination of whether the posthumous child was entitled to dependency death benefits, the Florida legislature specifically modified "adopted" with "legally," thereby expressly excluding an award of dependency death benefits under any equitable adoption theory. Section 440.02(5), Florida Statutes (1983).

The Florida Supreme Court made it clear in Navarro, Inc. v. Baker, 54 So.2d 59 (Fla. 1951), that it felt obligated to award dependency death benefits to the common law wife in that case, since common law marriages were recognized in Florida at that time. However, unlike common law marriages which were recognized in the past, Florida's workers' compensation laws have never provided for dependency death benefits to the child of a person who was never legally adopted by the deceased employee.

Since Section 440.02(5), Florida Statutes (1983), specifically includes a child who has been "legally adopted prior to the injury of the employee," and since McCLENDON's mother was never legally adopted by the deceased, McCLENDON cannot be the "grandchild" of the deceased and he is ineligible for dependency death benefits. To hold otherwise would be erroneous and an unauthorized expansion of Florida's workers' compensation statutory law. Therefore, the certified question should be answered in the negative.

Finally, even if BAKER was legally adopted by TARVER, the definition of "child...include[s] only persons who at the time of the death of the deceased employees are under 18 years of age."

Section 440.02(5), Florida Statutes (1983). Since BAKER was over eighteen years of age at the time of TARVER's death, she was no longer a child under the statute. Therefore, McCLENDON was not the acknowledged illegitimate child of a child and not entitled to dependency death benefits.

CONCLUSION

For all of the above-cited reasons, Respondents, EVERGREEN SOD FARMS, INC. and INSURANCE COMPANY OF NORTH AMERICA, respectfully submit that the record does not support a determination that BAKER is the child of TARVER under the doctrine of virtual adoption.

Even if the probate court properly determined that the doctrine of virtual adoption was applicable for the purpose of the probate proceeding, said doctrine may not be used to expand the definition of "child" under Florida's Worker's Compensation Act. Since BAKER was never legally adopted by TARVER and does not qualify as a "child" under Section 440.02(5), Florida Statutes (1983), McCLENDON cannot be considered TARVER's grandchild and is not entitled to dependency death benefits.

It is respectfully requested that the certified question be answered in the negative.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Answer Brief of Respondents has been furnished by mail to HARRY D. ROBINSON, ESQUIRE, Attorney for Respondents, 400 Executive Center Drive, Suite 206, West Palm Beach, Florida 33401 and THOMAS MONTGOMERY, ESQUIRE, Attorney for Petitioners, One Southeast Avenue E, Post Office Box 1510, Belle Glade, Florida 33430 this 5th day of December, 1987.

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