IN THE SUPREME COURT OF FLORIDA

SOUTHWEST FLORIDA REGIONAL MEDICAL CENTER, INC., a Florida corporation,

Petitioner,

vs.

BARBARA E. CONNOR,

Respondent.

CASE NO. 84,670
District Court of Appeal,
2nd District - No. 93-02766

REPLY BRIEF OF PETITIONER, BARBARA E. CONNOR

ON APPEAL FROM THE DISTRICT COURT OF APPEAL
SECOND DISTRICT, STATE OF FLORIDA

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The question of whether the court should expand or abrogate the doctrine of necessaries is not one that can be decided by simply evaluating competing public policy arguments. The very fact that there are such arguments, rooted in history, logic, pragmatism and politics, both demonstrates that the court is not the appropriate branch of government to decide such a question and requires that an assessment be made of the boundaries of the authority of the court to modify the commonlaw in our system of jurisprudence. Clearly, it is the role of the legislature to make the law and public policy of this state and the role of the judiciary to interpret those laws. Only occasionally, and only in order to interpret the interaction between laws, is it acceptable and necessary for the judiciary to modify or abrogate the law. To suggest otherwise would be an usurpation of the role of the legislature in our tripartite system and a violation of the doctrine of the separation of powers. Consequently, to the extent that the judiciary makes any alteration in the law, it must do so as an interpretive and not a legislative decision. It is upon this foundation that the Petitioner contends that the determinative question in this appeal is not simply whether it is better to expand or abrogate the doctrine of necessaries. The determinative question is whether there are clear constitutional and statutory predicates which unequivocally demonstrate that the *legislature* intended to expand rather than abrogate the doctrine. Absent such predicates, the judiciary cannot come to an interpretive decision as to what the law is and must allow the legislature to determine what the law should be.

Petitioner contends that this court already addressed whether such predicates exist in *Shands Teaching Hospital and Clinics, Inc. v. Smith*, 497 So. 2d 644 (Fla. 1986) where it recognized that expansion of the doctrine of necessaries was a legislative decision outside the province of the judiciary. *Id* at 646.

In *Shands*, the Court presaged its eventual holding by announcing two conclusions that it had come to in weighing the benefits, equities and public policy considerations presented by the litigants. *Id*. The first of these conclusions was that any decision to expand the commonlaw doctrine of necessaries would necessarily involve "broad social implications, the resolution of which requires input from husbands, wives, and the public in general". *Id*. The second was that the judiciary was the least capable of the three branches of government to resolve broad public policy questions based upon societal concerns. *Id*. After stating these conclusions, the Court presented the controlling question of the case, "whether this Court is the proper institution to resolve this issue". *Id*. In reality, the Court had already answered this question as its initial conclusions clearly demonstrated that there was no interpretive basis from which it could determine what the public policy of the state was in regard to the doctrine of necessaries. Because there were valid arguments both for and against extension, and because the existing law provided no guidelines from which the Court could determine which of these policy arguments should prevail, there was simply no basis upon which the Court could exercise its interpretive authority. It therefore properly decided not to do so. *Id*.

Before expressing this decision, however, the *Shands* Court explained the principles and methodology which the judiciary should follow when addressing modifications to the commonlaw. It did so by illustrating and distinguishing two of its prior decisions involving such proposed modifications, *Gates v. Foley*, 247 So.2d 40 (Fla. 1971) and *Zorzos v. Rosen*, 467 So.2d 305 (Fla. 1985).

The Court presented *Zorzos* as an example of a case where the existing law did not clearly indicate a legislative intention to modify the commonlaw. In that case, a father sought an interpretation of the commonlaw which would have allowed his minor children to assert a cause of action for loss of parental consortium even though he had not died in the accident giving rise to the claim. *Zorzos* at 306. The *Zorzos* Court recognized that there was a legislative enactment permitting such an action to be brought on behalf of a minor when the parent did die but no legislative or constitutional mandate from which it could divine an intention in the law to create a cause of action for loss of parental consortium when the parent survived. *Id* at 307. In fact, the Court noted that the absence of such a directive in the original statute suggested a deliberate choice by the legislature not to create such a right. *Id*. Absent a clear mandate from the legislature, the court declined to act. *Id*. The *Shands* Court likened *Zorzos* to the case before them because, as in *Zorzos*, there was no guidance from the legislature or in the law from which would the Court could determine which of the competing public policy arguments should prevail.

Gates, on the other hand, provided an example of a case where there was existing law which could be interpreted by the Court to

evidence a legislative and a newly revised constitutional intent to abrogate specific elements of the commonlaw. In fact, the *Shands* Court pointed out that the decision in *Gates* was based upon the fact that it was clear that the legislature intended to equalize the *rights* of the marital partners by specific statutory enactment and that the Constitution was in accord and supported this directive. *Shands* at 646. *Gates* itself recognized that the Declaration of Rights in the Florida Constitution had been amended three years previously to give not just men but all persons a *right of action* for any injury.[1] *Gates* at 44. The intent to equalize the *rights* of the marital partners as well as their access to the courts for injuries done to *them* was ascertainable in *Gates* and was in direct conflict with the existing commonlaw bar to the assertion by a married woman of a cause of action for loss of consortium. Thus, *Gates* was a true example of a case where the Court was compelled to comply with constitutional and statutory law and to declare the commonlaw to be without force.

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[1] Petitioner believes that this is an important point not noted in the Initial Brief. In essence, the modifications to the Constitution cited in the *Gates* opinion are specific to equality of persons with respect to their ability to access the courts and have redress for their injuries. Loss of consortium was always an injury suffered by either sex equally and to deny women access to the courts for an injury recognized in men is not simply an equal protection issue but an access to courts issue under the Florida Constitution. There is a clear inference to be drawn from this that the legislature effectively *equalized* rights of action and the *Gates* court simply recognized this fact. This principle formed the basis for the *Gates* opinion but does not exist in the present case. Moreover, the *Gates* reasoning would not apply in respect to the factual situation expressed in *Webb v. Hillsborough County Hospital Authority*, 521 So. 2d 199 (Fla. 2d DCA 1988) either, since the husband's right of access or to an action was not at issue.

As the *Shands* Court explained, "in view of equal protection provisions of the constitution and certain statutes abolishing legal distinctions between the sexes and husbands and wives, we held that a wife had a cause of action for loss of consortium". *Id.* In *Gates* legislative intent, when read in combination with changes to the Constitution, made the decision to abrogate a commonlaw impediment an inferential and interpretive one within the province of the judiciary. Nevertheless, it has been suggested that the *Gates* Court "created" or "extended" the commonlaw. This is not true. As Petitioner pointed out in her initial brief, the language of *Gates* makes it clear that it was the commonlaw bar which was removed. The right of action was conferred by the Married Woman's Property Act and by revisions to the Florida Constitution. *See Gates* at 44. The *Shands* Court never intended to indicate that a wife had a cause of action for loss of consortium after *Gates* because the Court had *created* such a right.[2] Instead, it recognized that there were recent legislative and constitutional mandates in that case which required that the judiciary recognize the woman's right and remove the existing bar to her assertion of the action.

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[2] Subsequent decisions recognize this fact. *See Resmondo v. International Builders of Florida, Inc.*, 265 So. 2d 72, 73 (Fla 1st DCA 1972) ("Prior to the Supreme Court's decision in *Gates*, the State clearly followed the commonlaw doctrine that a wife did not possess a cause of action for loss of consortium. Just as clearly, however, did Gates abrogate the prior decisions of the Supreme Court."); *White Construction Company, Inc. v. Dupont*, 430 So. 2d 915, 916-917 (Fla 1st DCA 1983) ("In *Gates v. Foley*, the Florida Supreme Court reject[ed] precedent and the commonlaw rule"); *Penthouse North Association, Inc. v. Lombardi*, 436 So. 2d 184, 186 (Fla. 4th DCA 1983) (The Supreme Court "simply turned the page on an old commonlaw rule which it had previously recognized".).

Petitioner believes that *Webb v. Hillsborough County Hospital Authority*, 521 So. 2d 199 (Fla. 2d DCA 1988) misconstrued the lesson presented by *Gates* and *Zorzos* as a recognition by the *Shands* Court that a valid equal protection challenge would have permitted an extension of the doctrine of necessaries by the judiciary. In fact, the real reason that the *Shands* Court distinguished *Gates* was because recent *changes* to the Constitution and statutory enactments required it to excise portions of the commonlaw. There being no similar interpretive mandate in *Shands*, the Court did not follow *Gates*, it followed *Zorzos*. It refused to act because it acknowledged a lack of definitive statutory or Constitutional predicates upon which it could base a decision to extend the doctrine. The answer to the controlling question in *Shands*, whether it was proper for the judiciary to decide to extend the commonlaw doctrine of necessaries in the absence of legislative or Constitutional directives, was no. It was "no" because the public policy of the State of Florida was not defined and the Court could see merit in both arguments depending upon the equities of each case. *Shands* at 646. Where the eventual decision had been made abundantly clear by changes to the Constitution and by legislative enactment in *Gates*, it had not in *Zorzos* or in *Shands*. Nothing has changed, legislatively or constitutionally, since *Shands* was decided.

In point of fact, the absence of the equal protection challenge was likely the only reason that the doctrine of necessaries was not simply abolished in *Shands*. In 1829, the Florida Legislature enacted the general common and statute laws of England to the 4th

day of July 1776. §2.01, Fla. Stat. (1994). In doing so, it indicated that any provisions of the commonlaw which were inconsistent with the Constitution and laws of the United States or of the acts of the legislature of this state were *not in force*.[3] *Webb* correctly and for the first time in this state determined that the commonlaw doctrine of necessaries was in violation of the equal protection clause of the Constitution of the United States in the form in which it historically existed. *Webb* at 202. Once it made that determination, the *Webb* court was compelled and should have declared that the commonlaw doctrine of necessaries was abolished and had no force or effect in this state. The law mandated this result. *Waller v. First Savings and Trust Co.*, 138 So. 780, 784 (Fla. 1931) ("So if it be fully established that the rule of the old English common law ... is found to be contrary to the intendments, effect, purpose and object of ... our Declaration of Rights, then such rule of the old English common law did not become a part of the common law of Florida"); *Banfield v. Addington*, 140 So. 893 (Fla. 1932) (where the Court recognized that when the commonlaw is indirectly modified by statutes emancipating the married woman, commonlaw rules based upon her previous disability must necessarily fail); *Hoover v. Hoover*, 138 So. 373 846, 847-848 (Fla. 1931) (where the Court, citing recently enacted legislation

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[3] "The common and statute laws of England which are of a general and not a local nature, with the *exception hereinafter mentioned*, down to the 4th day of July, 1776, are declared to be of force in this state; *provided, the said statutes and commonlaw be not inconsistent with the Constitution and laws of the United States and the acts of the Legislature of this state.* §2.01, Fla. Stat. (1994). [italics added]

and constitutional provisions in conflict with the previous commonlaw doctrine disallowing a married woman the right to assert a cause of action for alienation of affection, removed the commonlaw impediment); *Gates v. Foley*, 247 So.2d 40 (Fla. 1971) (where the Court removed the commonlaw impediment to a married woman's right to assert a cause of action for loss of consortium in the face of conflicting statutory and recent constitutional enactments negating that commonlaw prohibition).

Nevertheless, instead of abolishing the doctrine of necessaries, the *Webb* court chose to expand it. *Webb* at 202. In doing so, it *chose* between the conflicting, competing, and equally meritorious policy arguments both for and against the doctrine's continued viability. In doing so, it made a legislative rather than interpretive decision as to the law. In doing so, it contravened *Shands* because it ignored the expressed holding in that case that there was no intention in the law which could form the basis for a judicial extension of the doctrine of necessaries. In doing so, the *Webb* court erred. Yet, the *Webb* decision was not just in error because it *made* a choice to expand the doctrine of necessaries. It was in error in assuming that a choice existed in the first place.

The function of the judiciary is to interpret the law as it exists and to leave to the Legislature such statutory changes or amendments as new conditions or an enlightened understanding of right and justice may require. *Banfield* at 1032. This is not to say that the judiciary is without the power to modify the commonlaw to *exclude* those concepts which conflict with previously enacted statutes or the Constitution. Such a role is expressly authorized

by both the Constitution and the legislature. It is when the judiciary undertakes to rewrite and expand old anachronistic law, in conflict with the Constitution and existing statutes, that it exceeds its proper authority. Judicial expansion of outdated laws, of laws in conflict with statutes and the Constitution, is necessarily an act of creation, not of interpretation. This is so because it requires the Court to weigh competing public policies for and against new applications of newly reformulated laws which have not been legislatively authorized. In the end, an unrepresentative body, the judiciary, decides what the policy of this state should be, not what it is. This was the concept recognized in *Shands* and it is a concept that has lost none of its application to the case at bar. If there had been a valid equal protection challenge present in *Shands*, the doctrine of necessaries would have been declared to be of no force in this state. It should have been so declared in *Webb* and it must be so declared here.

Respondent indicates that this Court should expand the doctrine of necessaries because the legislature has not done so, despite being on notice for "more than fifty years". *Respondent's Answer Brief* at 18. Fifty years of notice is an overstatement purportedly derived from this Court's decision in *Merchant's Hostess Service of Florida v. Cain*, 9 So.2d 373 (Fla. 1942), *en banc*. In *Merchant's* the Court disallowed, under specific equitable circumstances, a married woman's assertion of coverture as a *defense* to an action against her to enforce a business related contract. *Id* at 374. That case had nothing to do with the doctrine of necessaries or equal protection and it is difficult to see how it placed the legislature

on notice of anything concerning the present issue. The lack of legislative action is not remediable by the judiciary in any case. The judiciary is not the legislature's timekeeper. What constitutional principle permits the court to declare that it will take action if the legislature does not when the court itself has declared that the action to be taken is legislative in nature?

Ironically, *Merchant's* supports Petitioner's contentions. The Court in that case abrogated the commonlaw defense of coverture in certain equity actions, stating the "well settled legal maxim" that "the reason ceasing, the law itself ceases". *Id* at 375. While the limited abrogation of coverture did not appear to be expressly mandated by statutes at the time, the Court did not, by any means, *extend* an existing outdated commonlaw doctrine. In point of fact, Respondent's Brief discusses such coverture cases at length in an apparent attempt to suggest that freeing the woman from this legal shackle made her an equal in that she must endure both the benefits and the burdens of her freedom. *Respondent's Answer Brief* at 15-17. What Respondent fails to point out is that the doctrine of necessaries was created to partially compensate for the disability of coverture, effectively serving as the padding upon the shackles which kept them from injuring the prisoner. The padding was part of the chains, not part of the burden associated with freedom. As *Merchant's* suggests, the padding must go with the chains.

Beyond this issue, Respondent's Brief is a clear confirmation of the fact that expanding the doctrine of necessaries must be the province of the legislature, since its argument is confined to the disputable and uncertain proposition that expansion will benefit

the marital partnership. The principal and only specific benefit to the marital partnership which is identified in that brief is that it will be easier for married women and men to obtain health care if the hospital can rely on more than one source of payment. Certainly this argument is nothing new to this Court, as it was already made by the hospital in the *Shands* case. *Shands* at 645. Moreover, it is an argument which, as before, begs many questions. Are married persons going to receive better care than unmarried persons if the commonlaw doctrine of necessaries is expanded? Why can't the hospital refuse care unless both spouses sign the admissions agreement when they come in? If the spouse who comes in is unconscious, how does the hospital know he or she is married? Does the hospital wait until the unconscious person wakes up before treatment to assure itself of payment? What if both spouses are bankrupt? Does the hospital run a credit check before it determines whether it will treat patients?

Petitioner suggests that all of these questions pierce what is in reality a thinly veiled attempt by hospitals to acquire a new collection remedy without presenting the issue to their legislature.[4] It is fascinating to see hospitals argue that providing them with new and additional methods of extracting money from the marital partnership is somehow a benefit to the marital

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[4] Interestingly, the Respondent hospital complains that the legislature has done nothing so the time has come for the courts to act. Could this mean that the hospital lobby has been unsuccessful in attempting to get the legislature to do as it wishes? If not, why doesn't that lobby simply present the issue to the more appropriate forum as it was directed to do in Shands?

partners and the family. Clearly, the medical costs associated with a severe illness in one of the spouses can be financially devastating to the family as a whole. Abolishing the doctrine of necessaries would allow the separate property of the unafflicted spouse to be used to support the bankrupt spouse and any children of the marriage. Extending the doctrine could have the effect of leaving both spouses penniless and unable to fulfill the duty of support that each has to the other.[5]

Can the court determine which of these results will follow or whether the importance of one outweighs the importance of the other? Contrary to the implication of Respondent's Brief, many legislatures in other jurisdictions have recognized and made provisions for the detrimental effects that expansion of the doctrine of necessaries might yield. In North Dakota, the legislature has decided that each spouse should be jointly and severally liable for any debts contracted by either for necessary food, clothing, fuel and shelter *but not for medical care*. 1993 N.D. CENT. CODE §14-07-08. The legislature of South Dakota has also exempted medical care from their necessaries statute. 1994 S.D. Laws 25-2-11. In Massachusetts, the legislature has expressly limited a married woman's liability for necessaries furnished to her family to $100, providing she has property worth at least

[5] But, fortunately, not homeless. Respondent points out that the hospital could not take the house under Florida's homestead law. Respondent neglects to mention, however, that the bank could. Moreover, if one of the spouses is or becomes ill and cannot work the assets of the other spouse, which would be subject to execution were the doctrine of necessaries to be expanded, might not be available to make the mortgage payments.

$2,000 and knows about or consents to the furnishing of the necessaries. MASS. GEN. L. ch. 209, §7 (1994). In Nebraska, the legislature allows a creditor to execute upon a married woman's property only after it has attempted to execute upon the husband and exempts 90% of the married woman's wages from such secondary collection efforts. NEB. REV. STAT. §42-201 (1993).

The courts of other, previously uncited states have recognized that judicial extension of this doctrine is ill-founded. In fact, the Supreme Court of the state of Mississippi recently determined that the statutory removal of the disability of coverture and the state constitution clearly militated for the *abrogation* of the doctrine of necessaries. *Govan v. Medical Credit Services, Inc.*, 621 So. 2d 928 (Miss. 1993). That court distinguished the duty of support between the spouses from the attempt by a third party medical provider to extend the doctrine of necessaries, concluding that "Nothing in our jurisprudence obligates one spouse to be liable to a third party for the debts of the other without express consent". *Id* at 931. In a concurring opinion to that case, Justice Banks stated that he would "hold simply that the spousal duty of support is not enforceable by strangers to the marital contract and abandon judge-made law not appropriate in modern society absent legislative action". *Id.* Arizona courts have expressly refused to create a cause of action in a third party creditor against the separate property of one spouse for medical care rendered to the other where there was no statutory basis to do so. *Phoenix Baptist Hospital & Medical Center, Inc. v. Aiken*, 877 P. 2d 1345 (Ariz. Ct. App. 1994). The Supreme Court of Arkansas found that the extending

the commonlaw doctrine of necessaries was "an issue most appropriately resolved by the legislature" and expressly declined to extend it in a decision very similar to *Shands*. *Medlock v. Fort Smith Service Finance Corporation*, 803 S.W. 2d 930 (Ark. 1991).

Proper judicial deference to the legislature has also been accompanied by legislative action repealing the outdated doctrine of necessaries altogether. Our sister state of Georgia legislatively repealed the doctrine on April 4, 1979. *See Dawes Mining Company v. Callahan*, 267 S.E. 2d 830 (Ga. App. 1980), *affirmed*, 272 S.E. 2d 267 (Ga. 1980). In 1949, the Alaska legislature determined that neither spouse would be liable for the separate debts of the other in that state. ALASKA STAT. §25.15.050 (1994). The Alaska Supreme Court has construed this statute to mean that a wife cannot be held responsible for her husband's medical care absent her express agreement. *Long v. Newby*, 488 P.2d 719 (Alaska 1971). The doctrine of necessaries was legislatively repealed in Maine, where "a husband is not liable for the debts of his wife contracted before marriage nor for those contracted in her own name for any lawful purpose". ME. REV. STAT. ANN. tit. 19, §164 (West 1994). The Vermont Supreme Court also recently recognized that their legislature had negated the doctrine of necessaries. *Hitchcock Clinic, Inc. v Mackie*, 648 A.2d 817, 819 (Vt. 1993).

Many states, though they have not addressed the constitutionality of the doctrine, continue to exempt married woman from liability. Examples include Oklahoma and Kentucky where the original commonlaw doctrine of necessaries has been codified. OKLA. STAT. tit. 43, §209 (1994); KY. REV. STAT. ANN. §404.040 (1994). In

Oklahoma, the husband's liability is conditional upon his failure to make adequate provision to support his wife. OKLA. STAT. tit. 43, §209 (1994). In Minnesota, the wife is liable for certain household items, but not medical care since the original commonlaw rule still applies. *See Boland v. Morrill*, 148 N.W. 2d 143 (Minn. 1967) and *Plain v. Plain*, 240 N.W. 2d 330 (Minn. 1976).

All of these differing public policies clearly demonstrate that the original holding in *Shands* was correct and proper. The form of the doctrine of necessaries, if it is to remain a part of our modern society, cannot be established by judicial fiat. The competing policies provide no judicial direction and must be sifted and debated by the legislature of this state as they have in so many other jurisdictions. It is when the policy of this state is made that judicial decisions interpreting that policy can follow. The equal protection clause, alone, is an insufficient foundation upon which to base such judicial alteration of the law.[6] If the

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[6] Respondent cites seven cases from other states for the proposition that courts in those jurisdictions have judicially construed statutory versions of the doctrine of necessaries to apply to both sexes in order to meet constitutional equal protection requirements. *See Respondent's Answer Brief*, p. 21. The implication of this proposition is that there is a weight of *judicial* authority suggesting that equal protection considerations allow the court to expand the commonlaw to create new liabilities. The cited cases do not stand for that proposition. In fact, none of them have anything to do with equal protection.

De Nisson v. National Bank of Commerce of Seattle, 84 P. 2d 1024 (Wash. 1938) concerned a husband's suit against his wife's estate for a support allowance. *Id.* No third party creditor was involved, the case had nothing to do with the commonlaw doctrine of necessaries, it *had nothing to do with an equal protection challenge* and the community property law upon which the decision was based had been gender neutral since 1881. *See Id* and WASH. REV. CODE ANN. §26.16.205 (1994). Similarly inapposite are *Iowa Methodist Hospital v. Utterback*, 6 N.W. 2d 284 (Iowa 1942), *Hansen v. Hayes*,

Respondent hospital wishes to make its case for this new creditor's rights statute, it should do so in the Florida legislature "with its greater ability to study and circumscribe the cause" as this court originally directed in *Shands*. *Shands* at 646, *citing Zorzos* at 307. To do otherwise is to attempt to circumvent our tripartite system of government and to exhort the judiciary to choose a solution to a problem which clearly has only one judicial answer, abrogation, and more than two legislative options.

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154 P.2d 202 (Ore. 1944), and *Nichol v. Clema*, 195 N.W. 2d 233 (Neb. 1972). *Iowa Methodist* did not involve equal protection and was brought under a family expense statute which had been gender neutral since at least 1939. *Id* at 285. *Hansen* and *Nichol* involved similar gender neutral family expense statutes and no equal protection challenge. Neither did *Swogger v. Sunrise Hospital, Inc.*, 496 P.2d 751 (Nev. 1972) have anything to do with equal protection. In that case, the Nevada Supreme court construed an existing statute obligating the wife to support the husband to run to the benefit of the creditors. *Id.* Both case and statute recognized that the husband must be so infirmed that he cannot support himself or incompetent before liability would be imposed on the wife. *See Id* and NEV. REV. STAT. §123.110 (1993). Surprisingly, respondent also cites *State v. Whitver*, 3 N.W. 2d 457 (N.D., 1942), which not only has nothing to do with equal protection, but involved the state's suit to recover old age assistance funds under a statute which *did not and still does not allow for recovery of medical expenses*. 1993 N.D. CENT. CODE §14-07-08. Finally, Respondent cites *Higgason v. Higgason*, 516 P. 2d 289 (Cal. 1973). As with the other cases cited in support of the above-described proposition, this case had nothing to do with an equal protection challenge or a third party creditor. It concerned the validity of a provision in an antenuptial agreement waiving the support obligation between the spouses. The husband wanted the wife to share his medical bills. The court found that the provision in the agreement violated California law. One of the laws in conflict allowed creditors to obtain certain property of the wife for necessaries rendered to her husband. After reviewing this and other statutes, the court declared the suspect provisions of the agreement to be invalid as against the public policy of the state.

Respectfully, Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Initial Brief has been furnished by United States Mail to James G. Decker, Esq., Decker & Smith, P.A., Attorney for Respondent, Post Office Box 9208, Fort Myers, Florida 33902-9208, this 27th day of April, 1995.

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