

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v. Case No. 93,101  
(TFC Case Nos. 973111(18A)  
CANDICE L. MIRAVALLE, 973200(18A)  
individually, and 983119(18A)  
EXPRESS LEGAL SERVICES, INC.,  
a Florida corporation,

Respondents.

\_\_\_\_\_ /

REPLY BRIEF

\_\_\_\_\_  
CANDICE L. MIRAVALLE  
Individually and on behalf of  
EXPRESS LEGAL SERVICES, INC.  
129 W. Hibiscus Blvd.  
Melbourne FL 32901  
(407) 729-6399

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## I. TABLE OF CITATIONS/AUTHORITIES

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## II. REPLY TO STATEMENT OF CASE

Respondent's Initial Brief sets forth and refers to testimony presented at the hearing before the Referee on Petitioner's Motion for Summary Judgment.

Petitioner contends in its Answer Brief that there was no testimony at the hearing.

Respondent hereby confirms that testimony was presented at the hearing before the Referee which is pertinent to this matter and must be considered by the Court.

### III. REPLY TO STATEMENT OF THE FACTS

Petitioner maintains in its Statement of the Facts that the manner in which Respondents prepare the legal documents constitutes the unlicensed practice of law.

This is contrary to the pleadings filed by Petitioner to date. Petitioner's pleadings have alleged that Respondents' preparation of the legal documents constitutes the unlicensed practice of law; not the manner in which the documents were prepared. However, irrespective of this inconsistency, Respondents deny that Petitioner has presented any evidence concerning the manner in which the legal documents were prepared in which to support entry of Summary Judgment in favor of Petitioner.

#### IV. SUMMARY OF REPLY

The pleadings and evidence filed in the above-styled cause are insufficient and provide no basis for the adjudication of Summary Judgment against Respondents and in favor of Petitioner.

Petitioner alleges that the manner in which Respondents prepared the legal documents which are attached to Petitioner's Amended Petition, as well as the business name and advertisements, constitute the unlicensed practice of law.

Respondents deny that their preparation of the legal documents or their business name and advertisement constitute the practice of law.

Respondents deny that (1) the Referee's findings of fact are supported by competent substantial evidence and (2) the Referee's conclusions of law are supported by the UPL decisions of the Supreme Court of Florida. Specifically, Respondents deny that the Referee made any findings of fact

or made any conclusions of law. At conclusion of the hearing for Summary Judgment, the Referee made no findings of fact, conclusions of law or any other rulings on the Summary Judgment. The Referee only directed the parties to submit proposed Orders. The Report of Referee and Summary Judgment entered by the Referee were, in fact, prepared and submitted to the Referee by Petitioner. The Referee took no action other than to sign the documents submitted by Petitioner after the hearing for Summary Judgment.

Respondents deny that their actions and advertisements constitute the practice of law and, therefore, deny that they "will not modify their activity short of an injunction being issued".

## V. REPLY

Petitioner alleges that the manner in which Respondents prepared the legal documents which are attached to Petitioner's Amended Petition, as well as the business name and advertisements, constitute the unlicensed practice of law.

Petitioner's only evidence concerning the legal documents are the actual legal documents themselves and Respondents' Answer to Interrogatories which simply set forth that information was provided to Respondents in writing and verbally; not the manner it was provided or actions taken in providing the information. Petitioner has provided no evidence as to the manner of Respondent's preparation of the legal documents. Petitioner has simply formulated, to itself and not to the Court, its belief as to the scenario of the interactions of Respondents with their customers and the



process/procedure which was taken resulting in the legal documents actually prepared.

Despite's Petitioner's full knowledge of the persons for whom the legal documents were prepared, Petitioner never obtained statements (affidavits) from those persons as to their interaction with Respondents for the preparation of the legal documents. The only affidavits which Petitioner provided were to confirm that the legal documents prepared by Respondents were not Supreme Court approved forms (which Respondents do not deny) and concerning the advertisement content of Respondents (which Respondents do not deny).

No Affidavits. No depositions. No evidence.

Respondents confirm the authorities for their preparation of the legal documents as Chapter 10 of the Rules Regulating the Florida Bar and Petitioner's Response to Interrogatories #13 propounded upon Petitioner by Respondent; both of which provide for the preparation of legal documents by non-attorneys and for oral communication between members of the public and legal document preparers to obtain information for preparation of legal documents. Once again, Petitioner has just conjured up, to itself and not to the Court, its own beliefs and interpretation of the events

surrounding the interactions between Respondents and their customers concerning the oral communication and exchange of information for the preparation of the legal documents, including the information derived from the documents provided by the customers to Respondents.

Petitioner has attempted to support its position by differentiating between the preparation of legal documents and the completion of forms. Though Petitioner is attempting to persuade the Court that these services are two (2)

completely different actions, they are, in effect, one and the same actions; just different terminology.

Petitioner also attempts to confuse the issues by differentiating the custom-preparation of documents by Respondents versus the preparation of legal documents by Respondents. Is not the typing of information into legal documents for a specific customer versus the typing of information in legal documents for another customer "custom-preparation" of documents; each documents is customized to the requirements of each customer?

Petitioner argues that there is a difference between form typing, form completion and document preparation. Once again, this is Petitioner's attempt to play on words; just a

variation of terminology. Petitioner has presented no evidence or testimony to otherwise differentiate between these terminologies.

An adjudication for Summary Judgment must be supported by evidence; not on conjured up beliefs or attempts to play on words.

Petitioner has provided no evidence in support of its allegation that the advertisements have confused any of the customers of Respondents into believing that Respondents are practicing law or holding themselves out as being able to provide legal services which are provided by persons licensed by the Florida to practice law. No affidavits or depositions. Case law provides that the Supreme Court of Florida has addressed the use of the word "legal" in advertisements by non-lawyers. However, in light of the Court's decision in *Florida Accountants Associations v. Dandelake*, 98 So 2d 323 (Fla 1957), it is necessary for the Court to review its ruling to allow the same consideration to be shown to non-lawyers by allowing them to use the word "legal" in their advertisements as non-CPAs were allowed to refer to themselves as "accountants". If the public can distinguish between non-CPA accountants versus CPAs, then the same public should be given due credit for their intelligence

and ability to distinguish between non-lawyer legal service providers/document preparers versus licensed attorneys.

Petitioner has cited numerous cases concerning the unlicensed practice of law which it desires the Court to consider. However, the Court cannot consider the cases until such time as the facts/evidence presented support the allegations which Petitioner has made.

Respondents deny that (1) the Referee's findings of fact are supported by competent substantial evidence and (2) the Referee's conclusions of law are supported by the UPL decisions of the Supreme Court of Florida. Specifically, Respondents deny that the Referee made any findings of fact or made any conclusions of law. The Report of Referee and Summary Judgment entered by the Referee were, in fact, prepared and submitted to the Referee by Petitioner. The Referee took no action other than sign the documents submitted by Petitioner after the hearing for Summary Judgment.

As a matter of law and in the furtherance of justice, this Court cannot enter Summary Judgment in favor of Petitioner based upon the evidence or, that is, the lack thereof, presented by Petitioner.

## VI. CONCLUSION

The pleadings and evidence filed in this proceeding, or the lack thereof, clearly fail to support entry of Summary Judgment against Respondents.

As a matter of law and in the furtherance of justice, this matter must proceed to hearing for the presentation of the testimony of witnesses and evidence, if any.

VII. CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent  
by US Mail this \_\_\_\_\_ day of September, 1999, to Barry W.  
Rigby, 1200 Edgewater Dr., Orlando FL 32804-6314.

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CANDICE L. MIRAVALLE

Individually and on behalf of

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