

Bob Cohen

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

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COMMUNITY SERVICE SOCIETY,

Petitioner-Respondent,

GLADYS BAEZ,

Intervenor-Petitioner-
Respondent,

New York County
Clerk's Index No.
4745/77

- against -

THE WELFARE INSPECTOR GENERAL OF THE
STATE OF NEW YORK

Respondent-Appellant.

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BRIEF FOR AMICUS CURIAE
COMMUNITY COUNCIL OF
GREATER NEW YORK

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BRIEF FOR AMICUS CURIAE COMMUNITY
COUNCIL OF GREATER NEW YORK

PRELIMINARY STATEMENT

Amicus curiae the Community Council of Greater New York (the "Council") is a voluntary, nonsectarian, nonprofit agency involved in a broad range of activities related to health and welfare programs and policies. Through its involvement with the social services professions, the Council is aware of the vital role that social workers play in delivery of social services in both the public and private sector. Concern over the fundamental issue involved in this case has been expressed to the Council by proposed amici Cancer Care, Inc.; Children's Aid Society; Federation of Jewish Philanthropies; Federation of Protestant Welfare Agencies, Inc.; Jewish Board of Family

and Children's Services, Inc.; National Association of Social Workers, Inc. (NASW); NASW, New York City Chapter; National Council on Alcoholism, New York City Affiliate; Selfhelp Community Services, Inc.; and YMCA of Greater New York. Amicus and proposed amici are also aware that the protection of confidentiality afforded to social worker-client communications under CPLR §4508 is essential to the establishment and maintenance of successful social worker-client relationships and to the delivery of social services to all of those who need them in New York State. The overriding interest of amicus and proposed amici is to insure that social service programs for those who need them are not jeopardized. The position adopted in this case by respondent-appellant the Welfare Inspector General would set a dangerous precedent and would threaten effective social worker-client relationships. Amicus and proposed amici are concerned that violation of the confidential nature of the social worker-client relationship will have a chilling effect on countless troubled people who will thereby be deterred from seeking guidance and counselling for their personal and familial problems. This brief in support of petitioner-respondent Community Services Society and intervenor-petitioner-respondent Gladys Baez is submitted by amicus and endorsed by proposed amici.

STATEMENT OF THE CASE

This appeal has been taken by respondent-appellant the Welfare Inspector General from the order of Supreme Court, New York County, Fein, J., entered August 18, 1977 (R4-15), to the extent it granted motions on the ground of social worker-client privilege under CPLR §4508, to quash the subpoena which sought information conveyed by intervenor-petitioner-respondent Gladys Baez to petitioner-respondent Community Service Society and which was issued by respondent-appellant the Welfare Inspector General.

QUESTIONS PRESENTED

1. Have petitioner-respondent and intervenor-petitioner-respondent demonstrated satisfactorily that a professional social worker-client relationship existed between them at the time the information sought by respondent-appellant was communicated?

The Court below answered in the affirmative (R6).*

2. Was such communication privileged under CPLR §4508?

The Court below answered in the affirmative (R12).

3. Do any of the four statutory exceptions to CPLR §4508 apply to this case?

* The Record herein is cited as "R".

The Court below answered in the negative.

4. Do the general powers granted to respondent-appellant under Section 48(8) of the Executive Law override the specific privilege granted by CPLR §4508?

The Court below answered in the negative, declining to create a new exception in addition to those already listed in CPLR §4508 (R8).

FACTS

1. Background

Petitioner-Respondent Community Service Society ("CSS"), a not-for-profit corporation engaged in social work and other charitable activities in New York City, operates Project C.A.U.S.E., a demonstration project in Manhattan's Chelsea community. Aims of the Project include developing a neighborhood-based system of integrated social services and providing access to general social services to clients residing in the community. The Project is operated by and employs certified social workers. (R22).

In early 1974 intervenor-petitioner-respondent Gladys Baez ("Ms. Baez") became a client of Project C.A.U.S.E. by application and interview with a duly certified social worker or case worker under the supervision of a duly certified social worker. A case history is maintained on Ms. Baez which contains information divulged during this application/interview process. (R23).

Prior to and including the time when she first became a client of Project C.A.U.S.E., Ms. Baez had received public assistance. From approximately September, 1976 to the present, Ms. Baez has not received any public assistance (R54).

2. The Subpoena and Motion to Quash

In late December, 1976, respondent-appellant the Welfare Inspector General of the State of New York (the "Inspector General") began an investigation into the past eligibility of Ms. Baez to receive public assistance. In connection with this investigation, the Inspector General subpoenaed copies of Ms. Baez's application for C.A.U.S.E. assistance and her entire case history at Project C.A.U.S.E. (R20). By stipulation between the parties, the subpoena was modified to require production by CSS of information with respect to Ms. Baez's marital status and her employment at the time of her application for C.A.U.S.E. assistance (R21).

CSS moved pursuant to CPLR §2304 to quash the subpoena. It was subsequently stipulated that Ms. Baez would be permitted to intervene on consent (R50).

3. The Decision of the Court below

On August 17, 1977, Special Term rendered its decision and order quashing the subpoena (R4-15).

The Court held that a professional social worker-client relationship existed between CSS and Ms. Baez before any information was entered on the form which the Inspector General referred to as an "application". (R6). The Court did not rule on whether or not the form itself was confidential, noting correctly that such a ruling was unnecessary because of the stipulation of the parties that only information pertaining to marital and employment status was at issue.* With regard to such information, the Court held that it was privileged and not within any of the exceptions authorizing disclosure. CPLR §§4508(3) and (4) obviously do not apply here. The exceptions noted in CPLR §§(1) and (2) were also held to be inapplicable since there had been no waiver of the privilege (R7), and being married or having a job was not a "crime or harmful act" (R7,8,11). The Court refused to create any new exception in addition to the four express limited statutory exceptions where, as here, the purpose of the inquiry is to provide a "basis for penal or other sanctions." (R9). The Court reasoned correctly that once the social worker-client relationship exists, as long as the communication does not come within any of the four listed statutory exceptions, the statute requires that the communication remains privileged. (R8).

* The "Factual issue" alluded to by the Inspector General's brief at p. 8 pertains to the confidentiality of the form itself, not, as the Inspector General asserts, to the confidentiality of the information relating to marital and employment status.

In dicta, the Court also addressed the issue of whether a social worker must disclose the communication of a client which reveals the contemplation of a crime or a harmful act. This clearly was not at issue in this case, by the Court's own admission (R11), and was unnecessary to the central holding of the case.

POINT I

THE LEGISLATURE MANDATED THE SOCIAL
WORKER-CLIENT PRIVILEGE BECAUSE IT
IS VITAL TO THE DELIVERY OF ESSEN-
TIAL SOCIAL SERVICES IN THIS STATE.

Two important propositions justify the broad social worker-client privilege which was enacted by the New York State Legislature as contained in CPLR §4508: the value of social workers in dealing with people's problems, and the importance of the assurance of confidentiality in fostering the social worker's professional relationships with clients.

The Legislature has recognized that the services provided by social service agencies and social workers are vital to the City and State of New York. Social workers provide low income groups with help in dealing with mental and emotional problems mainly through community and social agencies and welfare services. A function of the social worker is to help such people learn to deal with the pressures of their lives. The Social-Worker-Client Relationship and Privileged Communica-
tions, 1965 Washington University Law Quarterly 362 at 363, 385.

The Legislature also realized that in order for social workers to carry out their function, they must ascertain the full scope of their client's problems. In many instances they must delve into the client's innermost feelings about himself, his family, his close friends and his community. 1965 Washington University Law Quarterly 362 at 380. It is an essential part of the social work treatment process to be able to "bare one's soul" to resolve problems.

Implicit in the discussion of the kinds of communications which must take place between social workers and clients is the assumption that such communications should be confidential. As noted by Ms. Baez in her affidavit (R54):

"In order for me to benefit from the counselling and therapy I receive from Project C.A.U.S.E., I must speak openly about myself and my life with Project C.A.U.S.E. employees;"

and

"I would not have become nor continued being a client of Project C.A.U.S.E. if I thought that communication between me and Project C.A.U.S.E. employees was not confidential."

From the earliest beginnings of social work as a recognized professional discipline, the importance of establishing and preserving confidentiality in the social worker-client relationship has been enunciated. Mary Richmond, credited with having formulated the first comprehensive statement of the principles

of social case work, [Encyclopedia of Social Work, 17th Issue, Volume 2, (National Association of Social Workers: Washington, D.C. 1977) p. 1224,] contended over one-half century ago that:

In the whole range of professional contacts, there is no more confidential relationship than that which exists between the social worker and the person or family receiving treatment. Richmond, What is Social Case Work (Russell Sage Foundation: New York 1922) p. 29.

The interplay between the sort of disclosure required for proper treatment and the confidentiality requirement has been summed up in this way:

Under authoritative external pressure or prosecution, it is assumed that a person is not obliged to incriminate himself, but in law, medicine and religion it is imperative for successful treatment that the person put himself unreservedly into the hands of his counselor, his practitioner or priest. In a general way, this is true of social work, and as professional competence has increasingly developed skill in the interviewing process, the client tends to yield himself, fully trusting in the social worker's understanding and skill to help him. This requires that social workers and agencies safeguard the confidence of the client. Hamilton, Theory and Practice of Social Case Work, 2d Edition, (Columbia University Press: New York 1940), pp. 38-39.

These requirements of confidentiality are endorsed by social work professionals. In 1955, the various major social work organizations merged to form proposed amicus the National Association of Social Workers ("NASW"), currently the largest organization of professional social workers in the world with

over 80,000 members. In 1960, NASW adopted a Code of Ethics which states, in part: "I respect the privacy of the people I serve." This tenet has been construed as requiring strict adherence to the principles of confidentiality in the professional social worker-client relationship.

By enacting the social worker-client privilege, the Legislature has mandated that this relationship is one that should be encouraged and protected and that communications to social workers are no less worthy of protection than communications to an attorney (CPLR §4503), physician, dentist or nurse (CPLR §4504), a clergyman (CPLR §4505), or a psychologist (CPLR §4507).

POINT II

TO BREACH THE PRIVILEGE IN THIS INSTANCE WOULD DESTROY IT: PETITIONER-RESPONDENT AND INTERVENOR-PETITIONER-RESPONDENT HAVE ESTABLISHED THAT A PROFESSIONAL RELATIONSHIP EXISTED BETWEEN THEM, THAT THE COMMUNICATIONS BETWEEN THEM DO NOT COME WITHIN ANY OF THE FOUR LISTED STATUTORY EXCEPTIONS, AND THAT SUCH COMMUNICATIONS ARE THEREFORE PRIVILEGED.

1. A Professional Relationship Existed Between CSS and Ms. Baez

The record clearly shows that a professional relationship was established between CSS and Gladys Baez at the time when she made her disclosures to the social worker at Project

C.A.U.S.E. This was the holding of the Court below (R3) and is fully supported by the affidavits of Harold Menefee, Jr., director of the Project (R18,19) and Gladys Baez (R54). The record also discloses that Ms. Baez's communications were made with the expectation that they would remain confidential, and she was assured that they would so remain (R18,19,54). Hence the Court's findings of fact were not only unequivocal but were uncontradicted by the Inspector General, who introduced no evidence on this point in the Court below.

The Inspector General argues without merit that there are only "conclusory allegations" to support the claim of CSS and Ms. Baez that they had entered into a valid social worker-client professional relationship together. The record is clear that Project C.A.U.S.E. is not a "clearing house" operation, as the Inspector General suggests (RAB15)*. Whether or not subsequent counselling occurred is irrelevant. During initial contacts with social workers, communications are made in confidence, and this sets the tone for the subsequent social work experience for the client. Just because CSS may be the initial supplier of social work services and professional treatment, surely it makes no sense to deny a privilege here and to restrict

* Respondent-Appellant's Brief is cited herein as ("RAB").

the privilege to the last supplier of such services when, by nature of the process of treatment, much of the same information must be disclosed at earlier stages.

In order for CSS to provide the services it does, client communications must be kept confidential. This is possible because of the privilege granted by statute. The effect of that privilege is to carry out the legislative purpose of encouraging the social worker-client relationship. The Inspector General is trying to put forward an argument that presumes no confidentiality in a social worker-client relationship. This reasoning is fallacious. CSS and Ms. Baez have shown that such a relationship existed, which triggered the privilege. They have also shown that confidentiality was expected by the client and was relied upon. Ms. Baez need not explain to the Inspector General or anyone else just what her counselling consisted of, as the Inspector General would have her do (RAB17). This is precisely the sort of information which is shielded by the privilege. The Court below was correct in holding that "Petitioners assert, and there is no evidence to the contrary, that the form which respondent refers to as the application was completed after Baez had agreed to become a client of and receive counselling and therapy from Project C.A.U.S.E." (emphasis added) (R6). Similarly, the Inspector General has put forward no evidence to contradict Ms. Baez's sworn statements that she believed the communications were

confidential. Since the findings of fact of the Court below are based on clear and uncontradicted evidence, they should be affirmed.

The Inspector General attempts to make some legal argument in order to escape the findings of fact.

He first argues that as a matter of law the information disclosed was not confidential because Ms. Baez had previously been required to disclose the same information in her application for public assistance. The Inspector General here asserts that because the client was at one time required to disclose information about her marital and employment status as a condition precedent to receiving public assistance, a communication regarding information on these subjects cannot ever be privileged again, no matter when made, and no matter whether the communication is made to a lawyer, doctor, priest or social worker. This line of reasoning is profoundly disturbing. Whether or not the information was ever disclosed before is not a factor to consider in deciding whether a later communication between a social worker and client is privileged. The statute clearly refers to "a communication", not to "communications previously kept secret." "Information previously disclosed" is not one of the four listed exceptions in CPLR §4508. Appellant is incorrect in asserting that as a matter of law this information is not privileged.

The Inspector General's next argument against recognizing the privilege bears on Ms. Baez's state of mind when she made the communication. He argues that because Ms. Baez had a duty to disclose this information to others, she could not have intended that the information disclosed to the social worker be confidential. Such an assertion is totally unjustifiable. This argument, if applied to the attorney-client privilege, would mean that if someone were accused of perjury, he could not possibly expect any discussion of his testimony with his lawyer to be privileged simply because he at one time had a duty to discuss the same facts under oath. This reasoning negates the purpose of a free and open exchange with counsel. Here, a similar kind of relationship as that between an attorney and his client has been deemed desirable by the Legislature. For someone who has to reveal certain facts about her life to the Department of Social Service in order to receive needed public assistance, the ability to discuss these facts in confidence with a social worker becomes all the more important. To deny her this statutory privilege simply because she had to discuss the same information at another time in her life would destroy the privilege. Further, by his assertion that Ms. Baez could not have intended this information to be confidential, the Inspector General has totally disregarded the sworn statements of Ms. Baez to the contrary (R54).

The Inspector General's next argument is that the authorization which Ms. Baez signed on her application to receive public assistance acted as a valid waiver of the social worker-client confidentiality privilege which attached to her relationship with Project C.A.U.S.E.* The Court below correctly held that "to constitute a waiver there must be a clear relinquishment of a known right" (R8) and therefore, the Inspector General's assertion regarding this waiver clause is without merit (R7, 12-13). The language in the alleged waiver relied upon by the Inspector General does not demonstrate that the client knew or should have known she was waiving her right to assert her statutory privilege against the disclosure of communications to lawyers, doctors, clergymen or social workers. It defies logic to suggest that someone who signs an authorization on an application for public assistance for the Department of Social Services to make "collateral contacts" in connection with her eligibility for public assistance thereby intends to waive all of her statutory evidentiary confidentiality privileges. Most importantly, the language of this form is not an instruction to a third party, which is what CSS is in this instance. Finally,

* The so-called waiver provides: "I give my consent to the Department of Social Services to make such collateral contacts and visits as may be necessary to determine my eligibility for assistance."

by the clear language of the form itself, the Department of Social Services was the entity which was given permission to make "collateral contacts", not the Department of Audit and Control, which is the department in which the Office of the Welfare Inspector General is situated.

2. The Communications Do Not Come Within Any Statutory Exceptions

Because CSS and Ms. Baez have established that a professional relationship existed between them, the only way to allow introduction of any communication made by the client to the social worker would be by showing that the communication came within the four specifically listed statutory exceptions. The Court below correctly ruled that none of the statutory exceptions to the privilege is applicable (R7,11,12). The exceptions listed in CPLR §§4508(3) and (4) clearly are not relevant here. Neither of the other exceptions applies in this case.

As we have already discussed, the first exception [CPLR §4508(1)] does not apply because there was no valid authorization to the social worker at Project C.A.U.S.E. to divulge this information. Ms. Baez asserts in her sworn affidavit (R54) that she has not, in fact, given permission for any communications between herself and Project C.A.U.S.E. employees to be disclosed to third parties.

The Inspector General would have this Court hold that the information communicated falls within the second statutory exception to the privilege [CPLR §4508 (2)]. The Court below was correct in holding that information as to marital and employment status was not information revealing the "contemplation of a crime or harmful act" (R11).* As noted by the Court below, the Inspector General is trying to obtain privileged information to provide an evidentiary basis for penal or other sanctions (R9), and asserts that the disclosure of this information is essential in order "to fight fraud and corruption in the system." (R35). However, the reasons for which he wants the information are not pertinent to a discussion of whether or not such information reveals the "contemplation of a crime or harmful act." The

* The Inspector General is wrong in his assertion (RAB20) that Special Term held that CPLR §4508(2) obligates the social worker to reveal past as well as contemplated crimes and also requires the disclosure of past as well as contemplated "harmful acts." Special Term noted, in dicta, that "communications by a client which reveal the contemplation of a crime or harmful act are not privileged and are subject to compulsory disclosure" (R10-11), but did not read CPLR §4508(2) as obligating the social worker to reveal past harmful acts. All that was mentioned about past crimes or harmful acts was that in People v. Brooks, 50 A.D. 2d 319 (2d Dept. 1975), rev'd on other grounds 42 N.Y.2d 866 (1977), the Appellate Division, Second Department, held that an admission made by a deaf-mute to a certified social worker by use of sign language regarding the commission of crimes charged in an indictment was not a privileged communication within the contemplation of CPLR §4508 and was admissible. In Brooks, however, the communication was not made as part of a professional social worker-client
(footnote continued)

communication of information regarding marital and employment status does not come within the exception permitted by CPLR §4508(2). The Inspector General is really arguing here that the Court should engage in a balancing test. The Court correctly refused to do that, as discussed below.

POINT III

BECAUSE THE COMMUNICATION IS PRIVILEGED AND DOES NOT COME WITHIN ANY STATUTORY EXCEPTION, THE INQUIRY IS COMPLETE: IT IS NOW INAPPROPRIATE FOR THE COURT TO ENGAGE IN FURTHER "BALANCING".

Unable to disprove the facts found below, and unable to bring those facts within a statutory exception, the Inspector General also argues that the privilege should be breached on the basis of Wigmore's common-law balancing test, which weighs the injury that would inure to the relationship as a result of

(footnote continued)

relationship. The defendant asked for a social worker to provide him with a deaf-mute interpreter who could understand his confession and the social worker was present at the interview during which the confession was made. In addition, Brooks certainly says nothing about past "harmful acts" nor does CPLR §4508(2) refer to past harmful acts contrary to the assertion of the Inspector General (RAB20, 21). Insofar as Special Term here dealt with this question at all, it was irrelevant to Special Term's holding in the case and was therefore dicta and as such should be ignored. These additional thorny questions of statutory construction need not be dealt with unless they are directly at issue. Clearly, they are not at issue here.

disclosure against the benefit to be gained by correct disposal of litigation [Wigmore, Evidence, §2285, p. 531 (3d ed. 1940)].

The Inspector General has contradicted the position he took below (R33,63), when he pointed out that these common law conditions simply are not applicable here, where a statute has pre-empted the common law guidelines. We agree, as did the Court below, which clearly declined to invoke a balancing test in order to weigh the desirability of investigations by the Welfare Inspector General against the statutory social worker-client confidentiality privilege (R8). Special Term was correct in its refusal to carve out an extra and unnecessary exception in this case. Even if possible criminal sanctions are not the ultimate goal of his investigation,* Special Term was correct in deciding that there is no basis for holding that the Inspector General's statutory purpose and powers, as outlined in Executive Law §§46-50, override the statutory privilege granted by CPLR §4508.

Because the Legislature has already granted the privilege, after taking into account all of Wigmore's conditions, it

* We note, however, that the Inspector General's own brief acknowledges that §50 of the Executive Law provides that upon his discovery of evidence of the commission of a crime by any person he must refer such evidence to the District Attorney for appropriate action (RAB6).

is now inappropriate for courts to reapply the balancing test of any of Wigmore's four conditions to each individual case.

As noted by the Court below (R8,9), disclosures of social worker-client (or comparable) communications have been sanctioned under narrowly circumscribed conditions in some matrimonial, custody and paternity actions:

"[Those] courts were concerned with the rights of children, held to be of greater importance than any injury that might inure to the relationship between a social worker and his clients from a compulsory disclosure of a privileged communication. (Matter of Humphrey v. Norden, 79 Misc. 2d 192, 195, a paternity proceeding, noting that a contrary result might be warranted in a criminal action; In re Clear, 58 Misc. 2d 699, rev'd. on other grounds, 32 A.D. 2d 915, on remand, 65 Misc. 2d 323, a custody proceeding; People ex rel Chitty v. Fitzgerald, 40 Misc. 2d 966, a custody proceeding)."

These holdings were based primarily on parens patriae, the unique and transcending obligation of the court to protect a minor child. This case obviously involves no such justification.

Moreover, even the child welfare exception to the privilege has been rejected by some courts. In a more recent case, Yaron v. Yaron, 83 Misc. 2d 276 (Sup. Ct., N.Y. Co., 1975), a child custody dispute, the court declined to follow the cases cited above and sustained the father's objections to the disclosure of records maintained by a family service agency which he and his wife had previously consulted (the agency also opposed the production of the records). In an opinion which was sharply

critical of the case-law created exception, and in particular of the "balancing test" approach, Judge Blynn suggested that the prior decisions had missed the real point:

"It is not the individual relationship between a client and a social worker that is injured. It is the general relationship between all clients and their social workers that is injured. It is the chilling effect on such a general relationship that is overlooked by the courts when they apply the balancing test."

* * *

"When the courts begin to destroy this privilege on the grounds, amongst others, that when custody or paternity, or some other so-called community interest is involved, then the privilege is not the right it should be, but a feeble pretense of privilege at the mercy of some balancing act by some court." (supra at p. 283) (emphasis added).

It has long been settled in this state that a statutory privilege is absolute. A communication protected by such a privilege may not be disclosed, absent a waiver, unless the case falls within an exception set forth in the statute. Admittedly, this is not the common law rule, which may involve a weighing of the potential injury to the confidential relationship against the public need for disclosure, as in Wigmore's fourth condition. However, the Common Law rule is not applicable where the legislature has enacted a statute. In the case of a statutory privilege, the balancing test has already been performed by the legislature, which has written into the privilege whatever exceptions and

limitations it has deemed appropriate. Thus in New York City Council v. Goldwater, 284 N.Y. 296 (1940), where the City Council sought to subpoena records of patients in an investigation of possible hospital mismanagement, the court held the records were privileged and should not be produced, even though the records were sought in a legislative rather than a judicial proceeding, and even though, as stated in a dissenting opinion, disclosure was "perhaps vitally necessary for the protection of the public of the City of New York," 284 N.Y. at 303. As Judge Lehman said for the majority, "The Legislature which has conferred the privilege may, if it chooses, limit its application. The courts may not do so." 284 N.Y. at 302. Similarly, Judge Breitel, then a judge of the Appellate Division, in People v. Keating, 286 A.D. 150 (1st Dept. 1955), although observing that that case did not involve a statutory privilege, stated: "There are a limited number of statutory privileges. They are absolute in the sense that, even in matters involving public justice, a court may not compel disclosure of confidential communication thus made privileged." 286 A.D. at 152. Finally, as noted below by CSS (R22) in Lewis v. Hynes, 82 Misc. 2d 256 (Sup. Ct., Queens Co., 1975) it was held, inter alia, that a subpoena power almost identical to that asserted here by the Inspector General did not override the physician-patient privilege of CPLR §4504. There the Attorney General sought to subpoena nursing home

records in connection with an investigation of nursing homes and other health care abuses, under the subpoena power set forth in Executive Law §63(8). The court held that material within the physician-patient privilege need not be disclosed. 82 Misc. 2d at 263.

The social worker-client privilege is a statutory privilege governed by the above rules of statutory construction. The only exceptions to the scope and applicability of a statutory privilege are those contained in the statute itself. There can be no additional balancing test beyond that which the Legislature has done. This is especially so where, as here, the statute spells out certain exceptions.

CONCLUSION

Relying upon the strength of CPLR §4508, certified social workers in New York and their employing agencies assure their clients that the communications of the clients will not be revealed. The purpose of CPLR §4508 is to preserve those confidences and to foster social worker-client relationships. This Court should not undermine those legislative purposes.

In their moving papers, CSS and Ms. Baez have established that they entered into a proper client-social worker relationship. The communications between them were given by Ms.

Baez in confidence. The statutory privilege attached to those communications and there was no waiver of the privilege. Furthermore, the communications did not come within any of the specifically enumerated exceptions provided for by the statute. The information sought by the Welfare Inspector General could be obtained by other means. Even if it could not be, by creating the privilege, the Legislature has already determined that the protection of the social worker-client relationship is more important than providing the Inspector General with access to this information.

On these facts, we urge this Court to uphold the decision of Special Term insofar as the decision granted the motions of petitioner-respondent Community Service Society and intervenor-petitioner-respondent Gladys Baez to quash the subpoena of respondent-appellant the Welfare Inspector General.

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