

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, 2003

JEWISH HOME AND AGING
SERVICES,

**

Appellant,

**

vs.

**

PAUL BREITNER and WAYNE A.
CYPEN, as Co-Personal
Representatives of the Estate
of Josephine Wolf,

**

**

**

Appellees.

**

CASE NOS. 3D03-305
& 3D02-3178

LOWER
TRIBUNAL NO. 99-3150

Opinion filed October 8, 2003.

An Appeal from the Circuit Court for Miami-Dade County,
Arthur Rothenberg, Judge.

Hall, David and Joseph, Andrew C. Hall and Adam S. Hall, for
appellant.

Bales & Sommers; Podhurst Orseck and Joel D. Eaton, for
appellees.

Before SCHWARTZ, C.J., and LEVY and GODERICH, JJ.

PER CURIAM.

The petitioner below, Jewish Home and Aging Services [Jewish

Home], appeals from an adverse final judgment. We find that the trial court properly entered an involuntary dismissal of Jewish Home's petition for compulsory payment. Jewish Home failed to meet its burden of showing that the fiduciary, who was charged with approving the bequests as described in the will, acted arbitrarily or capriciously when he withheld approval of the bequest to Jewish Home. See Canakaris v. Canakaris, 382 So. 2d 1197, 1203 (Fla. 1980).

Accordingly, we affirm.