

**New York Supreme Court**  
**Appellate Division — First Department**

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DEBRA H.

*Petitioner-Respondent,*

—against—

JANICE R.,

*Respondent-Appellant.*

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**BRIEF OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS,  
THE NATIONAL ASSOCIATION OF SOCIAL WORKERS' NEW YORK  
STATE CHAPTER, AND THE NATIONAL ASSOCIATION OF SOCIAL  
WORKERS' NEW YORK CITY CHAPTER AS *AMICI CURIAE* IN  
SUPPORT OF PETITIONER-RESPONDENT**

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### INTEREST OF AMICI CURIAE

Founded in 1955 as a non-profit professional association, the National Association of Social Workers ("NASW") is the largest association of professional social workers in the world, with 145,000 members and 56 chapters throughout the United States and abroad (including the New York State and New York City chapters, which have 11,000 members and 10,000 members, respectively). As part of its mission to improve the quality and effectiveness of social work practice, NASW promulgates professional standards and the NASW Code of Ethics, conducts research, provides continuing education, and advocates for sound public policies (including by filing *amicus curiae* briefs in appropriate cases).

NASW seeks to develop and disseminate high standards of social work practice, while strengthening and unifying the profession as a whole by establishing and maintaining professional standards of practice, promulgating sound social policies, and providing services that protect its members and enhance their professional status. In addition to these services, NASW supports and publishes social science research on topics significant to the social work profession, provides continuing education and professional conferences for its members, and enforces its Code of Ethics.

Like the social work profession itself, NASW historically has addressed – among many other things – the interaction between people and their environments with an eye toward understanding how biological, psychological, interpersonal, environmental, and cultural factors shape and influence them. Additionally, social workers have a long tradition of direct work with children in a wide range of practice settings, including hospitals, schools, mental health clinics, shelters, group homes, and private practice.

NASW also develops and adopts policy statements to encourage the development of organizational responses to various social issues. NASW's family policy recognizes that gay and lesbian people are a part of existing families and provide important caregiving to children, as well as to other family members. In 1977, NASW adopted its policy on gay, lesbian, and bisexual issues, and subsequently revised and expanded that policy in 1987, 1993, 1996, and 2005. NASW is committed by its policy, as well as its Code of Ethics, to advancing policies and practices that will improve the lives of all children, including those raised in same-sex-parent families.

For these reasons, NASW, along with its New York State and New York City chapters, supports Petitioner-Respondent Debra H.'s standing to obtain a hearing to determine whether she should be awarded custody and visitation of M.R. A determination whether Debra H. stands *in loco parentis* to M.R. is in

M.R.'s best interests. NASW files this brief in support of M.R.'s development and well-being—and in support of the development, well-being, and best interests of all similarly situated children in the State of New York.

## INTRODUCTION AND SUMMARY OF ARGUMENT

Families with same-sex parents are an increasingly common type of modern family. In many such families, children have a biological parent and a “psychological” or “de facto” parent—*i.e.*, a person who is not a biological or adoptive parent of the child but who nonetheless has a genuine, fully-developed parental relationship with the child and functions as the child’s parent in every respect. As with all loving parents, when same-sex parents who have raised their children together separate, it is critical to their children’s well-being and development that their attachment bonds with their children not be severed.

The facts of this case as set forth by Debra H. (“Debra”) indicate that she and Janice R. (“Janice”) had formed such a family before they separated. According to Debra, Janice gave birth to their child, M.R., at least one year after the two of them moved in together. *Debra H. v. Janice R.*, No. 106569/08, Slip. Op. at 1-2 (Sup. Ct. N.Y. Cty. Oct. 2, 2008). Debra’s young adult daughter from a previous marriage had a room in their apartment where she stayed when she came home from college, and later, from law school. *Id.* at 2.

Debra alleges that she was M.R.’s psychological parent because she, among other things, provided critical emotional, physical, and financial support

to M.R. *Id.* at 5-6. While Janice contends that Debra significantly overstates her relationship with M.R., *id.* at 6-9, the hearing directed by the trial court is the only way to resolve the factual dispute. Without a hearing, it is impossible to determine (or serve) M.R.'s best interests.

As observed by Justice Beeler in his Decision, the paramount concern of New York's child custody and visitation laws is the best interests of the child, as well as the child's welfare and happiness. *Id.* at 11. Courts can most thoughtfully weigh a child's best interests only if the right of psychological parents to petition for custody and visitation is recognized. Where, as here, reasonable allegations that an adult has been a child's psychological parent are disputed, a court should determine whether the adult has indeed functioned as a parental figure. If so, that parent should be permitted to petition for custody or visitation of the child like any other parent. To do otherwise could result in the dissolution of a critical parent-child attachment bond, and could be devastating to the child's development, happiness, and well-being. Justice Beeler's decision to convene a hearing to determine whether Debra is a parent who may petition for custody and visitation of M.R. is in M.R.'s best interests and consistent with New York legal principles. As the Court of Appeals recently articulated in *Shondel J. v. Mark D.*, "[t]he potential damage to a child's psyche caused by suddenly ending established parental support need only be

stated to be appreciated. Cutting off that support, whether emotional or financial, may leave the child in a worse position than if that support had never been given.” 7 N.Y.3d 320, 330, 820 N.Y.S.2d 199, 204-05 (2006).

As shown below, Justice Beeler’s decision is consistent with a large body of social science research. Children suffer significant and severe harm when forcibly separated from the adults who have functioned as their parents. Studies in developmental psychology consistently show that children form significant attachment bonds to their parents early in life. These bonds form whether the parents are biological, adoptive, or psychological—and whether the parents are same-sex or heterosexual. Empirical findings further establish that continuity of parent-child attachment bonds is critical to children’s development, emotional health, and general well-being. Social science confirms that New York courts should recognize the right of gay and lesbian psychological parents to petition for custody and visitation of their children because it would meet their children’s best interests.

In addition, relevant research shows that the sudden separation of a child from his or her sibling can also be emotionally disruptive to a child. Studies have revealed that sibling bonds are particularly important to children during periods of family transition, such as the separation or divorce of their parents. Younger siblings’ bonds to their older siblings are no exception, in light of the

unique role that older siblings can play in their younger siblings' development.

Thus, a proper determination of M.R.'s best interests must consider M.R.'s

relationship not only to Debra, but also to Debra's young adult daughter.

## ARGUMENT

In granting a hearing to Petitioner-Respondent Debra H., Justice Beeler advanced the best interests of M.R. in numerous respects. Without a hearing, the court would be unable to resolve upon due deliberation whether Debra is M.R.'s psychological parent. Should the court find Debra's allegations to be true and that therefore she has functioned as M.R.'s psychological parent, then depriving her of the right to seek custody or visitation could rupture M.R.'s attachment bonds to her and jeopardize M.R.'s emotional and physical development. This kind of deprivation could also levy a financial toll, as parents who are granted custody and visitation rights often serve as another source of financial support to their children. Moreover, the physical separation of M.R. from Debra's young adult daughter may disrupt the continued development of another healthy attachment bond and may thwart the support that such a bond could provide during a profound family transition and as a life-long resource. Because of the significant emotional, developmental, and potential financial harm that could befall children like M.R. in this context, it is critical that this Court recognize the rights of adults who have functioned as parents to petition for custody and visitation—so that the best interests of children like M.R. can be properly considered.

**I. ATTACHMENT BONDS BETWEEN CHILDREN AND THEIR GAY AND LESBIAN PSYCHOLOGICAL PARENTS SHOULD BE PROTECTED AND PRESERVED IN THE CHILDREN'S BEST INTERESTS.**

Debra alleges that she has played an instrumental parental role in M.R.'s life not only starting from his birth, but during prenatal care as well. *Debra H. v. Janice R.*, No. 106569/08, Slip. Op. at 3-6 (Sup. Ct. N.Y. Cty. Oct. 2, 2008). Psychologically, parenthood is a relationship not delimited by biology, adoption, or sexual orientation, and severing M.R.'s attachment bond to a parent could exact a deleterious toll on his development and well-being. If Debra's allegations are true, then she has been a psychological parent to M.R. and her attachment bonds with him should be preserved to every extent possible.

**A. The Formation of Parent-Child Attachment Bonds Is Critical to a Child's Healthy Development.**

Child development research overwhelmingly shows that children form strong bonds of attachment to their parents early in life, and that these bonds grow stronger as children grow older. *See, e.g.*, Melvin Konner, CHILDHOOD 84-87 (1991); *see generally, e.g.*, John Bowlby, ATTACHMENT (2d ed. 1982). An "attachment relationship" is defined as a "reciprocal, enduring, emotional, and physical affiliation between a child and a caregiver" through which a child forms his or her "concepts of self, others, and the world." Beverly James,

HANDBOOK FOR TREATMENT OF ATTACHMENT-TRAUMA PROBLEMS IN CHILDREN 1-2 (1994).

An attachment relationship has profound biological, psychological, and sociological effects on a child's development. Modern developmental psychology and neurology confirm that a child's attachment relationships are the major environmental factor shaping brain development during the period of maximal brain growth. *See* Daniel J. Siegel, *THE DEVELOPING MIND: TOWARD A NEUROBIOLOGY OF INTERPERSONAL EXPERIENCE* 67-120 (1999). Accordingly, attachment relationships create the central foundation of a child's development. *See id.* Additional research findings illustrate that "what young children learn, how they react to the events and people around them, and what they expect from themselves and others are deeply affected by their relationships with parents." Nat'l Research Council & Inst. of Med., *FROM NEURONS TO NEIGHBORHOODS: THE SCIENCE OF EARLY CHILDHOOD DEVELOPMENT* 226 (Jack P. Shonkoff & Deborah A. Phillips eds., 2000).

Among other things, attachment relationships "shape the development of self-awareness, social competence, conscience, emotional growth and emotion regulation, [and] learning and cognitive growth." *Id.* at 265. As one example, "[t]hrough a history of consistent and sensitive care with the parent, the child

develops a model of self and others as lovable and loving/helpful that may make him/her comparatively more likely to cope with challenge and stress (e.g., by relying on others for support or guidance).” James G. Byrne et al., *Practitioner Review: The Contribution of Attachment Theory to Child Custody Assessments*, 46 J. CHILD PSYCHOL. & PSYCHIATRY 115, 118 (2005). *See id.* (finding that secure attachment relationships provide children with a sense of emotional security, the ability to cope with stress, and protection against harm); *see also* Am. Acad. of Pediatrics, *Developmental Issues for Young Children in Foster Care*, 106 PEDIATRICS 1145, 1146 (2000) (“Attachment to a primary caregiver is essential to the development of emotional security and social conscience.”).

Debra’s alleged contributions as one of M.R.’s primary caregivers evince this kind of significant parent-child attachment bond.

**B. Attachment Relationships Develop Despite the Absence of a Biological or Adoptive Connection Between Parent and Child.**

Though Debra is not M.R.’s biological or adoptive mother, the development of attachment bonds has nothing to do with biology or the formal adoption process. *See* Joseph Goldstein et al., BEYOND THE BEST INTERESTS OF THE CHILD 27 (2d ed. 1979) (concluding the parent-child relationship can develop without reference to biology or formal adoption). Rather, a child’s relationship to a psychological parent is defined by the “interaction,

companionship, interplay, and mutuality” which “on a continuing, day-to-day basis . . . fulfills the child’s psychological needs for a parent, as well as the child’s physical needs.” *Id.* at 98; *see also* Nat’l Research Council & Inst. of Med., *supra*, at 234 (“[C]riteria for identification of attachment figures [include] provision of psychical and emotional care, continuity or consistency in the child’s life, and emotional investment in the child.”).

It is therefore the *quality* and *nature* of the interaction between parent and child, rather than any biological or legal connection, that creates and sustains these attachment relationships which have such a critical impact on children’s development. *See* Ana H. Marty, et al., *Supporting Secure Parent-Child Attachments: The Role of the Non-parental Caregiver*, 175 EARLY CHILD DEV. & CARE 271, 273 (2005) (“[T]he quality of [children’s] attachment relationships is dependent on the nature of the interactions with their parents or other caregivers.”); *see also* Am. Acad. of Pediatrics, *Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 341, 341 (2002) (finding that “[c]hildren’s optimal development seems to be influenced more by the nature of the relationships and interactions within the family unit than by the particular structural form it takes”). This finding extends to attachment bonds between children and their same-sex parents. *See* Susanne Bennett, *Is There a Primary Mom? Parental Perceptions*

*of Attachment Bond Hierarchies Within Lesbian Adoptive Families*, 20 CHILD & ADOLESCENT SOC. WORK J. 159, 167-68 (2003) (finding, in a qualitative study of lesbian couples, that "quality of care was the salient factor in the establishment of an attachment hierarchy" and that "legal parent status" was not a "defining factor[ ] contributing to the attachment hierarchy.").<sup>1</sup>

The absence of a biological or formal adoptive connection between Debra and M.R. cannot conclude inquiry about the attachment bonds between them. If such an inquiry is to assess M.R.'s best interests, then it necessarily must examine the quality and nature of their relationship.

**C. Sexual Orientation of Parents, as Well as Genetic or Adoptive Links to Their Children, Are Irrelevant to the Development of Strong Attachment Bonds.**

The research also consistently shows that, in all relevant respects, lesbians and gay men parent as heterosexuals do. *See, e.g.,* G. Dorsey Green & Frederick W. Bozett, *Lesbian Mothers & Gay Fathers*, in HOMOSEXUALITY: RESEARCH APPLICATIONS FOR PUBLIC POLICY 197, 198 (John C. Gonsiorek & James D. Weinrichs eds., 1991) (concluding that "[t]he research is *extraordinarily clear* in its finding about lesbian and gay parents and their

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<sup>1</sup> *See also* Raymond W. Chan, et al., *Psychosocial Adjustment Among Children Conceived Via Donor Insemination by Lesbian and Heterosexual Mothers*, 69 CHILD DEV. 443, 454 (1998) ("[O]ur results are consistent with the general hypothesis that children's well-being is more a function of parenting and relationship processes within the family . . . [than] household composition or demographic factors.").

children: they look remarkably like their heterosexual counterparts and their children”) (emphasis added). “[T]he weight of evidence gathered during several decades using diverse samples and methodologies” demonstrates “that there is no systemic difference between gay and nongay parents in emotional health, parenting skills, and attitudes towards parenting.” Am. Acad. of Pediatrics, *Technical Report: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 341, 343 (2002). Thus, not surprisingly, studies have concluded that a parent’s sexual orientation is immaterial to the formation and importance of children’s attachments, and children are just as likely to form close bonds with same-sex parents as with different-sex parents. See Am. Acad. of Pediatrics, *Family Pediatrics: Report of the Task Force on the Family*, 111 PEDIATRICS 1541, 1550 (2003) (finding “that parental sexual orientation per se has no measurable effect on the quality of parent-child relationships”); A. Brewaeys, et al., *Donor Insemination: Child Development & Family Functioning in Lesbian Mother Families*, 12 HUM. REPROD. 1349, 1358 (1997) (finding the non-biological mother in lesbian families “was regarded by the child as just as much a ‘parent’ as the father in the heterosexual families”).

Moreover, the lack of a biological or adoptive link does not impact the child’s feelings for the same-sex parent. See Brewaeys et al., *supra*, at 1354

“Among the lesbian mothers, the quality of the parent-child interaction did not differ significantly between the biological and the [non-biological] mother.”); accord Susan Golombok et al., *The European Study of Assisted Reproduction Families: Family Functioning & Child Development*, 11 HUM. REPROD. 2324, 2330 (1996) (finding the lack of a genetic link between a parent and child does not negatively impact parent-child relationships).

Where both same-sex parents have participated in a child’s upbringing, the child will form a significant attachment relationship with each parent. A study evaluating child development in lesbian families found that “[b]oth women in the lesbian mother family were actively engaged in child care and a strong mutual attachment had been developed between [non-biological] mother and child.” Brewaeys et al., *supra*, at 1356; see also Barbara M. McCandlish, *Against All Odds: Lesbian Mother Family Dynamics*, in GAY & LESBIAN PARENTS 23–38 (Frederick W. Bozett ed., 1987).

The research thus demonstrates with extraordinary clarity that neither sexual orientation nor the lack of genetic or adoptive bonds impacts the quality of the attachment bond formed between lesbian or gay parents and their children. Assuming as true the facts alleged by Debra, she was actively engaged in parenting M.R., and deep, meaningful parent-child attachment bonds formed between them.

**D. Children Experience Severe Emotional Harm When Their Attachment Bonds with Their Parents Are Severed.**

Continuity of the parent-child relationship is essential to a child's healthy development and overall well-being. Goldstein et al., *supra*, at 31-33; *see also* Marty et al., *supra*, at 274 (“[T]he quality of the attachment has profound effects on the child's social adjustment.”); Am. Acad. of Pediatrics, *Developmental Issues for Young Children in Foster Care*, *supra*, at 1145 (“Paramount in the lives of . . . children is their need for continuity with their primary attachment figures.”); Nat'l Research Council & Inst. of Med., *supra*, at 265. Because children typically assume that they can depend on ongoing relationships with both parents, severance or curtailment of the parent-child bond can be “a particularly devastating experience.” William F. Hodges, INTERVENTIONS OF CHILDREN OF DIVORCE: CUSTODY, ACCESS, & PSYCHOTHERAPY 8-9 (2d ed. 1991); *see also* Rayford W. Thweatt, *Divorce: Crisis Intervention Guided by Attachment Theory*, 34 AM. J. PSYCHOTHERAPY 240, 241 (1980) (explaining that upon separation from an attachment figure, children experience “a predictable sequence of behavior with four phases: denial, protest, despair, and detachment”).

Numerous empirical findings “provide a solid research basis for predictions of long term harm associated with disrupted attachment [relationships] and loss of a child's central parental love objects.” Frank J.

Dyer, *Termination of Parental Rights in Light of Attachment Theory: The Case of Kaylee*, 10 PSYCHOL. PUB. POL'Y & L. 5, 11 (2004); see also Am. Acad. of Pediatrics, *Developmental Issues for Young Children in Foster Care*, *supra*, at 1146 (“Interruptions in the continuity of a child’s caregiver are often detrimental.”); Joan B. Kelly & Michael E. Lamb, *Using Child Development Research to Make Appropriate Custody & Access Decisions for Young Children*, 38 FAM. & CONCILIATION CTS. REV. 297, 303 (2000). For example, interference with children’s attachment relationships can lead to “aggression, fearful relationships, academic problems in school, and . . . elevated psychopathology.” Marty et al., *supra*, at 274; see also Byrne et al., *supra*, at 118 (“[T]hreats or disruptions in the attachment relationships . . . lead to fear/anxiety.”); Nat’l Research Council & Inst. of Med., *supra*, at 265 (“[A]ttachments buffer young children against the development of serious behavior problems, in part by strengthening the human connections.”).

Studies of children of divorced parents confirm the emotional harm that can result when a child is separated from a parent to whom he or she is attached. See, e.g., Judith S. Wallerstein & Sandra Blakeslee, *SECOND CHANCES: MEN, WOMEN & CHILDREN A DECADE AFTER DIVORCE* 145–60 (1989) (finding that children who do not maintain contact with parents suffer a continuing sense of loss and sadness); Judith S. Wallerstein & Joan B. Kelly,

SURVIVING THE BREAKUP: HOW CHILDREN & PARENTS COPE WITH DIVORCE 307 (1980) (finding that self-image of children from divorced families is “firmly tied to their relationship with both parents”).

The “extreme distress” experienced by a child upon termination of an attachment figure’s regular and customary role as a parent will occur regardless of whether there is a biological connection between parent and child. Fiona L. Tasker & Susan Golombok, GROWING UP IN A LESBIAN FAMILY: EFFECTS ON CHILD DEVELOPMENT 12 (1997); *see also* Yvon Gauthier et al., *Clinical Application of Attachment Theory in Permanency Planning for Children in Foster Care: The Importance of Continuity of Care*, 25 INFANT MENTAL HEALTH J. 379, 394 (2004) (explaining that children suffer greatly when separated from non-biological parent figures).

Specific research on children in gay and lesbian households demonstrates the same need for continuity—and resulting harm from disruption of attachment relationships—as can be manifested in children of heterosexual parents. *See, e.g.*, Tasker & Golombok, *supra*, at 12 (finding that cessation of the parent-child bond between a child and a lesbian psychological parent “can cause [the child] extreme distress”). When lesbian couples separate, the children mourn for the absent psychological parent just as they would for an absent biological or married parent after separation. *See* Martha

Kirkpatrick et al., *Lesbian Mothers & Their Children: A Comparative Study*, 51 AM. J. ORTHOPSYCHIATRY 545, 550 (1981).

Allowing the separation of a child from a psychological parent to become prolonged is thus detrimental to the child's best interests, and, taking Debra's allegations as true, the nature of her relationship with M.R. is such that their forced separation will put M.R. at risk of significant harm.

**E. A Child's Health and Welfare Are Best Served by Nurturing and Maintaining Attachment Bonds with Parents.**

In light of the importance of the parent-child bond to the overall health and welfare of children, researchers believe that children generally benefit from continued contact with both parents. See Michael E. Lamb, *Placing Children's Interests First: Developmentally Appropriate Parenting Plans*, 10 VA. J. SOC. POL'Y & L. 98, 103, 113-14 (2002) (explaining that everyday activities with both parents promote and maintain trust and confidence in the parents, while strengthening child-parent attachments); Denise Donnelly & David Finkelhor, *Does Equality in Custody Arrangement Improve Parent-Child Relationship?*, 54 J. MARRIAGE & FAM. 837, 838 (1992) ("Children who maintain contact with both parents tend to be better adjusted.").

The findings are no different for children of same-sex parenting relationships. As one prominent researcher explains, when same-sex parents who have jointly raised a child since birth separate, "it is reasonable to expect

that the best interests of the child will be served by preserving the continuity and stability of the child's relationship with both parents." Charlotte J. Patterson, *Children of Lesbian & Gay Parents*, 63 CHILD DEV. 1025, 1037 (1992); see also Am. Acad. of Pediatrics, *Policy Statement: Coparent or Second-Parent Adoption by Same-Sex Parents*, 109 PEDIATRICS 339 (2002), available at <http://aappolicy.aappublications.org/cgi/content/full/pediatrics;109/2/339> (last visited Jan. 29, 2009) (stating that children of gays and lesbians need the same permanence and security in parental relationships as children of heterosexual parents); Am. Psychoanalytic Ass'n, *Position Statement on Gay & Lesbian Parenting*, May 16, 2002, available at <http://www.apsa.org/ABOUCTAPSAA/POSITIONSTATEMENTS/GAYANDLESBIANPARENTING/tabid/471/Default.aspx> (last visited Jan. 29, 2009) (concluding that the best interests of children require attachment to committed, nurturing, and competent parents, and that gay and lesbian individuals and couples are capable of meeting those requirements).

Additionally, and not surprisingly, empirical experience confirms that children benefit from access to greater financial resources and security. "One of the most consistent associations in developmental science is between economic hardship and compromised child development." Nat'l Research Council & Inst. of Med., *supra*, at 275. Depriving a child of the financial

support of a second parent limits the resources available to support the child and causes greater financial insecurity in the child's life. *See, e.g.,* Wallerstein & Blakeslee, *supra*, at 129–44 (describing the “genteel poverty” in which a single mother and her children lived, having received only sporadic financial support from the children's father following the parents' divorce).<sup>2</sup>

Thus, for both psychosocial and practical financial reasons, the research strongly supports that a child's best interests are met by conducting a measured examination of his or her relationship to adults with whom the child has formed meaningful attachment bonds. A decision to deny parental status would threaten to disrupt the child's development and well-being, as well as rob him or her of the many benefits inherent in a close and uninterrupted parent-child bond. Accordingly, it is in M.R.'s best interests—the New York guidepost for custody and visitation determinations—for the trial court to hear

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<sup>2</sup> *See also, e.g.,* Sanders Korenman et al., *Long-Term Poverty and Child Development in the United States: Results from the NLSY*, 17 CHILDREN OF YOUTH SERVICES REVIEW 127 (1996) (finding substantial developmental deficits among children who, on average are poor over a number of years relative to those who are not); Jane D. McLeod et al., *Trajectories of Poverty and Children's Mental Health*, 37 J. HEALTH & SOCIAL BEHAVIOR 207 (1996) (concluding that people with childhood histories of poverty had higher levels of depression and antisocial behavior); Child Welfare League of America, *National Data Analysis System Issue Brief: Childhood Poverty*, September 2005, available at [http://ndas.cwla.org/include/pdf/Poverty\\_Final\\_IB.pdf](http://ndas.cwla.org/include/pdf/Poverty_Final_IB.pdf) (last visited Jan. 29, 2009) (“Children who grow up in poverty have poorer health, nutrition, housing and education outcomes.”).

Debra's evidence regarding whether she is a psychological parent who should be afforded standing to petition for custody and visitation of M.R.

**II. SIBLING BONDS BETWEEN CHILDREN SHOULD BE PROTECTED AND PRESERVED IN THE CHILDREN'S BEST INTERESTS, INCLUDING BONDS BETWEEN OLDER AND YOUNGER SIBLINGS.**

The parties agree that Debra's daughter from a previous marriage stayed with Debra, Janice, and M.R. when she was home from college, and later, from law school, and thus she was a part of their household. *Debra H.*, No. 106569/08, Slip Op. at 2. Because maintaining relationships with siblings, including older siblings, is critical to a child's development and well-being, M.R.'s relationship with Debra's young adult daughter also should be evaluated when deliberating over M.R.'s best interests.

**A. When a Child Has Siblings, the Formation of Healthy Sibling Bonds Is Critical to the Child's Development.**

Social science research shows that "in most cases siblings, through their association with the parents," develop "feelings of attachment toward each other." David J. Whelan, *Using Attachment Theory When Placing Siblings in Foster Care*, 20 *CHILD & ADOLESCENT SOC. WORK J.* 21, 27-28 (2003). In fact, research findings reveal that "the sibling bond may become stronger and even more important than a child's preference for a parent." Lori Kaplan et al., *Splitting Custody of Children Between Parents: Impact on the Sibling System*,

74 FAMS. IN SOC'Y 131, 132 (1993). Sibling relationships often survive "for a lifetime, longer than most marriages and parent-child relationships." Victor Groza et al., *Siblings & Out-of-Home Placement: Best Practices*, 84 FAMS. IN SOC'Y 480, 480 (2003).

The importance of sibling attachment bonds is not exclusive to same-age siblings. Siblings separated by wide age gaps can also form meaningful attachment bonds, and studies have shown that older siblings are often "attachment figures" for younger siblings. Groza et al., *supra*, at 481. For example, "[o]lder siblings assist younger siblings in the transition to school both by acting as a role model and by giving information about the experience." *Id.* Thus, if Debra's young adult daughter has developed a sibling relationship with M.R., their attachment bonds are another important consideration for the trial court.

**B. Children's Bonds to Older Siblings Can Be Especially Critical to Their Development and Well-Being When the Family Is Disrupted.**

Parental separation or divorce can be among the most stressful events in a child's life. *See* Kaplan et al., *supra*, at 132 (noting that children surveyed ranked parental separation behind only the death of a parent or relative and an accident involving a parent on a list of 22 potential stressful events). "When it remains intact, the sibling group represents an element of continuity within the

process of family reorganization. Many studies also indicate that siblings can play an important role in helping each other to adjust to family transitions.” *Id.* (citations omitted).

Siblings typically turn to one another “for mutual support and consolation during episodes of parental conflict” that lead to separation and divorce. Grania Sheehan et al., *Children’s Perceptions of Their Sibling Relationships During Parental Separation & Divorce*, 41 JOURNAL OF DIVORCE & REMARRIAGE 69, 90 (2004). Indeed, studies confirm that when siblings are separated—either by divorce or by other family transitions—both the short- and long-term consequences can be profound. “[S]eparating siblings may affect their relationship later in life as well as their long-term quality of life.” *Id.* at 132. See also, e.g., Victoria Helkevitch Belford, *Sibling Relationship Troubles and Well-Being in Middle and Old Age*, 47 FAMILY RELATIONS 369, 374 (1998) (finding that memories of a positive relationship with a sibling during childhood can contribute to a person’s positive affect and well-being in adulthood). “In the long term, the quality of [separated siblings’] lives may be diminished.” Kaplan et al., *supra*, at 139.

During separation and divorce, older siblings in particular may take on a nurturing role, giving their younger siblings support that parents in conflict may be unable to provide. *Id.* In a slightly different context, when siblings

have been placed in foster care, older siblings were found to provide “caretaker behaviors of nurturance” toward their younger siblings, and younger siblings would typically use the older sibling as a “secure base from which to explore the [new] environment.” Whelan, *supra*, at 28 (citation and internal quotations omitted).

These findings, consistent throughout more than three decades of research, have led to a consensus in the social work field that siblings should be kept together during periods of family transition. Carole H. Depp, *Placing Siblings Together*, CHILDREN TODAY, Mar.–Apr. 1983, at 14, 14 (“[I]n the majority of cases the longterm benefits to be gained by keeping a sibling group together seem to clearly outweigh those gained by separating the children.”). Because of the degree of potential harm posed by severing contact with siblings, researchers have concluded that “continuing access” to siblings “is not only a right of the child but is in his or her best interest.” Kaplan et al., *supra*, at 132. For this reason, and because of the unique role older siblings have been shown to play in the lives of their younger siblings, best efforts should be made to ensure that attachment bonds between children and their older siblings remain intact. The quality of M.R.’s relationship to Debra’s older biological child ought to be another important consideration for the Court.

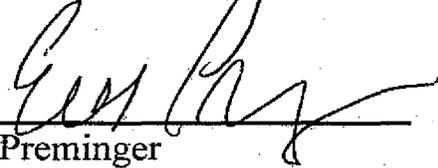
## CONCLUSION

As shown above, decades of social science and child development research confirm the correctness of holding that children's best interests may compel parentage, custody, and visitation awards to preserve children's relationships with psychological parents—no differently than with biological or adoptive parents. In this case, M.R. has the right to declarations of parentage and awards of custody and visitation that ensure his interest in maintaining critical parent-attachment and sibling-attachment bonds is met. To permit findings consistent with the child's best interests, this Court should affirm the Supreme Court's Order of October 2, 2008.

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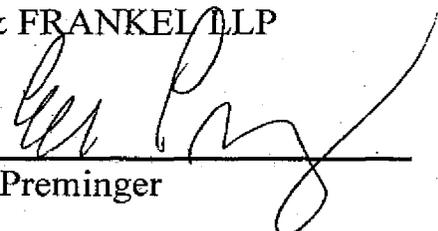
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